

RESIDENCE REQUIREMENTS IN PANAMA

Permanent Residency (“I-” visas) is granted to foreigners:

- 1) Investing US\$40,000 in a Panama non-retail business and effectively employing 3 Panamanians,
- 2) Holding a US\$200,000 CD time deposit (plazo fijo) account in a Panama bank for at least 2 years,
- 3) Owning a house for US\$80,000, a timed deposit for at least 2 years, for at least US\$120,000 and "provide evidence of the source and amount of income used to cover his/her general expenses",
- 4) Married to a Panamanian spouse, subject to an interview to verify if it is a bona fide marriage.

Residents earning income from Panama sources (except bank accounts in Panama or securities from Panama public companies) must pay Panama income taxes on said income.

Pensioner Visas are granted to foreigners:

- 1) Holding a US\$125,000 CD in the Panama National Bank yielding US\$750.00 monthly for 5 years as Retiree (“Rentista”),
- 2) Earning a pension from a social security or any foreign government pension authority above US\$500.00 monthly as Pensioner (“Pensionado”).

Other residence categories exist that are applicable to foreigners sponsored by local employers or educational institutions as part of a foreign worker quota of no more than 10% per company.

In addition to specific documents depending on the type of visa requested, all applicants (except for Married to a Panamanian spouse Visa and Pensioners) must provide, at least:

- 1) Police Record or Certificate of Disposition from the Town Court of the applicant, authenticated by Panama Consul or with Apostille from the Department of State of origin (except for Pensioners),
- 2) Medical exam by a Panamanian doctor
- 3) Power of attorney in legal-size paper, under the attached format.

Information is valid as to 2/6/2005 and is subject to changes. More information is available from Alvaro Aguilar aaguilar@nysbar.com Tel. +507 340-6444 / 6638-8707

BANK ACCOUNT REQUIREMENTS IN PANAMA

Foreigners are subject to “Know-Your-Customer” (KYC) requirements when opening an account with a bank in Panama. Subject to changes according to internal procedures of each bank, applicants must appear in the person at the bank for a personal interview and provide :

- 1) 2 Letters of Reference from 2 other banking institutions, authenticated with Apostille or by Panama Consul, addressed to the bank in Panama,
- 2) Copy of the passport and another picture identification (providing the original documents for verification)
- 3) Tax return or other document which will help the bank identify the income range of the applicant and compare it with the movement of account.

The Panama Superintendent of Banks has a website <http://www.superbancos.gob.pa> where all institutions licensed to provide banking services are listed. Institutions which do not appear in this listing act in violation of local laws and depositors risk losing their deposits.

In addition, Panama banks owned by investors holding publicly-traded shares, disclose their financial statements and relevant events to the Panama Stock Exchange <http://www.panabolsa.com>, which helps to gauge their financial solvency.

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Acquiring Real Estate in Panama

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By [Alvaro Aguilar](#),* 2001

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- Ownership and Holding of Properties by Foreigners

Panama is one of several Latin American countries that welcome foreign investment into real estate, by allowing full ownership of property by citizens of any country. Added to other advantages such as use of the U.S. dollar as legal tender, a legal system for accurate registration of property titles and a cadre of U.S.-trained engineers and architects, Panama City has become the destination of investments into real estate as seen in its urban skyline. Rural properties are also of interest for foreigners, since the American Association of Retired Persons named Boquete in Western Panama as the 4th best foreign location for living by U.S. retirees.

The Panama Constitution guarantees the right to ownership of property, as well as equality between nationals and foreign residents before the law. However, special restrictions can be enacted for immigration and health purposes. Ownership of property by foreigners is not allowed in the areas up to 10 km away from the borders, which are covered by inaccessible rainforest – thereby leaving the best lands open to foreign investment. The seas, lakes, rivers and the Panama Canal waterway are non-transferrable public domain, while owners of beaches and islands must grant a public right-of-way to the sea.

The Constitution forbids confiscation of properties as a penalty, although property acquired under money laundering schemes is subject to forfeiture. Expropriation is allowed for emergency public interest purposes, but only after a hearing with the owner and payment by the Government of fair, adequate and prompt compensation under international standards. Bilateral investment treaties with the U.S., France, United Kingdom and most European countries further ensure protection of investments from citizens of said countries.

Possession rights may be requested from the Government over public lands available for agricultural purposes. However, possession rights are not clearly registered and do not grant as many rights as property rights.

Leases on property are also available. A non-interest bearing, refundable deposit with the Ministry of Housing is required as well as registration of the contract with said Ministry. Lease agreements with terms above 3 years must be registered at the Public Registry.

- How is property transferred

Unlike the U.S., where each county has court clerks for registration of title deeds, Panama has a single, centralized, computerized, national Public Registry where ownership and encumbrances of Property, Condominiums (called Horizontal Property), Airplanes and Ships are registered. Property-related transactions are not valid before the public until recorded at the Public Registry. The centralized system allows a title search at the Public Registry to reveal in a single day the measurements, coordinates, mortgages, encumbrances, judicial actions, restrictions, rights-of-way of each property, which is assigned a "finca" number for identification purposes.

