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PANAMA

EXECUTIVE DECREE NO. 417

(of August 8, 1995)

"Whereby the Section of Private Foundations is created in the General Direction of the Public Registry and the registration of the constitution, amendment and extinction of such Foundations are regulated."

THE PRESIDENT OF THE REPUBLIC

in the exercise of his constitutional and legal powers

CONSIDERING:

That the Public Registry has among its purposes, to establish in authentic manner all matters related with the constitution, amendment or extinction of juridical persons.

That in virtue of the foregoing, article 33 of Law No. 25 of June 12, 1995, whereby Private Foundations are regulated, stipulates that the registration related with this new juridical institution shall be effected at the Public Registry.

That by the express mandate of the said Law it is necessary to create within the organic structure of the Public Registry the new Section of Private Foundations, which shall have the responsibility of registering all matters related to the constitution, amendment and extinction of such Foundations.

DECREES:

CHAPTER I

On the Section of Private Foundations

Article 1.

The Section of Private Foundations is created in the Public Registry, and shall be responsible for the qualification and registration of the documents related to the constitution, amendment and extinction of the Private Foundations regulated by Law No. 25 of June 12, 1995.

The designation of the personnel that shall form the Section of Private Foundations at the Public Registry, shall fall under the responsibility of the General Director of the institution.

The personnel of the Section of Private Foundations shall have the same duties and attributions now in effect for employees of the Public Registry.

CHAPTER II

On Qualifiable Requirements

Article 2.

Every document containing the constitution or any amendment of a Private Foundation, shall be protocolized in a notary public of the Republic (of Panama) before its presentation for registration in the Public Registry.

Article 3.

The deed of constitution shall include a Foundation Charter containing at least the following:

1. The name of the Foundation, expressed in any language with characters of the Latin alphabet, which shall not be equal or similar to that of a Foundation previously existing in the Republic of Panama, so as to avoid confusion. The name must include the word "Foundation" to distinguish it from other natural or juridical persons of a different nature.

2. The initial patrimony of the Foundation, expressed in any currency of legal tender, that in no case shall be less to a sum equivalent to ten thousand Balboas (B/10,000.00).

3. A complete and clear designation, of the member or members of the Foundation Council, to which the founder may belong, including their addresses.

4. The domicile of the Foundation.

5. The name and address of the Resident Agent of the Foundation in the Republic of Panama, which shall be an attorney or a law firm, who must countersign the Foundation Charter prior to its registration at the Public Registry.

6. The purposes of the Foundation.

7. The manner in which the beneficiaries of the Foundation shall be designated, among which the founder may be included.

8. The reservation of the right to amend the Foundation Charter whenever deemed convenient.

9. The duration of the Foundation.

10. The destination to be given to the assets of the Foundation and the method of liquidation of its patrimony in case of dissolution.

11. Any other lawful clause that the founder may deem convenient.

Article 4.

The agreements, resolutions or acts of amendment of the Foundation Charter shall be carried out and executed in accordance with what is established therein. In all cases, the amendment shall contain the date on which it was made and the name, clearly identifiable, of the person or persons subscribing it and their signatures, which shall be authenticated by a notary public of the place where the agreement, resolution or act of amendment is executed.

Article 5.

Unless otherwise provided in the Foundation Charter, all acts or resolutions agreed upon by Private Foundations that may require to be registered in the Public Registry, shall be protocolized in either of the following manners:

A. When the act or resolution has been taken or adopted in a meeting of the Foundation Council, it shall be protocolized:

a. The original or complete copy of minutes or resolution, certified by the person that acted as Secretary of the meeting or presided same;
or

b. A textual excerpt of such part of the minutes or certification of the resolutions or agreements adopted of which registration is desired.

Original minutes or its copy, as well as the excerpt referred to in this article, shall contain at least the following:

- (i) Date on which the meeting was held or the resolution was adopted.
- (ii) Name of the person who presided and who acted as Secretary at the meeting, if they were not members of the Foundation Council, a statement justifying why other persons acted as such.
- (iii) Name of all members of the Foundation Council present at the meeting, that shall constitute the required quorum to hold a meeting and approve agreements, as established in the Foundation Charter.
- (iv) The form in which notice was given or the reason why it was not given; be it by waiver of notice of the persons who were entitled to receive notice, or by all the members of the Council being present and having agreed to hold the meeting or the decision to issue the respective resolution.

