

COSTA RICAN LAWS, RULES AND REGULATIONS

REAL ESTATE LAWS

1. Fifty Meter Zone

The first 50 meters from high tide at the beach is public property. No permanent structure may be placed on this land, however it can be landscaped and temporary structures can be erected, for example in front of a hotel. There are no private beaches in Costa Rica - the 50-meter area is open for anyone to use and there are no possession rights in this zone.

2. Municipal lease land - 150-meter zone

In the majority of the country, the next 150 meters from the 50-meter zone is regulated by the municipality, and can only be leased, never owned. For a foreigner to lease this land, a Costa Rican must show as owner of more than 50% of the company doing the leasing. A foreigner cannot lease this land personally. A good lawyer can set up a company that will serve the investor's purpose, and meet the law. There may be restrictions or zoning on the leased land - this will be published in the Plan Regulador of each municipality. Ensure you have a good lawyer check this before buying the rights to leased land. Leases are usually inexpensive, and the renewal is usually automatic provided the lessor keeps the lease in good standing. Lease rights can be bought and sold. The law of the Maritime-Terrestrial Zone covering the 200 meters above the high tide line was published in 1977.

If the municipal or federal government want this land back, then need pay the lessee only the value of the improvements on the land - they do not have to pay anything for the increase in the value of the right to lease. The value of the improvements is established by a third party designated by the court.

3. Frontiers

Only Costa Rican citizens can purchase land within two kilometres of the national frontiers.

4. Title

Most land in Costa Rica is titled. Good lawyers will quickly check to ensure it has good title, or for a minimal fee it can be checked in the ARCR office where computers are connected to the land registry. Land that has not changed hands for many years may not be titled. If the title to the property is not registered, registration is difficult, complicated and expensive. The buyer may spend years in the court system sorting out other claims to the land.

If a piece of land is titled and registered for the first time (this includes a previous undivided interest registered as a separate parcel for the first time) claims may be made against the title for ten years. It is therefore dangerous to purchase or to accept as security land that has been registered for less than ten years.

The Central Registry for land in Costa Rica is computerized and similar to most places in North America. Top law firms and the Casa Canada Group have computers connected directly to the Central Registry and can search the title of land quickly from their offices. Registry of mortgages and liens are much the same as in North America. A buyer should insist on an Escritura showing title to the property, complete with registry stamps on it. Unscrupulous lawyers have been known to keep registration fees and not register the property transfer, leaving the vendor in a position to sell the land again.

Title insurance to guarantee the title of properties can be arranged with Stewart title at a special price through the Association of Residents of Costa Rica.

5. Deposits

Deposits are not common in Costa Rica. When a deposit is given to a lawyer or realtor, the money usually goes into his or her personal account, as trust accounts as known in North America do not exist. If the completion of the property purchase is to be on an agreed date in the future, an option can be taken which gives the vendor a sum of money for which he guarantees a right to purchase for a certain period of time. The Casa Canada Group's financial department in Casa Canada Anexo 1 will hold funds in trust for a real estate, business or other purchase.

6. Options and contracts to sell properties are legal, but cannot be registered at the Registry of Properties as a real right affecting a property. It is possible that even if you have an option, a disreputable person could sell the land to someone else, leaving only the courts as recourse to recover the deposit. A legal guarantee called a Reserva de Prioridad can be registered against the property giving exclusive rights for a maximum of 30 days.

7. Property transfer

There is a tax of 1.5% of registered value for the transfer of property. Total government tax, registration and stamp fees will run about 2.5% of the registered value of the property. When a property is purchased, unless specified otherwise, it is assumed the buyer and seller will split the cost of legal and transfer fees. If the purchase is cash, the purchaser has the right to choose the lawyer. If the vendor holds a mortgage on the property the vendor has the right to choose the lawyer. Legal fees and costs will be around 2% of the property-selling price bringing the total transfer cost to approximately 5.5% of the price.

8. Property tax

The municipality collects municipal government property tax. It is 0.25% of the registered value of the property. Houses with a registered value of less than ¢ 6,147,000 are exempt. There is also a local community government charge. This is based on the frontage of the property and varies in each area, but is not to be over \$10 per month per residence.

9. Leases and Rental of Property

Great care must be taken when leasing to others in Costa Rica, as it may not be

legal to increase rents or to remove tenants from the property. A rental agreement can be either verbal or written.

