

PURCHASE AND RENT OF REAL STATE

General information in regards purchase and renting of real state in Colombia and related procedures.

Bogotá has major business centers and business activities which are strategically located: The malls area in Bogotá includes 1,490,038 square meters, while the street commerce area is 7,899,117 square meters, with a population of 7,878,783 (Census 2015) and a total commerce amount of \$30.6 trillion Colombian pesos⁹.

General Information about the Purchase of Properties

The process for a foreigner to buy a property does not differ from the process for a resident in Colombia, except for the documentation certifying that the foreigner is a legal immigrant in the country.

Step 1. Preliminary stage (due diligence) (optional but advisable)

Request the property certificate from the Registry of Public Instruments (www.sivirtual.gov.co) for the respective title search in order to verify the property's chain of title in the last 20 years, and to establish if there are liens, limitations, interruptions or contingencies adversely affecting ownership. For security reasons, it is essential that such certificate has been issued in the last fifteen (15) days.

Compliance status of the potential seller with tax obligations applicable to the property should also be checked in order to identify contingencies that are associated with the assets and which may be transferred with the sale.

Finally, it should be verified that the land may be used for the purpose of the purchase

Step 2. Promise to purchase and sale (optional)

Once you have verified that the property is free of liens that is in a good condition, proceed to draft the promise to purchase and sale between the parties.

This document must include:

- Information of the buyer and the seller.
- Description and location of the property, including its boundaries.
- Price and payment terms.
- Date and method of transfer.
- Date, time and place the deed signature.
- Payment terms for expenses incurred by the agreement and its registration.
- Address for notice of the parties.
- Signatures and acknowledgement before a notary public.

The promise of purchase and sale is free of charge (unless it is granted by public deed) and, upon signing, an amount of money is usually paid as an advance, called earnest payment. This amount oscillates between ten percent (10%) and twenty percent (20%) of the total property amount, at the discretion of the contracting parties.

Step 3. Public deed

Once the private stage is concluded, this document must be formalized as a public instrument. The parties shall assist to a notary and review the draft of the deed before proceeding to its signature.

For the preparation and subsequent signature of the deed, the following shall be attached:

- Certification of property tax an valuation contribution payment of property tax and valuation contribution.
- Certification of the payment of the maintenance fee (if the property is subject to the horizontal property system).
- Copies of identification documents of the parties.
- If the purchase is subject to a mortgage, it is necessary to file a form with the information of the credit granted by a financial entity and the as well as the certificate of Chamber of Commerce of the financial entity required.

The deed involves the payment of notary fees equivalent to 3 per \$1,000 Colombian pesos (USD 0.32) of the transaction amount. Usually, fees are shared equally between the parties. In addition, there are other expenses associated with the transaction that will be described below.

The deed In order to avoid the payment of interests, the deed shall be registered within the following two months. For this reason, it is recommended that the deed be registered as soon as it is signed by the parties.

Step 4. Registration

The last step in the purchase of a property is to register the public instrument before the Public Registry Office of Public Instruments. Once the deed is formalized at the notary, it is necessary to pay the 1% of the sale price at the point of contact

Once the registration tax invoice is issued, the parties shall go to the registry office assigned to the office location they shall pay registration fees for 0.5% of the selling price and another 0.5% of the mortgage, if applicable.

The registration procedure takes between eight (8) and thirty (30) counted from submission of the deed.

Once the deed has been registered, a property certificate must be requested in order to verify that the transaction has been properly registered. If you have any other doubt about the process, go to the Superintendence of Notaries and Registries: www.supernotariado.gov.co

General Information regarding the renting of Real State Rental

The process for a foreigner to rent a property does not differ too much from the process for a local citizen. However, in the case of foreign lessees, the owner may request some additional guarantee to cover the risk of breach of contract due to change of domicile by the renter.

1. Definition of renting

Renting an urban property is "an agreement whereby two parties are obliged to each other: one grants total or partial use of an urban property intended for housing, and the other pays a price for such use".

2. Rent agreement

The rent agreement for urban property may be concluded oral or written. In either case, the parties must reach an agreement on at least the following points:

- Name and identification of the contracting parties.
- Identification of the property subject to the agreement.
- Identification of the portion of the property that is aimed to be rented, when applicable, as well as the areas and services shared with other occupants of the property.
- Price and payment terms.
- List of related or additional services, items or uses.
- Term of the agreement.
- Designation of the contracting party who will assume the payment of utilities of the utilities.

The renter must make sure that the lessor is the actual owner of the property or, on the contrary, that such lessor has sufficient powers to sub-lease. During the negotiating process, it is common to ask for references and guarantees, whether directly or through specialized real estate agencies.

3.Obligations of the lessor

The lessor is obliged to:

- Deliver to the renter the rented property in good conditions on the agreed date conditions.
- Maintain in the property related or additional services, and items required for the purpose stated in the agreement.
- When the rent agreement is written, provide both the renter and its co-signor, where applicable, a copy of the agreement. This obligation must be fulfilled within a maximum term of ten (10) days from the date of signing of the agreement.

- In the case of housing subject to the horizontal property system, give to the renter a copy of the condominium regulations.

4. Obligations of the renter

The renter is obliged to:

- Pay the rent amount within the term set in the agreement.
- Take care of the property and items as well as keep them in good conditions.
- Pay on time related or additional services, as well as common expenses, where applicable, as set forth in the agreement
- Comply with the rules laid down in the condominium regulations and those issued by the government in order to the rights of all the neighbors.
- In the case of shared housing or boarding houses, take care of common areas and services, and make the necessary repairs or replacements, when they are attributable to the renter or his or her dependents.

5. Sublease and assignment

The renter does not have the power assign to another person the contract or to subrent, unless it has been expressly authorized by the owner.

