

SUMMARY

Key Words: agreement, loan, bank, borrower, consumer loan, independent guarantee

Subject matter: Loan and credit agreement in civil law: features and problems of regulation

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The relevance of the research topic. At present, the process of Russian civil legislation reformation takes place. Thus, in June 2018 significant changes of civil legislation came into force. They concerned the character of contract of debt, conclusion and execution of the debt and credit contracts.

Besides, the number of concluded contracts of debt and credit increases. The role of these contracts can't be underestimated, they are an important compound of economy functioning.

The subjects running business are interested in the constant improvement of their activity. The loaned means allow for the significant widening of the scope of their economic activity, provision of more efficient use of their own means.

The population of Russian Federation tends to the increase of life level, improvement of its quality. By the way of crediting, population is able to satisfy their necessities of life, therefore, credit activity obtains an important social significance in the modern conditions. The volumes of mortgage lending increase. At the same time, in this context many problems arise.

The particularly pressing issue is one of credit liabilities fulfilment. Analyzing the data of enforcement agencies, we should note the large size of expired debts on the credit contracts.

The tendency of increase of a number of credit organizations is observed now. Certainly, one of the most significant question is: whether an organization has a right to carry out activity on the granting of credits. The Central Bank of the Russian Federation, being the main controlling body, carries out a series of inspections. Following the results of these inspections, licenses of many organizations are withdrawn. In this connection, a borrower should choose a credit organization carefully.

The purpose of the work: to outline the picture of the modern state of the legislation concerning bank credit, loan and their practical use.

Objective:

- to provide general characteristics of contract of debt and credit contract according to the active legislation and enforcement practice, to reveal their relation;
- to determine types of a contract of debt;
- to study the order of debt contract conclusion, rights and obligations of the parties;
- to analyze the ways of provision of obligations fulfilment on the contract of a debt

The theoretical and practical significance of the research is in the analysis of topical problems in the sphere of crediting and borrowing. Based on the provisions stated in the given study, it's possible to improve the legislation, regulating relations in the crediting and borrowing sphere.

Results of the study.

1. Often banks refuse to give credit without a reason. Ungrounded refusal weakens the position of a borrower - physical person. There is a necessity in the civil legislation to provide for the obligation of creditor to ground his refusal. In case of ungrounded refusal in the loan granting within the terms indicated in the contract, a creditor should be obliged to recompense the damage to a borrower.

2. Absence in legislation of clear list of circumstances testifying to the impossibility of fulfilment of obligations on contract by a borrower and giving the ground to suppose that the sum given to the borrower won't be returned in time, causes disputes in practice. Inclusion of these circumstances in the Civil code of RF will allow decreasing the number of lawsuits, prevent abuse of rights by banks.

3. Granting of complete, trustworthy information about the credit to a borrower during the

conclusion of debt contract is a guarantee of successful “cooperation” in the future. Introduction of strict normative requirement to the provision of information to the borrowers when concluding a contract of debt (including information given in understandable terms) and introduction of civil responsibility for the violation of these requirements, is a necessity for the present day.

4. Contract of guarantee is a three-party agreement; it's an adhesion contract.

5. In the civil legislation such a way of credit support as independent guarantee is poorly regulated.

6. According to the article 375.1 of Civil Code of Russian Federation, a beneficiary is obliged to compensate guarantor or principle for the damage caused due to the unreliability of the submitted documents or if the requirement was ungrounded. This infringes beneficiary's rights.

Recommendations

1. To include in the Civil Code of Russian Federation creditor's obligation to give reasons of refusal from the credit provision and responsibility for the fulfilment of this obligation.

2. To determine the list of circumstanced, testifying to the impossibility of execution of contract obligations by a borrower.

3. To introduce strict regulative requirements to the provision of information when concluding contract of debt and measure of responsibility for the violation of these requirements.

4. To declare the contract of guarantee three-party agreement, adhesion contract.

5. Expend item 4 of the article 368 of the Civil Code of Russian Federation, concerning the data which should be indicated in the independent guarantee. To specify the place of carrying out of the independent guarantee.

6. Supplement the article 375.1 of the Civil Code of Russian Federation with a phrase “... if he won't prove that he didn't know and couldn't know about the unreliability of the submitted documents or made requirement”.