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Brazil – Law on Basic Sanitation (2007)

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LAW Nº 11.445, OF 5 JANUARY, 2007.

Veto message

Establishes national guidelines for basic sanitation; alters Laws No. 6766, of 19 December 1979, 8036 of 11 May 1990, 8666 of 21 June 1993, 8987 of 13 February 1995; revokes Law 6528 of 11 May 1978; e sets forth other provisions.

THE PRESIDENT OF THE REPUBLIC. I hereby make it known that the National Congress promulgates and I sanction the following Law:

CHAPTER I FUNDAMENTAL PRINCIPLES

Art. 1 The present Law establishes the national guidelines for basic sanitation and for the federal basic sanitation policy.

Art. 2 Public basic sanitation services shall be delivered in accordance with the following fundamental principles:

I - universal access;

II - integrality, to be understood as the whole set of activities and components of the several basic sanitation services, providing the population with access, according to its needs, with maximum efficacy of actions and results;

III - water supply, sanitary sewage, urban garbage collection and solid waste management, performed in a manner appropriate to public health and to the protection of the environment;

IV - availability, in all urban areas, of rainwater drainage and management services, as appropriate to public health and to public and private safety and wealth;

V - adoption of methods, techniques and processes that take into account local and regional peculiarities;

VI - articulation with policies for urban and regional development, housing, poverty mitigation and eradication, environmental protection, health promotion and other policies of relevant social interest aimed at improving quality of life, for which basic sanitation plays a determinant role;

VII - economic efficiency and sustainability;

VIII - use of appropriate technologies, considering the payment capacity of users and the adoption of gradual and progressive solutions;

IX - transparency of actions, based on institutionalized information and decision making processes;

X - social control;

XI - safety, quality and regularity;

XII - integration of infrastructure and services with the efficient management of water resources.

Art. 3 For the purposes of this Law, the following are to be considered:

I - basic sanitation: set of services, infrastructure and operational installations for:

a) supply of drinking water: represented by the activities, infrastructure and installations required for the public supply of drinking water, from the collection to the building connections and the corresponding metering devices;

b) sanitary sewage: represented by the activities, infrastructure and operational installations for the collection, transportation, treatment and the appropriate final disposal of sanitary sewage, from the building connections to their final discharge into the environment;

c) urban garbage collection and solid waste management: set of activities, infrastructure and operational installations for the collection, transportation, transfer and final disposal of domestic waste and of the garbage generated by the sweeping and cleaning of public sites and roads;

d) urban rainwater drainage and management: set of activities, infrastructure and operational installations for the drainage of urban rainwater; transportation, detention or retention for reducing the impact of floods; treatment and final disposal of rainwater drained from urban areas;

II - associate management: voluntary association of federate entities, by means of a cooperation agreement or public consortium, as established by art. 241 of the Federal Constitution;

III - universal access: progressive expansion of access to basic sanitation by all occupied households;

IV - social control: set of mechanisms and procedures that assure access by society to information, technical representations and participation in policy formulation, planning and evaluation processes associated to public basic sanitation services;

V - (VETOED);

VI - regionalized delivery: when one single provider serves 2 (two) or more holders;

VII - subsidies: economic social policy tool for assuring universal access to basic sanitation, especially for low income populations and localities;

VIII - small locality: villages, rural agglomerates, settlements, nuclei and localities, defined as such by the Brazilian Institute for Geography and Statistics - IBGE.

§ 1 (VETOED).

§ 2 (VETOED).

§ 3 (VETOED).

Art. 4 Water resources do not integrate the public basic sanitation services.

Sole paragraph. The use of water resources for the delivery of public basic sanitation services, including for the disposal or dilution of sewage and other liquid waste, is subject to the granting of user rights, according to Law no. 9433 of 8 January 1997, its regulations and to state-level legislations.

Art. 5 Sanitation actions carried out by means of individual solutions do not constitute public service, as long as the user does not depend on third parties for operating the service, as well as basic sanitation actions and services under private responsibility, including the management of waste that is the responsibility of the generator.

Art. 6 Waste originated by commercial, industrial and service activities, the management of which is the responsibility of the generator may, upon decision of the public authority, be considered solid urban waste.

Art. 7 For the purposes of this Law, the public urban garbage collection and urban solid waste management services are made up by the following activities:

I - collection, transfer and transportation of waste related to literal c of numeral I of the caption to art. 3 of this Law;

II - sorting for reuse or recycling, treatment and composting purposes, and for the final disposition of waste associated to literal c of numeral I of the caption to art. 3 of this Law;

III - sweeping, weeding and pruning of trees on public roads and sites and other eventual services associated to public urban cleaning.

