

# Presidency of the Republic of Brazil

## Executive Office

### Sub-Office for Legal Affairs

#### Law n. 12.527, of November 18, 2011.

Addresses the access to information as established in Article 5, XXXIII, Article 37, II-Paragraph 3 and Article 216, Paragraph 2 of the Federal Constitution; modifies Law n. 8.112, of December 11, 1990; revokes Law n. 11.111, of May 5, 2005 and provisions of Law n. 8.159, of January 8, 1991; and makes other provisions.

I, **THE PRESIDENT OF THE REPUBLIC**, hereby inform that the National Congress decrees and I sanction the following Law:

#### CHAPTER I

#### GENERAL PROVISIONS

**Article 1.** This Law establishes the proceedings that shall be observed by the Federal Government, the States, the Federal District and Municipalities, in order to ensure the access to information as established in Article 5, XXXIII, Article 37, II-Paragraph 3, and Article 216, Paragraph 2 of the Federal Constitution.

**Sole Paragraph.** The following are subordinated to the regime of this Law:

**I** – public bodies that form the direct administration of the Executive and Legislative Branches, including the Audit Courts; the Judiciary and the Public Prosecutor’s Office;

**II** – autonomous government agencies, public foundations, public companies, mixed-capital companies and other entities directly or indirectly controlled by the Federal Government, the States, the Federal District and the Municipalities.

**Article 2.** The provisions of this Law are applicable, whenever possible, to non-profit private entities which receive, in order to perform actions of public interest, public funds directly from the budget or through social subventions, management contract, partnership terms, covenants, agreements, adjustments, or other instruments of the same kind.

**Sole Paragraph.** The publicity applicable to the entities mentioned in the **caption** of this article refers to the received portion of public funds and its respective destination, without prejudice to the accountability to which they are legally bound.

**Article 3.** The procedures established by this Law are intended to ensure the fundamental right of access to information and should be performed according to the basic principles of the Public Administration and the following guidelines:

- I – observance of publicity as a general rule and of secrecy as the exception;
- II – disclosure of information of public interest, irrespective of requests;
- III - use of the existing means of communication made available by information technology;
- IV – promotion of the development of a transparency culture within the Public Administration;
- V - development of the social control of the Public Administration.

**Article 4.** Given the purposes of this Law, one shall consider:

- I – information: processed or unprocessed data that can be used in the production and transmission of knowledge, within any media, support or format;
- II – document: unit of recorded information regardless of its support or format;
- III – classified information: that piece of information which is temporarily unavailable to public access due to its relevance to social and State security;
- IV – personal information: that piece of information which is related to an identified or identifiable natural person;

**V** – handling of information: set of actions related to information production, reception, classification, use, access, reproduction, transportation, transmission, distribution, filing, storage, exclusion, evaluation, destination or control;

**VI** – availability: quality of the information that can be accessed and used by authorized individuals, equipment or authorized systems;

**VII** – authenticity: quality of the information produced, sent, received or modified by a determined individual, equipment or system;

**VIII** – integrity: quality of the non-modified information, encompassing its origin, traffic and destination;

**IX** – primary: quality of first-hand unfiltered information, retrieved from original sources, comprising as many details as possible on a given subject.

**Article 5.** It is the duty of the State to ensure the access to information, which shall be disclosed after the attendance of simple and quick proceedings, in a transparent and clear manner, and in an easily understandable language.

## **CHAPTER II**

### **ON THE ACCESS TO INFORMATION AND ITS DISCLOSURE**

**Article 6.** Public bodies and entities shall ensure, in compliance to applicable specific rules and proceedings:

**I** – transparent management of information, assuring broad access to public information and maximum disclosure;

**II** – protection of information, ensuring its availability, authenticity and integrity; and

**III** – protection of classified and personal information, observed its availability, authenticity, integrity and eventual limitation of access.

