



IV CONSTITUTIONAL GOVERNMENT

BILL NO. /2010

DATE:

REAL ESTATE FINANCIAL FUND

This law creates the Real Estate Financial Fund [Fundo Financeiro Imobiliário] and establishes its respective legal system.

The principles of planning, coordination, efficiency and responsibility that guide the public policy related to the implementation of Law no. [•] establishing the special system for the definition of title of real estate assets (*Lei de Terras*) advise the expediting of financing for all financial charges resulting from the *Lei de Terras*, including the Expropriations Law from one single public financial management instrument, which must be autonomous. The need to aggregate and manage financial resources from various sources and oriented towards one single objective dictates the existence of this new Law which, within the scope established in Article 32 of Law no. 13/2009, of October 21, on Budgets and Financial Management, creates the Real Estate Financial Fund, defines the purposes for which the Fund is established, institutes and regulates the entity responsible for its operations and regulates in a comprehensive way all the competencies, principles and management standards of the Fund and its financial system.

The Government submits to the National Parliament, in conformity with item c) of no. 1 of Article 97 and item a) of no. 2 of Article 115 of the Constitution of the Republic, the following bill:

ARTICLE 1

Real Estate Financial Fund

The Real Estate Financial Fund of the Ministry of Justice is hereby created as a special fund with administrative, patrimonial and financial autonomy and constituted as a corporate entity.

ARTICLE 2

Purposes

- 1- The Real Estate Financial Fund has the following purposes:
 - a) financing of compensation payable by the State under the terms of Law no. [•] establishing the special system for defining title of real estate assets, regardless of who may be responsible for the compensation burden with the obligation to reimburse the State;
 - b) financing of other financial burden resulting from the implementation of Law no. [•] establishing the special system for defining title of real estate assets, including the specific burden resulting from the entitlement of the National Directorate of Land, Property and Cadastral Services of the Ministry of Justice and the installation, entitlement and activities of the Cadastral Commission;
 - c) financing of the acquisition, development and implementation of social housing projects under the terms foreseen in Law n. [•] establishing the special system for defining title of real estate assets;
- 2- The Real Estate Financial Fund also has the purpose of providing payment for the damages due by the State and the financing of resettlement operations resulting from the application of the Law of Appropriations.

ARTICLE 3

Revenues

The following will constitute revenues of the Real Estate Financial Fund:

- a) Appropriations attributed by the State General Budget;

- b) The product of all refunds of compensations paid by the State under the terms of Law no. [•] which establishes the special system for definition of title of real estate assets;
- c) The product of the revenue of assets reverted to the State and object of leasing or any other form of assignment under the terms of Law no. [•] which establishes the special system for definition of title of real estate assets, in an amount to be established on an annual basis in the Law approving the State General Budget;
- d) The product of the alienation of real estate reverted to the State according to Law no. [•] which establishes the special system for definition of title of real estate assets, in an amount to be established on an annual basis in the Law approving the State General Budget;
- e) The revenues from the financial application of its capitals under the terms of this Law;
- f) Any other financial means attributed or consigned by law or legal business.

ARTICLE 4

Transition of Balances

All balances assessed at the end of each economic year will automatically transfer to the following year.

ARTICLE 5

Expenses

The expenses of the Fund will be those resulting from charges resulting from the application of this law, including implementation and operational charges of the Executive Commission and technical Secretariat, under the limits established by the General Budget Law of the State.

ARTICLE 6

Budget Appropriation

- 1- Every year the Government includes an appropriation for the Real Estate Financial Fund in the proposal for the State General Budget in order to provide the necessary funds to pay the compensations foreseen for that economic year under the terms of Law no. [•], which establishes the special system for definition of title of real estate assets and pay the other expenses under its responsibility.
- 2- The appropriation for the Fund must specify all the allowances foreseen for each one of the purposes of the Fund.
- 3- Within a period of 30 calendar days counting from the effective date of the Law that approves the State General Budget, the Minister of Finance will transfer the respective appropriation to the official Fund account.

ARTICLE 7

Executive Commission

- 1- The Fund is managed by an Executive Commission in charge of the operations necessary for achieving its purposes.
- 2- The Executive Commission has three members, one being the chair, to be appointed and approved by order of the Minister of Justice, with one nominated by the Minister of Finance.
- 3- The work of the Executive Commission starts with the nomination of its members.
- 4- The term for the Executive Commission members is two years and can be extended for identical periods of time, not to exceed a maximum of six years.
- 5- In the case of early termination of the term of one of the Commission members, the replacement must occur within 10 days.
- 6- The exoneration will be conducted under the terms foreseen in the Public Administration system of managing careers and positions.

ARTICLE 8

Technical Secretariat

- 4¹- The Executive Commission is supported by a technical Secretariat, staffed according to an order from the Minister of Justice, following a proposal by the Executive Commission.
- 2- The Executive Commission can also be advised by expert consultants, depending on the

subject matter under analysis.