CHAPTER II THE PRACTICE OF OWNERSHIP

Art. 8 The holders of public basic sanitation services may delegate the organization, regulation, inspection and delivery of such services, in accordance with [art. 241 of the Federal Constitution](#) and to Law no. 11107, of 6 April 2005.

Art. 9 The service holder shall draft the corresponding public basic sanitation policy, and, for that end, shall:

I - draft basic sanitation plans, in accordance with this Law;

II - either provide it directly or authorize the delegation of services, and define the entity responsible for its regulation and inspection, as well as procedures for action;

III - adopt benchmarks for assuring essential public health services, including the minimum per capita volume of water for public supply, in compliance with national rules regarding water potability;

IV - establish user rights and duties;

V - establish mechanisms for social control, as established under numeral IV of the caption to art. 3 of this Law;

VI - establish an information system for the services, in articulation with the National Sanitation Information System;

VII - intervene and take back the operation of delegated services, upon recommendation of the regulatory entity, in those cases and conditions foreseen by law and by contract documents.

Art. 10. The delivery of public basic sanitation services by an entity that is not a member of the holder's administration depends on the celebration of a contract; it cannot be disciplined by means of agreements, partnerships or other instruments of precarious nature.

§ 1 Shall be exempt from the provisions of the caput to this article:

I - public basic sanitation services, the delivery of which the public authority, as established by law, grants to users organized as cooperatives or associations, as long as these are restricted to:

a) a certain condominium;

b) a small locality, predominantly occupied by low income population, where other forms of delivery present operation and maintenance costs that are not compatible with the users' payment capacity;

II - agreements and other delegation acts celebrated until 6 April 2005.

§ 2 The authorization foreseen under literal I of § 1 of this article shall foresee the obligation to transfer to the holder all assets associated to the services by means of a specific term, with the corresponding technical registrations.

Art. 11. The following are conditions for validity of contracts on the delivery of public basic sanitation services:

I - the existence of a basic sanitation plan;

II - the existence of a proven technical and economic-financial feasibility study of the universal and integral delivery of services, in accordance with the corresponding basic sanitation plan;

III - the existence of regulation rules that establish means for compliance to the guidelines of this Law, including the appointment of the regulatory and inspection entity;

IV - holding a previous public hearing and consultation about the bidding announcement, in case of concession, and on the draft contract.

§ 1 The investment plans and the projects associated to the contract shall be compatible with the corresponding basic sanitation plan.

§ 2 In the case of services provided by means of concession or program contracts, the rules foreseen under numeral III of the caption to this article shall foresee:

I - authorization for the hiring of services, establishing timeframes and the area to be served;

II - inclusion in the contract of progressive and gradual targets for service expansion, quality, efficiency and for the rational use of water, energy and other natural resources, according to the services to be delivered;

III - priorities for action, compatible with the targets established;

IV - conditions for economic-financial sustainability and balance of service delivery, in terms of efficiency, including:

a) the billing system and the composition of fees and tariffs;

b) readjustment and revision procedures for fees and taxes;

c) the subsidy policy;

V - social control mechanisms for service planning, regulation and inspection activities.

VI - hypotheses for intervention and for the resuming of services.

§ 3 Contracts may not include clauses that jeopardize regulatory and inspection activities or access to information on the contracted services.

§ 4 In regionalized service delivery, the provisions of numerals I to IV of the caption and under §§ 1 and 2 of the present article may refer to the whole set of municipalities covered by the service delivery.

Art. 12. In public basic sanitation services in which more than one provider carries out an interdependent activity with another, the relationship between them shall be ruled by a contract and one single entity shall be in charge of regulatory and inspection functions.

§ 1 The regulatory entity shall define, at least:

I - the technical standards for quality, quantity and regularity of services provided to users and among the several different providers involved;

II - the economic and financial rules regarding tariffs, subsidies and payments for services rendered to users and among the several different providers involved;

III - guarantees for payment of services delivered among the several different service providers;

IV - mechanisms for the payment of differences related to user default, commercial and physical losses and other receivables, whenever the case;

V - a specific accounting system for providers that are active in more than one municipality.

§ 2 The contract to be celebrated among the service providers regarding the caption to this article shall contain clauses that establish, at least:

I - the contracted activities or inputs;

II - the reciprocal conditions and guarantees for supply and access to activities or inputs;

III - the duration, compatible with the need for investment amortization, and hypotheses for extension;

IV - procedures for the implementation, expansion, improvement and operational management of activities;

V - rules for the establishment, readjustment and revision of fees, tariffs and other public dues applicable to the contract;

VI - payment conditions and guarantees;

VII - subrogated rights and duties or that authorize subrogation;

VIII - hypotheses for extinction, one-sided administrative alteration and rescission not being admitted;

IX - penalties to which the parties are subject to, in case of default;

X - appointment of a body or entity responsible for the regulation and inspection of the contracted activities or inputs.

