



This document has been provided by the International Center for Not-for-Profit Law (ICNL).

ICNL is the leading source for information on the legal environment for civil society and public participation. Since 1992, ICNL has served as a resource to civil society leaders, government officials, and the donor community in over 90 countries.

Visit ICNL's **Online Library** at
<http://www.icnl.org/knowledge/library/index.php>
for further resources and research from countries all over the world.

Disclaimers

Content. The information provided herein is for general informational and educational purposes only. It is not intended and should not be construed to constitute legal advice. The information contained herein may not be applicable in all situations and may not, after the date of its presentation, even reflect the most current authority. Nothing contained herein should be relied or acted upon without the benefit of legal advice based upon the particular facts and circumstances presented, and nothing herein should be construed otherwise.

Translations. Translations by ICNL of any materials into other languages are intended solely as a convenience. Translation accuracy is not guaranteed nor implied. If any questions arise related to the accuracy of a translation, please refer to the original language official version of the document. Any discrepancies or differences created in the translation are not binding and have no legal effect for compliance or enforcement purposes.

Warranty and Limitation of Liability. Although ICNL uses reasonable efforts to include accurate and up-to-date information herein, ICNL makes no warranties or representations of any kind as to its accuracy, currency or completeness. You agree that access to and use of this document and the content thereof is at your own risk. ICNL disclaims all warranties of any kind, express or implied. Neither ICNL nor any party involved in creating, producing or delivering this document shall be liable for any damages whatsoever arising out of access to, use of or inability to use this document, or any errors or omissions in the content thereof.

THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF COSTA RICA

DECREES:

The Following

LAW OF FOUNDATIONS

Article 1. – May the legal persona of the functions be recognized (*) as private entities of public service that are established for no profit through the destination of patrimony and with the objective of realizing or helping to realize, educational, beneficial, artistic, literary or scientific activities and in general all those that mean social well-being.

(*) **NOTE: so it is found in the original publication. Must mean “foundations.”**

Article 2. – The founder must be a physical or legal persona, national or foreign.

Article 3. – The foundations will be constituted through public registration or testament. The founder may not change any constitutive provision of the foundation once it has begun its legal life.

Article 4. – In the constituting document will be assigned the name, residence, patrimony, purpose, duration and administrative method of the foundation. The duration of the foundation may be perpetual.

Article 5. – The foundations acquire legal persona through registration in the Public Registry’s Person’s Department.

Article 6. – Previous to the registration in the Registry, a proclamation will be published in the Diario Oficial, with a summary of the terms under which the foundation is constituted. The dissolution, fusion and any other acts that change its structure will also be published. The publication will be done by the public notary or Civil Judge, as case may be.

Article 7. – The foundations do not have commercial ends. Nevertheless, they may execute operations of this kind to increase their patrimony, however, the profits obtained must be exclusively destined to the accomplishment of its goals.

Article 8. – The donated goods for the creation of a foundation will be sole patrimony of the same and may only be used for the completion of the purpose for which it was created. Any such goods will be exempt from the payment of any type of tax and registration dues.

Article 9. – The donated goods of an existing foundation will have the same exemptions established in the previous article.

Article 10. – The foundations will be exempt from the payment of registration dues and from national and municipal taxes, excepting tariffs, which only the Ministerio de Hacienda can revoke, according to the types of goods in question and their destination. *(Note: article 2, paragraphs d) and e), of the Regulatory Law of Exemptions, No 7293, March 31, 1992, concedes privileges only to foundations with non profitable purposes that dedicate themselves to the attention of abandoned, homeless or at social risk minors, and that are properly registered in the Public Registry (paragraph c), such as ones dedicated to the recollection and treatment of garbage, the conservation of natural resources, the environment and any other basic activity for the control of environmental hygiene and public health. Exemptions not provided in these paragraphs a tacitly repealed as conforming to article 1 of Law 7293, ibidem). (Note: According to paragraph a) of article 17 of Law 8114, July 4, 2001, the exemption referring to the payment of general sales taxes is rejected, without it affecting any other exemption or any subjection established in this norm).*

Article 11. – The administration and direction of the foundations are the charge of an Administrative Board. The founder will appoint one or three persons as directors and should also establish the procedure to substitute these members in the constitution documents. If the founder appoints only one director, the Administrative Board will be integrated by three persons; if he appoints three, the number of directors will be five. In both cases, the two members who complete the Administrative Board will be assigned one by the Executive Power and the other by the municipality of the canton where the foundation resides. The obligation of the Administrative Board member will be free of charge.

Article 12. – The founder may dictate the regulatory orders for running the activities of the foundation. If he does not do so, the Administrative Board must do so during the first sixty days after it's been installed.

