

Bolivia, a land of opportunities: investing in real estate

玻利维亚，一个充满机会的国家：投资房地产

China has been pursuing vast tracts of Latin America's agricultural heartland to guarantee a steady and secure food supply and offset its growing reliance on crops from third parties. In that context, this article addresses the highlights and most important topics to be taken into consideration when making real estate investments in Bolivia.

以确保一个稳定和安全的食品供应以及抵消对来自其他国家的农作物的依赖，中国已在进行收购拉丁美洲的大片农业中心地带。在此背景下，本文讨论在玻利维亚进行房地产投资时考虑到的最突出的重要方面。

The Plurinational State of Bolivia does not generally impose any discriminatory or restrictive barriers on foreigners interested in investing in real estate projects for agricultural or livestock purposes. Apart from certain restrictions (mainly related to land within 50 kilometers of international borders and land previously obtained through government grants), foreigners may freely invest in rural or urban properties and will be subject to the same rights and obligations as Bolivian citizens.

When purchasing a property the purchaser must register its proprietary right with the Land Registry (the "DDRR"). However, in order to consolidate ownership rights over rural lands, the properties must undergo a prior review process by the National Institute of Agrarian Reform (the "INRA"). Once this process concludes, the government shall grant a definitive property title, which will then be registered with the DDRR.

During this process, the INRA will verify if there is any breach of the Social Economic Function (the "FES") as established by law and third parties may demonstrate superseding ownership rights. If either of those occur, the land in question is subject to reversion to the State and the corresponding investment will be forfeited.

The current Political Constitution of the State establishes the following four possibilities by which land may be reverted to the State:

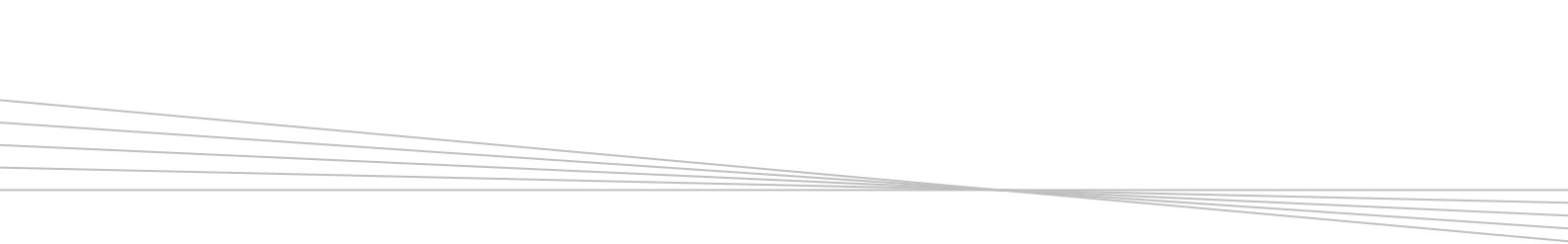
- Holding unproductive land. The State's goal is to prevent land to remain "idle". All landowners must use and exploit their land in order to retain ownership.

- Social and economic-social functions. The State's intention is that owners must meet both a social function and an economic-social function. The social function relates to the need to share the benefits of land with neighboring communities, which can be accomplished by actions such as offering job opportunities, investing in education or infrastructure, etc. The social-economic function relates to the need to use the land sustainably in order to ensure the development of productive activities for the benefit of society, the collective interest and the owner.
- The exploitation of land through a system of servitude, slavery or slavery-like employment. The State's goal is to abolish any activities that violate human rights or labor rights.
- Property exceeding 5,000 hectares. As explained below, the State imposes a limit on the surface area of land that may be held. Nevertheless, it is not clear whether a legal or natural person may possess multiple properties with less than 5,000 hectares. Properties over 5,000 hectares acquired prior to the enactment of the Constitution (February 7, 2009) are in principle not subject to reduction. However, landowners must be careful to comply with the other grounds for reversion explained above.

It should be noted that, in view of recent substantial foreign investments in the agricultural sector, there is a tendency to limit or control land ownership by foreigners. This trend has not yet been incorporated directly through laws or regulations, but from a socio-political point of view: any land with legal defects (i.e. as established in the INRA review process) may have a higher probability of being reverted if owned by foreigners.

On October 15, 2012, the Bolivian government enacted Law No. 300 entitled "*Framework Law of Mother Earth and Integral Development to Live Well*", with the goal, among others, to eliminate large landholdings. Even though the specific measures to achieve such goal have yet to be approved, for the purposes of this article we summarize below the most important aspects of such law:

- Elimination of the concentration of landownership or landlordism and other components of the environment and terrain in the hands of landowners and companies, thereby achieving greater equality in accessing benefits derived from the Earth. As mentioned above, the Constitution already addresses this goal because one of the grounds for land reversion is the ownership of properties that exceed 5,000 hectares.
- Regulation and control of foreign ownership of rural properties, access and use of natural resources. This is the first legal provision addressing the matter of foreign ownership of large rural properties. Nevertheless, it is important to take into consideration that the provision does not establish the reversion of land held by foreigners, but rather its regulation and control. The provision will also not apply until regulations are enacted (which will probably occur during 2013) and will not apply retroactively.



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