

**Law No 11.428 OF 22 DECEMBER 2006 OF**

veto message

**Provides for the use and protection of native vegetation of the Atlantic Forest biome, and other provisions.**

THE PRESIDENT I do know that National Congress decrees and I sanction the following Law:

TITLE I

DEFINITIONS, OBJECTIVES and PRINCIPLES OF  
THE LEGAL REGIME BIOMA ATLANTIC

Art. 1 the conservation, protection, regeneration and use of the Atlantic Forest biome, national heritage, observe the establishing this law, as well as current environmental legislation, especially Law No.

4,771, of September 15, 1965.

CHAPTER I

DEFINITIONS

Art. 2 For the purposes of this Act, be deemed to be members of the Atlantic Forest biome the following native forest formations and associated ecosystems, with their boundaries established in map Brazilian Institute of Geography and Statistics - IBGE, as Regulation: Rain Forest; Mixed Rain Forest, also called Araucaria Forest; Forest Open Rain; Semideciduous forest; and Deciduous forest and mangroves, the vegetation of salt marshes, alpine pastures, swamps and forest hinterland enclaves the Northeast.

Sole paragraph. Only the remnants of native vegetation in the primary stage and the secondary stage initial, medium and advanced regeneration in the coverage area defined in this Article shall use and conservation regulated by this Law.

Art. 3 are considered for purposes of this Law:

I - small farmers: one who, living in the countryside holds the rural farmland ownership not exceeding fifty (50) hectares, exploring it by e staff work their family, admitted the eventual help of third parties, and collective possession of land considering the individual fraction not exceeding fifty (50) hectares, whose gross income is from activities or agricultural use, livestock or forestry or rural extractive in 80% (eighty percent) at least

II- traditional population: population living in close relationship with the natural environment, depending on their natural resources for their socio-cultural reproduction through low-impact activities;

III - fallow: practice which provides for the interruption or agricultural use, livestock or forestry land for up to ten (10) years to make possible the recovery of fertility;

IV - preservationist practice: technical activity and scientifically based, in protection of the integrity of native vegetation, such as fire control, erosion, exotic and invasive species;

V - sustainable exploitation: environmental exploration in order to ensure the sustainability of renewable environmental resources and ecological processes, maintaining biodiversity and other ecological attributes, socially fair and economically viable;

VI - environmental enrichment: technically and scientifically based activity aimed at the recovery of biological diversity in areas of native vegetation through the reintroduction of native species;

VII - public utility:

a) national security activities and health protection;

b ) the essential works of infrastructure national interest intended for public transport services, sanitation and energy, declared by the federal government or the states;

VIII - social interest:

a) the activities essential to the protection of native vegetation integrity, such such as prevention, combat and fire control, erosion control, eradication of invasive and protection of plantations with native species, as resolution of the National Environment Council - CONAMA,

b) sustainable agroforestry management activities practiced in small ownership or possession rural family not descaracterizem vegetation cover and do not undermine the environmental function of the area;

c) other works, plans, activities or projects defined by resolution of the National environmental Council

Art.4 The definition of primary vegetation and secondary vegetation in advanced stages, medium and initial regeneration of the Atlantic Forest biome, in case of native vegetation located, will be initiated by the National Environmental Council.

§ 1The National Environment Council environment will haveperiod of 180 (one hundred eighty) days to establish what has the caption of this article, and any intervention in primary or secondary vegetation in advanced and middle stages of regeneration can occur after attended only the provisionsthis article.

§ 2 the definition referred to in this article, the following basic parameters shall be observed:

I - physiognomy

II- predominant strata

III- diameter distribution and height;

IV - existence, diversity and quantity of epiphytes;

V - existence, diversity and quantity of creepers ;

VI -presence, absence and characteristics of litter;

VII - understory;

VIII - diversity and dominance of species;

IX - indicator species

Art..5o The primary vegetation or secondary vegetation in any stage of regeneration of the Atlantic Forest biomenot lose this classification in cases of fire, deforestation or any other unauthorized or unlicensed intervention.

## CHAPTER II

### OBJECTIVES AND PRINCIPLES OF THE LEGAL REGIME

#### BIOMA ATLANTIC

Art. 6 The protection and use of the Atlantic Forest biome has the general objectivesustainable development, and specific objectives, the protection of biodiversity, human health, landscape, aesthetic and tourist values, the water system and social stability.

Paragraph one of a kind. The protection and use of the Atlantic Forest biome, the principles of socialenvironmental function of property, intergenerational equity will be observed, prevention, precaution,

user pays, transparency of information and acts, democratic management, procedural celerity, gratuitousness of administrative services to small farmers and traditional populations and respect for property rights.