**Article 7.** The right of access to information disciplined by this Law comprises the right to obtain:

**I** – orientation on the proceedings related to information access, as well as the coordinates on where to find or obtain the requested information;

**II** – information contained in records or documents, produced or held by different bodies or entities, either stored or not in public archives;

**III** – information either produced or held by an individual or private entity because of their relation with selected bodies or entities, even if such relation has been terminated;

**IV** – primary information that is original, authentic and updated;

**V** – information on the activities performed by bodies and entities, including those related to their internal policies, organization and services;

**VI** – information concerning the administration of public property, the use of public resources, government bidding and contracting; and

**VII** – information related to:

**a)** the implementation, monitoring and results of programs, projects and activities carried out by public bodies and entities, as well as their proposed goals and indicators;

**b)** the results of inspections, audits and rendering of accounts performed by bodies of internal and external control, here included the rendering of accounts related to previous financial years.

**Paragraph 1.** The access to information as established in the **caption** of this article does not comprise information related to research projects and scientific and technological development whose secrecy is crucial to social and State security.

**Paragraph 2.** When full access to information is not authorized because such information is partially classified, the access to the non-confidential part is granted by certificate, extract or copy, concealing the portion under secrecy.

**Paragraph 3.** The right to access documents or the information they contain, which support decision making and administrative acts, will be ensured with the issuance of the respective decision act.

**Paragraph 4.** The wrongful denial of access to requested information by the bodies and entities mentioned in Article 1 shall submit the responsible workforce member to the sanctions foreseen in Article 32.

**Paragraph 5.** If the interested party is notified that the requested information has been lost, he/she is entitled to initiate a competent authority request for immediate inquiry into the disappearance of the respective documentation.

**Paragraph 6.** In the event of information loss as provisioned in Paragraph 5, the person responsible for the custody of the missing information must explain the incident and appoint witnesses to support their claim within ten days.

**Article 8.** Regardless of external requests, public bodies and entities shall promote the disclosure of the information they either produce or keep, be it of collective or general interest, in a location of easy access under their jurisdiction.

**Paragraph 1.** The disclosure of the information referred to in the **caption** of this article shall include, at least:

**I** – records of the jurisdiction and organizational framework, addresses and telephones of the respective units and their standard operating hours;

**II** – records of any total or partial transfer of financial resources;

**III** – records of expenditures;

**IV** – information related to bidding proceedings, including bidding rules and results, as well as all signed contracts;

**V** – general data for the monitoring of public bodies and entities programs, activities, projects and construction works; and

**VI** – answers to society’s most frequently asked questions.

**Paragraph 2.** To ensure the observance of the provisions established in the **caption** of this article, public bodies and entities shall use all the legitimate means and instruments at their disposal to guarantee the mandatory disclosure of information in official sites on the World Wide Web (Internet).

**Paragraph 3.** The websites referred to in Paragraph 2 shall meet, in accordance with the regulations, the following requirements:

**I** – include a content search tool that allows objective, transparent and clear access to information in an easily understandable language;

**II** – enable the recording of reports in various electronic formats, including open and non-proprietary, such as spreadsheets and text, aiming at ensuring easier information analysis;

**III** – enable automated access by external systems in open, structured and machine-readable formats;

**IV** – provide detailed disclosure of the formats used to structure information;

**V** – ensure the authenticity and integrity of accessible information;

**VI** – maintain the accessible information updated;

**VII** – indicate location and instructions that enable the public to use telephone or electronic communication means to contact the body or entity which owns the website; and

**VIII** – take the necessary steps to ensure content accessibility to persons with disabilities, as established in Article 17, Law n. 10.098, of December 19, 2000, and Article 9 of the Convention on the Rights of Persons with Disabilities, enacted by Legislative Decree n. 186, of July 9, 2008.

**Article 9.** The access to public information will be ensured by means of:

I – creation of a citizen information service within public body and entities, in a location suitable for:

- a) serving and guiding the public on matters related to information access;
- b) providing information on the processing of documents within their respective units;
- c) registering documents and requests on the access to information; and

II – conduction of hearings and public consultations, encouragement to public participation or other disclosure-related mechanisms.

