

Law N° 25
June 12th,1995

By which private interest foundations are regulated.

ARTICLE 1. One or more legal natural persons may create a private interest foundation following the formalities prescribed in this Law, by themselves or through third parties. For this, it requires the constitution of a patrimony destined exclusively to the objectives or purposes expressly foreseen in the founding act. The initial patrimony may be increased by the creator of the foundation, who will be called the founder, or by any person.

ARTICLE 2. The Private interest foundations shall be governed by the founding act and its regulations, as well as by the provisions of this Law and other applicable legal or regulatory provisions. The precepts of Title II of Book I of the Civil Code will not be applied to these foundations.

ARTICLE 3. The private interest foundations may not pursue profit. However, they may carry out commercial activities in an unusual way, or exercise the rights derived from the titles representing the capital of commercial companies that make up the foundation's assets, provided that the result or economic product of such activities is dedicated exclusively to the purposes of the foundation.

ARTICLE 4. The private interest foundations may be constituted to take effect, from the moment of their creation or after the death of their founder, by any of the following methods:

- 1) Through a private document signed by the founder, whose signature must be authenticated by a local Notary Public.
- 2) Directly before a Notary Public of the place of its constitution.

Whatever the method of incorporation, the formalities established in this Law for the creation of foundations must be complied with.

If the foundation is created, either by public or private document, to take effect after the death of the founder, the formalities provided for the granting of a testament will not be required.

ARTICLE 5. The founding act must contain:

- 1) The name of the foundation expressed in any language with characters of the Latin alphabet, which will not be the same or similar to that of another pre-existing foundation in the Republic of Panama, so that it does not lead to confusion. The name must include the word foundation to distinguish it from other natural or legal persons of another nature.

- 2) The initial patrimony of the foundation, expressed in any legal tender, which in no case will be less than a sum equivalent to ten thousand balboas (B /. 10,000.00).
- 3) The designation, in a complete and clear manner, including the address of the member or members of the Foundation Council, to which the founder may belong.
- 4) The address of the foundation.
- 5) The name and address of the resident agent of the foundation in the Republic of Panama, who must be a lawyer, or a law firm, who must endorse the founding act, before its registration in the Public Registry.
- 6) The purposes of the foundation.
- 7) The way to designate the beneficiaries of the foundation, which may include the founder.
- 8) The reservation of the right to modify the founding act when it is considered convenient.
- 9) The duration of the foundation.
- 10) The destination that will be given to the assets of the foundation and the form of the liquidation of its assets, in case of dissolution .
- 11) Any other lawful clause that the founder deems appropriate.

ARTICLE 6. The founding act, as well as any modification made to it, must be drawn up in any language with characters of the Latin alphabet and comply with the rules of registration of acts and titles in the Public Registry, for which it must be previously protocolized in a notary of the Republic. If the founding act or its modifications were not written in Spanish, they must be protocolized, along with their translation, by an authorized public interpreter of the Republic of Panama.

ARTICLE 7. Modifications to the founding act, when permitted, must be made and signed per what is established therein. The respective agreement, resolution, or act of modification must contain the date on which it was carried out, the clearly identifiable name of the person or persons who signed it, and the signatures, which must be authenticated by a notary public of the place where the document.

ARTICLE 8. Every private interest foundation must pay the registration fee and a single annual rate equivalent to what is established for public limited companies in articles 318 and 318A of the Tax Code.

The procedure and form of payment, the late payment surcharge, the consequences for non-payment, and all the other complementary provisions of the aforementioned legal precepts, will be applied to private interest foundations.

ARTICLE 9. The registration of the founding act in the Public Registry will grant the foundation legal personality without the need for any other legal or administrative authorization. Registration in the Public Registry also constitutes a means of publicity to third parties. Consequently, the foundation may acquire and possess assets of all kinds, contract obligations and be a party in administrative and judicial processes of all kinds, under the applicable provisions.