Art. 7 The protection and use of the Atlantic Forest biome far will be in conditions to ensure:

I - the maintenance and restoration of biodiversity, vegetation, fauna and water regime of the Atlantic Forest biome for present and future generations;

II - the encouragement of research, the dissemination of sustainable management technology of vegetation and the formation of a public awareness of the need for restoration and maintenance of ecosystems

III- fostering public and private activities compatible with the maintenance of ecological balance;

IV - the disciplining of rural and urban occupation, to harmonize economic growth with the maintenance of ecological balanceArt..

## TITLE II

### BIOME GENERAL LEGAL REGIME ATLANTIC

8 The court, suppression and exploitation of the vegetation of the Atlantic Forest biome far-se- will differently, depending on whether primary or secondary vegetation inlatter taking into account the regeneration stage.

Art. 9 The possible exploitation with no commercial purpose direct or indirect, of species of native flora, for consumption on the property or possessions of traditional communities or small farmers, independent authorization of the competent bodies,accordance with regulations.

Sole paragraph. The competent bodies, subject to the provisions of this article, should watch the traditional populations and small producers in the sustainable management and exploitation of species of native flora.

Art. 10 The governmentpromote the ecological enrichment of the vegetation of the Atlantic Forest biome, as well as planting and reforestation with native species, especially the voluntary initiatives of farmers.

§ 1. In cases where the ecological enrichment require the deletion of species native generating marketable products or by-products, will be required the authorization of the appropriate state or federal agency, by simplified procedure.

§ 2. order to control the edge effect in the areas of surrounding native vegetation fragments, the governmentencourage the planting of forest, native or exotic species.

Art. 11. The cut and suppression of primary vegetation or in advanced and middle stages of regeneration of the Atlantic Forest biome be prohibited when:

I - the vegetation:

a) host species of flora and wild fauna threatened with extinction in the country or state level, so declared by the Union or by the states, and the intervention or the installments they put at risk the survival of these species;

b) exercise the watershed protection function or prevention and erosion control;

c) form corridors between vegetation remnants primary or secondary in advanced stage of regeneration;

d) protect the environment of protected areas; or

e) have exceptional landscape value, recognized by the relevant executive bodies of the National Environmental System - SISNAMA

II- the owner or possessor does not meet the environmental law arrangements, in particular the requirements of Law 4771 of 15 September 1965 in respect of Permanent Preservation Areas and legal Reserve.

sole paragraph. Verified the occurrence of schedule in paragraph a of section I of this article, the relevant executive bodies shall take the necessary measures to protect species of flora and endangered wild fauna extinction if there are factors that require, or encourage and support actions and areas of owners who are keeping and sustaining the survival of these species.

Art. 12. The new projects involving cutting or removal of vegetation of the Atlantic Forest biome should be implemented preferably in areas already substantially altered or degraded.

Art. 13. The relevant executive bodies adopt special rules and procedures to ensure the small farmers and traditional populations in authorization applications of this Law:

I - easy access to the management authority in place near your dwelling place;

II - free, timely and simplified, consistent with their level of education;.III - priority analysis and judgment of applications

Art. 14. The abolition of primary and secondary vegetation in advanced stage of regeneration can only be permitted in cases of public utility, and secondary vegetation in medium stage of regeneration can be suppressed in the case of public utility and social interest, in all cases properly characterized and motivated by an administrative procedure when inexistent technical and location alternative to the proposed development, subjectthe provisions of Part I of art. 30 and in §§ 1 and 2of Art. 31 of this Act.

§ 1 The abolition of the caput of this article will depend onauthorization of the state environmental agency, with prior consent, where applicable, federal or local environmental agency, subjectthe provisions of § 2 this article.

§ 2The removal of vegetation in regeneration medium stage located inurban area will depend onauthorization of the municipal environmental agency, provided that the municipality has environmental council, with deliberative and flat character director, with prior consent of the body competent state environmental based ontechnical opinion.

§ 3. the proposal for declaration of public utility prepared in paragraph b of section VII of art. 3 of this Act, itup to the tendererindicate in detail the high relevance and the national interest.

Art. 15. In the work of chance or potentially cause significant environmental degradation activity, the competent authority will require the preparation of Preliminary Study of Environmental Impact, which will be advertising, ensured public participation.

Art. 16. In the regulations of this law should be adopted special rules and procedures, simplified and expeditious, for cases of re-use of agricultural areas under the fallow.