### **CHAPTER III**

#### **ON THE PROCEDURES FOR ACCESS TO INFORMATION**

##### **Section I**

##### **On the Request for Access**

**Article 10.** Any person is entitled to submit, by any legitimate means, a request for access to the public bodies and entities referred to in Article 1 of this Law, and such request shall include applicant's identification and further specification of the requested information.

**Paragraph 1.** To ensure the access to information of public interest, the identification of the applicant should not contain unreasonable requirements precluding the attendance of his/her request.

**Paragraph 2.** Public bodies and entities should make use of their official websites on the Internet to provide an alternative way for the public to submit requests for access.

**Paragraph 3.** Any requirements related to the determining reasons of the request for information of public interest are forbidden.

**Article 11.** The public body or entity shall either authorize or grant immediate access to the available information.

**Paragraph 1.** When it is not possible to grant immediate access to the information, as provisioned in the **caption** of this article, the requested body or entity shall, within 20 (twenty) days:

I – inform the date, venue and means to conduct the consultation, get document copies or obtain certificates;

II – indicate the factual and legal reasons for totally or partially denying the requested access; or

III – inform the applicant that it does not hold the requested information, refer him/her to the appropriate body or entity, or forward the information request to such body or entity, informing the applicant about it.

**Paragraph 2.** The term referred to in Paragraph 1 may be extended for another 10 (ten) days, by means of explicit justification, which shall be informed to the applicant.

**Paragraph 3.** Without compromising the security and protection of information, and in compliance with the applicable legislation, the body or entity may provide the applicant with means to retrieve the needed information his/herself.

**Paragraph 4.** When access is not authorized because the information is totally or partially classified, the applicant shall be informed of the existing possibilities of appeal, as well as the terms and conditions to file it; and shall be also notified of the competent authority indicated to examine his/her claim.

**Paragraph 5.** The information stored in digital format will be delivered as such upon the consent of the applicant.

**Paragraph 6.** If the requested information is available to the public in printed, electronic, or any other means of universal access, the applicant must receive written notification of the location and ways to access, retrieve or copy such information,



which is a procedure that exempts the public body or entity from the obligation to directly provide the information, unless the applicant otherwise declares not having the means to perform such procedures on his/her own.

**Article 12.** Information search and provision services are free of charge, unless the public body or entity is otherwise demanded to deliver document copies, situation in which only the costs of such services and materials will be charged.

**Sole Paragraph.** Applicants who cannot afford to pay the costs described in the **caption** of this article without compromising their own or their family's needs shall be exempt of such payment, as determined by Law n. 7.115, of August 29, 1983.

**Article 13.** When the access to information consists of handling it in a way that may harm its integrity, the applicant shall be offered a certified copy for consultation.

**Sole Paragraph.** Should it not be possible to obtain such copies, the applicant may request, at his/her own expenses and under the supervision of a public official, a document reproduction that does not put the integrity of the original material at risk.

**Article 14.** Should the applicant be denied to access the requested information, he/she should be granted the right to access the full content of such negative decision.

## **Section II**

### **On the Appeals**

**Article 15.** After being denied the right to access either the requested information or the reasons that justified such negative decision, the petitioner shall file an appeal within 10 (ten) days after being notified of that decision.

**Sole Paragraph.** The appeal shall be lodged with the authority hierarchically superior to that which rendered the contested decision, the latter being entitled to act within 5 (five days).

**Article 16.** Should federal executive bodies or entities deny the petitioner the right to access the requested information, he/she may lodge an appeal with the Office

of the Comptroller General, which will have 5 (five) days to decide upon the following situations:

I – denied access to unclassified information;

II – negative decision on access to totally or partially classified information which does not indicate either the responsible or the hierarchically superior authority, to whom the petitioner could forward requests for either access or declassification;

III - the procedures to classify sensitive information, as established by this Law, have not been observed;

IV – non-observation of the terms and overall procedures established by this Law.

