

PURCHASING REAL ESTATE

PROPERTY IN FLORIDA

THE CONTRACT

The purchase of property in Florida is governed by Florida law, and the rights and obligations of the buyer and seller are stated in a contract for sale and purchase, which must be in writing to be valid. The contract generally starts out as an offer by the buyer, which is either accepted or rejected by the seller. If the seller rejects the buyer's initial offer, he or she may counteroffer on different terms. Once both parties agree to the price and terms, the contract becomes binding and both parties must meet their contractual obligations. The buyer's principal obligation is to "close" the transaction by the date he or she promised to close on the contract. The seller's principal obligation is to convey possession of the property, both legally and physically in the same condition the property was in when the buyer made the initial offer. Unless the contract states that the property is sold in "as-is" condition, the seller must make necessary repairs in order to convey all aspects of the property in working condition.

In the case of "new construction properties," the developer-builder usually provides prospective buyers with a pre-printed form contract. In most instances, the buyer has the opportunity to inspect the property upon completion in order to compile a list of items which should be repaired or replace. This list is generally known as a "punch-list" and is usually completed by the developer-builder after the closing. As is the case with most developer-builder contracts, the fact that the buyer has the right to compile a punch-list does not mean that the contract can be canceled, if the buyer is not satisfied with the condition of the property. The good news is that Florida development is extremely regulated in order to protect the consumer.

TITLE

As with most properties, Florida real property is subject to taxes levied based on the value of the property which may become a lien if not paid. Liens and encumbrances for debts and other obligations which the owner/seller may have could also be a problem on the title. Before accepting legal title to property, a buyer through his or her attorney, must ascertain that the property is free and clear of any lien or judgment by studying the documented history of the property. After this is accomplished, and in order to continue to protect the status of title, a title insurance policy is issued by the buyer's attorney. The policy protects the new owner's rights and interests throughout the time he or she holds title to the property. In Florida, which is lien state, the mortgage is a lien on the property, the buyer/owner hold title.

MORTGAGE FINANCING

Because of the number of international/offshore investors buying property in Florida is on the rise, there are now many programs available. In most cases, a 30% down payment is required. An offshore borrower is defined as an applicant who is purchasing a second home or other real estate investment in the United States, but whose income is derived from another country. Among documents needed: credit report, financial statement, and verification of funds and/or transfers, and two years work history or business ownership from the date of mortgage application. If self-employed a letter from the accountant of your business and credit references from the country of origin.

TAX CONSEQUENCES

The ownership of real property in the United States has tax consequences dependent upon how the property is owned and whether or not the property produces rental income*.

The international investors, in general, choose to form an offshore corporation because of the federal estate tax. If the buyer intends to rent out the property, the rental income received is subject to United States income tax. Using the property for rental will allow the buyer to deduct certain expenses associated with the operation of the property. These expenses include annual property taxes levied by the county in which the property is located, condominium maintenance expenses, repair expenses, interest on any mortgage on the property, rental broker's commissions and depreciation. Federal Income tax returns are required to be filed on an annual basis if rental income is received. In Florida property taxes are levied by local governments on real and tangible personal property located within respective jurisdictions. The tax rates are determined within each jurisdiction. Real property taxes are assessed on the just value (generally the fair market value) of land, buildings, fixtures and leasehold improvements. Values are determined by the county property assessor on January 1 of each year, due in November 1 and past due in March 1 of the following year.

INMIGRATION CONSIDERATIONS

The mere ownership of real property in the United States, whether for personal use or for production of rental income does not by itself provide any immigration advantage for the international investor. The international investors who intend to remain in the United States temporarily to set-up a business, however, can often obtain a visa for that purpose. The common types of visas for international investors are the E-1 Treaty Trader Visa, the E-2 Treaty Investor Visa, and the L-1 Intercompany Transferee Visa. In some cases, a visa can lead to the possibility of permanent residency and naturalization**.

PREPARING TO CLOSE THE TRANSACTION

The closing phase is by far the most exciting part of the transaction. If all is well, the buyer receives title and possession to the property after settling all accounts with the seller. Making sure that all is well and guiding the buyer through a successful closing is the principal responsibility of the real estate agent and the real estate attorney. First, all documents, including a report of the status of title are carefully reviewed. There are various credits and debits exchanged between the buyer and seller with respect to repairs, real estate taxes, maintenance fees, etc., which must be accounted for in the closing statement. The closing statement will set forth all the closing expenses customarily paid for by the seller and all those paid for by the buyer. A careful accounting of all unpaid liens, judgments, mortgages and commissions fees is made and deducted from the seller's proceeds in order to convey to buyer free and clear title to the property. The buyer's charges may include all bank charges, in the event bank financing is involved, and all title, recording, stamp tax and attorneys fees. Funds due from the buyer to complete the transaction are either brought to closing by the buyer in the form of a cashier's check or are wired into the escrow agent's trust account.

Real Estate Brokers/Agents, Attorneys and Closing agents are carefully regulated by the State of Florida and the Associations licensing these professionals. The buyer is generally assured that all necessary disbursements are made and that the transaction is completed in accordance with United States government's Department of Housing and Urban Development or "HUD" regulations, which not only protect United States citizens and residents, but all buyers of United States property, regardless of their national origin.

HOW TO GET YOUR QUESTIONS ANSWERED

Your first contact in purchasing United States real property should be through a real estate broker or salesperson, especially one who specializes in working with foreign nationals. These professionals are best qualified to guide you through the process of choosing property to best meet your needs and desires. They are also knowledgeable of the market place, its condition and its trends. Real estate brokers or agents can also explain the many types of ownership that can best suit your particular situation, as well as prepare analyses of income producing properties. All of these services are completely free to the investor. Generally in Florida the seller of the property pays commission for the sale. If your decision is that **ACOL** Realty represents you, our staff will be happy to recommend our hand picked professionals i.e. Accountants, attorneys and closing agents who specialized in international taxation and/or immigration to answer your specific questions. **ACOL** Realty has the capacity, knowledge and skills to inform you of all the properties for sale, including auctions, foreclosures and short sales, through our computerized system "Multiple Listing Service" (this service is provided only to real estate professionals).. FOR OVER 20 YEARS **ACOL** REALTY'S NAME HAS STOOD FOR RELIABILITY, INTEGRITY AND PROFESSIONALISM

Please contact our office for further information and /or guidance in the purchasing of your next investment in Florida whether it is residential or commercial property.

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*Taxes in the USA are delicate and we highly recommend you use a tax accountant to best guide you in your particular situation.

**Immigration is a delicate field and we highly recommend you use an attorney specialized in this area

.....We have hand picked professionals in these areas that can be of assistance to you.