§ 3 Included in the guarantees foreseen under numeral VI of § 2 to this article are the contracting party's obligation to highlight, in the billing documents to users, the value of the remuneration for services rendered by the contracted party and to carry out the corresponding collection and delivery of the collected values.

§ 4 In the case of execution by means of concession of interdependent activities referred to under the caption to this article, the rules and tariff values and other public dues to be paid to other providers must be stated in the corresponding bidding announcement, as well as the obligation and form of payment.

Art. 13. The federate entities, either individually or united as public consortia, may establish funds, to which parts of the revenues obtained from services, among other resources, may be destined to, with the purpose of funding universal access to public basic sanitation services, in compliance to the provisions of the respective basic sanitation plans.

Sole paragraph. The resources of the funds referred to under the caption to this article may be used as sources or guarantees in credit operations for the funding of investments required for providing universal access to public basic sanitation services.

CHAPTER III REGIONALIZED DELIVERY OF PUBLIC BASIC SANITATION SERVICES

Art. 14. The regionalized delivery of public basic sanitation services is characterized by:

I - one single service provider for several municipalities, either contiguous or not;

II - uniform inspection and regulation of services, including its remuneration;

III - planning compatibility.

Art. 15. In the regionalized delivery of public basic sanitation services, regulation and inspection activities may be carried out:

I - by a body or entity of a federate entity to which the holder has delegated the performance of such competencies by means of a cooperation agreement among federate entities, observing the provisions of [art. 241 of the Federal Constitution](#);

II - by a public consortium subject to public law, integrated by the service holders.

Sole paragraph. For the performance of the planning activities of the services referred to under the caption to this article, the holder may receive technical cooperation from the corresponding State and may base its actions on studies provided by the service providers.

Art. 16. The regionalized delivery of public basic sanitation services may be carried out by:

I - a body, government agency, public law foundation, public consortium, public enterprise or a mixed economy society of the state, of the Federal District, or municipality, as established by the legislation;

II - a company to which the services have been attributed.

Art. 17. The regionalized basic sanitation service may follow the basic sanitation plan designed for the whole set of municipalities served.

Art. 18. Service providers acting in more than one municipality or rendering different public basic sanitation services in one single municipality shall maintain an accounting system that allows the separate registration and demonstration of costs and revenues for each service in each one of the municipalities served and, whenever the case, in the Federal District.

Sole paragraph. The regulation entity shall establish rules and criteria for the structuring of an accounting system and of the corresponding account plan, in order to assure that the appropriation and distribution of service costs may comply with the guidelines established under the present Law.

CHAPTER IV PLANNING

Art. 19. The delivery of public basic sanitation services shall comply with a plan, which may be specific for each service, and shall cover, at least:

I - a baseline assessment and the impact of present conditions on living conditions, using a system of sanitary, epidemiological, environmental, social and economic indicators, and pointing out the causes of weaknesses identified;

II - short, medium and long term goals and targets for universal access, admitting gradual and progressive solutions, observing their compatibility with the other sectoral plans;

III - programs, projects and actions required for achieving goals and targets, in a manner compatible with the corresponding pluriannual plans and with other associated government plans, identifying eventual funding sources;

IV - actions for emergencies and contingencies;

V - mechanisms and procedures for the systematic assessment of the efficiency and efficacy of actions scheduled.

§ 1 The basic sanitation plans shall be edited by the holders, and may be drafted based on studies provided by the providers of each service.

§ 2 The consolidation and compatibilization of the specific plans for each service shall be carried out by the respective service holders.

§ 3 Basic sanitation plans shall be compatible with the river basin plans in which they are inserted.

§ 4 Basic sanitation plans shall be periodically reviewed, within a term no longer than 4 (four) years, prior to the preparation of the Pluriannual Plan.

§ 5 The widespread dissemination of proposals for basic sanitation plans and of the studies in which they are based shall be assured, including the realization of public hearings or consultations.

§ 6 The delegation of the basic sanitation service does not exempt the service provider from compliance to the corresponding basic sanitation plan in force at the time of the delegation.

§ 7 Whenever they involve regionalized services, basic sanitation plans must be issued in compliance with the terms of art. 14 of this Law;

§ 8 Except when referring to a regional regional, the basic sanitation plan must fully cover the territory of the federate entity that has designed it.

Art. 20. (VETOED).

Sole paragraph. The regulatory and inspection entity shall be responsible for checking the service providers' compliance to the sanitation plans, as established by legal, regulatory and contractual provisions.

