

Trust = "Fideicomiso" and how does it work?

**Mexico** has 6,000 miles of coastline and it is a highly desirable area for foreign investment. Owning property in Mexico is easier and safer than ever, because now there are established and well defined rules regarding non-Mexicans owning land in Mexico. These rules are in place to protect your ownership rights and to encourage the sale of real estate to foreign investors. The key is a safe, established and perpetually renewable Mexican Property Trust called a "Fideicomiso".

**Foreigners** are encouraged to invest in vacation and retirement homes along the coast, but there are some restrictions. The Mexican government established the trust system as a protection for foreigners interested in owning property in Mexico.

**Because** Article 27 of the Mexican constitution declared "foreigners cannot own property within 100 kilometers (60 miles) of the border and 50 kilometers (30 miles) of the coastline." The government, however, has created a way to bypass these restrictions – the establishment of a Trust (Fideicomiso).

**What** is a Trust and how does it work?

**There** are three parties involved in a trust:

- The "trustor" (the owner of the original property)
- The "trustee" (which is a Mexican bank)
- The "beneficiary" (the person who receives the benefits of the trust...you)

**Under** the Trust system the foreign beneficiary does not get direct ownership. Instead, the Trust establishes the legal basis by which the bank holds legal title to the property in order to act on the foreigner's behalf. This system assures the foreign buyer of all the right and privileges of ownership. The Foreign Investment Law, a Constitutional amendment created in 1973 and amended in 1994, allows the trust to be established for a term of 50 years and is renewable any time during its existence, forever.

**The** bank (trustee) holds the trust deed for the person who purchased the property (beneficiary). The property does not become part of the bank's assets and cannot be liened or attached for any other obligations. You, as the purchaser, are the beneficiary and have all the rights of enjoyment of the property including the ability to remodel, lease, mortgage, pass to your heirs or sell the property at any time.

**What** is a Notario? In Mexico, certain attorneys are designated by the government as Notarios. Their services are required for the legal transfer of real estate. They are an unbiased, official representative of the government and have a fiduciary responsibility to both parties. The Notario also sanctions the contract from a tax and legal point of view. A Notario establishes the Trust with assistance from your real estate broker. As the first part of the process, the Notario will secure a permit from the Minister of Foreign Affairs. This procedure is routine due to the large number of foreign property owners. The forms are standardized and the entire process is completed as part of the closing process.

**As** the trustee, the bank acts as an important link between the foreigner and the government. It accepts full legal and administrative responsibilities and protects the beneficiary's interest. Although the bank is the technical owner of the property, they have a statutory responsibility to follow the beneficiary's (YOUR) instructions concerning the property. Therefore, the control of the property is in your hands – not the banks.

**Owning** real estate under the Trust system:

- - As the beneficiary, you can occupy the property for the life of the trust.
- - Actual Title to the property (without a Trust) can be transferred to a foreign beneficiary (you) in the event that you acquire legal capacity to hold the property by establishing Mexican citizenship.
- - The property can be heired to your family by naming them as substitute beneficiaries in the event of your death.
- - You can sell the property to a person legally authorized to own land in Mexico or to another foreigner by means of the same Trust system.
- - You can mortgage or encumber the property through the use of a "Guarantee Trust" through the mortgage company you select. At this time only certain Mexican banks that hold Trusts for foreigners participate in the relatively new Guarantee Trust process. Currently Banorte, Banco Interacciones, Bancomer, Deutsche bank, and HSBC offer these services.