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Law 9,790, dated March 23, 1999

**Introduces rules for granting of
“Public Interest Civil Society Organisation” status
to non-profit private legal entities and
institutes and regulates the Partnership Terms.**

THE PRESIDENT OF THE REPUBLIC

Let it be known that the National Congress decrees and sanctions the following Law:

TITLE I

**ON THE GRANTING OF PUBLIC INTEREST CIVIL SOCIETY
ORGANISATION STATUS**

Art. 1 Private law, non-profit legal entities may be granted Public Interest Civil Society Organisation status provided that their respective organisational purposes and charter norms meet the requirements established by this Law.

§ 1 For the purposes of this Law, a private law legal entity shall be considered non-profit if it shall not distribute to its members or associates, board members, officers, employees or donors any eventual gross or net operational gains, dividends, allowances, interest in or share of that portion of its assets resulting from the carrying out of its activities and if it shall wholly apply the same towards achieving its respective organisational purposes.

§ 2 The granting of the status provided for in this article shall be tied to the meeting of the requirements established by this Law.

Art. 2 – The following entities shall not be allowed to pursuit the Public Interest Civil Society Organisation status, even if they are in any way involved in the activities described in art. 3 of this Law:

I - commercial businesses;

- II - labour unions, labour category associations or professional guilds;
- III - religious institutions or institutions dedicated to the dissemination of devotional or confessional creeds, meetings, practices and viewpoints;
- IV - political party organisations or similar entities, including their foundations;
- V - mutual associations designed to furnish goods or services to a restricted circle of associates or members;
- VI - entities or companies involved in the sale of health plans and similar organisations;
- VII - private hospitals who charge for their services, and their sponsors;
- VIII - private schools providing formal education who charge for their services and their sponsors;
- IX - organizations qualified as “Social Organizations” under the terms of the specific law;
- X - Cooperatives;
- XI - Foundations established under public law;
- XII - private law foundations, civil societies or associations created by public agencies or by public law foundations;
- XIII - Financial organizations having any connection whatsoever to the national financial system referred to in art. 192 of the Federal Constitution.

Art. 3 The status established by this Law, in observance of the principle of universal access to services in the respective areas in which the Organisations shall function, shall only be granted to private law, non-profit legal entities whose organisational purposes shall include at least one of the following objectives:

- I - promotion of social welfare;

II - promotion of culture, defense and conservation of artistic and historic heritage;

III - free promotion of education, observing the complementary form of organisational participation set forth in this Law;

IV - free promotion of health care, observing the complementary form of organisational participation set forth in this Law;

V - promotion of nutritional and food security;

VI - defence, preservation and conservation of the environment and promotion of sustainable development;

VII - promotion of volunteerism;

VIII - promotion of economic and social development and the fight against poverty;

IX - non-profit experimentation with new socio-productive models and alternative systems of production, commerce, employment and credit (micro-credit);

X - promotion of established rights and obtaining of new ones and supplemental, free legal assistance;

XI - promotion of ethics, peace, citizenship, human rights, democracy and other universal values;

XII - study and research, development of alternative technologies, production and dissemination of information and technical and scientific knowledge regarding the activities specified in this article;

Sole Paragraph. For the purposes of this article, dedication to the activities provided for shall be established through the direct execution of projects, programs and plans for related actions, by means of the donation of physical, human and financial resources or through providing intermediate support services to other non-profit organisations and to public sector agencies operating in related areas.

Art. 4 Having met the requirements set forth in article 3, legal entities seeking Public Interest Civil Society Organisation status must also be governed by organisational charters whose norms expressly provide for the following:

I - the observance of the principles of legality, impersonality, morality, public disclosure, economy and efficiency;

II - the adoption of administrative management practices necessary and sufficient to prevent individuals or groups who participate in the respective decision making processes from obtaining benefits or personal advantages;

III - the establishment of a audit committee or equivalent body with the power to comment on financial and accounting activity reports and on operations realised with organisational assets, including the power to submit opinion papers to the higher bodies in the organisation;

IV - the provision that, in the event that the organisation is dissolved, its net assets be transferred to another legal entity holding the status described in this Law, preferably one with the same organisational purposes;

V - the provision that, in the event that the legal entity loses the status established by this Law, the respective available asset base acquired with public resources during the period in which said status was in effect be transferred to another legal entity holding the status described in this Law, preferably one with the same organisational purposes;

VI - the possibility of establishing remuneration for the directors of the entity who effectively manage it and for those persons who provide specific services to it, in both cases said remuneration to be limited to the market rate in the entity's respective region and operational area.

