

Purchase and Sale of Commercial Establishments

The sale of commercial establishments is a commonly used arrangement in commercial transactions. In this sense, its use depends on the parties and the commercial and tax structure these decide to use to acquire a business.

Our Commercial Code regulates the sale of commercial establishments in Articles 777 to 782. It determines that these sales will occur when the establishment, or a significant part thereof, is transferred from one merchant to another, as a whole, or in two or more blocks.

It should be mentioned that the sale or transfer by any title of a commercial establishment will only affect third parties if such sale or transfer is published three (3) times in the Official Gazette and a local newspaper. In addition, our Commercial Law provides that the buyer shall not be deemed to have made “good payment” of the price after thirty (30) days from the first publication of the advertisement above.

During this thirty (30) day period, the creditors of the property owner may exercise their rights on the sale price, even if their claims are not enforceable at that time. In addition, during this period, such creditors may object to the transfer if they demons-



trate that the agreed sale price is less than 10% than that which could rationally have been achieved under the same agreed terms, given the market conditions and special conditions of the goods.

On their part, the debtor owner and the acquirer of the establishment may, in turn, prevent the actions of the creditors (i) by paying those whose credit is due, (ii) by paying with the current discount, or (iii) by securing with a mortgage, pledge or deposit the amounts due for a later date.

The information we have submitted succinctly is general and, therefore, should not replace obtaining complete advice on the subject matter of this article, which can be supplied by our office ALEMÁN, CORDERO, GALINDO & LEE (ALCOGAL).