**Paragraph 1.** The appeal provisioned in this article shall be lodged with the Office of the Comptroller General only after having been appreciated by at least one authority hierarchically superior to that which rendered the contested decision, and shall be judged within 5 (five) days.

**Paragraph 2.** Once the reasons that motivated the appeal are proved right, the Office of the Comptroller General will require the involved body or entity to take the necessary measures to comply with the provisions of this Law.

**Paragraph 3.** The petitioner may lodge an appeal with the Mixed Commission for Information Reassessment, referred to in Article 35, should the Office of the Comptroller General deny him/her access to requested information.

**Article 17.** Without prejudice to the competencies of the Mixed Commission for Information Reassessment, established in Article 35, and in compliance with the provisions of Article 16, the petitioner may file an appeal to the corresponding State Minister, should his/her information declassification request be denied by a federal body within the Public Administration.

**Paragraph 1.** The appeal provisioned in this article shall only be filed to the above referred authorities after having been appreciated by at least one authority

hierarchically superior to that which rendered the contested decision and, regarding the Armed Forces, to the corresponding Major Command.

**Paragraph 2.** If the appeal to declassify secret or top secret information established in the **caption** of this article is overruled, the petitioner may appeal to the Mixed Commission for Information Reassessment established in Article 35.

**Article 18.** The procedures to review negative decisions to the appeal mechanism provisioned in Article 15 and to the request for declassification of secret documents shall be specifically ruled by the Legislative and Judicial branches and by the Public Prosecutor's Office, within their respective scopes, ensuring the petitioner the right to, in any case, be informed on the progress of his/her request.

**Article 19.** (VETOED).

**Paragraph 1.** (VETOED).

**Paragraph 2.** The bodies of the Judiciary and the Public Prosecutor's Office shall inform the National Justice Council and the National Council of the Public Prosecutor's Office, respectively, of their appealing decisions which denied access to information of public interest.

**Article 20.** Whenever appropriate, the provisions of Law n. 9.784, of January 29, 1999, shall be applied in a subsidiary manner to the procedures covered by this Chapter.

## CHAPTER IV

### ON THE LIMITATIONS OF ACCESS TO INFORMATION

#### Section I

#### General Provisions

**Article 21.** The access to information necessary for the judicial or administrative protection of fundamental rights shall not be denied.

**Sole Paragraph.** Information or documents about activities involving human rights violation by public agents, or ordered by public authorities shall not be subject to access limitation.

**Article 22.** The provisions of this Law do not exclude other cases of legal confidentiality or justice secrecy, neither the cases of industry secrecy deriving from direct economic activity performed by the State or by an individual or private entity connected with the Government.

## **Section II**

### **On the Classification of Information regarding Confidentiality Level and Time Frames**

**Article 23.** Information deemed as crucial to social and State security is subject to further classification, whose disclosure or non-limited access may:

**I** – compromise the national defense and sovereignty or the integrity of the national territory;

**II** – impair or compromise ongoing negotiations or country's international relations, including confidential information provided by other States or international organisms;

**III** – put the life, security or health of any person at risk;

**IV** – harm the country's financial, economic or monetary stability;

**V** – impair or compromise strategic plans or operations of the Armed Forces;

**VI** – impair or compromise research projects and scientific and technological development, as well as systems, goods, facilities or areas of national strategic interest;

**VII** – threaten the security of institutions or high-level national or international authorities and their respective families;

**VIII** – compromise intelligence activities, as well as ongoing investigations and inspections related to the prevention and repression of infractions.

**Article 24.** The information upheld by public bodies and entities, observed its scope and relevance to social and State security, shall be classified as top secret, secret or restricted.

**Paragraph 1.** The maximum time frames of limitation of the access to information, in conformity with the classification in the **caption** of this article, shall be in force from the date of their production, and are the following:

**I** – top secret: 25 (twenty-five) years;

**II** – secret: 15 (fifteen) years; and

**III** – restricted: 5 (five) years.

**Paragraph 2.** Information that may threaten the security of the President or Vice-President and their respective family members will be classified as restricted and shall be kept under secrecy until the end of the term of office in course or last term, in case of re-election.