Art. 17. The cutting or removal of primary or secondary vegetation in the middle stage or advanced regeneration of the Atlantic Forest biome, authorized by this Act, are conditioned to environmental compensation in the form of equivalent area allocation of the extension of deforested area, with same ecological characteristics in the same catchment area, wherever possible in the same watershed, and in the cases provided in arts. 30 and 31, both of this Law, in areas located in the same municipality or metropolitan area.

§ 1 verified by the environmental agency the impossibility of environmental compensation provided for in this

Article, the reforestation will be required, with native species in an area the deforested in the same river basin, wherever possible in the same watershed.

§ 2the environmental compensation referred to in this article does not apply to cases provided for in Part III of art. 23 of this Act or section or illegal suppression.

Art. 18. In the Atlantic Forest biome, is free collection of forest products such as fruits, leaves or seeds as well as the indirect use activities, provided they do not jeopardize the species of fauna and flora, observing the specific legal limitations and in particular those concerning access to genetic resources, protection and access to associated traditional knowledge and bio-security.

Art. 19. The possible cutting primary or secondary vegetation in the middle stages and advanced regeneration of the Atlantic Forest biome, for purpose of preservation practices and scientific research, will be properly regulated by the National Environmental Council and authorized by the relevant body Sisnama.

### TITLE III

#### THE BIOME SPECIAL LEGAL REGIME ATLANTIC

##### CHAPTER I

###### VEGETATION PROTECTION PRIMARY

Art. 20. The cut and suppression of primary vegetation of the Atlantic Forest biome will only be allowed in exceptional cases, when necessary to carry out works, projects or public service activities, scientific research and preservation practices.

Sole paragraph. The cutting and removal of vegetation in the case of public utility shall comply with the provisions of art. 14 of this Law, in addition to holding Preliminary Study of Environmental Impact / Environmental Impact Report - EIA / RIMA Art..

##### CHAPTER II

###### VEGETATION PROTECTION IN SECONDARY

###### STAGE ADVANCED REGENERATION

21. Cutting, suppression and exploitation of secondary vegetation in advanced stage of regeneration of the Atlantic Forest biome will be authorized only:

I - in exceptional cases, when necessary for the execution of works, activities or public utility projects, scientific research and practices preservationists

II- (vetoed)

III - as provided for in Part I of art. 30 of this Law.

Art. 22. The cut and the elimination referred in Part I of Art. 21 of this Act in the public interest case will be realized in the form of art. 14 of this Law, in addition to holding Preliminary Study of Environmental Impact, as well as in art. 19 of this Act for cases of preservation practices and scientific research.

##### CHAPTER III DA VEGETATION PROTECTION IN SECONDARY STAGE REGENERATION AVERAGE.

Art. 23. Cutting, suppression and exploitation of secondary vegetation in regeneration medium stage of the Atlantic Forest biome will be authorized only:

I - in exceptional cases, when necessary for the execution of works, activities or public utility or social interest projects, scientific research and preservation practices;

II - (vetoed)

III - when necessary for small farmers and traditional populations to exercise activities or agricultural use, livestock or forestry essential to your livelihood and your family, except the areas of permanent preservation and , where appropriate, after registration of the legal reserve in accordance with Law 4771 of September 15, 1965;

IV - in the cases provided for in §§ 1 and 2 of art. 31 of this Law.

Art. 24. The cutting and removal of vegetation in medium stage of regeneration, mentioned in Part I of Art. 23 of this Law, in cases of public utility or social interest, shall comply with the provisions of art. 14 of this Law.

Sole Paragraph. In case of item III of art. 23 of this Law, the authorization is the responsibility of the competent state agency, reporting to the Ibama, according to the regulations of this law.

#### CHAPTER IV

##### VEGETATION PROTECTION IN SECONDARY

##### INITIAL STAGE REGENERATION

Art. 25. Cutting, suppression and exploitation of secondary vegetation in early stages of the Atlantic Forest biome regeneration will be authorized by the competent state agency.

Sole paragraph. The cut, suppression and exploitation of this article, in States where the remaining primary and secondary vegetation of the Atlantic Forest biome is less than 5% (five percent) of the original area, subject will be the legal regime applicable to secondary vegetation in medium stage of regeneration, except in urban and metropolitan areas.

Art. 26. shall be permitted to follow agricultural practice in the Brazilian states where such procedure is used traditionally.

#### CHAPTER V

##### VEGETATION OF SELECTIVE OPERATION IN SECONDARY STAGES ADVANCED MEDIUM AND INITIAL REGENERATION

Art. 27. (vetoed)

Art. 28. Cutting, suppression and management of native pioneer tree species in forest fragments in intermediate stage of regeneration, where their presence is more than 60% (sixty percent) compared to other species, they may be authorized by the appropriate state agency, subject to the provisions of Law 4771 of 15 September 1965.