ARTICLE 9

Competencies of the Executive Commission

The Executive Commission is in charge of managing the Real Estate Financial Fund, namely:

- a)* Authorize the payment of compensations under the terms of Law no. [•], which establishes the special system for definition of title of real estate assets;
- b)* Authorize the payments related to acquisition, development and implementation of social housing projects under the terms of Law no. [•], which establishes the special system for definition of title of real estate assets;
- c)* Authorize the payments for damages resulting from the application of the Law of Appropriations;
- d)* Authorize payments related to resettlement operations resulting from the application of the Law of Expropriations;
- e)* Authorize payment of other expenses, including operational charges;
- f)* Practice all patrimonial management acts necessary to achieve the purposes of the Real Estate Financial Fund;
- g)* Ensure collection of the refunds of compensations paid by the Fund and other revenues;
- h)* Execute foreclosures constituted under Law no [•], which establishes the special system for definition of title of real estate assets, under the terms foreseen in the applicable legislation;
- i)* Deliberate on the investment of Fund monies in financial instruments;
- j)* Submit for the approval of the Minister of Justice the financial schedule proposal for the Fund, accompanied by its respective activity plan, 30 days before the date established annually by the Minister of Finance for submittal of budget proposals;
- k)* Approve and submit to the Ministers of Justice and Finance the quarterly reports about the performance and activities of the Fund;
- l)* Approve and submit to the Ministers of Justice and Finance, on an annual basis, the management and accounting report of the Fund.

ARTICLE 10

Competencies of the Chair

The Executive Commission Chair has the following competencies:

- a) Call, and preside at, the Executive Commission meetings;
- b) Represent the Fund in all institutional affairs necessary to achieve its purposes;
- c) Request the necessary collaboration from the agencies and services of the Ministry of Justice and other State bodies in order to fulfill its competencies;
- d) Represent the Fund in court, with no detriment of the prerogative to delegate one of the Commission members.

ARTICLE 11

Executive Commission Operations

- 1- The Executive Commission will hold regular meetings, with periodicity to be approved by Executive Commission ruling, and special meetings whenever summoned by its chair or in response to a proposal by one of its members.
- 2- The Executive Commission will deliberate using a majority of members present at the meetings and the chair will have the casting vote.
- 3- In the event of absence or impediment of the chair, a substitute will be appointed by the chair from within the other members of the Executive Commission.
- 4- All deliberations foreseen in items i) through 1) of article 9 will require the presence of all Executive Commission members.
- 5- All Commission deliberations will be justified and recorded.

ARTICLE 12

Personnel System

- 1- The members of the Executive Commission of the Fund are selected from within the employees of the Public Administration under a system of service commission and will be comparable, for all legal purposes, to the position of director-general, in the case of the chair, and national-director, in the case of the other members.
- 2- The members of the Executive Commission may also be appointed from outside the Public Administration, under a system of service agreement.
- 3- The staff of the technical Secretariat is selected from within the employees of the Public

Administration under any of the systems foreseen in the Public Servant Statute or by entering a service agreement.

ARTICLE 13

Expenses

- 1- The Executive Commission decides on requests for payment of compensation, damages and others resulting from the law, in a period of time not exceeding thirty calendar days counting from the date of submittal.
- 2- The Fund has an official account at a banking institution located in the country, in which all Fund revenues are credited and all Fund expenses are debited. Expenses are paid in accordance with payment orders approved by the Executive Commission.
- 3- The opening of the account referred to in the previous number is subject to prior authorization from the Minister of Finance.
- 4- The execution of expenses and payments by the Fund can only occur after authorization from the Minister of Finance for the expenses made during the respective economic year, under the terms foreseen in Law no. 13/2009, of October 21.
- 5- Whenever the expenses exceed the initial allowances foreseen for each one of the purposes or there is a need to transfer allowances from one to another of the purposes referred to in article 2 of this Law, a prior joint authorization from the Ministers of Justice and Finance will be necessary.

ARTICLE 14

Supply System

The acquisition of assets and services by the Real Estate Financial Fund is subject to the supply system applicable to the agencies and services of the State.

ARTICLE 15

Financial Instruments

- 1- The Fund is managed in a judicious fashion, in conformity with the principles of good governance and any purpose of maximization of capitalization is excluded.
- 2- The monies available at the Fund may be invested in financial instruments that offer no risk and provide liquidity, in accordance with the needs of the treasury and the financial schedule

of the Fund.

ARTICLE 16

Inspection and Control

- 1- The management control and inspection of the Real Estate Financial Fund have to comply with the terms foreseen in Law no 13/2009, of October 21, regarding Budget and Financial Management.
- 2- The Executive Commission is responsible for maintaining the accounts and records of the Fund under the terms of the International Accounting Standards in effect, so as to reflect at any given time the resources, operations and financial status of the Fund.
- 3- The annual accounts of the Fund are audited and object of legal certification by an independent consulting entity hired for that purpose.

ARTICLE 17

Responsibility

The members of the Executive Commission will hold financial, civil and criminal liability for the acts and omissions practiced while performing its duties, under the terms of the applicable legislation, except in cases when they have not participated in the decision or act.

ARTICLE 18

Transitory Disposition

The Ministry of Justice ensures on a transitory basis all the technical, administrative and logistic support needed by the Executive Commission of the Fund until the technical Secretariat is installed.

ARTICLE 19

Subsidiary Rights

Any matters not found in this law will be regulated by the provisions of, in this order, the special funds, the autonomous funds and the general system applicable to State agencies and services, provided it is compatible with the nature of the Fund, included in Law no 13/2009, of October 21.

ARTICLE 20

Effective Date

This Law will be in effect on the effective date of the State General Budget Law approving the first appropriation of the Fund.

Approved at the Council of Ministers on March 10, 2010.

The Prime-Minister,

Kay Rala Xanana Gusmão

The Minister of Justice,

Lúcia M. B. F. Lobato