CHAPTER V REGULATION

Art. 21. The regulatory function shall attend the following principles:

I - decision-making interdependence, including administrative, budgetary and financial autonomy of the regulatory entity;

II - transparency, technicity, swiftness and objectivity in decision-making.

Art. 22. The objectives of regulation are:

I - establish standards and rules for the appropriate delivery of services and for the satisfaction of users;

II - guarantee compliance to the established conditions and targets;

III - prevent and repress abuse of economic power, respecting the competency of the bodies that are members to the national system for the defense of free competition;

IV - define tariffs that may assure both the economic and financial balance of contracts, as well as cost-effective tariffs, by means of mechanisms that induce the efficiency and efficacy of services and that allow for the social appropriation of productivity gains.

Art. 23. The regulatory entity shall issue rules regarding the technical, economic and social dimensions of service delivery, which shall cover, at least, the following aspects:

I - quality standards and indicators for service delivery;

II - operational requirements and requirements for system maintenance;

III - progressive targets for the expansion and quality of services and the corresponding timeframe;

IV - tariff regime, structure and levels, as well as procedures and schedules for their establishment, readjustment and revision;

V - measurement, billing and collection of services;

VI - cost monitoring;

VII - evaluation of the efficiency and efficacy of services rendered;

VIII - accounting plan and mechanisms for information, auditing and certification;

IX - tariff and non-tariff subsidies;

X - service standards and participation and information mechanisms;

XI - contingency and emergency measures, including rationing;

XII - (VETOED);

§ 1 The regulation of public basic sanitation services may be delegated by service holders to any regulatory entity established within the limits of the corresponding State, making explicit, on the occasion of the delegation of the regulation, the form of action and the coverage of the activities to be carried out by the parties involved.

§ 2 The rules referred to under the caption to this article shall establish terms within which service providers must inform users about the measures adopted as a consequence to complaints regarding the services.

§ 3 Inspection entities shall receive and express themselves in a conclusive manner on complaints that, according to the interested party, have not been sufficiently addressed by the service providers.

Art. 24. In case of associated management or regionalized delivery of services, holders may adopt the same economic, social and technical criteria established by the regulation throughout the whole coverage area of the association or of service delivery.

Art. 25. The basic public sanitation service providers shall provide the regulatory entity with all data and information required for the performance of its activities, as established by the legal, regulatory and contractual rules.

§ 1 The data and information referred to in the caption to this article shall include all those produced by companies or professionals hired for carrying out services or providing specific materials and equipment.

§ 2 The regulatory activities of the basic sanitation service shall comprehend the interpretation and establishment of criteria for the faithful execution of contracts, services and for the correct administration of subsidies.

Art. 26. Publicity shall be granted to reports, studies, decisions and equivalent instruments referring to the regulation or inspection of services, as well as to the rights and duties of users and service providers; anyone shall have access to them, irrespective of direct interest.

§ 1 Documents considered as being confidential due to relevant public interest shall be excluded from the provision of the caption to this article, upon previous and motivated decision.

§ 2 The publicity referred to under the caption to this article shall become effective, preferably, by means of a website on the world wide web - Internet.

Art. 27. Users of public basic sanitation services, in accordance to the legal, regulatory and contractual rules, are granted:

I - broad access to information on the services rendered;

II - previous knowledge of all their rights and duties and penalties to which they may be subject to;

III - access to a service delivery manual and user service manual, prepared by the service provider and approved by the corresponding regulatory entity;

IV - access to periodical reports on the quality of the services rendered.

Art. 28. (VETOED).

CHAPTER VI ECONOMIC AND SOCIAL ASPECTS

Art. 29. Public basic sanitation services shall be granted economic and financial sustainability, whenever possible, by means of remuneration through the billing of:

I - water supply and sanitary sewage services: preferably in the form of tariffs and other public dues, which may be established for each of the services or for both, jointly;

II - urban cleaning services and the management of urban solid waste: fees or tariffs and other public dues, in accordance with the service delivery regime or of its activities;

III - urban rainwater management services: in the form of taxes, including fees, in accordance with the service delivery regime or its activities.

§ 1 In compliance with the provisions of numerals I to III of the caption to this article, the implementation of tariffs, public dues and fees for basic sanitation services shall observe the following guidelines:

I - priority to fulfilling essential functions associated to public health;

II - expansion of access to services for low income citizens and localities;

III - generation of resources required for the realization of investments, aiming at complying with service goals and targets;

IV - inhibit superfluous consumption and the wasting of resources;

V - recovery of costs incurred in the delivery of service, in an efficient manner;

VI - appropriate remuneration of the capital invested by service providers;

VII - to encourage the use of modern and efficient technologies, compatible with the required levels of quality, continuity and safety of service delivery;

VIII - to encourage efficiency by service providers.

