

RELEVANT INFORMATION ABOUT CR CORPORATIONS

Although, in Costa Rica foreign ownership is fully permitted, with the following exceptions: a) property given or sold to CR citizens as part of government aid programs and b) the concession land, it is advisable to purchase property through a CR corporation. Doing so, allows the purchaser to have: flexibility and liability protection. Furthermore, can help with the proper Estate and Tax planning, as well as not requiring for the property owner to be in Costa Rica to grant a special POA (Power of Attorney) for the diligences or acts required.

CR Law contemplates different types of corporate entities, the main and best known are: “Sociedad Anonima or SA” and a “Sociedad de Responsabilidad Limitada or SRL”. In both entities, the liability is limited to the corporation’s assets and to the totality of the contributions made by the shareholders or quota holders, therefore, the personal assets are protected against any potential creditor the company may have. However, they have differences that needs to be taken into consideration, some of them are the following:

The “SA” is governed by a Board of Directors: President, Secretary and Treasurer. Also, mandatory to have a Comptroller. Each appointment must be occupied by a different person of legal age. Therefore, you need at least 4 individuals. The Stock of a SA are called shares. The shares represent the capital stock of the corporation. The Shares can be transferred through endorsement of the Share Certificates and proper entry in the Shareholder Registry Book. The Shareholders may transfer their interest to a third party freely unless otherwise stated in the articles of Incorporation or bylaws of the SA.

The “SRL” does not have a Board of Directors, could be governed by only one individual (Manager), making it really easy and simple. The Stock of a SRL are called quotas. The quotas represent the capital stock of the corporation. The Quotas are transferred through an Assignment Agreement and proper entry in the Quota Holder Registry Book. However, the quota holders have, as per CR law, a right of first refusal provision for the sale of them. Therefore, cannot be transferred to a third party without offering their interest to the other quota holders first.

Before setting up your corporation in Costa Rica you should get proper advice from a CR corporate Attorney, who will help determine the right and appropriate legal corporate structure required for the business or investment you want to make. It must be successfully implemented to avoid problems with the authorities in Costa Rica and for your corporation to operate smoothly.

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MORTGAGES IN COSTA RICA

Unlike some other countries, anyone can buy real property in Costa Rica. You are not required to have CR citizenship, residency, nor even be permanently present here to own land in Costa Rica.

If you want to buy a property here, you might need to get a mortgage (hipoteca). In Costa Rica, you can get this type of financing from either: i) the banks (most require CR legal residency), ii) private lenders or iii) the real estate seller, who will grant a loan directly to their buyers.

The mortgage must be granted and executed as a Public Deed (escritura pública) before a CR Notary Public, then recorded at the National Registry as a lien (gravamen hipotecario) against the property. The borrower pays all the fees and expenses. The Lender's Lawyer/Notary Public is responsible for the drafting, execution and recording of the mortgage deed.

The mortgage shall clearly state all terms and conditions governing the financing, including for example: term of the loan, interest rates (current and default), whether fixed or variable interest (example: based on US Prime rate plus x points), payment due date, whether the installments include principle or only interest, any balloon payment, mode of payment (cash, wire or bank transfer, certified check), contractually agreed domiciles so the parties can be legally notified, permissions for pre-payment without penalty, the extent to which the security includes future improvements, the insurance policy (fire, natural disaster, contents, etc.) to cover the loan amount and any new construction, options to rent or lease out, and permission requirements before selling.

To avoid any errors in the terms and conditions agreed between the parties, it is highly advisable to verify, within the National Registry, that the mortgage deed was duly and correctly registered.

If the Debtor defaults, the Lender is entitled to enforce the mortgage and can proceed with foreclosure proceedings before the respective Court, following CR Law.

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