



INTER LEX MEXICO

REAL ESTATE CLOSING ATTORNEYS

**YOUR SOURCE FOR
REAL ESTATE LAW IN MEXICO**

THE BUYING PROCESS IN MEXICO 2019

HOW CAN I PURCHASE RESIDENTIAL PROPERTY IN MEXICO?

Before we explain the purchase process, we would like to reinforce the fact that, as stated by National Foreign Investment Law, a Real Estate Bank Trust is the safest and only legal way to hold title of residential property in México.

In a Mexican Real Estate Bank Trust, you are the sole beneficiary of your Mexican property, both you and a trustee entity are named in the deed. You can treat the real estate as if you held the title yourself; this includes building equity, renting, selling your home, passing it down to other beneficiaries, making changes to the home and having extra protection provided by a Fiduciary entity.

FOR ALL RESIDENTIAL - TOURISM PROPERTY

The requirement is to set up a **REAL ESTATE BANK TRUST**

The **Real Estate Bank Trust** also known in Spanish as “Fideicomiso”, is a trust agreement that you establish with a Mexican bank in order to hold title to a property (both you and the bank are named in the title documents) (works similar to a Family Trust or Living Trust entities known in USA, Canada or Europe. This trust deed assures foreign property buyers of all the rights and privileges of ownership while acquiring an extra protection from Federal government (Ministry of Foreign Affairs and the Secretary of Economy).



ADVANTAGES OF THE BANK TRUST

- Allows the property owner to hold the property in perpetuity.
- The bank trust is a 50-year trust agreement that is renewable every 50 years by you or your heirs by simple request. The renewal procedure is an automatic administrative task.
- The Bank Trust can be held by one or more individuals of foreign citizenship or by an entity such as an LLC, Living Trust or a Family Trust (IRA fund contracts would be subject to extra administrative and legal requirements).
- You can transfer your rights in the bank trust to another foreign buyer.
- One contract can hold more than one property in the same deed but the investments must be located in the same jurisdiction.
- You can enjoy, use, rent out, improve upon the property, expand, build and sell the Mexico Real Estate and reap 100% of the profit.
- The trust can also be inherited by your family or any person by simply naming them in the Bylaws of your contract as secondary beneficiaries in the event of your death. This chapter is the only one that would be subject to be modified in your deed as many times as required however, changing the owner's names or adding additional owners could be done but not as simple as it happens with the beneficiary chapter, this last subject would require the performance of a new sale procedure and to draft a new deed (new closing costs would be involved as well)
- The beneficiary chapter will substitute the need of drafting a Mexican will; no need of passing probate before any Mexican Court would be required plus there is no inheritance tax in Mexico.
- There are tax advantages pertaining to capital gains taxes when you sell. The big del in Mexico is that, you would be able to claim a 100% Capital Gains exemption and without paying double taxes in the US nor in CANADA. This means that, once you sell the property and if you are eligible to exempt capital gains, you can collect 100% all your profit without paying capital gains in Mexico nor in the US or Canada.
- The bank trust is easy to maintain by paying an annual fee to the bank that is around \$550 to \$600 USD (please consult with us). The annual fee can be paid in a local bank or via domestic or international wire transfer.





- Your property cannot be taken from you for any reason as long as you use it for residential purposes, and you can treat the property as if you held the title yourself. The bank trust will act as a safeguard for your property ownership. Renting out your property and generate profit is 100% authorized and you are very welcome to do it.
- You must follow special rules and regulations when holding a property with an area exceeding 2,000 Sqm (21,527 Sqf) specifically, a commitment letter of investment would need to be submitted to the Ministry of Foreign Affairs Offices.

THE CLOSING PROCESS 2019

It normally takes 20 to 30 business days from the date Inter Lex Mexico starts the paperwork until you are able to take title. It is very important that both the buyer and the seller supply all the necessary documents in a timely manner in order to close on time.

The ideal scenario is that, the following items or events, happen at the same time all together:

- 1.- You are purchasing residential property held in a private deed.
- 2.- You are assigned with a certain delivery date in your sales agreement and the developer / seller honors such obligation strictly.
- 3.- The developer / seller has a Condo Regime Deed, Property's ID and Property Tax Payments fully processed and available at least 3 weeks before you are called to take formal possession of the unit

If the above-mentioned items cannot match in time, you will be free to take physical possession of the unit first and to initiate the procedures to take title at a later stage and when point 2 is fully accomplished.

The time frame that might elapse between taking possession and taking title, is a subject that must be always discussed with your sales agent / developer or seller and preferably to be consigned in your sales agreement so you can be fully aware and certain of your rights as a purchaser of property in México.





Such documents -- (for each buyer) -- include scanned copies of:

- Passport (front page)
- Drivers' license
- Copy of a recent utility bill showing your home address (preferably showing your name also)
- Plus, the completion of a Buyers Data Form provided by our team **Inter Lex Mexico**

Do I need to be in person for signing my closing deed?

Fortunately, the whole closing process can be organized and performed long distance, meaning that you would be able to grant your Attorney with a **Limited Power of Attorney** for assisting you at each and every stage of the closing until signing the closing deed on your behalf.

A power of attorney form will be provided by our office **Inter Lex Mexico** via e-mail, upon request. That said email will come along with special instructions on how to notarize and legalize the POA form.

Once our staff will collect all of the buyer's and seller's information and once the initial payments have been made – closing costs ---, we will start the process with the Bank Trust by ordering the Permit from the Secretary of the Foreign Affairs Office. This process takes approximately 10 business days. During this time the attorney will also be starting the processing and collection of all permits, municipal and state certificates needed for the closing.

When the Trustee Manager has received the permit from the Secretary of Foreign Affairs Office, your lawyer will then start the drafts for the actual closing deed. The final deed will then be reviewed by the three legal groups working for you - the lawyer/closing attorney, the Public Notary and the trust area of the bank. This works to ensure that everything is 100% correct.

When all of the closing paperwork is ready, you will then be notified of the actual date of closing.

Normally, the total closing costs, including legal fees, the fee to set up a bank trust, all payment of rights, certificates and transfer tax, will run approximately between 5% to 7 % of the purchase price.

Please provide with the purchase price of your Unit and one of our closing attorneys will make a calculation-example for you.





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AFTER CLOSING

After closing (**once your closing deed is signed by all parties, Seller, Buyer and Trustee Manager**), the Public Notary will issue a notarized copy of the closing deed. This document will be your first proof of ownership. You can use this document to change your utility accounts. A scanned version of such document will be sent to your email - upon request - and immediately after obtaining it from the Public Notary Office.

The final bank trust deed containing an electronic folio and copy of all certificates and exhibits, will be issued by the Public Registry within three months after your closing date. Please, consider that, this final step, will depend on the internal schedule of the government office known as Public Registry.

FOR MORE INFORMATION, PLEASE CONTACT US AT

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Best Regards,

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