§ 2 Tariff and non-tariff subsidies may be adopted for users and localities without enough payment capacity or economic scale for covering the integral cost of services.

Art. 30. In complying with the provisions of art. 29 of this Law, the remuneration structure and the collection of public basic sanitation services may take into account the following aspects:

I - user categories, distributed by groups or increasing volumes of use or consumption;

II - the use and quality standards required;

III - minimum amount of consumption or use of service, aiming at warranting the social objectives, such as the preservation of public health, appropriate service to low income users and the protection of the environment;

IV - the minimum cost required for making service available in an appropriate quantity and quality;

V - significant cycles of increase in the demand of services, during different periods; and

VI - the payment capacity of users.

Art. 31. The subsidies required for serving low income users and localities shall be, depending on the characteristics of the beneficiaries and on the origin of resources:

I - direct subsidies, whenever destined to certain users; or indirect, when destined to the service provider;

II - tariff subsidies, when they are integrated into the tariff structure; or fiscal subsidies, when deriving from the allocation of budgetary resources, including by means of subventions;

III - internal subsidies for each holder or among localities, in the hypotheses of associated management and regional delivery.

Art. 32. (VETOED).

Art. 33. (VETOED).

Art. 34. (VETOED).

Art. 35. The fees or tariffs deriving from the delivery of public urban cleaning and solid urban waste management services must take into account the appropriate destination of the collected waste and may take into consideration:

I - the income level of the population of the area served;

II - the characteristics of the urban lots and of the areas allowed for construction;

III - the average weight or volume collected per inhabitant or per household.

Art. 36. The billing for the delivery of public drainage and urban rainwater management services must take into account, on each urban lot, the percentage of imperviousness and the existence of impact absorbing or rainwater retention devices, and may consider as well:

I - the income level of the population of the area served;

II - the characteristics of the urban lots and of the areas allowed for construction;

Art. 37. Tariff readjustments for public basic sanitation services shall be carried out upon observing a minimum interval of 12 (twelve) months, in accordance with the legal, regulatory and contractual rules.

Art. 38. Tariff revisions shall comprehend the reassessment of the service delivery conditions and of the tariffs practiced and may be:

I - periodical, aiming at distributing productivity gains among users and the reassessment of market conditions;

II - extraordinary, whenever facts not foreseen under the contract and that are not in the control of the service provider take place, altering its economic and financial balance.

§ 1 The schedule for tariff reviews shall be defined by the corresponding regulatory entities, upon listening to service holders, users and service providers.

§ 2 Efficiency inducing tariff mechanisms may be established, including productivity factors, as well as for the anticipation of expansion and service quality targets.

§ 3 Productivity factors may be defined in accordance with indicators provided by other companies in the industry.

§ 4 The regulatory entity may authorize the delivery of services and transfer to users the costs and fiscal burdens not originally foreseen and not administered by it, in accordance with [Law no. 8987 of 13 February 1995](#).

Art. 39. Tariffs shall be established in a clear and objective manner, and readjustments and revisions shall be publicized within a 30(thirty)-day term before their application.

Sole paragraph. The invoice to be delivered to the final user shall comply with a model established by the regulatory entity, which shall define the items and costs that must be made explicit.

Art. 40. Services may be interrupted by the service provider in the following hypotheses:

I - emergency situations that affect the safety of people and assets;

II - need to carry out repair, modifications or improvements of any kind in the systems;

III - refusal by the user to allow the installation of a metering device for consumed water, after having been previously notified about it;

IV - undue manipulation of any pipeline, metering device or any other installation belonging to the provider, by the user; and

V - user in default with payments for water supply services rendered, after formal notice.

§ 1 Scheduled interruptions shall be previously informed to the regulatory body and to users.

§ 2 The suspension of services foreseen under numeral III and V of the caption to this article shall be preceded by a prior notice to the user, within no less than 30 (thirty) days from the date foreseen for the suspension.

§ 3 The interruption or restriction of water supply due to default to health, educational and collective internment institutions and to low income residential users that benefit from social tariffs shall follow terms and criteria that preserve minimum health conditions for the people affected.

Art. 41. As long as foreseen under the regulatory rules, large users may negotiate tariffs with service providers, to be subject to a specific contract, upon consultation to the regulatory body.

Art. 42. The values invested in reversible assets by the providers shall constitute credits to the service holder, to be recovered through the exploration of services, according to the terms of the regulatory and contractual rules and, whenever the case, in compliance with the legislation on joint stock companies.

§ 1 Investments made without burden to the provider, such as those deriving from legal requirements applicable to the implementation of real estate enterprises and those deriving from subventions or voluntary fiscal transfers, shall not generate credit before the service holder.

