

Mendoza INVEST

Investment Promotion Agency
Government of Mendoza



REGULATIONS ON REAL PROPERTY

MENDOZA
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LEASE AND PURCHASE OF REAL ESTATE

The development, acquisition and lease of real estate in Mendoza are mainly regulated by the Argentine Civil Code, which is applicable over the whole country. Also, provincial and municipal governments have their own specific regulations, licenses and authorizations.

A lease of real estate is entered into between the parties in writing. A party agrees to grant the other the right to possess, use and enjoy a unit of real property in exchange for the periodic payment of a rent. The term for residential lease agreements may be from 2 to 10 years and for commercial leases, from 3 to 10 years. It is forbidden under Argentine legislation to include indexation mechanisms in the contract terms to adjust the rent price.

However, for the landlord's protection, the lease may provide for a tiered payment system with rent increases after each period.

With regard to the acquisition of real estate, most purchase transactions involve a first stage in which a Bill of Sale is signed. The Bill of Sale does not imply a transfer of title but it constitutes proof of ownership and it may be used to enforce a transfer of property title. Transfer of the title is made effective upon execution of the Sales Deed before a notary public.

When acquiring an asset subject to registration, in case the purchaser, not being bound by tax or social security obligations, does not have a CUIT (Spanish acronym for Taxpayer's Identification Number) or a CUIL (Worker's Identification Number), they are required by law to obtain a CDI (Identification Number) from the AFIP (Federal

Administration of Public Revenue). To do so, the foreign purchaser must have a valid passport and appoint, for tax-related purposes, a representative who is an Argentine resident and who must register to this effect.

The purchase by foreigners of real estate in Argentina is not subject to prior authorization requirements, except in the case of acquisition of real property in border security areas or rural areas.

PURCHASE OF LAND IN BORDER SECURITY AREAS

"Border security areas" are strips along land and sea borders and areas surrounding inland military or civilian establishments which are especially relevant for national defense matters. They are geographical areas destined to complement the territories preserved for national defense purposes. When purchasing real estate located within border security areas, the prior consent of the National Commission for Security Areas (CNZS in Spanish) must be obtained for transfer of the property and/or exploitation of permits and concessions in those areas.

PURCHASE OF RURAL LAND

Act No. 26737, passed in December 2011, restricts foreign ownership of rural property in the Argentine territory to 15%. This percentage applies also over the territory of the province, municipality or equivalent administrative territory where the rural property is located. In turn, the surface owned by individuals or legal entities of the same foreign nationality may not exceed 30% of the total. In the so-called "core area", comprised by certain districts of the provinces of Buenos Aires, Santa Fe and Córdoba, the same foreign owner may not hold an area exceeding 1000 hectares (2471.05 acres) or an equivalent area, as

determined by its proportion in relation to the municipality, district or province where it is located and the soil's quality and potential for exploitation.

Moreover, foreigners are prohibited from owning property containing or located on the banks of large permanent water bodies, or property located within border security areas, with the exceptions under Executive Order No. 15385/44 as amended by Act No. 23554.

According to the bilateral investment treaties in force subscribed by the Argentine Republic, the acquisition of rural lands is not considered as an investment, as rural lands are a non-renewable natural resource contributed by the host country.

The area corresponding to rural lands is determined by subtracting the area belonging to urban agglomerations, as determined by provincial constitutions, laws or executive orders, or municipal charters or ordinances, from the total area of the province, district, municipality or equivalent political division.

The rural land area taken into consideration for the purpose of calculating the limit for foreign land ownership will be that obtained by means of the above referred system or, otherwise, the area determined by the Inter-Ministry Board of Rural Lands.

The limit for foreign land ownership in the province of Mendoza is set forth in Executive Order No. 550/13, which was published in the Official Bulletin of May 9 2013. This order establishes maximum areas subject to the activity that is to be carried out on the lands:

MINING: 25,000 hectares (61776.25 acres)

CATTLE RAISING: 18,000 hectares (44478.9 acres)

FRUIT OR VINE GROWING: 15,000 hectares (37065.75 acres)

VEGETABLE GROWING: 7,000 hectares (17297.35 acres)

REAL ESTATE: 200 hectares (494.21 acres)

OTHER ACTIVITIES: 1,000 hectares (2471.05 acres)

The law is not applicable on foreign individuals who:

- can prove 10 years of continuous and permanent residence in Argentina;
- have Argentine children and prove 5 years of continuous and permanent residence in the country;
- have been married to an Argentine citizen for at least 5 years before the creation or transfer of the pertinent rights and can prove continuous and permanent residence in the country for the same period of time.

For further information on procedures, please visit:

<http://www.jus.gob.ar/tierras-rurales.aspx>

<https://www2.jus.gov.ar/RNTRSOL>

BUILDING PERMITS

Building permits for new works, additions or reforms are issued by municipal authorities. They must be obtained prior to starting the works and they include: the Cadastral Certificate (*Certificación de nomenclatura parcelaria*), the Certificate of Proper Use (*Certificado de uso conforme*),

the Construction Permit (*Permiso de edificación*) and the Notice of Construction Works (*Aviso de obras*).

The Cadastral Certificate is issued by the corresponding municipal cadastral office for the land lot where the works are to take place. This certificate is valid for six months after the issuance date and it states the zoning restrictions which might eventually affect the property in relation to, for instance, the widening, opening or altering of public rights of way.

Documents required to obtain a Construction Permit:

- Project approval request and supporting documentation in the form of an affidavit and in conformity with the regulations in force.
- Certificate of Proper Use.
- Cadastral Certificate.
- Relevant drawings and calculations.
- Graph and calculation of total covered areas, classified by type and category according to the rates scheme in force at the time of submission of the documentation, including an estimate of the respective prices.