VII - the norms of accountability to be observed by the entity, requiring at a minimum:

a) the observance of the fundamental principles of accounting as well as the Brazilian Accounting Norms;

b) that at the end of each fiscal year, a report of the organisation's activities and its financial statements, including certification of no outstanding social security debts, be publicly disseminated by any efficient means, so as to be available for examination by any citizen;

c) the conducting of an audit, if necessary by outside, independent auditors, of the investment of any resources governed by the partnership terms as provided for in these regulations;

d) that an accounting for all of the publicly furnished resources received by the Public Interest Civil Society Organisation be conducted according to the procedure established by the sole paragraph of art. 70 of the Federal Constitution.

Art. 5 Having met the requirements established in arts. 3 and 4 of this Law, a private law, non-profit legal entity seeking to obtain the status established by this Law shall submit a written request to the Ministry of Justice, accompanied by notarised copies of the following documents:

I - the organisational charter as filed with the registry office;

II - the minutes recording the election of the current officers;

III - a statement of current assets and financial statements for the fiscal year;

IV - a declaration of income tax exemption status;

V - proof of registration with the Tax Authorities.

Art. 6 Having met the requirements established in the preceding article, the Ministry of Justice will decide on whether or not to grant the requested status within thirty days.

§1 In the event the request is granted, the Ministry of Justice shall issue a certificate verifying the status of the requesting entity as a Public Interest Civil Society Organisation within fifteen days of the decision.

§2 In the event the request is denied, the Ministry of Justice shall make its decision known through publication in the Official Gazette within the same time period established in §1.

§3 The status request shall only be denied if:

I - the requesting entity shall be an organisation of the type provided for in art. 2 of this Law;

II - the requesting party shall not have met the requirements provided for in arts. 3 and 4 of this Law;

III - incomplete documentation shall have been presented.

Art. 7 Public Interest Civil Society Organisation status may be lost following a request for or the decision of an administrative or judicial proceeding, originating either from a popular initiative or with the Public Attorney, said proceeding to include the right to an ample defence and the due right to respond to accusations made.

Art. 8 Observing the prerogatives of the Public Attorney and provided that he not be anonymous and that his accusations are based on evidence of error or fraud, any citizen may initiate administrative or judicial proceedings to remove the status established by this Law.

TITLE II

ON THE PARTNERSHIP AGREEMENT

Art. 9 The Partnership Agreement is hereby established as the instrument to be signed by the Public Authorities and entities holding Public Interest Civil Society Organisation status for the purpose of forming co-operative ties between the parties in order to support and execute the public interest activities provided for in art. 3 of this Law.

Art. 10 The Partnership Agreement, signed by the mutual agreement of the Public Authority and a Public Interest Civil Society Organisation, shall provide for the rights, responsibilities and obligations of the signing parties.

§1 The signing of the Partnership Agreement shall be preceded by a consultation of the existing Public Policy Councils of the corresponding areas of operation at the respective levels of government.

§2 The following are essential clauses of any Partnership Agreement:

I - that concerning purposes, containing the specifications of the program of activities proposed by the Public Interest Civil Society Organisation;

II - that stipulating the goals and results to be achieved together with the time period or schedule for their execution;

III - that expressly stating the objective criteria to be used to evaluate performance by means of indicators of the results achieved;

IV - that providing for the earnings to be received in fulfilment of the organisation's goals, stipulating item by item, the accounting categories to be used by the organisation and detailing the remuneration and personal benefits to be paid to its officers, employees and consultants with resources arising from or tied to the Partnership Agreement;

V - that establishing the obligations of the Public Interest Civil Society Organisation, including, at the end of each fiscal year, that of presenting to the Public Authorities a report on the execution of the organisational purposes listed in the Partnership Agreement; said report shall include a specific comparison between the proposed goals and the achieved results, followed by an account of the effectively incurred expenses and received earnings, independent of the provisions mentioned in section IV;

VI - that concerning the publication, either in the Municipal, State or Federal Official Gazette, depending on the scope of the activities agreed to by the partner agency and the Public Interest Civil Society Organisation, of an extract from the Partnership Agreement and of a physical and financial execution statement, in the simplified manner specified in the regulation of this Law; said statement shall contain the principal information of the obligatory documentation required in section V; non-compliance may result in non-payment of the resources provided for in the Partnership Agreement.