§ 2 Investments made, amortized values, depreciation and the corresponding balances shall be annually audited and certified by the regulatory entity.

§ 3 Credits deriving from duly certified investments may constitute guarantee for loans to the delegated service provider, destined exclusively for investments in sanitation systems that are the object of the corresponding contract.

§ 4 (VETOED).

CHAPTER VII TECHNICAL ASPECTS

Art. 43. Service delivery shall comply with minimum quality standards, including regularity, continuity and those associated to the products offered, to user service and conditions for system operation and maintenance, according to regulatory and contractual rules.

Sole paragraph. The Union shall establish minimum standards for water potability.

Art. 44. The environmental licensing of units for the treatment of sanitary sewage and effluents generated by water treatment processes shall consider efficiency stages, in order to progressively meet the standards established by environmental legislation, based on user payment capacity.

§ 1 The competent environmental authority shall establish simplified licensing procedures for those activities referred to under the caption to this article, based on the unit size and on expected environmental impacts.

§ 2 The competent environmental authority shall establish progressive goals so that the quality of effluents from sanitary sewage treatment units meets the standards set for the classes of the water bodies on which they are released, based on present levels of treatment and considering the payment capacity of the populations and users involved.

Art. 45. Except for opposing provisions established by the service holder, or the regulatory and environmental entities, every urban permanent building shall be connected to the public water supply and sanitary sewage systems available and shall be subject to the payment of tariffs and other public dues deriving from the connection to and use of these services.

§ 1 In the absence of public basic sanitation networks, individual solutions for water supply and transfer and final disposal of sanitary sewage shall be admitted, in compliance with the rules published by the regulatory entity and by the bodies responsible for environmental, sanitary and water resource policies.

§ 2 The building water installations connected to the public water supply network may not be fed by other sources as well.

Art. 46. Under critical conditions of scarcity or contamination of water resources that may require the adoption of rationing procedures, to be declared by the water resource management authority, the regulatory entity may adopt contingency tariff mechanisms, in order to cover additional costs deriving from such procedure, thus assuring the financial balance of service delivery and of supply management.

CHAPTER VIII PARTICIPATION OF COLLEGIATE BODIES IN SOCIAL CONTROL

Art. 47. The social control over public basic sanitation services may include the participation of collegiate bodies with a consultative character, at the level of the states, the Federal District and municipalities, assuring representation by:

I - service holders;

II - governmental bodies related to the basic sanitation sector;

III - public basic sanitation service providers;

IV - basic sanitation service users;

V - technical entities, civil society and consumer defense organizations related to the basic sanitation sector.

§ 1 The functions and competencies of the collegiate bodies referred to under the caption to this article may be carried out by already existing collegiate bodies, with the due adaptation of the laws that established them.

§ 2 In the case of the Union, the participation referred to in the caption to this article shall take place in accordance with [Law 10683 of 28 May 2003](#).

CHAPTER IX FEDERAL BASIC SANITATION POLICY

Art. 48. The Union, in establishing its basic sanitation policy, shall observe the following guidelines:

I - priority to actions promoting social and territorial equity in access to basic sanitation;

II - the application of financial resources managed by the Union shall promote sustainable development, efficiency and efficacy;

III - promote the establishment of an appropriate regulation of services;

IV - use of epidemiological and social development indicators in the planning, implementation and evaluation of its basic sanitation actions;

V - improvement of quality of life, environmental and public health conditions;

VI - collaboration to urban and regional development;

VII - guarantee the availability of appropriate means for serving the rural scattered population, including specific solutions, compatible with their economic and social characteristics;

VIII - promote scientific and technological development, the adoption of appropriate technologies and the diffusion of generated knowledge;

IX - adoption of objective criteria for eligibility and priority-setting, taking into account aspects such as income level and coverage, the level of urbanization, populational concentration, water availability, sanitary, epidemiological and environmental risks;

X - adopting river basins as the reference unit for action planning;

XI - encourage the implementation of infrastructure and services that are common to (a group of) municipalities, by means of cooperation mechanisms among federate entities.

Sole paragraph. Union policies and actions on behalf of urban and regional development, housing, poverty mitigation and eradication, environmental protection, health promotion and

others of relevant social interest aimed at improving quality of life must consider the necessary articulation, including funding, with basic sanitation.