Regardless of the term specified in residential or commercial lease agreements, the terms and conditions apply for a minimum of three years provided the tenant keeps to the terms of the agreement. If a rental agreement is for more than three years, the longer term applies. If you wish to legally lease for less than three years, contact Casa Canada management for options that can make this possible.

If rent is in a currency other than colones, it will not be possible to raise rents without the prior agreement of the tenant. No rent increases are permitted over the first three years. If rent is in colones it is possible to contract for an increase of 15% per year for residential property only.

Where there is no rental agreement, the landlord cannot evict the tenant from the property for three years and the rent cannot be increased for this period unless the 15% increase for contracts in colones is included on residential property. The tenant is required to give three months notice to terminate the rental. A clause can be included in the contract that the deposit is forfeit if notice is not give. The tenant is obliged to leave the property in the same condition as when it was rented.

If the landlord wants the rental property back it is necessary to notify the tenant in writing three months or more before the end of the term, otherwise the term is automatically renewed for another three years, or for the length of the original agreement if longer than three years.

The law allows the tenant to be late up to seven days with rent payments. After that the landlord has the right to apply to the court for an eviction order. If rent payments are continually accepted late, the tenant may have the right to continue to pay late. Once it is decided to seek the eviction of a tenant, rent payments should not be accepted as it could make them current and cancel the right to evict them.

If a tenant does not pay bills that are then tenant's responsibility it is possible to evict them. If the landlord pays such bills the cost of them can be deducted from a damage deposit at the end of the rental period. The tenant can be sued for any additional amounts outstanding. The tenant is responsible for all public services and utilities except for taxes, which are the responsibility of the landlord.

Where a property is sold or transferred it does not change the tenant's rights. The new landlord must respect the existing contract.

Any improvements made to a property automatically become the property of the landlord.

A tenant cannot change the original agreed upon use of a property, other than to put a small business into a residence. The primary purpose of the property must remain residential. A shop cannot become a bar for example. Tenants cannot sub-rent or lease a property unless the right to do so is specified in the lease.

The landlord has the right to inspect the property once a month.

When negotiating a rental contract, a landlord can request any guarantee deposit

felt necessary to protect their interest.

This law does not apply where the landlord resides in the same building as up to two rental units. In this case the tenant can be given thirty days notice to leave the premises.

10. Squatters

People who move onto a piece of property which they do not own, live there for a year and who improve the property by working the land and/or constructing a dwelling, may have a legal right to live there since they may have acquired a “right of possession”. Once acquired, this right of possession can be sold to others. If a large piece of property is purchased it is essential that a watchman be hired to report any squatters to the police before they become settled. An employee hired to guard a property cannot become a squatter, but an employment agreement with the watchman is a good idea.

11. Mortgage Financing

Mortgage financing from banks is slow and bureaucratic in most cases. It can take up to a year to get a mortgage approved, particularly with the state banks. Expect continual delays and requests for additional information over months. Expect very high “commissions” or legal fees from banks. Fees and commissions can be as high as 10% of the amount of the loan, so while low interest rates may be advertised, check carefully into the total package of costs.

Private lenders can move more quickly, but the rates will be higher. Casa Canada has a mortgage division that approves mortgages of up to one million dollars quickly, but the rates at which investor funds are placed may be suitable only for bridge financing while awaiting bank approval.

Mortgage documents are registered in the central registry much as in most industrialized countries. Do not expect to receive mortgage funds until the mortgage document is registered. This is to prevent a common fraud where as soon as the cheque is cashed an accomplice quickly registers a new mortgage on the property ahead of the one just granted.

Mortgages can be for any term, interest rate, amortization period or payment amount agreed upon between the parties.

A different form of mortgage used in Costa Rica is the *cédula hipotecaria*. These consist of certificates registered against the property, and can be in any denomination desired. A \$100,000 mortgage could have 10-\$10,000 certificates, 1-\$100,000 certificate, 100- \$1,000 certificates or any other combination desired. The advantage is that it is not necessary to pay full legal expenses to increase or remortgage a property - the *cédula hipotecaria* remains in effect. When a mortgage is paid off the certificates are returned to the owner, who can leave them registered against the property until another mortgage loan is required. The number of certificates required for a new loan would then be given to the financial institution as their security. For advice on this type of mortgage contact the mortgage department of Casa Canada Group. There is no charge for advice.