

TRANSLATION

Republic of Panama

LEGISLATIVE ASSEMBLY

LAW N° 44

(Of 12 August 1995)

**“WHEREBY RULES TO REGULARIZE AND
MODERNIZE WORK RELATIONSHIPS ARE PROVIDED”**

THE LEGISLATIVE ASSEMBLY

DECREES:

Article 37. To add Chapter III TO TITLE VI of the Book I of Cabinet Decree 252 of 1971, as follows:

CHAPTER III SEVERANCE FUND

229-A. In the indefinite work agreements, the employers shall establish a severance fund to pay to the employee, the seniority premium and compensation for unfair dismissal or justified resignation, when the work relationship is terminated.

229-B. To establish the fund, the employer will quote quarterly, the quota related to the employee's seniority premium and five percent (5%) of the monthly quota of the compensation that would be paid to the employee, in the event that the work relationship terminates due to unfair dismissal or justified resignation.

229-C. Quarterly quotations referred to in the preceding article, will be deposited, through trust funds, in private entities duly authorized by Law 10 of 1993, for the management of complementary retirement and pension funds. These entities shall not be subsidiaries or affiliated companies to the employer.

229-D. To manage the quotations trusted in a trust fund, the qualified administrators will invest those in accordance with the stipulations of Law 10 of 1993 and its regulations and will perform their duties following universal principles of portfolio diversification and preservation of capital. In accordance with the provisions set forth in the paragraph above, the administrators will procure the investment in mortgage titles or with mortgage support, for households and investment in economic activities that will generate intensive manpower in the country or that foster diversification of economy.

The administrators may assign, through credit institutions, part of the quotations of the fund to minor personal loans programs addressed to employees, with competitive market interests.

229-E. The quotations on the employee's seniority premium will be aimed to protect the individual right of each one of them. The use of these quotas by the employee will only be possible according to the provisions of article 229-K. The compensation quotas will be consigned on the employer's behalf.

The revenues generated from the seniority premium and compensation quotas, belong and will be consigned on the employer's behalf.

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229-F. The employer is not bound to make the respective quarterly quotation, in case that the quotations previously made and their revenues cover his liabilities in concept of seniority premium and compensation. In the event that only a part of that liability was covered, the employer is bound to quote only for the difference.

In case that the quotations with revenues exceed the employer's liability in concept of seniority premium and compensation, the employer will be entitled to make total or partial withdrawals for the surplus.

229-G. The quotations made by the employer to the severance fund, will be an income tax deductible expense. In case that the employer proceeds with the withdrawal referred to above, it shall cover the income tax for the amount of the withdrawn amount.

The amounts of money consigned in the severance fund, as the revenues, shall not be attached by third parties, as it is understood that only the employee himself can do it in order to collect his right to the seniority premium and for the amount he is entitled to.

229-H. The administrator contracted by the employer is bound to provide to the employees, on quarterly basis and individually, a proof of the amount the employer has consigned to guarantee said obligation.

The administrator is also bound to provide, to the employer and employees, a comparison of the status of the quotations by compensation, stating, also, if they have been paid in due time.

229-I. The employee is authorized to make his own payments, during the work relationship, to the severance fund, in which case these quotas and its revenues will be registered in an individual account.

These quotas and its revenues cannot be taken into consideration for any financial or capitalization management by or in favor of the employer, and will have the same benefits that employer's quotations.

229-J. The amount quoted by the employer will be considered transferable to third parties, unless the seniority premium in case of decease of the employee.

229-K. During the work relationship, the employees may commit the accumulate sums on their behalf in concept of seniority premium, as a guarantee for the acquisition of property or households, prior verification of that purpose.

229-L. The employees will be entitled, when the work relationship is terminated, to receive the quotations made by the employer in concept of seniority premium, whatsoever be the cause. In case of employees' death, the provisions set forth in article 155 of the Labor Code shall be applied.

The quotations made by the employer, as compensation, will be received by the employee, in the event of the following:

1. Termination of work relationship due to unfair dismissal, prior declaration of the competent authority.
2. Employee's justified resignation, prior declaration of the competent authority.
3. Termination of work relationship by mutual agreement, shall be proven by means of a written document signed by both parties, in which is agreed the wholly or partly payment of the compensation.

TRANSLATION

The employee is empowered to receive, wholly or partly, the sum he is entitled to when terminating the work relationship or to maintain the deposit of such as savings or capitalization, in which case it will be ruled by the provisions of article 229-I.

229-M. The provisions of this chapter shall not apply compulsorily to the corporations referred to in numbers 3 and 6 of article 212 of the Labor Code and to credit unions, unless make use of such.

229-N. The employers are bound to create the severance fund, only regarding the seniority premiums and compensation to be caused from the date of validity of the fund according to this chapter, in favor of existing company's employees at the time and of whom will become employees of such. The employers will have up to six months, after the enactment of this Law, to quote the fund and establish the concerning trust fund and administration contracts.

The seniority premium and compensation, caused by work relations before the validity of the severance fund, will be paid directly to the employee by the employer in accordance with the provisions of articles 224 and 225 of this Code. However, it is up to employers to include these work liabilities in the severance fund, in which case will be entitled to deduction of such payments, to the effects of income tax, in the fiscal year in which the inclusion was made.

These companies maintaining trust funds or any other seniority premium and/or unfair dismissal coverage system may maintain this system or choose the fund.

LET IT BE KNOWN AND ENFORCED

Approved in third reading, in Palacio Justo Arosemena, city of Panama on 12 August 1995.