REAL ESTATE

CLIENT ALERT

APRIL/2020

FEDERAL LAW NO. 13.986, APRIL 7TH, 2020 – EXPRESSLY AUTHORIZES MORTGAGES AND FIDUCIARY LIENS ON RURAL PROPERTIES IN FAVOR OF A FOREIGN LEGAL ENTITY

Federal Law No. 13.986 was published in the Federal Official Gazette ("DOU") on April 7th, 2020 converting the Provisional Measure No. 897/2019 - known as the Agribusiness Provisional Measure which establishes a series of measures aimed to expedite the access to rural financing. Among these, there are several measures that create exceptions to the restrictions imposed by Federal Law No. 5.709 from October 7th, 1971, regarding the constitution of real rights over rural properties in favor of foreign legal entities, namely:

i. The possibility of constituting an in rem guarantee over rural properties in favor of a foreign legal entity (or a national legal entity in which foreign individuals or legal entities have the majority of the share capital *and* that reside or are headquartered abroad), derived from mortgages or the transfer of fiduciary property, by means of fiduciary liens' agreements; and

ii. The possibility for a foreign legal entity (or assimilated national legal, as established above) to hold rural property due to the enforcement of a previously constituted in rem guarantee or by means of payment in kind or any other form of property consolidation, adjudication or judicial settlement, in order to liquidate the prior agreement.

Both measures, determined above, are also applied in cases where the rural property is located within the Brazilian Border ("*Faixa de Fronteira*").

To reflect the new provisions, Federal Law No. 13.986/2020 expressly amended Federal Law No. 5.709/1971 (acquisition of property by a foreigner) and Federal Law No. 6.634/1979 (rural property within the Brazilian Border).

We remain at your full disposal for any further clarifications or doubts.

PRACTICE AREA
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