Art. 11 The execution of the objectives of the Partnership Agreement will be monitored by agencies of the Public Authorities in the operational area corresponding to the supported activity and by the existing Public Policy Councils of the corresponding areas of operation at each level of government.

§1 The results achieved from the execution of the Partnership Agreement shall be analysed by a evaluation commission formed by mutual agreement between the partner agency and the Public Interest Civil Society Organisation.

§2 The commission shall submit a conclusive report on the evaluation conducted to the competent authorities;

§3 Those Partnership Agreements designed to promote activities in the areas provided for in this Law shall be subject to the organisational control mechanisms provided for in applicable legislation.

Art. 12 Upon becoming aware of any irregularity or illegality in the use of resources or assets of public origin by the partner organisation, those persons responsible for monitoring the Partnership Agreement shall immediately report such information to the Public Audit Court and to the Public Attorney, under penalty of being held jointly liable.

Art. 13 in addition to the actions referred to in art. 12 of this Law, if those persons responsible for the monitoring have solid indications of misuse of public resources or assets, they must present such indications to the Public Attorney and to the Federal Solicitor General's Office in order to permit them to request that a court of appropriate jurisdiction order the arrest of the assets of the entity as well as those of its officers and any public agents or third parties who may have illegally enriched themselves or otherwise harmed the public treasury, together with other measures specified in Law no. 8,429 (2 June 1992) and in Complementary Law no. 64 (18 May 1990).

§1 The period during which the assets are to remain arrested shall be determined according to the terms of arts. 822 and 825 of the Code of Civil Procedure;

§2 If necessary, the request shall include the investigation, examination and arrest of assets, bank accounts and investments held by the accused both nationally and internationally, in accordance with the terms of the the law and international treaties.

§3 Until such time as the case is settled, the Public Authorities shall continue to hold and manage the arrested or seized assets and funds and shall seek to promote the continuance of the social activities of the partner organisation;

Art. 14 Within at most thirty days of the signing of the Partnership Agreement, the partner organisation shall publish its own regulations containing the procedures that it will adopt regarding the contracting of jobs and services as well as regarding the hiring of labour with resources from the Public Authorities, observing the principles established in item I of art. 4 of this Law.

Art. 15 In the event that the organisation acquires any real property with resources arising from the signing of the Partnership Agreement, said property shall be registered with a non-transferability clause.

TITLE III

FINAL AND TRANSITIONAL PROVISIONS

Art. 16 Organisations holding Public Interest Civil Society status are hereby prohibited from participating in political party or election campaigns in any way, shape or form whatsoever.

Art. 17 Upon presentation of a request by the interested parties, the Ministry of Justice shall permit free public access to all information concerning Public Interest Civil Society Organisations.

Art. 18 Private law, non-profit legal entities granted other forms of status under other legislation may request Public Interest Civil Society Organisation status, provided that they meet the requirements necessary to do so; said organisations are guaranteed the right to concurrently maintain both forms of status for up to five years following the date when this Law shall enter into effect.

§1 Following the expiration of the five year period, those legal entities interested in maintaining the status provided for in this Law must opt for the same, by which act they shall automatically renounce any claim to the status they previously held.

§2 In the event that the option provided for in the previous paragraph is not exercised, the legal entity will automatically lose all claim to the status obtained under the terms of this Law.

Art. 19 The Executive shall regulate this Law within thirty days.

Art. 20 This Law shall enter into effect on the date of its publication.

Brasilia, March 23, 1999; 178th year of Independence and 111th year of the Republic.

FERNANDO HENRIQUE CARDOSO

Federal Official Gazette, March 24, 1999