

Law No. 32-09 on the Organisation of the Notarial Profession

Reference: Dahir No. 1-11-179 of 25 Hijja 1432 (22 November 2011) promulgating Law No. 32-09 on the organisation of the notarial profession

Practice areas: Real estate and land law, Civil law, Corporate law

Law 32-09 reformed the modern notarial profession: conditions of entry, the notary's obligations, the form and evidential value of the notarial deed, the deposit of client funds with the Caisse de Dépôt et de Gestion (CDG), civil liability and discipline. It is relevant to any real estate or corporate transaction executed by notarial deed.

The notarial deed

- The notary is a public officer who receives the deeds to which the parties must, or wish to, give authentic status (Art. 1).
- A notarial deed is conclusive, unless challenged through forgery proceedings, as to what the notary personally witnessed; it is directly enforceable.
- The notary verifies the identity, capacity and consent of the parties, as well as the legal status of the property.

Obligations and liability

- Funds received on behalf of clients are deposited with the CDG and may not pass through the notary's own account.
- The notary owes a duty to advise and must hold professional liability insurance.
- Breaches are sanctioned by the disciplinary bodies and, where applicable, by the criminal courts.

Key articles

ART. 1

The notarial profession is a liberal profession practised under the conditions and in the manner laid down by law; the notary is a public officer responsible for receiving the deeds to which the parties must, or wish to, give authentic status.

Points to watch

- Deeds transferring ownership of registered properties must be executed by notarial deed or by a deed with a certain date drawn up by a lawyer admitted to practise before the Court of Cassation (Law 39-08, Art. 4).

- Make sure the price passes through the CDG account opened in the notary's name, never through a personal account.
- Where the notary is at fault, the liability action falls within the jurisdiction of the Court of First Instance, and the notary's insurer may be joined to the proceedings.

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