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Abstract:

The Author presents in the most exhaustive way the issue of the protection of the mortgage. In particular, the Article focuses on extending expertise and understanding the model of the protection of the mortgage. The problems connected with this specific regulation have not aroused much interest in the Polish doctrine so far and it still remains an area that requires comprehensive studies. Because of that, the main aim of this article was to present extensive research of the issues concerning the application of the regulation of the protection of the mortgage. It is pursued by means of the detailed analysis of Polish regulations, as well as by reference to the legislative solutions adopted in foreign legislature, in particular, in Germany and Switzerland. The main subject of the analysis concentrates on the provisions of articles 91-93 of the Land and Mortgage Registers and Mortgage Act (consolidated text: The Official Law Journal of 2013, item 707 with the amendments) where the rights of the mortgage creditor are specified. The limitation of the studies to aforementioned legal rules is justified by the fact that the creation of the rights provided in this regulation is dependent on threatening or violating the safety of the mortgage. First of all, the general characteristic of the regulation concerning the protection of the mortgage is presented, starting from the origins of contemporary regulation. In the introductory part of the Article, the meaning of “the safety of the mortgage” is also explained. The Author describes the attempts done in the doctrine so far, as well as presents his proposal of understanding the aforementioned term. The Author tries to determine whether each mortgage creditor has the capacity to enjoy the rights specified in art. 91-93. Afterwards, the Author in the comprehensive way analyses the particular rights of the mortgage creditor provided in the cases of threatening or violating the safety of the mortgage. The Author starts with the detailed analysis of the preventive claim and then passes on to present deepen studies considering the rights of the mortgage creditor,

which arise when the safety of the mortgage is violated. In the end, *de lege ferenda* postulates regarding the issue of the protection of the mortgage are suggested.