



Colina 551-15 Terrazas de Mendoza Playas de Tijuana, Tijuana B.C.  
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## Foreign ownership of real estate in Mexico

While foreigners can own property fee simple in the interior of Mexico, including valuable sites in such tourist meccas as Guadalajara and Cuernavaca and the capitol of Mexico itself, they are technically prohibited from holding title to property in the so-called "Prohibited Zone along the nation's coasts and borders.

This restricted area, which was established under the Mexican Constitution, extends 100 kilometers (about 62 miles) deep along the coasts. This means that virtually all of Baja California is included in the "Prohibited Zone".

### **Four Ways to Hold Property in México**

- Mexican Bank Trust- Fideicomiso (Fed e co mi so)
- Mexican Corporation
- Mexican Land Lease
- Federal Zone Concession



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## **The Mexican Bank Trust**

The Mexican Bank Trust was created in 1971 to promote tourist and retirement investments along popular coastlines by Mexican President Echeverria, which authorized the 30-year Bank Trust program. This is the most secure method to hold real estate in Baja California.

Your Bank Trust must be established at an authorized Mexican Bank in their Trust Department.

In 1989 President Salinas mandated the 30 year Trust be extended for an additional 30 years. Then, December 27, 1993, President Salinas extended the Trusts from 30+30 year arrangement to the new 50+50 year time period. Bank Trusts are perpetually renewable.

The property you hold in a Bank Trust is yours to improve, build, sell, leave in your estate, etc. You'll enjoy all the same rights you have in your U.S. fee simple real estate via the Bank Trust.

There are several Subdivisions in the area that were set up as a Master Bank Trust by the developers years back. Two of those subdivisions were San Antonio Del Mar and Las Gaviotas. They both are the original 30 year Trusts. They are in their last remaining years on their Trusts and soon the Homeowners Associations will assist in obtaining their first renewal period of their Trusts, which will be under the new 50 year Trust Law.

When you decide to sell your home, in all probability, another foreign person will be purchasing your Trust Rights. Your buyer will have the required documents from you to instruct the Bank of the sale and the name will be



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changed that also includes your beneficiaries. Your Real Estate broker should assist in making g this name change after the closing has occurred. If you sell your Trust Rights to a Mexican National, he has the option to take title in his name in the Trust or remove the property from the Trust and take title in "Escritura" (Mexican National form of Ownership). Sometimes the Mexican National will opt to pay the annual Trust fee and stay within the Master Trust, especially, if his most likely buyer would be another foreigner. Once he removes the property from the Master Trust, it is more expensive for the property to be placed in a New Trust for the buyer.

### The Reason the Bank Trust Was Created

The Mexican Constitution does not allow foreign ownership in the Prohibited Zone because of the old fear of invasion by sea or by horse. Of course, invasions are not conducted that way today, so the Bank Trust was created **as a vehicle to allow this ownership method without changes to the Constitution.**

Tourism is the third largest industry for Mexico. This law has been in effect now for 29 years with amendments to make your confidence more secure for your investment in order to continue attracting the tourism dollars

### **The Mexican Corporation**

In the last several years, this form has become popular, specially with American attorneys. With this figure, you create a mexican corporation, which may be owned 100% by foreigners (you and your spouse, for example) and then the mexican corporation will own it 100%, in a fee simple deed, without the need of a Bank Trust.

### **The Mexican Land Lease**



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Nearly every day clients ask, "Can I get a 99 year land lease?" A land lease for more than 10 years is not legal and never has been. Not the 10 + 10 + 10 year arrangement, either.

If you enter into a 10 + 10 + 10 agreement with a Mexican landowner and at the end of the first 10 years the landowner decides he does not want to recognize that second 10-year lease you thought you had, he does not have to do so. You have no recourse, because you entered into that agreement which was designed to circumvent Mexican Law, thereby giving you no legal status to use the Mexican Court System.

If you lease land, the lease should be 9 years and 11 months to stay within the lease land laws. It is possible and perfectly legal for the Mexican land owner to give you a new 9 year 11 month lease at the end of your first 9 year 11 months and so on.

It is only suggested Lease Land arrangement if you are:

- limiting your second home investment to a smaller total purchase amount rather than a Bank Trust purchase
- only if you can obtain a 9 year 11 month lease.

Just be sure the total investment you are willing to pay for the structure on lease land is an amount you can average over a 10-year period and be willing to "walk away" from at the end of your first lease period of 9 years 11 months. That may not be the case, but know it could be the case given the property values rising in this area at such a rapid rate, especially large parcels.



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### **Lease Land Fees**

Land lease rents run about \$150.00 to as much as \$600.00 per month. (Prices may vary without notice) Most leases have a "cost of living" adjustment at the end of your lease for the next lease term. Usually there's a 10% fee when you sell your structure that goes to the landowner and your buyer will probably have a nominal increase in the rent as well. Usually a 10% increase.

### **Federal Zone Concession**

No one, including Mexican Nationals can own property in the Federal Zone, which applies to only beachfront property within 20 meters (about 66 feet) from the mean high tide line. This property is owned by the Mexican Federal Government under the Federal Maritime Land Zone Law. It is possible for foreigners and Mexicans to obtain use of the beach land for a reasonable fee under a concession granted from the Federal Government.

This concession grants temporary use and, at the option of the Government, these concessions may be renewed for specific periods of time.

These fees vary depending upon the use of that portion of the property, for instance, if you garden and landscape that part of the property, there could be no fee. If you have a deck, pool or patio in the Federal Zone the fee could be \$50.00 a month. If all are part of your home are in the Federal Zone, the fee will be appropriately higher.

It is not recommended a 100% Federal Zone situation. If you have even 20% of your home under a Bank Trust and the balance in the Federal Zone with a concession, then you're covered. These concessions give you the right to enjoy the land and no one can come and build anything in front of you.