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Controversial Proposal Would Allow Foreigners to Buy Coastal Land in Mexico

by LADB Staff

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A key senator from the governing Partido Accion Nacional (PAN) has offered a controversial proposal to modify the Mexican Constitution to allow foreigners to own land on coastal and beachfront properties. Proponents consider the plan which has received the endorsement of President Felipe Calderon's administration, tourist-industry organizations, and some leaders of the opposition Partido Revolucionario Institucional (PRI) as a necessary step to modernize Mexico's tourism industry and bring much-needed development capital to coastal areas.

The proposal has met with opposition from some members of the center-left Partido de la Revolucion Democratica (PRD), who contend that coastal areas must remain the patrimony of all Mexicans. PAN Sen. Luis Alberto Coppola Joffroy, who chairs the tourism committee (Comision de Turismo) in the upper house, is the chief advocate of the plan to modify Article 27 of the Constitution to open investment to foreign interests in coastal areas.

Article 27 prohibits foreign interests from acquiring land within 50 kilometers of the coast and 100 km. from the borders with the US, Guatemala, and Belize. Coppola Joffroy's initiative is directed only at coastal properties and requires that any foreigner who acquires such properties renounce protection of their own government. This means they would have to submit to Mexican law in the case of a dispute.

Proposal would help development at tourist resorts

Coppola said some foreign interests are already bypassing the Constitution by acquiring coastal lands through local holding companies, primarily banks. "Rather than discourage these types of purchases, the buyers should be offered a less cumbersome legal means to acquire land. Article 27 is an obstacle for foreign investment in coastal zones and has a direct impact on social and economic development of these regions," said the PAN senator, who noted that tourism is Mexico's third-largest source of foreign exchange after exports of crude oil and remittances from expatriates.

In a recent report, the Centro de Analisis y Proyecciones para Mexico (CAPEM) noted that tourism accounts for 8% of Mexico's GDP, resulting in 1.7 million direct and indirect jobs. Coppola, whose family owns the Grupo Hotelero Coppola in Los Cabos, Baja California Sur state, has proposed that foreign interests that are allowed to buy coastal properties also be required to invest in community projects, such as low-income housing developments, schools or highways.

The Secretaria de Turismo (SECTUR) has endorsed this concept. "SECTUR is seeking to promote the types of sustainable investments that will not only create benefits for the owners of capital, but also provide benefits to the community, such as well-paid jobs," said Tourism Secretary Rodolfo Elizondo.

SECTUR and the Secretaria del Medio Ambiente y Recursos Naturales (SECTUR) contend that the proposal would allow the federal government to set uniform land-use and environmental standards for beachfront areas. "For us it is irrelevant who owns the beach," said deputy environment secretary Sandra Herrera. "What is important is that all environmental norms are followed."

Plan would give tourism secretariat more regulatory power

Elizondo said the changes to Article 27 could also contain language that would give SECTUR more power to intervene in matters that directly affect tourism, such as the cleanliness and environmental health of beaches. "No one has wanted to be in charge of this task," said Elizondo. In a report published in 2003, the environmental protection agency (Procuraduria Federal de Proteccion al Medio Ambiente, PROFEPA), said contamination reached extreme levels on 16 of Mexico's most popular beaches (see SourceMex, 2003-02-19). The government and environmental organizations differ on whether much progress has occurred since that report was issued.

The Comision Federal para la Proteccion de Riesgos Sanitarios (COFEPRIS) said in a report issued in early July that the majority of Mexico's beaches are free of dangerous contaminants. Conversely, the environmental organization Greenpeace-Mexico disputed that report and noted that none of the 275 beaches at 46 tourist destinations in Mexico can be certified as "clean." Greenpeace-Mexico spokesman Raul Estrada said the government should not mislead the public. "This is a serious and even criminal attitude," Estrada said in reference to the COFEPRIS report.

