



LAWS OF KENYA

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## **EQUITABLE MORTGAGES ACT**

CHAPTER 291

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**CHAPTER 291**

**EQUITABLE MORTGAGES ACT**

**ARRANGEMENT OF SECTIONS**

*Section*

1. Short title.
  2. Effect of delivery of documents of title.
  3. Saving as to certain interests created prior to Act.
  4. Saving as to provisions of Transfer of Property Act, 1882.
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**CHAPTER 291****EQUITABLE MORTGAGES ACT**

*[Date of commencement: 30th November, 1909.]*

**An Act of Parliament relating to equitable mortgages**

[Act No. 14 of 1909, Cap. 152 of 1948, Act No. 41 of 1958.]

**1. Short title**

This Act may be cited as the Equitable Mortgages Act.

**2. Effect of delivery of documents of title**

(1) Subject to the provisions hereinafter contained, nothing in section 59 of the Transfer of Property Act, 1882, of India, as applied to Kenya, shall render invalid mortgages or charges made in Kenya by delivery to a person or his agent of a document or documents of title to immovable property, with intent to create a security thereon.

(2) Delivery shall, subject to the provisions of the Government Lands Act (Cap. 280), the Land Titles Act (Cap. 282), the Registration of Titles Act (Cap. 281) or the Registration of Documents Act (Cap. 285), as the case may be, whether made before or after the date of this Act, have the same effect on the immovable property sought to be charged as a deposit of title deeds in England at the date of this Act.

[Act No. 41 of 1958, s. 2.]

**3. Saving as to certain interests created prior to Act**

Notwithstanding anything in section 2 of this Act, no right, title or interest in any immovable property conferred by a registered instrument, prior to the publication of this Act, shall, by reason of this Act alone, be affected by a deposit of the documents of title relating to that property made before the date of that registered instrument.

**4. Saving as to provisions of Transfer of Property Act, 1882**

Nothing in this Act shall prejudicially affect any rights, powers or remedies conferred on a mortgagee or chargee by deposit of a document or documents of title by the Transfer of Property Act, 1882, of India, as applied to Kenya.

[Act No. 41 of 1958, s. 3.]

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