



Your land. Our business. Worldwide.®

## Let Stewart guide you through the world of international real estate

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With offices in Australia, Canada, the Caribbean, Europe, Latin America and New Zealand, the International Group of Stewart Title Guaranty Company (Stewart International) services more than 60 countries with title guaranty, title insurance, escrow and Closing services. In markets where land ownership systems are being created or automated, Stewart International can provide foreign governments with the technology and land information expertise to create secure automated land ownership, property tax ad parcel/cadastral mapping records. We are truly a global company with local expertise.

## Turn-key Closing

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Stewart Title Guaranty Company-International Group (Stewart International) Closing Services Department can help foreign investors navigate the nuances of purchasing real estate in Mexico.

The Closing Services Department coordinates and manages the various aspects involved in closing the transaction and will coordinate the needed services with appropriate parties. Stewart will be responsible for obtaining all necessary documentation including copies of the recorded deed transferring title.

Advantages to our services are:

- Coordination of the due diligence performed on property
- Coordination of services (US)
- Coordination of all parties (Mexico)
- Excellent customer service
- Reliable and secure company
- Experienced staff

## Parties to the Real Estate Transaction

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- Stewart International – Closing and Escrow
- Stewart Title Guaranty de Mexico, S.A. de C.V. (STGM) – Title Insurance
- Notario Publico (Public Notary)
- Trustee
- Surveyor
- Appraiser
- Lender
- Buyer
- Seller

## Closing Costs

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Closing costs are paid by the buyer and are usually about 6%-8% of the purchase price. A 2% transfer tax, based on the sales price of the property is assessed to all real estate transactions by the Mexican Government. Other closing costs, such as title search, bank trustee fees, Notario Publico (public notary), tax and lien certificates, foreign ministry permit, and the registration and filing of all legal documents as required by the local government are approximately an additional 4%-6%. The seller is responsible for certain fees such as the Capital Gains Tax, any unpaid utilities and property taxes. All these fees need to be paid at or before the time of closing. Once the transaction is closed, the new owner will "inherit" those bills. Bills that remain unpaid will accumulate penalties and late charges.

## The Notario Publico (Public Notary)

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The Notario Publico (Notario) is a government official, whose services are required for the transfer of real estate in Mexico. Unlike a public notary in the United States, the Notario is appointed by the governor of the state and is the only person authorized to record the transfer of property at the public registry. The Notario is an attorney of record and the unbiased, official representative of the government.

A Notario has a fiduciary responsibility to both parties and sanctions the contract from a tax and legal point of view.



## The Trustee

Foreigners may obtain direct ownership of property in the interior of Mexico. However, foreigners cannot acquire direct ownership of residential property 100 kilometers from the border and 50 kilometers from the coastline. This area is known as the restricted zone.

In order to purchase residential real estate in the restricted zone, foreigners must acquire the property through a bank Trust. Although foreign individuals may be the beneficiaries of the Trust, only a Mexican Bank may act as the Trustee. There is an initial fee to set up your Trust and an annual maintenance fee as long as you have the Trust. Fees are negotiable and they can vary from bank to bank.

The bank, as Trustee, must obtain a permit from the Ministry of Foreign Affairs to establish a real estate Trust and acquire rights on real property located within the restricted zone.

The bank Trust is established for a 50 year renewable term and grants the beneficiary the right to possess, use, rent, modify or sell the property. An advantage of the bank Trust is the avoidance of probate upon the death of the Beneficiary when a Substitute Beneficiary is named.

## Property Ownership Through a Corporation

Foreigners may acquire non-residential property in the restricted zone using a Mexican corporation without the need of establishing a bank Trust. This is a great benefit for foreign business owners. However, this is not the answer for everyone and you should consult with Mexican legal counsel to determine what best suits your needs. Compliance with Mexican law requires that the property be used for non-residential purposes only. There is also additional government reporting and tax payments required.

## Conveyancing of Property

In order to accomplish the transfer of title, Stewart will coordinate with all parties and assist in the timely completion of the transaction.

Once all parties, or their legal representatives, to the transaction have signed before the Notario he will send a notice to Stewart advising of the closing and the Public Deed will be sent for recordation at the Public Registry. The recording process takes approximately 60 to 90 days. Thereafter, a copy of the recorded Public Deed can be obtained, and the title insurance company will proceed to issue your final Title Policy.

## Other Closing Related Items

### **Taxation**

As a general rule, property taxes are very low in Mexico. The property tax, known as Impuesto Predial, varies according to the jurisdiction in Mexico in which your property is located. Taxes are paid annually, with the assessed value determined at the time of sale and based on the purchase price of the property.