ARTICLE 10. Once the foundation has acquired legal personality, the founder or third parties who have been obliged to contribute assets to the foundation, by themselves or at the request of any person with an interest in the foundation, must formalize the transfer to the foundation of the assets to they forced themselves.

When the foundation is constituted to take effect from the death of the founder, it will be considered that it has existed before his death, concerning the donations that he has made to the foundation.

ARTICLE 11. For all legal purposes, the assets of the foundation will constitute a separate patrimony from the personal assets of the founder. Therefore, they may not be sequestered, embargoed, or subject of the action or injunctive relief, except for obligations incurred or damages caused during the execution of the goals or objectives of the foundation, or legitimate rights of its beneficiaries. In no case will they be liable for the personal obligations of the founder or beneficiaries.

ARTICLE 12. The foundations will be irrevocable, except in the following cases:

- 1) When the founding act has not been registered in the Public Registry.
- 2) When the contrary is expressly established in the founding act.
- 3) For any of the causes of revocation of donations. Transfers made to foundations will be irrevocable by whoever made the transfer, unless expressly stated otherwise in the act of transfer.

ARTICLE 13. In addition to the provisions of the previous article, when the foundation has been created to take effect after the death of the founder, the latter will have, in an exclusive and unlimited manner, the right to revoke it.

The heirs of the founder will not have the right to revoke the creation or transfers, even if the foundation has not been registered in the Public Registry before the founder's death.

ARTICLE 14. The existence of legal provisions on hereditary matters in the domicile of the founder or of the beneficiaries, will not be enforceable against the foundation, will affect its validity, or prevent the achievement of its objectives, in the manner provided in the founding act or its regulations.

ARTICLE 15. The creditors or a third party shall have the right to dispute the contributions or transfers of assets in favor of a foundation when the transfer constitutes an act of creditors' fraud. The rights and actions of said creditors will prescribe after three (3) days, counted from the contribution or transfer of the assets to the foundation.

ARTICLE 16. The assets of the foundation may originate from any lawful business and may consist of assets of any kind, present or future. Periodic sums of money or other assets may also be incorporated into the patrimony by the founder or third parties. The transfer of assets to the patrimony of the foundation can be made by a public or private document. However, in the case of real estate, the transfer will comply with the rules on the transfer of the real estate.

ARTICLE 17. The foundation must have a Foundation Council, whose attributions or responsibilities will be established in the founding act or its regulations. Unless it is a legal person, the number of members of the Foundation Council will not be less than three (3).

ARTICLE 18. The Foundation Council will be in charge of fulfilling the aims or objectives of the foundation. Unless otherwise stated in the founding act or its regulations, the Foundation Council will have the following general obligations and duties:

- 1) Manage the assets of the foundation, in accordance with the founding act or its regulations.
- 2) Celebrate acts, contracts, or legal businesses that are convenient or necessary to fulfill the purpose of the foundation, and include in the contracts, agreements and other instruments or obligations, clauses, and necessary and convenient conditions, which are adjusted to the purposes of the foundation and that are not contrary to the law, morals, good customs, or public order.
- 3) Inform the beneficiaries of the foundation of its patrimonial situation, as established in the founding act or its regulations.
- 4) Deliver to the beneficiaries of the foundation the assets or resources established in their favor by the founding act or its regulations.
- 5) Carry out the acts or contracts that this Law and other legal or regulatory provisions that are applicable, allow the foundation.

ARTICLE 19. The founding act or its regulations may provide that the members of the Foundation Council can only exercise their powers with the prior authorization of a protector, committee, or any other supervisory body, designated by the founder or by the majority of the founders. Members of the Foundation Council shall not be liable for loss or deterioration of the assets of the Foundation, or for any damages caused when such authorization has been obtained.

ARTICLE 20. Unless otherwise provided in the founding act or its regulations, the Foundation Council must render accounts of its management to the beneficiaries and, where appropriate, to the supervisory body. If the founding act or its regulations established nothing on the matter, the rendering of accounts must be done annually. If the account presented is not objected within the term provided in the founding act or its regulations, or failing that, it will be deemed to have been approved, within ninety (90) days from the day it was received, for which a record of this term will be left as proof in the accountability report. Once this period has elapsed or the account has been approved, the members of the Foundation Council will be exonerated from responsibility for their management, unless they have not acted with the diligence of a good parent. Such approval does not exonerate them from the beneficiaries or third parties who have an interest in the foundation, for damages caused by gross negligence or fraud in the administration of the foundation.

