

COVID- 19: PUBLIC DEEDS AND PROMISE TO PURCHASE

Take into account the following general practical guidelines to achieve a successful process of buying or selling your properties during the exceptional situation of COVID-19. These guidelines may not be applicable in particular cases.

Signature of public deeds

Keep in mind that until April 13th, 2020 (or any later date determined by the National Government) the notary service will only be available from 10:00 AM to 1:00 PM. Additionally, consult and choose in advance a day in which your trusted notary is open. In the following link you can consult the notaries' schedules of the main cities of the country.

Any person over 70 years that requires to execute a deed could request to the notary to sign the deed at home, the signatory would require to prove that he has not recently entered to Colombia from countries with confirmed cases of Covid-19. Bear in mind that notaries would not have the competence to act on different days and times.

If you have agreed the execution of public deed by virtue of a promise to purchase, for the day and time that the agreed Notary is closed, the situation should be analyzed case-by-case taking into account what has already been arranged through the promise.

It is usual for the promises to consider the closing of the notary, anticipating that it will be signed in the next opening day. It is possible that an amendment to the promise would be advisable.

Signature of promises to purchase real estate

To sign the promise it is not necessary to authenticate the signatures of the parties; although, promises of a civil nature must be in writing. In ordinary situations, it is usual for the parties to meet to simultaneously sign and exchange original documents. As long as there are restrictions on the people's displacement (Decree 457 of 2020), the parties may evaluate various alternatives:

1. Set an appointment at a public notary that is working at the schedule indicated above and sign the promise with personal signature presentation.



2. Send the signed documents by certified mail to the place of notification previously agreed by each of the parties; although the simultaneity of the signature and receipt may be affected. It is possible to use a trusted third party who will collect and may deposit the signed documents.
3. Exchange emails with the documents confirming in the remission the will of being bounded by the attached promise. Archive the emails in a secure database.
4. Digitally sign the documents through one of the providers that meet the law requirements.

Payment method

In response to the emergency, banks have increased the limit of transfers and the amount that can be transferred daily through electronic channels provided by each bank. In order to avoid displacement of people and cash, we suggest that all payments be made through electronic means or if deemed necessary by check.

If part of the price will be paid with money from financial institutions through a mortgage loans or financial lease agreements, among others, we suggest checking if the disbursement will proceed during the crisis. Banking, financial services and payment platforms are among the activities excepted from the preventive isolation order.

Registry of the public deed

The Land Registry Offices will not provide services to the public until March 13th, 2020 (or any later date determined by the National Government), for this reason, public deeds may not be recorded in the public registry during the period of preventive isolation. I would be necessary to foresee this situation and the relative uncertainty of the opening date for all contractual purposes.



CONTACT:

Andrés Montoya
andres.montoya@phrlegal.com