

**Ajjic Legal and Immigration Services**

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**WILLS**

This is usually a topic that some people do not like to face as it makes them think about their own mortality. Unfortunately if we want to take care of our loved ones, or your favorite charity, you must face this issue at sometime.

Under Mexican law, if you are unmarried but with a partner, you are not treated as husband and wife. It is important to make sure that in the event your partner dies, you are financially capable to take care of yourself until deeds and or bank accounts can be sorted out. The easiest way to do this is to make sure bank accounts and deeds are sorted out now before a death, by simply added the partners name to the account or deed.

A major concern with people here in Mexico is the cost of a will. Ajijic Legal and Immigration Services have some recommendations to help save on the cost, which is mentioned later. A Mexican will can cost up to \$2000 pesos per person, possibly more if you require a translator, it all depends on your circumstances. If you find a price substantially lower than this, make sure you are dealing with a licensed Notary, or a reputable lawyer.

There are 2 common types of wills, one is a legacy, and then just a regular will to cover everything in your estate worldwide. A legacy only covers your assets here in the Republic of Mexico. As many people have wills in the U.S. or Canada, they will only require a legacy.

In the event of death, and it is discovered that you have more than one will, your estate will be open to all sorts of problems. This may include people not mentioned in your wills being able to make claims during probate, which just makes the issue difficult for your inheritors. Please make sure that these issues are clear when preparing for your will.

A Notario Publico must draw up all wills. By law, the will must be drawn up in Spanish, which is the reason you may require a translator if you're Spanish is weak. Unfortunately, you cannot bring a friend along to translate, as State law requires the translator to be someone recognized by the federal and or State authorities.

Now the big question, do you require a will in Mexico? If you own property in Mexico, you will have a deed. On the deed, also prepared by a Notary, you will have beneficiaries listed in the event of your death. Those beneficiaries (which can only be parents, wife, or children on a deed) will receive your property as stated in the event of your death.

If the only other asset you have in Mexico is a bank account, you can have those same beneficiaries, or anyone else, be co-owners of your account, or accounts. This gives them full signing authority if you die.

You must trust this individual however, as they do have the authority to sign for your funds before your death as well.

The co-owners of the account are recommended for two reasons. The first being that it is just simpler and quicker than probate, which leads to the second reason. Your executor or beneficiary will have access to funds that may be needed right away for your burial, transfer of deeds, and or expenses to get here. Otherwise, probate for a bank account can take several months, possibly a year, or maybe even longer. This is also recommended even if you are making a will.

Please note; if at one time your deed was a Trust deed from a bank, and you've transferred it to a direct deed, you will NOT be able to list beneficiaries (article 1893 of the civil code), in which case you would require a will.

Before going to see a lawyer or a Notario, we recommend looking over your deeds and making sure your beneficiaries are in order. If they are, and the bank accounts are addressed, you probably do not require a will in Mexico.

The recommendations mentioned above are for simple estates only, if you own several properties, multiple cars, etc, it is recommended to simply have a will drawn up. It will save your executor and beneficiaries' time and money in the long run. In this case you need to have a will drawn up as you can only list benefactors on one property unless they are in trust.

Most lawyers have a good relationship with a notary, or possibly several. This can facilitate the transaction for you by having all the documents prepared for you when you arrive at the notary. This will save you time and possible confusion if your Spanish is weak, leading to hardships later on. Remember, not very many notaries are proficient in English, and by law are not allowed to translate the will for you in any case.

**Talk given by Adriana Perez Flores, Attorney at Law, at the Women's Safety, Finance and Legal Fair held on 28<sup>th</sup> October 2008 in Ajijic, Mexico.**