Art. 49. The objectives of the Federal Basic Sanitation Policy are:

I - to contribute to national development, to the reduction of social inequalities, to employment and income generation, and to social inclusion;

II - to set priorities for plans, programs and projects aiming at implementing and expanding basic sanitation services and actions in/to areas occupied by low income populations;

III - to provide for appropriate environmental health conditions for indigenous people and other traditional populations, through solutions that are compatible with their social and cultural characteristics;

IV - to provide for appropriate environmental health conditions for rural populations and small and isolated urban nuclei;

V - to assure that the application of financial resources managed by the public authority make take place in accordance with criteria for the promotion of environmental health, cost-effectiveness and greater social return;

VI - encourage the adoption of planning, regulatory and inspection mechanisms for the delivery of basic sanitation services;

VII - promote management alternatives that may enable the economic and financial self-sustainment of basic sanitation services, with emphasis on federative cooperation;

VIII - promote the institutional development of basic sanitation, establishing means for the unity and articulation of actions by several different agents, as well as the development of their organizations, their technical, managerial, financial and HR skills, taking into account their local specificities;

IX - promote scientific and technological development, the adoption of appropriate technologies and the dissemination of generated knowledge of interest to basic sanitation;

X - minimize environmental impacts related to the implementation and development of basic sanitation actions, works and services and assure that they are executed in accordance with standards for environmental protection, land use and occupation, and health.

Art. 50. The allocation of federal public resources and the financing through Union funds or funds either generated or operated by Union bodies or entities shall be made in conformity with the guidelines and objectives established under arts. 48 and 49 of this Law and with the basic sanitation plans, conditioned to:

I - the achievement of minimum standards for:

a) the service provider's technical, economic and financial performance;

b) service efficiency and efficacy, along the whole life cycle of the enterprise;

II - the appropriate operation and maintenance of undertakings that have been previously financed with funds mentioned under the caption to this article.

§ 1 In the application of non-onerous resources from the Union, priority shall be given to actions and undertakings that aim at serving users or municipalities that do not count with payment capacity compatible with the economic-financial self-sustainment of the services, its application in enterprises contracted in an onerous manner being vetoed.

§ 2 The Union may implement and guide the execution of incentive programs for the execution of social interest projects in the field of basic sanitation with the participation of private investors, through structured financing operations, carried out with private investments, capitalization or pension funds, in conditions compatible with the essential nature of public basic sanitation services.

§ 3 The application of budgetary Union funds in the administration, operation and maintenance of public basic sanitation services not administered by a federal body or entity is vetoed hereby, except for an established term in case of eminent risk to public health and to the environment.

§ 4 Non-onerous Union resources, for the subvention of basic sanitation actions promoted by the other federate entities, shall always be transferred to municipalities, the Federal District or the States.

§ 5 In promoting improvements in public basic sanitation service providers, the Union may grant benefits or budgetary, fiscal or credit incentives as a counterpart contribution to the achievement of previously established operational performance goals.

§ 6 The requirement foreseen under literal a of numeral I of the caption to this article does not apply to the destination of resources for institutional development programs of the public basic sanitation service operator.

§ 7 (VETOED).

Art. 51. The drafting and revision process of the basic sanitation plans must foresee its joint publicizing along with the studies that support them, the receiving of suggestions and criticism by means of public consultations or hearings and, whenever foreseen in the legislation of the service holder, an analysis and opinion by the collegiate body established in accordance with art. 47 of this Law;

Sole paragraph. The dissemination of proposals for basic sanitation plans and of the studies that support them shall take place by making its content fully available to all interested parties, including on the Internet, and by means of public hearing.

Art. 52. The Union shall prepare, under the coordination of the Ministry of Cities:

I - the National Basic Sanitation Plan - NBSP, containing:

a) short, medium and long term national and regional goals and targets for universal access to basic sanitation and for the achievement of increasing levels of basic sanitation within the national territory, observing their compatibility with the other Union plans and policies;

b) guidelines for addressing political-institutional, legal and juridical, economic-financial, administrative, cultural and technological conditionalities with impact on the achievement of the established goals and objectives;

c) the proposing of programs, projects and actions required for achieving the goals and targets of the Federal Basic Sanitation Policy, with identification of the corresponding funding sources;

d) guidelines for the planning of basic sanitation actions in areas of special interest to tourism;

e) procedures for the systematic assessment of the efficiency and efficacy of actions carried out;

II - regional basic sanitation plans, prepared and executed in articulation with the States, the Federal District and the municipalities involved for the integrated regions of economic development or in those counting with the participation of a federal body or entity in the delivery of public basic sanitation services.

§ 1 The NBSP must:

I - cover water supply, sanitary sewage, solid waste management and the management of rainwater and other basic sanitation actions that are of interest to the improvement of environmental health, including the provision of toilets and sanitary units for low income populations;

II - specifically address Union actions related to basic sanitation in indigenous land, in extractive reserves of the Union and in quilombola communities.