B. When the act or resolution has been adopted in writing without a meeting of the Foundation Council or if it is adopted by the Founder, the original or complete copy of the act or resolution or in its place a textual excerpt of the portion of the acts, resolutions or agreements adopted, of

which registration is desired, shall be presented, signed by the person(s) that intervened and shall contain in addition the following:

- a. The date on which the act, resolution or agreement was adopted.
- b. The name(s) of the person(s) that intervened in its adoption.

The documents referred to in this article must be protocolized and presented for registration by the Founder, by a member of the Foundation Council, by the registered Resident Agent or by any other person duly authorized in the respective meeting or resolution.

C. In cases of acts, resolutions or agreements of the Foundation Council when it is composed of only one juridical person as established in article 17 of the Law, a certification or satisfactory evidence that the signer is duly authorized to represent the juridical person must accompany the respective resolution.

Should the aforementioned documentation be protocolized and presented for registration by the registered Resident Agent of the Foundation, the stipulation that the signer has legal power to execute the document on behalf of the corporation would suffice.

All the acts that are described in this rule shall be countersigned by a qualified attorney of the Republic of Panama prior to its protocolization.

Article 6.

Foundations constituted in accordance with a foreign Law that wish to continue their legal existence as a Private Foundation under the jurisdiction

of the Republic of Panama, shall present the following documentation for its protocolization and registration at the Public Registry:

A. Certificate of continuation issued by such body as its internal regime may call for, and which shall contain:

- a. The name of the Foundation and the date of its constitution.
- b. Data about its registration or deposit (of the charter) at its country of origin.
- c. An express declaration of its desire to continue its legal existence as a Private Foundation under the Panamanian legislation.
- d. Other requirements stipulated under article 5 of Law No. 25 of June 12, 1995, for the constitution of Private Foundations.

With the certification containing the resolution of continuation and other requirements mentioned in the preceding paragraph, the following documents must be protocolized and registered:

1. Copy of the original act of constitution of the Foundation wishing to continue in Panama, together with any subsequent amendment.
2. A power of attorney granted to a Panamanian lawyer, to carry out the necessary proceedings to make effective the continuation of the Foundation in Panama.

If the certificate of continuation or any of the other documents or

requirements attached thereto are not written in the Spanish language, they must be protocolized together with their (Spanish) translation by an authorized public translator of the Republic of Panama.

Article 7.

The registration of the documents in which continuation of the legal existence of a foreign Foundation is granted, as foreseen in article 28 and subsequent articles of Law No. 25 of June 12, 1995, shall pay the same registration fees as those paid for the registration of the constitution of Private Foundations as established in the present decree.

CHAPTER III

On Registration Procedures

Article 8.

The registration of the documents containing the Foundation Charter, as well as its amendments and extinction, shall be made in the respective section of the Public Registry. Same shall be made through the system of direct microfilming of documents, or any other registration system that may be adopted by the Public Registry in the future. In any case, the same procedure contemplated in Decree 93 of June 22, 1976 in relation to the microfilming system in the Mercantile Section of the Public Registry, shall apply.

Article 9.

Once the document is qualified in accordance with the legal dispositions in force and the stipulations of this Decree, the Chief of the Section of Private Foundations shall order its registration by means of a seal duly

signed and shall send it to the Microfilm Section for filming.

Article 10.

For the registration of documents in which real estate properties of the Private Foundations located in the national territory are transferred or encumbered, the same procedure contemplated in Decree 62 of June 10, 1980 related to the registration of documents in the Property Section, as well as the contents of Decree No. 93 of July 22, 1976 in reference to the registration of documents in the Mortgage Section of the Public Registry shall be followed.

CHAPTER IV

On Registration Fees

Article 11:

The registration of the documents whereby a Private Foundation is constituted shall pay the same registration fees as those paid for the registration of a corporation at the Public Registry, in accordance with article 318 of the Fiscal Code, to wit:

CAPITAL

FEES

- | | |
|------------------------------|------------------------------------|
| a) On the first B/.10,000.00 | B/.50.00 |
| b) From B/.10,001.00 | |
| to B/.100,000.00 | B/.50.00 on the first B/.10,000.00 |
| | and B/.0.75 on each |
| | additional B/.1,000.00 or |

additional fraction, up to
B/.100,000.00.

c) From B/.100,001.00

to B/.1,000,000.00

B/.117.50 on the first
B/.100,000.00 and B/.0.50
on each B/.1,000.00 or
fraction on excess over
B/.100,000.00

d) Over B/.1,000,000.00

B/.567.50 on the first million and
B/.0.10 for each
B/.1,000.00 or fraction on
excess over one million.