Other officials for the environmental organization said the problem is that government requires voluntary testing, which does not ensure that the proper standards of cleanliness are followed. "Voluntary measures are not sufficient to resolve the problem of polluted beaches," said Alejandro Olivera, coordinator of Greenpeace-Mexico's oceans campaign. "Obligatory certification would force beaches to treat waste water more efficiently and ensure that conditions are truly safe and clean."

Key opposition leaders endorse plan, but others oppose it

Coppola's proposal could face some opposition when it comes before the Congress, although the initiative has gained support from two key players from rival parties: Senate president Manlio Fabio Beltrones of the PRI and PRD Deputy Octavio Hernandez Vargas, who chairs the tourism committee in the lower house. Beltrones' and Vargas' endorsement by no means ensures support from their respective parties.

PRD Deputy Rosa Delia Cota Montano criticized the initiative as a plan to benefit narrow interests, to the detriment of the population at large. She also accused Cota Montano of engaging in a conflict of interest. "I have no doubt that [Coppola] is a successful tourism entrepreneur," said Cota Montano. "But if he was an ethical legislator, he would leave the post of chair of the tourism commission because he is not impartial in this matter."

Local opposition has also emerged in Baja California Sur state, with PRD state legislator Georgina Hernandez raising concerns that the proposal could infringe on Mexico's sovereignty. The plan has even drawn opposition from members of the PAN in Baja California Sur. "I do not support the initiative to sell beaches to foreigners," said Hector Jimenez Marquez, PAN director in Baja

California Sur, who raised concerns about the implications of the plan for residents of ejidos. Other critics cite concerns that beaches that were once open to the public will become increasingly restricted.

Under current law, all beaches are property of the federal government. Any hotel that builds near a beach can gain a concession to develop a nearby tract but is obligated to allow open access to all visitors. "There are an increasing number of beaches near La Paz that were concessioned to private owners that are illegally being restricted," said Maria Luisa Cabral Bowling, a researcher at Universidad Autonoma de Baja California Sur. She said a prime example is the popular Caimancito beach, which was once widely open to the public, but is now restricted by concessionaires.

Cabral said the restrictions are not only affecting the recreational rights of local residents, but are also preventing small-scale business owners, including fishermen, from making a living. She noted the example of the Cabo Pulmo, a property that was declared a national marine park in 1995 because it contained the only coral reef in the Gulf of California.

The government allowed the fishing community that operated in Cabo Plumo to remain on the property, and in fact, trained many fishermen as tourist guides and in environmental protection tasks. That situation changed when a private company that recently gained a concession near the park decided to force out the former fishermen from the property. "What we're seeing in Cabo Pulmo is ridiculous," said Cabral Bowling. "The members of the fishing community had their papers in order, but they were forced from the property because of an apparently illegal sale."

US retirees could benefit

The proposal for foreigners to own beachfront land could also have implications for US retirees. While Coppola's law is clearly intended to benefit developers, the Calderon administration acknowledges as many as 8 million US retirees could take advantage of the change in the law. Many US retirees have already been purchasing tracts of land in Baja California over the past six years because of a loophole created by the Mexican Congress in 1997. Under the law approved that year, foreigners were allowed to buy coastal property through locally administered land trusts, usually a bank.

By some accounts, it took about four years for local real-estate developers to work out the kinks after the law was passed. "Since 2001, we have seen a boom in real estate sales, and the full-time population of Americans is growing rapidly," Tony Colleraine, a US citizen in San Felipe, Baja California, told the New York Times in 2004. According to the Wall Street Journal, US retirees have started acquiring property in beach resorts in other areas of Mexico. Many have been attracted to Quintana Roo state, which is now home to as many as 3,000 expatriates. "A big cadre of American baby boomers looking to retire someplace sunny and cheap is fueling a land rush in the Riviera Maya, a small idyllic slice of Mexico's Yucatan peninsula," the newspaper said in June 2006.

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