

Key differences between Real Estate Professionals in the United States and Mexico

By: Abel Quezada and Natalie Cerón

Real estate professionals, commonly referred to as brokers or agents, play an important role in any real estate transaction serving as the main intermediary representing the interests of sellers, buyers, and developers, among other parties.


It is important to consider that important differences exist in the regulation and function of the real estate profession in the United States and Mexico, as summarized below:

Regulation and Licensing

In Mexico, there is no national regulation of real estate brokers and agents; however, to date there are 19 states that regulate the profession to some degree. Similarly, there is no national certification or licensing requirement to act as a real estate broker.

By contrast, in the United States the profession is much more regulated. To begin with, in the United States, one must distinguish between a real estate broker and a real estate agent. In general terms, a real estate broker has more training, licensing requirements and earning potential than an agent. While a real estate agent can work independently, such agent generally must work under the supervision of a real estate broker.

Both real estate brokers and agents must meet strict requirements to obtain their respective licenses, such as through the Texas Real Estate Commission (TREC) in the State of Texas. Some of the requirements to obtain such licenses include examinations, hours of education and practice, as well as compliance with professional and ethical requirements.



Ethics Standards and Conflicts of Interest

In the United States, real estate brokers and agents must adhere to strict codes of ethics including conflict of interest regulations to ensure proper representation of their clients' interests. In Mexico, there is no regulation in this regard, however, there are brokers who voluntarily join and adhere to the code of the Mexican Association of Real Estate Professionals (AMPI), a professional association.

Liability and Closing

Another key difference between the practice of buying and selling real estate in Mexico and the United States has to do with the entity that is in charge of verifying the legality of the real estate transactions.

In Mexico, Notaries Public in each state are in charge of verifying and ensuring the legality of real estate transactions. It is important to note that in Mexico, Notaries Public are legal professionals with the title of lawyers who have also passed a professional exam and met additional criteria. Accordingly, all real estate transactions must be formalized before a Notary Public in Mexico. In that sense, real estate brokers in Mexico have limited participation with respect to liability incurred by the parties in relation to the declarations they make with respect to legal rights to the respective real property.

In the United States, real estate agents and brokers are authorized to prepare legal transaction documents, such as offers, purchase and sale contracts, and lease agreements ensuring compliance with certain local, state and federal laws. Moreover, they owe certain fiduciary duties and obligations to their clients, such as maintaining the client informed of material information about the relative property or transaction as received by the broker or agent. Failure to meet these obligations by breaching these duties may result in legal liability for the broker and/or agent.

The role of verifying the legality of real estate transactions mainly falls on private title companies in the United States, instead of a Notary Public as is the case in Mexico. In most U.S. real estate transactions, title companies act as intermediaries and escrow agents responsible for bringing the parties to the closing, with functions such as title search and ultimately issuing a title policy of insurance to support their title search and preparation and execution of legal documents, including recordation of the deed conveying ownership and collection, verification and disbursement of proceeds upon closing of the sale. Note that using a title company for a real estate transaction is not legally required, although such is recommended and customary. In cases where there is third party financing, using a title company is required.

In conclusion, there are important differences in the regulation of real estate professionals in the United States and Mexico that parties should take into account who are interested in acquiring, selling or investing in properties in Mexico and the United States. In the case of clients with interests in both countries, it is important to understand these differences and retain competent counsel that can help them navigate the differences between real estate transactions in these two jurisdictions.