**Paragraph 3.** As an alternative to the time frames established in Paragraph 1, the end of the limitation time frame may be determined by the occurrence of a specific event, as long as it happens before the maximum time frame of the classification.

**Paragraph 4.** The information will be automatically disclosed to public access in case the classification time frame expires or the event that determines its term is consummated.

**Paragraph 5.** Information shall be classified in a specific confidentiality level, in conformity with its public interest, and minimally limiting criteria shall be applied, considering:

**I** – the severity of the risk or harm to social and State security; and

II – the maximum access limitation time frame or the event that determines its term.

### **Section III**

#### **On the Protection and Control of Confidential Information**

**Article 25.** It is the duty of the State to control the access and disclosure of confidential information produced by its bodies and entities, ensuring its protection.

**Paragraph 1.** The access, disclosure and processing of confidential information shall be limited to those who need to know it, and who are properly certified in conformity with the regulations, without prejudice of the competencies of public agents authorized by law.

**Paragraph 2.** The individual who accessed confidential information is obliged to keep it under secrecy.

**Paragraph 3.** The handling of confidential information shall be disciplined by specific regulations, which shall establish the procedures and measures to be adopted in order to prevent its loss, undue alteration, unauthorized access, transmission and disclosure.

**Article 26.** Public authorities shall work to raise awareness among their subordinates of the regulations, security measures and procedures for the handling of confidential information.

**Sole Paragraph.** The natural person or private entity that eventually handle confidential information because of their relations with the Government shall adopt the necessary measures to ensure that their employees, agents and representatives observe security measures and procedures for the handling of information, in conformity with the provisions established by this Law.

### **Section IV**

#### **On the Procedures of Classification, Reclassification and Declassification**

**Article 27.** The classification of confidential information within the federal public administration is under the responsibility of:

I – on the top secret level, the following authorities:

- a) The President of the Republic;
- b) The Vice-President of the Republic;
- c) State Ministers and other authorities with the same prerogatives;
- d) Navy, Army and Air Force Commanders; and
- e) Heads of permanent Diplomatic and Consular Missions abroad;

II – on the secret level, the authorities referred to in clause I, heads of autonomous government agencies, public foundations or companies, mixed-capital companies; and

III – on the restricted level, the authorities referred to in clauses I and II, and individuals in position of authority who exercise directorship, command or leadership, hierarchically ranked as DAS 101.5 level or above, from the High Level Management and Advisory Group or other group with similar hierarchy, in compliance with the specific regulations adopted by each body or entity and in conformity with the provisions of this Law.

**Paragraph 1.** The level of responsibility established in clauses I and II, concerning top secret and secret classifications, may be delegated by the responsible authority to public agents, including the ones based in missions abroad, while sub-delegation shall be forbidden.

**Paragraph 2.** The classification of information on the top secret level by the authorities referred to in items “d” and “e” of Clause I shall be validated by the corresponding State Ministers, within the time frame established by specific regulation.

**Paragraph 3.** The authority or other public agent who classifies the information as top secret must forward the decision set forth in Article 28 to the Mixed Commission for Information Reassessment, referred to in Article 35, within the time frame established by specific regulation.

**Article 28.** The classification of information at any level of secrecy shall be formalized into a decision which will comprise, at least, the following elements:

I – information content;

II – classification reasons in compliance with the criteria established in Article 24;

III – indication of secrecy time frame, to be counted in years, months or days, or from the event that defines its term, in conformity with the boundaries provisioned in Article 24; and

IV – identification of the authority responsible for the classification.

**Sole Paragraph.** The decision referred to in the **caption** of this article shall be kept under the same level of secrecy of the classified information.