ARTICLE 21. In the founding act, the founder may reserve for himself, or for other people, the right to remove the members of the Foundation Council, as well as appoint or add new members.

ARTICLE 22. When the founding act or the regulations do not establish anything about the right and the causes of removal of the members of the Foundation Council, they may be judicially removed, through the procedures of the summary process, for the following causes:

- 1) When their interests are incompatible with the interests of the beneficiaries or the founder.
- 2) If they administered the assets of the foundation without the diligence of a good parent.
- 3) If they were convicted of a crime against property or public faith. In this case, while the criminal process is being processed, the temporary suspension of the processed member may be decreed.
- 4) Due to inability or impossibility to exercise the objectives of the foundation, as long as such causes are configured.
- 5) For insolvency or bankruptcy.

ARTICLE 23. They can request the judicial removal of the members of the Foundation Council, the founder, and the beneficiary or beneficiaries. If the beneficiaries are disabled or minors, they may be represented by those who exercise parental authority or guardianship over them, as the case may be.

The judgment of the court that decrees the removal must appoint new members to replace the previous ones, who must be people with sufficient capacity, suitability, and recognized moral solvency to manage the assets of the foundation, following the purposes established by the founder.

ARTICLE 24. The founding act or its regulations may provide for the constitution of oversight bodies, which may be constituted by natural or legal persons, such as auditors, protectors of the foundation, or others similar.

The powers of the supervisory bodies will be established in the founding act or its regulations and may include, among others, the following:

- 1) Ensure that the purposes of the foundation are met by the Foundation Council and for the rights and interests of the beneficiaries.
- 2) Demand accountability from the Foundation Council.
- 3) Modify the aims and objectives of the foundation when these are impossible or burdensome to carry out.
- 4) Appoint new members to the Foundation Council due to temporary or permanent absence or termination of the term of any of them.
- 5) Appoint new members of the Foundation Council, in cases of temporary or accidental absence of any of them.
- 6) Increase the number of members of the Foundation Council.
- 7) Endorse the acts adopted by the Foundation Council indicated in the founding act or its regulations.

ARTICLE 32. The foundations constituted in accordance with this law, as well as the assets that make up their patrimony, may be transferred or submitted to the laws and jurisdiction of another country, as provided in the founding act or its regulations.

ARTICLE 33. Registrations related to private interest foundations will be made in the Public Registry in the special section called "Private Interest Foundations Section". The Executive Branch, through the Ministry of Government Justice, shall issue the regulations applicable to this section.

ARTICLE 34. To avoid the improper use of private interest foundations, all the legal provisions contained in Executive Decree No. 468 of 1994 and any other current regulation aimed at combating money laundering from drug trafficking will be applied for their operation.

ARTICLE 35. The members of the Foundation Council and the supervisory bodies, if any, as well as the public or private servants who know about the activities, transactions, or operations of the foundations, must maintain reserve and confidentiality in this regard, at all times. Violations of this duty will be sanctioned with a 6-month prison term and a fine of fifty thousand balboas (B /.50,000.00), without prejudice to the corresponding civil liability.

The provisions of this article shall apply without prejudice to the information that must be disclosed to the official authorities and the inspections that they must carry out in the manner established by law.

ARTICLE 36. Any controversy that does not have a special procedure indicated in this Law, will be resolved by the proceedings of the summary judgment.

It may be established in the founding act or the regulations of the foundation, that any controversy that arises about the foundation will be resolved by arbitrators or arbitrators, as well as the procedure to which they must submit. If such a procedure has not been established, the rules contained in the Judicial Code shall apply in this regard.

ARTICLE 37. This Law will take effect from its promulgation.