

THE BANK TRUST FOR OWNERSHIP OF REAL PROPERTY IN MEXICO

THE FIDEICOMISO

Article 27 of the Constitution of the Republic of Mexico prohibits foreign ownership of real property located within 30 miles of any coastline or 60 miles of either border. This is referred to as the *restricted zone*.

In 1973, recognizing that many Americans would enjoy the rights of ownership, and bring needed dollars to the country, President Echeverria approved the bank trust, *fideicomiso*, form of ownership which is available to non-Mexicans. This regulation was further expanded in the Foreign Investment Law of 1989.

Properties located within the prohibited zone, which includes the entire Baja Peninsula, may be acquired by a foreigner through a Mexican bank trust naming the buyer of the property as the beneficiary of the trust. Naked title is placed in the name of the bank selected by the buyer, as his trustee. The bank administers the property according to the instructions of the buyer/beneficiary. The buyer/beneficiary has full ownership rights: he may build on the property, tear down existing buildings, modify them, rent, lease or sell at anytime conforming only to the general laws of the country established for all persons.

The term of the trust is fifty years and can be renewed for additional fifty year periods, after which it must be transferred to "one entitled to hold property" in Mexico. In other words, title to the property may rest in one beneficiary indefinitely, provided that it is renewed within the terms established by the law.

The procedure for establishing the *fideicomiso*, the bank trust, is as follows: a permit must be obtained from the Secretary of Foreign Relations which includes a description of the property to be placed in trust, the use for which it is intended, and personal data on each of the beneficiaries. Once granted the bank draws up the trust document which is recorded in the municipality where the property is located.

The costs for the permit to establish and register the bank trust are currently about \$1,500. US and annual administration fees are generally \$350.00 to \$500.00 per annum. There are additional closing costs, however, and it is wise to request a written estimate prior to beginning the transfer process.

For further information on the Mexican trust or real property custom and practice in Mexico, please contact:



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