**Article 29.** The classification of information shall be reviewed by the authority responsible for the classification or by a hierarchically superior authority, *ex officio* or upon initiative, under the terms and time frames established in specific regulation, in order to declassify the information or reduce the period in which it must be kept under secrecy, in conformity with Article 24.

**Paragraph 1.** The specific regulation referred to in the **caption** of this article shall consider the peculiarities of the information produced by authorities or public agents abroad.

**Paragraph 2.** The reassessment referred to in the **caption** of this article shall encompass the analysis of the reasons for secrecy maintenance and the possibility of harm resulting from information access or disclosure.



**Paragraph 3.** Should the time frame of the secrecy be reduced, the new limitation time frame will commence from the date of its production.

**Article 30.** In conformity with specific regulation, and on a website available on the Internet and destined to display administrative data and information, the highest authority of each body or entity shall annually publish the following documents:

I – list of all the declassified information in the last 12 (twelve) months;

II – list of classified documents, in each level of secrecy, with corresponding identification for future reference;

III – statistic report covering the number of received, responded and refused information requests, as well as general information on the applicants.

**Paragraph 1.** Public bodies and entities shall keep a copy of the publication referred to in the **caption** of this article for public consultation in their respective headquarters.

**Paragraph 2.** Public bodies and entities shall keep an extract with the list of all classified information, their corresponding dates, secrecy level and classification reasons.

## **Section V**

### **On Personal Information**

**Article 31.** Personal information shall be handled in a transparent way and shall respect people's intimacy, private life, honor and image, as well as individual liberties and guarantees.

**Paragraph 1.** With regard to intimacy, private life, honor and image, the personal information referred to in this article shall:

I – have its access limited to public agents who are legally authorized and to the person to whom such information refers, regardless of the secrecy classification and

for a maximum period of 100 (one hundred) years, counted from the date of its production;

II – have their disclosure or access by third parties authorized upon legal provision or express consent of the person to which the information refers.

**Paragraph 2.** The person who is granted access to the information referred to in this article will be held responsible for its undue use.

**Paragraph 3.** The consent referred to in clause II of Paragraph 1 shall not be required when the information is necessary for:

I – medical prevention and diagnosis, when a person is physically or legally incapable, and solely and exclusively to guarantee due medical treatment;

II – the production of statistics and scientific research of public or general interest as established by the law; however, it is forbidden to disclose the identification of the person to whom the information refers;

III – the compliance of a court order;

IV – the protection of human rights; or

V – the protection of overwhelming public and general interest.

**Paragraph 4.** The restriction on access to information related to a person's private life, honor and image shall not be invoked with the purpose of compromising the process of irregularity investigation involving the holder of that information, as well as actions designed to recover historical facts of greater importance.

**Paragraph 5.** Specific regulation shall establish the procedures for the handling of personal information.

## **CHAPTER V ON RESPONSIBILITIES**

**Article 32.** Public agents and military personnel will be held responsible should they incur into any of the following unlawful practices:

I – refusing to provide the information required in compliance with the provisions of this Law; deliberately procrastinating the disclosure of the requested information or intentionally delivering it in an incorrect, incomplete or inaccurate way;

II – unduly using, removing, destroying, invalidating, deforming, totally or partially altering or concealing information either in their custody or to which they have access due to their position, job or public assignment;

III – analyzing information access requests with malice or bad faith;

IV – disclosing or allowing the disclosure or access, or allowing the undue access to classified or personal information;

V – imposing secrecy on information in order to obtain personal benefit or to benefit third parties, or to conceal an illegal act committed by themselves or someone else;

VI – concealing classified information from the review of the competent higher authority in order to obtain personal benefit or to benefit others, or with the intention to harm third parties; and

VII – destroying or removing, by any existing means, documents related to potential human rights violations perpetrated by State agents.

**Paragraph 1.** In compliance with the adversary system, the principle of full defense and the due process of law, the practices described in the **caption** of this article shall be considered:

I – average or serious military transgressions, in conformity with the criteria adopted by the disciplinary regulations of the Armed Forces, and as long as the law does not typify them as crimes or criminal misdemeanors; or

II – administrative infractions, which shall be punished with at least a suspension, in compliance with Law n. 8.112, of December 11, 1990, and its amendments, and the criteria it has further established.

