

# SÁNCHEZ, CERVANTES Y ASOCIADOS

ABOGADOS

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## **ARTICLES FROM MEXICO'S FEDERAL CONSUMER PROTECTION LAW AND ITS REGULATIONS APPLICABLE TO THE PURCHASE OF REAL PROPERTY.<sup>1</sup>**

### **A. FEDERAL CONSUMER PROTECTION LAW<sup>2</sup>:**

ARTICLE 73.- Operations regarding real property will only be subject to this law, if the sellers are developers, constructors, agents or other persons who intervene in advising and the sale to the public of housing for residential purposes or when they grant the consumer the right to use real property through the time share system, under articles 64 and 65 of this law.

All contracts regarding the operations referred to in the above paragraph, must be registered before the (Federal Consumer Protection) Agency.

ARTICLE 73 BIS.- In all operations involving real property referred to in the preceding article, the seller shall make available to the buyer, at least the following:

I. In case of presale, the seller shall show the complete executive construction layout, as well as the corresponding scale model and, where applicable, the model unit;

II. The documents showing ownership of the property. Further, the seller shall inform of any encumbrances affecting the title to the same, which shall be cancelled at the time of execution of the contract before the notary public;

III. The authority of the seller and the owner's authorization for promoting the sale;

IV. Information on the state of the property's assessments and utilities;

V. In case of new properties or presales, the authorizations, licenses or permits issued by the corresponding authorities for the construction, regarding the technical specifications, security, land usage, type of construction materials; utilities serving the property, as well as all those with which it must be equipped in accordance with the applicable law. In case of used properties which do not have such documentation, the lack thereof must be expressly indicated in the corresponding contract;

VI. The structural, architectural and systems plans or, a report on the structural conditions of the property. If these documents are not furnished, the seller shall explain the cause and the timeframe for providing them.

VII. Information on the characteristics of the property, such as the area of the land, the construction area, the type of structure, systems, finishes, accessories, parking areas, common usage areas shared with other properties, percentage of share in common areas, utilities available and general physical state of the property;

VIII. Information on any added benefits offered by the seller in case the transaction is closed, such as special finishes, window dressings, floors and kitchen cabinetry, among others;

IX. The payment options available to the buyer, indicating the amount to pay under each of them;

X. In case of financed operations, the type of financing available, as well as a calculation of the amount to pay which includes the interest rate to be applied, commissions and charges. In case of variable rate, the reference

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<sup>1</sup> This English version has been prepared for general information purposes only and it is based on the laws in force at the time of its preparation. It is not intended to be relied upon for particular transactions or taking legal action. Always consult your qualified Mexican attorney before making decisions or taking legal action.

<sup>2</sup> For a full version of the actual law in Spanish, please visit this web page:  
[www.diputados.gob.mx/LeyesBiblio/pdf/113.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/113.pdf)

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rate and the formula for calculating such rate shall also be indicated.

If applicable, the mechanisms for modifying or renegotiating the payment options, the conditions under which such would be effected and the economic implications, for the seller as well as for the buyer;

XI. The conditions of the process for notarizing the contract, as well as the payments which in addition to the price, the buyer shall make, such as notarization expenses, taxes, appraisal, administration, financing opening fees and investigation charges. When applicable, the costs for accessories or supplements;

XII. The conditions under which the buyer may cancel the operation; and

XIII. The buyer shall be informed of the existence and establishment of a mortgage, trust or other type of guarantee, as well as its implementation.

ARTICLE 73-TER.- The contract which is to be registered pursuant to the second paragraph of article 73, shall, as a minimum, contain the following requirements:

I. Place and date of execution;

II. Be written in Spanish, but can in addition be written in another language. In case of controversy as to the text or wording, the Spanish version shall prevail;

III. Name, address and federal taxpayers number of the seller, as per the applicable laws;

IV. Name, address and, if applicable, federal taxpayers number of the buyer;

V. Sums must be indicated in Mexican pesos, but can, in addition, be indicated in a foreign currency; in the event the parties do not fix an exchange rate, the exchange rate shall be that of the place and date the payment is made, in accordance with the applicable law;

VI. Description of the item subject to the contract;

VII. The total price of the operation, the form of payment, as well as the additional payments to be made by the parties;

VIII. Indication of rights and obligations of the seller and of the buyer;

IX. Any conventional penalties applicable to the seller as well as to the buyer for default with any of their corresponding obligations under the contract, which shall be reciprocal and equivalent, without limitation to the provisions of the applicable law;

X. If applicable, the guarantees of fulfillment of the contract, as well as the refundable expenses and manner of application;

XI. The procedure for the cancellation of the adhesion contract and the implications deriving thereof for the seller and for the buyer;

XII. Commencement and conclusion dates for the performance of the service or activity hired, or for the delivery of the good subject to the contract;

XIII. In case of transactions for the sale of real property, the seller shall indicate in the contract, the technical characteristics and the materials of the structure, of the installations and finishes.

Likewise, it shall indicate that the property has the infrastructure required for the adequate operation of its basic utilities;

XIV. In case of purchase-sale operations, the terms under which such contracts will be notarized shall be indicated. The seller, where applicable, shall indicate that the property shall be free encumbrance-free at the time of execution of the corresponding notarial deed, and

XV. Other elements required under this law for adhesion contracts.

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ARTICLE 74.- Sellers shall make physical or real delivery of the property of the operation within the term agreed with the buyer and in accordance with the specifications previously set forth or offered.

ARTICLE 75.- In the adhesion contracts pertaining to real property the information required under chapter VII, date for delivery, specifications, terms and other elements for specifying the property, as well as the information required under article 73 TER shall be set forth. Sellers may not receive any payment until the contract relationship is set forth in writing, save for investigation expenses.

## B. REGULATIONS TO THE FEDERAL CONSUMER PROTECTION LAW<sup>3</sup>:

**Article 26.-** The seller shall inform the buyer that it has the right to consult the information referred to by article 73 BIS of the (Federal Consumer Protection) Law and, to such ends, seller shall in effect make such information available to the buyer prior to entering into any commitment to acquire the corresponding property.

**Article 28.-** The seller shall inform the buyer, in writing and prior to the execution of the corresponding contract, the instances in which the buyer shall pay fees, commissions or expenses in addition to the price of the property which are to be determined by third parties, and which are necessary in order to receive the property within the terms and conditions offered and agreed.

The seller shall not be responsible for the fees, expenses and other costs derived from the hiring of goods or services, including financing, which the consumer freely chooses and hires.

**Article 29.-** The purchase-sale contract shall indicate the conditions for the delivery of the property by the agreed date. Once such

conditions are met, the seller shall make the delivery on the agreed date.

Likewise, the purchase-sale agreement shall indicate the instances, causes or situations which, without being a violation of the applicable laws, may result in a delay in the delivery of the property without liability to the seller.

**Article 31.-** All sellers and realtors shall comply with the applicable requirements set forth in article 73 BIS of the (Federal Consumer Protection) Law, in accordance with the acts they carry out and with the purpose of the agreement.

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<sup>3</sup> For a full version of the actual Regulations, in Spanish, please visit this web page:  
[www.profeco.gob.mx/juridico/pdf/r\\_rpfc\\_3ago06.pdf](http://www.profeco.gob.mx/juridico/pdf/r_rpfc_3ago06.pdf)