6. Rent amount

The monthly rent amount is fixed by the parties and it cannot exceed not exceed one percent (1%) of the market value of the property. Regardless of the currency in which the rent amount has been established, it shall always be paid in Colombian pesos, calculated at the exchange rate of the date on which the obligation was borned, unless the parties have agreed to a different date or reference rate.

The rent amount may increase every 12 months, provided such increase does not exceed the percentage adjustment to the Consumer Price Index (CPI) for the prior calendar year. The date on which the increase shall come into effect must be set in the rent agreement.

7. Termination of the rent agreement

a. Termination by mutual agreement.

The parties may, at any time and by mutual agreement, terminate the rent agreement.

b. Termination by the lessor

The grounds for the lessor to request unilaterally termination of the agreement are, among others, (i) the renter did not fulfill its his contractual and/or legal obligations; (ii) the property is total or partially subrented without any authorization (iii) Execution of structural modification to the

property without authorization of the lessor; (iv) renters infringement of the violation of horizontal property regulations.

In addition, the lessor's intention of not renewing the agreement has to be noticed to the renter by written at least three (3) months before

c. Termination by the renter

In addition to the lessor's failure to fulfill contractual and/or legal obligations, the renter may unilaterally terminate the rent agreement due to (i) suspension of the property utilities originated in a premeditated action of the lessor or because the lessor has not made the corresponding payments, and (ii) any interruption by the lessor that obstacles the lessee's full use of the property.

For further information, please go to the horizontal property association of the city where the property is located or the Colombian Federation of Real Estate Associations at:

- www.fedelonjas.org.co
- www.lonjadebogota.org.co

Real State Renting

Step 1. Searching real state

The first thing to do is search the property you want to rent. For this purpose, there are property rental sections in the ads of newspapers. Below you will find some examples of online offers:

- www.metrocuadrado.com
- www.fincaraiz.com.co
- clasificados.colombia.com
- www.laguiaclassificados.com.co

a. Location

The cost of renting a property in Bogotá depends on the socioeconomic level where the property is located. There are six (6) different socioeconomic levels:

- 1 – Very low
- 2 – Low
- 3 – Lower middle
- 4 – Middle
- 5 – Upper middle
- 6 – High

The cost of the utilities such as electricity, gas, water, among others, increase according to the location of the property. At the following website of the District Planning Office, you may find a detailed map of the socioeconomic levels in the city: www.sdp.gov.co

In addition to the above, depending on the location of the property, it may be some restrictive rules on land use and, therefore, the renter must determine in advance if the activity intended to carry out is allowed in the corresponding location and specific property.

b. Classification of property

Properties may be classified according to their price, neighborhood, area, size, number of bedrooms, number of bathrooms, age and whether they are furnished or unfurnished. There may be other forms of classification, but these are the most common.

c. Types of renting

Through a real estate broker: This type of renting is the most common since a third party who is an expert on the subject provides specialized advice to the interested party. If the real estate broker finds a property that suits the needs of the interested party, it will inform it. The cost of this type of leasing is normally higher, since it comprises the activities and brokerage services of the real estate broker.

Directly: This type of rental occurs directly between the interested parties and does not involve brokerage costs. Although the same documents are usually required, the interested party can deal directly with the owner of the

property, deriving in more flexible negotiations.

Step 2. Requirements

a. Employee

Original labor certificate that includes basic information such as position, salary and term of the contract of contract. In case that the renter perceives additional income he or she shall attach the corresponding documents to certify it.

b. Self-employed

Demonstrate the income received by attaching documents that certify it, such as last income tax return, labor certificate or payment stub.

c. Pensioner or retiree

Submit the pension or retirement certificate or the pension payment receipts. In case of additional income, it should be certified.

d. Legal entity

- Certificate of incumbency and good standing issued within the last three months.
- Financial statements for the last accounting period certified by a public accountant.
- Copy of the last income tax return, if available.

e. Guarantee

Most of the real estate brokers and even owners of properties that are directly rented usually request additional requirements as a guarantee, especially designate a co-signor of the rent agreement. For this purpose, it shall be submitted letters of approval for one or more of them, attaching a copy of the title deeds of their properties. Alternatively, they may request to the renter a provision of insurance policies or creation of term deposits.

The two co-signors must certify perceiving income of higher than the double of the the rent amount. These persons must attach bank statements for the last three (3) months if the rental price exceeds COP \$700,000 (USD 229.25).

Co-signors must certify ownership of a property.

f. Deposit

It is very common to ask for a deposit that generally corresponds to a month of rent in order to cover any damage to the property and guarantee that it will be returned in the same condition as was given. The amount of the deposit will be reimbursed at the end of the agreement and any some repair may be deducted from such deposit.

g. Commission Fees

This refers to the payment made to the real estate broker for their services, which vary depending on the real estate broker. Some require the payment of a number of monthly rents, and others earn a monthly commission subtracted from the rent amount, but these costs are usually assumed by the owner.

Step 3. Selection process

once all the documents have been submitted and all the requirements have been met, the real estate broker studies the case, and after comparing it with other property applicants, takes a decision and informs the interested party.

Step 4. Monthly payment

Payment of the monthly rental price is made in the first days of the month, generally during the first fortnight. The payment consists of the rent amount itself plus a monthly maintenance fee if the property is subject to the Horizontal Property System. The latter may or may not be included in the rent amount.

References:

- Law 820 of 2013
- Colombian Civil Code
- Superintendence of Notaries and Registries: www.supernotariado.gov.co
- District Planning Office: www.sdp.gov.co
- Metro Cuadrado: www.metrocuadrado.com
- Finca Raiz: www.fincaraiz.com