The Civil Law requires that the buyer and seller appear in person before a Notary Public to close the sale. However, parties located abroad can grant a power of attorney before their local Notary Public and Panama Consul to appoint an attorney-in-fact to conduct said formality in Panama. The Notary Public drafts a Public Deed, a true copy of which is registered at the Public Registry in 1 or 2 weeks. Transfers of property are subject to a registration duty of US\$2.50 for every US\$1,000 of the transaction price (usually paid by the buyer), as well as a Capital Gains Tax of 2% on the assessed value of the property (levied on the seller) increased at a 5% or 10% annual rate from the previous sale price.

Properties that are not being used actively are subject to adverse possession claims by residents without title that live there for 15 continuous years without opposition from the owner. This is not a problem in real estate markets of Panama City and other urban areas, but is a potential source of disputes in large, remote, rural properties. A physical inspection and a search of the plat at the Property Surveyor's Office ("Catastro") is a must before purchasing such rural properties. Local insurers do not provide title insurance but some U.S. buyers have sought coverage from specialized insurers abroad.

Condominiums and gated communities may be subject to a special Horizontal Property regime. This regime allows individual housing or office units to be separately sold, while their current and future owners remain subject to use restrictions in the By-laws of the complex. The permanent nature of these privately-enacted restrictions make this regime an efficient tool for developers interested in preserving the special nature of large residential and commercial developments.

- Financing of real estate

With almost a hundred general-license banks, Panama has no shortage of financial institutions willing to lend credit-worthy buyers of urban properties, subject to a mortgage on the land or a pledge of funds as collateral. The use of the U.S. dollar as currency and the lack of exchange restrictions allow banks to grant 25-year mortgages at rates between 7 and 11%, which are among the most favorable lending conditions in Latin America. After their purchase, urban properties with high resale value can serve as collateral to finance an ongoing business activity of the property owner.

In practice, a prospective buyer requests a letter from the bank financing the purchase, stating that payment will be made once the transfer of title and the mortgage are simultaneously registered at the Public Registry. This serves as an escrow service which provides an additional guarantee for both the bank and the buyer. Valid mortgages must be granted before a Notary Public and recorded at the Public Registry. Applicable registration duties are of US\$0.25 for every US\$100 of the mortgage amount.

- Tax incentives

Real estate with an appraised value above US\$30,000 is subject to yearly property taxes between 1.4% and 2.1%. However, the Panama Government provides incentives to the construction of buildings and ownership of residences, which encourage investments by locals interested in a secure tax shelter. The fact that construction provides needed employment to unskilled labor and addresses a chronic housing shortage, has prompted the Government to provide the following tax incentives:

- 1) 20-year exemption of property tax on the value of buildings and improvements, (*in force until 2006, after which the maximum will be of 15 years.*)
- 2) Exemption of Capital Gains Tax on the first sale of residences,
- 3) Banks granting residential mortgages for new residences below US\$62,500 receive a negotiable tax credit equivalent to interest reduced in 2 to 4 points below the prevailing rate,
- 4) Buyers of residences can deduct from their taxable income the amounts paid as interest for mortgages without the tax credits listed in 3),
- 5) Developers can deduct up to \$1,000 on taxable income from the sale of low-income housing with a price of less than US\$14,000,
- 6) Developers can declare as non-taxable income the profits from sale of real estate that are re-invested

in the construction of new residences, as long as the value of the new building is below US\$62,500 and equivalent to four times the amount of the profits realized.

Foreign investors should seek the advice of competent tax counsel in their country of residence to determine their applicable fiscal compliance requirements and liabilities.

- Special zones of interest

The XVIII- and XIX- century buildings of the Old Panama City (called "Casco Viejo") represent a historical district of interest, for which special incentives have been enacted. Only residential, commercial, tourist and cultural projects that preserve the architecture of the district are allowed, after being reviewed by the a government board. In addition to normal tax incentives, banks granting mortgages Casco Viejo projects receive a negotiable tax credit equivalent to interest reduced in 2 to 4 points below the prevailing rate.

The largest real estate transaction in the Americas is the ongoing sale or lease of 300,000 acres of land and buildings of the former Panama Canal Zone turned over by the U.S. to Panama in 1999. The Autoridad de la Región Interoceánica (ARI) a government entity in charge of attracting investors interested in converting these facilities into economically-viable businesses. Business opportunities are grouped into:

- 1) Maritime activities: container ports, ship chandling and repair, salvage operations),
- 2) Industrial parks: maquiladoras, information technology and other environmentally-sound industries,
- 3) Tourism: retirement communities, hotels and eco-tourism, and
- 4) Education: higher education and research.

Parcels available for commercial or residential development are listed in the [local media](#) and the [ARI Internet website](#). Also available for sale are 3,000 housing units already built in suburban areas.

Non-residential parcels or pre-existing facilities are offered by ARI for lease or concession for a renewable period of up to 25 years. Private investors can also submit project proposals with the respective feasibility and environmental studies to ARI, which if approved will then be open to public offering. Said contracts are granted under a public bid procedure. In the case of mega-projects where only a few qualified operators exist worldwide, an exemption from the public bid procedure may be exceptionally granted that allows direct contracting. Housing units are offered for sale by ARI and sold to the offeror paying the highest price above the base price listed in the media.

Additional incentives for real estate developers are described in the Export Processing Zones, Tourism and Reforestation sections.

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