Article 13. – The member named director by the founder or the first, in case there are three, will be obligated to convoke the others to establish themselves within the first fifteen days since the moment the foundation should start its activities. In this case, there will be no need to either publish or record the reelection. If it is not recorded in the Registry these changes will be valid for third parties. In the installation meeting the directors will designate a president of the Administration Board among themselves, whose functions will last a year and can be reelected.

The president will have the legal representation of the foundation, with general empowerment and will subject to this law, to the constitutional provisions and rules of the foundation and the provisions of the Administrative Board.

The president can substitute his representation with an executive delegate, when existing, or in another person, providing this substitution is approved by the Administrative Board.

Article 14. – The Administrative Board can designate an executive delegate as its representative in the management of matters of the foundation. The executive delegate and any other necessary employee will have the duties and remunerations agreed upon by the Board.

Article 15. – The Administrative Board will provide a report of its activities to the General Comptroller of the Republic on the first of January of every year.

The Comptroller will supervise the operation of the foundation, through all the mediums it sees fit and when it deems it pertinent. If in the course of a review an irregularity occurs, it must inform it to the General Attorney of the Republic, for action to be taken which corresponds to the justice tribunals, if necessary.

Article 16. – If the Administration Board finds that the foundation cannot be run according to its constitutive provisions and rules, it will request the Civil Judge in its jurisdiction to order the method in which it should be administered or to order the improvement of its deficiencies, always requiring that it maintain its original purpose of creation. To this request there will be attached a report to the General Comptroller of the Republic. These diligences will be followed through voluntary jurisdiction procedures, with intervention from the General Attorney of the Republic. The same conduct will be followed to remove administrators when they default on their obligations. After the Judge grants removal, he will communicate that the post must be replaced according to article 11.

Article 17. – Only the appropriate Civil Judge, at the request of the Administrative Board or the General Comptroller of the Republic, can declare the dissolution of a foundation, when it has achieved its goals for which it was created or for motives of absolute impossibility in the execution of the same.

If the Judge grants dissolution, he will order that the property be passed to another foundation or, in its absence, to a similar public institution if the creators of foundation did not deed them to another purpose and signed the necessary documents transferring the property.

Article 18. – The foundations must complete the following requirements to be able to receive donations, subsidies, transfers of goods and properties or any other economic support from public institutions for the achievement their purpose:

- a) Have been formed for at least one year.
- b) Have been active since their formation, quality which they achieve with the execution of at least one project a year.
- c) Have an up to date registry of its persona and legal entity.
- d) Have the concurrence of the General Comptroller of the Republic, when appropriate, which shows that received donations and transfers were executed and liquidated according to the stated purpose and conforming to the principles of good administration.

The foundations benefited according to the provisions of this article must provide an annual report to the General Comptroller of the Republic regarding the use and destination of funds received. If such reports are not presented within the month of the start of the obligation, the comptroller entity will officially inform the appropriate active administration and the foundation will be forbidden to receive funds from public institutions while this obligation is not met.

To count on absolute transparency in the obtainment, source and management of these public funds, the foundation must keep a separate account of the donations it receives and their origin. It must specify in what they will be invested. This account must be supervised by the internal auditor which all foundations are obligated to have, who will execute his functions according to the lawful norms in the area it supervises and to the established in the technical audit manuals issued by the General Comptroller of the Republic.

The audit report must be submitted to the comptroller entity with the report of the Administrative Board, according to the provisions of article 15 of this Law.
(This article 18 was reformed by the only article of Law 8151, November 14, 2001. Published in La Gaceta No 232, Issue No 84, December 3, 2001).

Article 19. – This law is effective from its publication.

Transient. – The foundations that exist at the promulgation of this law may take refuge in the provisions of article 16. In this case, the Judge, apart from ordering administrative procedure, will also order registration in the Registry of Persons through the protocolization of the contributory part of the resolution.

Institutions that are of the same nature as foundations and are registered otherwise can also shelter themselves under this provision.

Communiqué to the Executive Power

Legislative Assembly. – San Jose, day nine of the month of August, nineteen hundred seventy-three.

LUIS ALBERTO MONGE ALVAREZ
President.

PEDRO GASPAR ZUNIGA,
Second Secretary.

EMILIO DURAN PICADO,
First Pro-Secretary.

Presidential House. – San Jose, day twenty-eight of the month of August, nineteen hundred seventy-three.

Execute and Publicize

JOSE FIGUERES

The Presidential Minister,
GONZALO SOLORZANO GONZALEZ.

Revised: 04-12-2001
Ratified: 28-08-1973
Publicized: 11-09-1973
In Effect: 11-09-1973