§ 2 The plans referred to under numerals I and II of the caption to this article must be drafted with a 20-year timeframe, be submitted to annual evaluation and be revised every four years, preferably within periods that coincide with those of the pluriannual plans.

Art. 53. The National System for Information on Basic Sanitation - SINISA is established hereby, and its objectives are:

I - to collect and systematize data regarding the conditions of public basic sanitation service delivery;

II - to provide for statistics, indicators and other relevant information for characterizing the demand and supply of public basic sanitation services;

III - to allow and facilitate the monitoring and evaluation of the efficiency and efficacy of the delivery of basic sanitation services.

§ 1 All information available to SINISA shall be made public and accessible to all, and must be published on the Internet.

§ 2 The Union shall support service holders in setting up information systems on basic sanitation, in compliance with the provisions of numeral VI of the caption to art. 9 of this Law;

CHAPTER X FINAL PROVISIONS

Art. 54. (VETOED).

Art. 55. § 5 of art. 2 of Law no. 6766, of 19 December 1979, from now on enters into force with the following reading:

Art. 2
.....

§ 5 The basic infrastructure of the settlements shall be made up by urban equipment for rainwater drainage, public lighting, sanitary sewage, drinking water supply, access to public and residential electricity and roads.

..... "(NR)

Art. 56. (VETOED)

Art. 57. Numeral XXVII of the caption to art. 24 of Law no. 8666 of 21 June 1993, from now on enters into force with the following reading:

"Art. 24.
.....

XXVII - in contracting the collection, processing and commercialization of solid urban waste, either recyclable or reusable, in areas with selective garbage collection systems, carried out by associations or cooperatives formed exclusively by low income natural persons, recognized by

the public authority as waste scavengers for recyclable materials, with the use of equipment compatible with technical, environmental and public health standards.

..... "(NR)

Art. 58. Art. 42 of Law no. 8987 of 13 February 1995 from now on enters into force with the following reading:

"Art. 42.

§ 1 After completion of the term established in the contract or granting act, service may be delivered by a body or entity of the granting authority, or delegated to third parties, by means of a new contract.

.....

§ 3 The concessions referred to under § 2 of this article, including those that do not have a formal instrument or that count with a clause that foresees a term extension, shall be valid, at maximum, until December 31st, 2010, as long as the following conditions have been met, cumulatively, by June 30th, 2009:

I - a survey, as broad and retroactive as possible, on the physical elements that constitute the infrastructure of reversible assets and of financial, accounting and commercial data regarding the delivery of services, with a dimension required and sufficient for carrying out the calculation of an eventual compensation for the investments that have not yet been amortized by the revenues emerging from the concession, in compliance with the legal and contractual provisions that regulate the delivery of the service or those applicable to the 20 (twenty) year-period preceding the publication of this Law;

II - celebration of an agreement between the granting authority and the concessionaire about the criteria and the form of indemnity for eventually remaining credits from investments that have not yet been either amortized or depreciated, as identified on the surveys referred to under numeral I of this paragraph and audited by a specialized institution selected by common agreement of the parties; and

III - publication in the official press of a formal act by the granting authority, authorizing the precarious delivery of services for a 6-month period, renewable until December 31st, 2008, subject to the presentation of evidence on the compliance to the provisions of numerals I and II of this paragraph.

§ 4 In case the agreement foreseen under numeral II of § 3 of this article is not reached, the calculation of the indemnity of investments shall be made based on the criteria foreseen in the previously celebrated concession instrument or, in case such instrument has been omitted, by means of evaluation of its economic value or equity reassessment, depreciation and amortization of fixed assets defined by the fiscal and corporate legislation, carried out by an independent auditor selected by common agreement of the parties.

§ 5 In the case of § 4 of this article, the payment of an eventual indemnity shall be carried out through collateral, by means of 4 (four) annual, equal and successive installments, of those investments that have not been amortized yet and of other indemnities associated to the delivery of services, made with the concessionaire's own capital or that of his controller, or originated by financing operations, or obtained by means of issuing of shares, bonds and other securities, whereas the first installment shall have been paid until the last working day of the fiscal year in which the reversion takes places.

§ 6 In case an agreement is reached, the indemnity referred to under § 5 of the present article may be paid by means of revenues of the new contract that will govern the delivery of the service." (NR)

Art. 59. (VETOED).

Art. 60. Law no. 6528, of 11 May 1978, is revoked hereby.

January 5th, 2007; 186th year of the Independence and 119th year of the Republic.

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The present text does not substitute the one published in the Official Gazette (D.O.U.) on January 8th, 2007.

NOTE: The translation of Law 11.445, of January 2007 into English was extracted from the document "Legislação e Saneamento Básico" available on the website of the "Ministry of cities".