**Paragraph 2.** The practices described in the **caption** of this article, once adopted by military personnel or public agents, shall subject them to administrative improbity charges, in conformity with Law n. 1.079, of April 10, 1950 and Law n. 8.429, of June 2, 1992.

**Article 33.** The following sanctions shall apply to natural persons or private entities with access to information because of their relations with the Government and in case they fail to comply with the provisions established by this Law:

**I** – warning;

**II** – fine;

**III** – termination of the relations established with the Government;

**IV** – temporary prohibition to participate in public bidding and impediment to contract with the public administration for a period of up to 2 (two) years; and

**V** – ineligibility declaration preventing them to bid or contract with the public administration until further rehabilitation promoted by the same authority which applied the penalty.

**Paragraph 1.** The sanctions provisioned in clauses I, III and IV shall be applied in combination with the sanction provisioned in clause II, ensuring the right of defense to the interested part in the respective proceeding within 10 (ten) days.

**Paragraph 2.** The rehabilitation referred to in clause V shall be only authorized after the interested part reimburses the body or entity of the damages they caused and after the sanction period applied on the basis of clause IV.

**Paragraph 3.** The sanction established in clause V shall be applied by the highest authority of the public body or entity, ensuring the defense of the interested part in the respective proceeding within 10 (ten) days from its disclosure.

**Article 34.** Public bodies and entities shall directly respond for the damages caused by unauthorized disclosure or undue use of classified or personal information,

being subject to investigations on their functional responsibility in the cases of willful misconduct or fault, ensured the right of recovery.

**Sole Paragraph.** The provisions established in this article shall apply to natural persons or private entities that have access to classified or personal information because of their relations with the Government and handle such information in an unduly manner.

## **CHAPTER VI**

### **FINAL AND TRANSITORY PROVISIONS**

**Article 35.** (VETOED).

**Paragraph 1.** The Mixed Commission for Information Reassessment is hereby created and, within the federal public administration, shall decide upon the handling and classification of classified information, having powers to:

I – require further explanations from the authority that classifies information as top secret and secret or demand full or partial access to information content;

II – review *ex officio* or upon the initiative of the interested part the classification of information as top secret or secret, in conformity with the provisions established in Article 7 and other provisions of this Law; and

III – extend, always for a determined period, the secrecy time frame of the information classified as top secret, for as long as its access or disclosure potentially cause external threat to the national sovereignty or to the integrity of the national territory or serious risk to the international relations of the country, in conformity with the time frame established in Paragraph 1 of Article 24.

**Paragraph 2.** The time frame referred to in clause III shall be renewed for one time only.

**Paragraph 3.** With regard to top secret or secret documents, the *ex officio* review referred to in clause II of Paragraph 1 shall be carried out every 4 (four) years at most, after the reassessment established in Article 39.

**Paragraph 4.** The lack of deliberation on the review carried out by the Mixed Commission for Information Reassessment within the time frames established in Paragraph 3 shall result in the automatic declassification of the information.

**Paragraph 5.** The structure, organization and operation of the Mixed Commission for Information Reassessment shall be disciplined by specific regulation, observed the mandate of 2 (two) years for their members and other provisions established by this Law.

**Article 36.** The handling of classified information resulting from international treaties, agreements or acts shall abide to the norms and recommendations of such instruments.

**Article 37.** The Security and Certification Division (SCD) is hereby created and shall operate within the Cabinet of Institutional Security of the Presidency of the Republic, pursuing the following objectives:

I – promote and propose the regulation of the security certification of natural persons, companies, bodies and entities prior to the handling of classified information; and

II – ensure the security of classified information, including those from countries or international organizations with which the Federative Republic of Brazil has a treaty, agreement, contract or any other international act, without compromising the attributions of the Ministry of Foreign Relations and other competent bodies.