### **Capital Gains Taxes (Impuesto Sobre la Renta)**

Capital Gains taxes are due at the time of selling the property and are the responsibility of the seller. The Tax is a percentage of the difference between the purchase price and the selling price. The Notario is the only person authorized to make the calculation and collect the taxes for payment to the authorities. The Notario is personally liable if he does not collect the correct amount. It is illegal to underreport the purchase price in order to attempt to lower your yearly property tax. Additionally the capital gains tax will be higher upon the ultimate sale of the property.

## Escrow

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When purchasing property outside of the United States, one of the most important considerations for both a buyer and a seller is whether and under what conditions the transaction funds will be safely held and distributed by an independent party. In many markets, brokers or attorneys hold transaction funds on behalf of an interested purchaser. Should either party the purchaser or seller feel uncomfortable with this option, Stewart International offers the safest option: depositing transaction funds into a Stewart International escrow account.

Once the Buyer has agreed to the terms of the escrow services agreement, an escrow file is opened. All funds will be deposited into Stewart's Escrow Account and distributed according to the instructions you have provided. Payments can be made to third party providers to set up the Trust, obtain legal documents, order an appraisal, survey and title search.

Utilizing Stewart's escrow services provides cost-effective security to all parties in the real estate transaction. With billions of dollars of experience, Stewart International's escrow team can administer deposited funds ensuring an efficient and secure disbursement process.

## General Requirements of Escrow

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- Escrow agreements must be completed and signed by all parties prior to receiving funds into escrow.
- Please include a copy of
  - Two forms of government issued photo ID for both seller and purchaser. Examples: drivers' license, passport and military identification;
  - A copy of the preliminary sales contract;
  - If seller or purchaser is a corporation; sufficient documents of legal representative (showing legal capacity to act on behalf of the company, such as bylaws, power of attorney, etc.) and a copy of the representative's identification should be provided.
- Upon receipt of the signed escrow agreement, we will notify you once your file has been opened and provide you with a Guaranty File number (GF#).
- To insure your funds are properly applied, please always reference your GF# when sending funds to Stewart International.
- We are required by law to return any funds to the sender when they cannot be identified to a specific escrow account.
- Stewart International will receipt the required deposit per the instructions contained in the escrow agreement.
  - Stewart International will not receipt any money deposited and establish escrow without an escrow agreement fully executed by the respective parties.
- At the time of closing, Stewart International will require the agreed upon documents that signify the closing has taken place. The most common examples of these are:
  - A copy of the written deed or instrument which effects the transfer of the property;
  - A letter from a licensed attorney or notario stating that the Deed/Trust has been fully executed;
  - Where applicable, a registered preventive notice, caution or inhibition referencing the property;
  - A written certification from the seller stating that the property is free of all liens.
- All legal documents and transactional information must be provided to Stewart International at least five days prior to the proposed closing date. These documents may be mailed, faxed, or scanned and emailed to Stewart International.
- In order to properly review documents and disbursement instructions, Stewart International is allowed at least 2 business days for completion of all disbursements/ releases upon receipt of all documents as listed. We understand that every transaction is different; therefore, should the transaction require special instructions please contact Steve Gottardy, International Escrow Manager.



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### Title Insurance

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Most active real estate markets have a system for organizing and recording property purchases; however, those systems vary widely. For an investor or mortgagor to have true peace of mind about a property acquisition, a fundamental concern should be to secure “good title”.

Stewart’s title insurance policies are crafted to address the local title issues. Senior underwriters and local offices collaborate to deliver market-driven title protections addressing pertinent concerns.

After a satisfactory title search has been conducted on the property and a clear chain of title established, a title commitment will be issued.<sup>i</sup> In order for Stewart Title Guaranty de Mexico, S.A. de C.V. to issue a final title policy, they will require a copy of the fully recorded Public Deed, which contains the Preventive Notice and the Certificate of Liens, the title insurance premium paid in full, satisfaction of all conditions and terms contained in the title commitment and satisfaction of all other underwriting requirements.<sup>ii</sup>

Title Insurance is the only monetary indemnification a buyer can obtain to guarantee ownership of real estate.

### DISCLAIMER

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Stewart Title Guaranty Company - International Group is not engaged in rendering legal, accounting, or other professional advice or services. If legal advice, services or other expert assistance is required, the services of a competent professional should be sought. The information contained herein has been obtained by Stewart from sources believed to be reliable. However, because of the possibility of human or mechanical error, whether by our sources or by others, Stewart does not guarantee the accuracy, adequacy, or completeness of any information herein.

<sup>i</sup> Provided that all of the underwriting requirements of Stewart Title Guaranty de Mexico, S.A. de C.V. have been satisfied.  
<sup>ii</sup> The issuance of a Title Commitment is not guaranteed and is subject to the underwriting guidelines of Stewart Title Guaranty de Mexico, S.A. de C.V.

