

LEGISLATIVE ASSEMBLY

Law N° 10 (Of April 16, 1993)

“Whereby incentives are established for the formation of funds for retirees, pensioners and other benefits.”

THE LEGISLATIVE ASSEMBLY

DECREES:

Article 1. Create the Retirement and Pensions Fund National Commission assigned to the Ministry of Estate and Treasury to advise the Executive Branch in the regulation and development of the present law, and with the purpose of periodically establishing investment parameters that are consistent with the universal principles of security and diversification which are typical of the plans and investments object of the present law.

It will consist of:

1. The Minister of Estate and Treasury or the official that he designates, who will preside it.
2. A Member of the National Banking Association.
3. A Member of the Board of Directors of one of the Stock Exchanges.
4. A Member of the Insurers' Association.
5. A Member of the Legislative Assembly Commission of Commerce, Industry and Economic Matters.

Article 2. The payments or contributions made to the plans or funds to pay retirements, pensions and other benefits similar to those of the contributor's employees or in the contributor's own benefit, when the latter is a natural person, will be deductible for the effects of Taxable Income determination, when the respective plans abide by the following conditions:

1. Once the plans are issued, they will be managed by General License Banks, including the National Bank of Panama and the Caja de Ahorros, by insurance companies authorized to operate in the country or by trusts constituted according to the laws of the Republic of Panama that are managed by companies with Fiduciary License issued by the National Banking Commission, and by the Companies that Manage Corporations or Investment Funds authorized by the National Securities Commission of the Ministry of Commerce and Industry (MICI for its abbreviation in Spanish).
2. These plans should be voluntary and complementary, if it were the case, to the benefits that the Social Security system grants.

3. They must have been approved by the National Banking Commission in the case of banks and trusts, by the National Securities Commission of the Ministry of Commerce and Industry (MICI) in the case of Corporations and Investment Funds, and by the Superintendency of Insurances and Reinsurances of the Ministry of Commerce and Industry (MICI) in the case of insurance companies.

Article 3. The cooperative associations that can attract savings from their associates, with a similar destination to those stipulated in this law, will do so subject to Law No. 38 of October 22, 1980, and Decree No. 31 of November 6, 1981, which regulates its operation.

Article 4. In addition to what numeral 3 of Article 1 stipulates, the plans to which this law refers will be regulated and inspected by the National Banking Commission in the case of plans managed by banks and trusts; by the Superintendency of Insurances and Reinsurances of the Ministry of Commerce and Industry (MICI) in the case of plans managed by insurance companies; and by the National Securities Commission of the Ministry of Commerce and Industry (MICI) in the case of Corporations and Investment Funds.

Article 5. The plans to which this Law refers can be individual or collective, contributive or not contributive and of definite contribution. These plans require a minimum of ten (10) years of payments to allow the beneficiary to make voluntary withdrawals from the plan's funds, unless these are beneficiaries that enter a plan after they have reached age fifty-five (55), in which case the period can be reduced down to a minimum of five (5) years.

Article 6. When dealing with individual contributions coming from individual plans, the deductible portion of the annual contributions cannot be higher than ten percent (10%) of the contributor's gross income, whether these contributions are made to one or more plans.

For the purposes of the withholding computations dealt with in article 734 of the Fiscal Code, the employers will take into consideration the contributions that their employees should make in the corresponding fiscal year based on the plans stipulated in this law.

Article 7. The employers can deduct the contributions that they make to the funds in benefit of their workers, up to the equivalent to the sum that according to the previous article, the beneficiary workers can deduct from their personal contributions.

Article 8. The funds attracted through the plans that this law refers to can be invested in deposits in General License Banks, in mortgages, in mortgage certificates, in mortgage stocks or bonds backed up by mortgage securities issued by Commercial Banks or Mortgage Banks, with General License and in securities of investment quality, which have been duly authorized by the National Securities Commission of the Ministry of Commerce and Industry (MICI) for their sale in public bid, and in those other assets which, from time to time, the National Commission of Retirements and Pensions authorizes.

Article 9. As long as the Retirement and Pensions Fund National Commission does not provide the contrary, no less than thirty per cent (30%) of the funds attracted by the plans should be invested in mortgages, in mortgage certificates, in mortgage stocks or bonds backed up by mortgage securities within the national territory.

Article 10. The beneficiary will pay Income Tax on the equivalent of the contributions that have been made to the fund, at the time in which the latter is settled or its periodic payments start to be effective.

Article 11. The plans' management to which this law refers and the funds deposited therein can be transferred by the beneficiary to any other institution, provided notification is made with a term no less than thirty (30) days nor greater than (60) calendar days, as is stipulated in the contract.

In these cases the contract can stipulate a penalty no greater than five per cent (5%) of the value of the accumulated contributions.

Article 12. The regulatory entities will dictate, within a term no greater than one hundred and eighty (180) calendar days after the promulgation of this Law, the pertinent regulations for the constitution and management of these funds, which will have to adhere, in the financial information aspects, to the accounting principles stipulated for this line of business.

Article 13. After the first year of operations, each year and within four (4) months following the fiscal year closing, the Companies that Manage Retirement and Pension Complementary Funds should send their registered investors or publish in at least three (3) newspapers of vast circulation, their audited financial statements corresponding to the immediately previous fiscal year.

In the same manner and fulfilling the same formalities, the managing companies will provide, at least every six (6) months, a financial report on the performance of each fund that they manage and which includes at least the monthly yield to date, the average historical yield, the diversification of investments by economic sector, the type of asset and a summary of expenses.

Article 14. The Superintendency of Insurances and Reinsurances of the Ministry of Commerce and Industry (MICI) will supervise and inspect the actuarial calculation of those plans that are based on calculations of that nature. The plans or funds that are offered or sold through public bids will be subject to the requirements of Cabinet Decree No. 247 of July 16, 1970.

Article 15. What is stipulated in the present Law does not affect the pension and retirement plans that are ruled by other legal provisions.

Article 16. The Executive Branch will regulate the present law.

Article 17. This Law rescinds Cabinet Decree No. 248 of July 16, 1970 and adds Article 697 to the Fiscal Code.

Article 18. This Law will start to rule as of April 1, 1993.

Given in the City of Panama on the 16th day of April of nineteen hundred ninety-three.