**Sole Paragraph.** Specific regulation shall discipline the structure, organization and operation of SCD.

**Article 38.** With regard to information on natural or legal persons, recorded in databases maintained by government agencies or other public entities, Law n. 9.507, of November 12, 1997, shall be applied whenever possible.

**Article 39.** Public bodies and entities shall reassess the information classified as top secret and secret within the maximum period of 2 (two) years, to be counted from the date when this Law came into force.

**Paragraph 1.** The limitation of access to information resulting from the reassessment established in the **caption** of this article shall comply with the time frames and conditions of this Law.

**Paragraph 2.** On the federal public administration level and in compliance with the provisions enacted by this Law, the reassessment established in the **caption** of this article may be reviewed, at any time, by the Mixed Commission for Information Reassessment.

**Paragraph 3.** The classification of the information shall remain in conformity with the provisions established by the previous legislation until the expiration of the reassessment time frame established in the **caption** of this article.

**Paragraph 4.** Should the information classified as secret and top secret be not reassessed within the time frame established in the **caption** of this article, they will be automatically disclosed to public access

**Article 40.** Within 60 (sixty) days to be counted from the date when this Law came into force, the highest authority of each federal public body or entity shall appoint an authority to be directly subordinated to them and to perform the following duties within their corresponding body or entity:

I – efficiently ensure the compliance with the provisions concerning the access to information and in conformity with the objectives of this Law;

II – monitor the implementation of the provisions established by this Law and present periodic reports on their compliance;

**III** – recommend indispensable measures to the implementation and enhancement of the provisions and procedures necessary to the accurate observance of the terms established by this Law; and

**IV** – advise their respective units to comply with this Law and its regulations.

**Article 41.** The Federal Executive Branch of Government shall appoint a body from the public administration to be held accountable for:

**I** – the promotion of a national campaign destined to foster the transparency culture within the public administration and to raise awareness of the fundamental right of access to information;

**II** – training public agents to develop transparency practices within the public administration;

**III** – monitoring the application of this Law within the federal public administration, concentrating and consolidating the publication of the statistical information listed in Article 30.

**IV** – submitting an annual report to the National Congress with information on the implementation of this Law.

**Article 42.** The Executive Branch of the Government shall regulate the provisions established by this Law within 180 (one hundred and eighty) days, to be counted from the date of its publication.

**Article 43.** Clause VI of Article 116 of Law n. 8.112, of December 11, 1990, shall come into effect with the following wording:

“Article 116. ....  
.....

**VI** – report to one’s superior authority the irregularities discovered because of their job or position or, should that authority be under suspicion to be involved in



such irregularities, report the fact to another competent authority for the purpose of further investigation;

.....” (EN)<sup>1</sup>

**Article 44.** Chapter IV of Title IV of Law n. 8.112, of 1990, shall come into effect supplemented by the following Article 126-A:

“Article 126-A. No civil servant shall be subject to civil, criminal or administrative punishment for having reported to their superior authority or, should that authority be under suspicion, to another competent authority, and for the purpose of further investigation, on information related to the commitment of crimes or improbity practices which they had access to because of their position, job or public assignment.”

**Article 45.** The States, the Federal District and Municipalities shall determine a specific set of rules, especially regarding Article 9 and Section II of Chapter III, to be enacted in their own legislation and in compliance with the general provisions established by this Law.

**Article 46.** The following legal provisions are hereby revoked:

I – Law n. 11.111, of May 5, 2005; and

II – Articles 22 to 24 of Law n. 8.159, of January 8, 1991.

**Article 47.** This Law shall come into force 180 (one hundred and eighty) days after its official publication.

Brasilia, November 18, 2011; 190<sup>th</sup> year of the Independence and 123<sup>rd</sup> year of the Republic.

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<sup>1</sup> EN – Editor’s Note.

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*This document does not replace the one published on the Federal Official Gazette of Brazil, on the special edition of 11.18.2011.*