The documents by means of which the patrimony (Capital) of the Foundation is increased, shall pay the same fees indicated under literal a), b), and c). In such case, fees shall be paid only on the amount increased.

The documents by means of which the Private Foundation is amended or extinguished shall pay registration fees in the amount of US\$40.00.

Article 12.

In accordance with provisions established in article 314 of the Fiscal Code, the registration of documents in which the transfer of real estates located within the national territory belonging to or in favour of Private Foundations, shall pay the following registration fees:

a) B/.0.40 for each B/.100.00 or fraction thereof, over the value of

the acts or agreements by means of which the constitution or transfer of the domain over the real estate is effected; provided that such value shall not exceed B/.1,000.00. Those exceeding B/.1,000.00 shall pay B/.4.00 for the first thousand and, in addition, B/.2.00 for each additional B/.1,000.00 or fraction thereof.

The rate indicated in this ordinal shall apply over the (registered) assessed value of the real estate, should the value expressed in the document be lower. To this effect, the document shall be presented to the Public Registry together with a certificate executed by a competent officer in which the real (registered) assessed value of the real estate is indicated. Should the latter not appear in the registrar's records, it shall be assessed and registered (officially) so that it may be possible to comply with the disposition of this ordinal.

b) B/.0.10 for each B/.100.00 or fraction thereof over lease agreements on real estates, fees being calculated over the rent expressed in the document during the term of the contract, and should it not be so expressed, over one year's rent.

c) B/.1.00 for each real estate affected by right of way.

d) B/.2.00 for acts or contracts by means of which the antichresis is constituted, amended or extinguished, if it is appendant to the act or mortgage agreement.

When the act or antichresis agreement is not an appendant to the mortgage agreement, the registration fees shall be the same as determined in the

preceding article.

e) B/.2.00 for regrouping various properties and for each of the new properties resulting from the segregation of one already registered.

f) B/.3.00 for those containing promises of purchase or sale of real estate.

g) B/.5.00 for each title on mining rights.

h) B/.5.00 for acts or contracts constituting, amending or extinguishing rights of use, usufruct or antichresis.

i) B/.4.00 for any other registration not expressed in the article.

Article 13.

In conformity with article 315 of the Fiscal Code, the registration of documents encumbering real estate or movable assets located within the national territory, belonging to or in favour of Private Foundations, will be registered in the corresponding section of the Public Registry and will pay the following fees:

a) B/.0.20 for each B/.100.00 or fraction thereof on the value of the acts or contracts constituting encumbrances or mortgages.

The documents increasing the amounts of mortgages or encumbrances will pay the same fees indicated in this article on the amount of increases only.

b) For registration of documents renewing mortgages or antichresis

will pay B/.0.50; except when the original registration fees paid, were lower than B/.10.00; in which cases the renewal will pay half of the fees originally paid.

Article 14.

The registration of documents cancelling mortgages of real estate located within the national territory belonging to Private Foundations, will pay a fee of B/.2.00.

Article 15:

In conformity with article 319 of the Fiscal Code, the registration cancelling seizures, attachments or claims on real estate located within the national territory, or rights belonging to Private Foundations will pay a fee of B/.4.00.

Article 16:

The registration of documents containing mortgages of movable assets located within the national territory belonging to Private Foundations will pay a fee of B/.15.00.

The registration of cancellation of such contracts will pay the same fees assigned to the cancellation of mortgages of real estates.

Article 17.

Any other registration not expressed in the preceding articles will pay a fee of B/.4.00.

PARAGRAPH: In conformity with Law 44 of August 5, 1976, the registration of all the acts aforementioned will be subjected to a payment of an

additional surcharge of twenty percent (20%) of the registration fees, for registration services.

Article 18:

In conformity with article 320 of the Fiscal Code, the certifications issued by the Public Registry related to the constitution and status of private foundations will pay the following fees:

- a) B/.10.00 for the first total or partial page written on any inscription or notation, and B/.5.00 for any additional full or partial page.
- b) B/.5.00 for each copy of (original) seal of registration of the Private Foundations or each amendment.
- c) B/.1.00 for each copy of image of registration related to the Foundation or its amendments.

Article 19:

This decree shall be effective from the date of its publication.