The Certificate of Proper Use proves that a land parcel, building, structure, installation, or a part of it, is used in compliance with the zoning regulations in force.

The Construction Permit must be requested from the Office of Private Works of the corresponding municipality. This permit covers the following works: construction of new buildings, additions, refurbishments or reforms; closing, opening or modification of spans on facades; building of

walls; replacement or modification of roof structures; site leveling and excavation; demolitions; mechanical, electrical, thermal, flammable and sanitary installations or extension, renovation or modification of existing ones; opening of rights of way; land surveying and modification of cadastral maps; construction, extension or refurbishment of parking lots.

The Notice of Construction Works is also issued by the municipality where the works will be carried out, and covers the following works: alteration of curbs; cleaning or painting of facades; opening, closing or modification of spans on walls other than facades; application or replacement of plastering on front fences; application or replacement of coatings, exterior plastering or the like; replacement of roof cover material; installation of suspended ceilings; site leveling and filling; minor modifications on mechanical, electrical, thermal and flammable installations; putting up of display windows or sunshades on facades overlooking the street; and any kind of work not requiring a permit but for the execution of which it is necessary to set up a temporary sidewalk or street closure.

Documents required for the request of a Notice of Construction Works:

- Application form, submitted as an affidavit and in duplicate, listing in detail the works to be carried out and their price, according to the regulations in force.
- Cadastral Certificate.
- Official receipt of payment of the corresponding fees.

ENVIRONMENTAL IMPACT ASSESSMENT

In Argentina, there exist a number of laws and procedures that regulate the environmental impact of industrial activity at the provincial level. In general terms, the submission of an environmental impact assessment (EIA) is required by provincial authorities before a company's new industrial project, or the modification of an existing one, is approved. Once the EIA is approved, a certificate of environmental aptitude is issued authorizing the company to establish in the area and carry out operations.

The environmental legislation applicable all over the Argentine territory is constituted by the general provisions of Environmental Act No. 25675 and Act No. 25612 on the Comprehensive Management of Industrial and Service Industry Waste.

There are further regulations relating to specific assumptions of environmental protection, such as the kind of waste whose generation, management and disposal is regulated, the natural resource that the law intends to protect, and the type of waste-generating industry, e.g. the mining and hydrocarbon industry.

ENVIRONMENTAL ACT

The Environmental Act provides for the preservation and protection of biological diversity and the implementation of sustainable development measures that ensure adequate environmental sustainability. For this purpose, it provides guidelines for the use of an environmental impact assessment procedure prior to undertaking any work or activity that may be harmful to the environment or any of its components, or that may significantly affect the quality of people's lives.

Any citizen has the right to obtain non-confidential information from the authorities and to express their opinion on administrative procedures relating to environmental preservation and protection. Any individual or legal entity, whether public or private, whose activities may pose a threat to the environment have to take out an insurance policy with sufficient coverage to guarantee financing for the remediation of any damage caused as a result of their activities. The law also sets forth a liability regime applicable to anyone causing environmental damage.

ACT ON COMPREHENSIVE MANAGEMENT OF INDUSTRIAL AND SERVICE INDUSTRY WASTE

This act establishes the minimum assumptions of environmental protection with regard to the comprehensive management of waste generated throughout the country and waste produced by industrial processing or service-related activities.

The act prohibits the import, introduction and transport into Argentina of any kind of waste from other countries, with the following exceptions: waste products previously listed by the competent authority to be used as supplies in industrial processes, and the transit of waste stipulated under international agreements.

Provincial authorities are to keep a record of all individuals and legal entities responsible for the generation, transport, storage, treatment and final disposal of industrial waste.

A record must also be kept of the nature and amount of the waste, its origin and transfer from the generator to the

carrier, and from the carrier to the treatment plant or final disposal location, as well as the treatment or disposal processes and any other operation the waste is subject to.

Finally, the act establishes a liability regime applicable to waste generators and carriers and to the owners of storage, treatment and final disposal plants for industrial waste.

OTHER SPECIFIC ENVIRONMENTAL REGULATIONS

The Hazardous Waste Act (No. 24051) created a liability regime applicable to the generation, handling, transport, treatment and final disposal of hazardous waste originated or located in places subject to national jurisdiction or destined for transport outside the territory of the provinces. Waste is deemed hazardous when it affects people or the environment, or when it requires special sanitary or safety measures.

Other environmental protection regulations in Argentina are: Act No. 23922, which, having adopted the Basel Convention, controls the transboundary movements of hazardous wastes; Act No. 25018 on radioactive waste; Act No. 25670 on the management of polychlorinated biphenyls (PCBs); Act No. 25916 on domestic waste; and Act No. 26011 which adopted the

Stockholm Convention on persistent organic pollutants.

The Water Management Regime (Act No. 25688) provides for the rational use, exploitation and preservation of water. The competent authority must authorize its use, determine the maximum acceptable limits of pollution, define instructions for the refill and protection of aquifers, fix environmental parameters and standards of water quality,

and prepare and update the National Plan for the Preservation, Exploitation and Rational Use of Water.

In turn, the Atmospheric Pollution Act (No. 20284) provides for the preservation of air resources. Act No. 23724 ratifies the Vienna Convention for the Protection of the Ozone Layer, and Acts No. 23778, 24040 and 24167 ratify the Montreal Protocol on Substances that Deplete the Ozone Layer. Additionally, Act No. 24292 adopted the International Convention on Cooperation, Preparation and Struggle against Pollution by Hydrocarbons, and, in turn, Acts No. 24498 and 24585 establish that the exploitation of nuclear minerals shall entail the obligation to restore the natural area affected, protect the environment and preserve the natural and cultural heritage during mining activities.