Art. 29. (vetoed)

#### CHAPTER VI

##### BIOMA PROTECTION ATLANTIC IN

##### URBAN AREAS AND METROPOLITAN REGIONS

Art. 30. It is forbidden the suppression of primary vegetation of the Atlantic Forest biome, for allotment purposes or building, in the metropolitan and urban areas considered as such in specific law applying to the suppression of secondary vegetation in advanced stage of regeneration the following restrictions :

I - in urban perimeters approved until the date of this Law, the removal of secondary vegetation in advanced stage of regeneration will depend on prior authorization of the competent state agency and will only be permitted for allotment purposes or building, if developments to ensure the preservation of native

vegetation in advanced stage of regeneration in at least 50% (fifty percent) of the total area covered by this vegetation, subject to the provisions of arts. 11, 12, 17 of this Law and attended to the provisions of the Master Plan of the City and other urban planning and environmental standards;

II - in urban perimeters approved after the start date of this Law, the removal of secondary vegetation in advanced stage is sealed regeneration of the Atlantic Forest biome for allotment purposes or building.

Art. 31. In the metropolitan areas and urban areas, considered by law, the division of land for allotment purposes or any building in secondary vegetation area in medium stage of regeneration of the Atlantic Forest biome, shall comply with the provisions of Master Plan municipality and other standards, and require the prior authorization of the competent state agency, subject to the provisions of arts. 11, 12, 17 of this Act.

§ 1 In urban perimeters approved until the date of this Law, the removal of secondary vegetation in regeneration middle stage will be allowed only for blending purposes or building, in the case of projects to ensure the preservation of native vegetation in medium stage of regeneration in at least 30% (thirty percent) of the total area covered by this vegetation.

§ 2. in urban perimeters delimited after the date of this Law, the suppression secondary vegetation in regeneration medium stage is subject to the maintenance of vegetation in intermediate stage of regeneration in at least 50% (fifty percent) of the total area covered by this vegetation.

## CHAPTER VII

### ACTIVITIES mining in GROWTH sSECONDARY AREAS in sTAGE ADVANCED AND REGENERATION AVERAGE.

Art 32. The removal of secondary vegetation in advanced and middle stage of regeneration for mining activities purposes will only be permitted through:

I - environmental licensing, subject to preliminary study presentation Environmental Impact / Environmental Impact Report - EIS / EIR, the entrepreneur and provided that demonstrated the lack of technical and locational alternative to the proposed development;

II - adoption of compensatory measure that includes the area of recovery equivalent to the project area, with the same ecological characteristics, in the same watershed and whenever possible the same watershed, notwithstanding the provisions of art. 36 of Law No. 9985 of 18 July 2000.

## TITLE IV

### ECONOMIC INCENTIVES

Art. 33. The Government shall, without prejudice to the obligations of the owners and squatters established in environmental legislation, encourage, with economic incentives, protection and sustainable use of the Atlantic Forest biome.

§ 1. In the regulation of environmental economic incentives, the following shall be observed benefited area characteristics:

I - the importance and environmental representation of the ecosystem and plot

II- the existence of species of fauna and endangered flora;

III - the importance of water resources;

IV - the landscape, aesthetic and tourist value;

V - compliance with the obligations imposed by environmental

legislation;.VI - the actual use of capacity and its current productivity

§ 2. the incentives referred to in this title not exclude or restrict other benefits, rebates and deductions into force, in particular donations the public utility entities made by individuals or legal entities.

Art. 34. Violations of the provisions governing the environmental economic benefits, subject to the criminal and administrative penalties applicable, shall subject the responsible civil fine of three (3) times the amount received date, or the tax due for each financial year, plus penalties and other additions provided for in the tax legislation.

§ 1. for the purposes of this article, it is considered jointly severally liable for default or irregularity to person or entity donor or proponent of project or benefit proposal.

§ 2. the existence of disputes or irregularities in the implementation of proponents of projects the competent body of Sisnama suspend the examination or granting of new incentives to the effective regularization.

Art. 35. conservation, in rural or urban property, the primary vegetation or secondary vegetation in any stage of regeneration of the Atlantic Forest biome fulfill social function and is in the public interest, and may, at the owner discretion, the areas subject to the restriction that this law be computed for purposes of the legal Reserve and its surplus used for environmental compensation purposes or quota institution that treats the Law 4.771 of September 15, 1965.

sole paragraph. Except where otherwise provided by law, the permanent preservation areas not integrate the legal reserve.

## CHAPTER I

### BIOMA RESTORATION FUND ATLANTIC

Art. 36. It set the Atlantic Forest biome of the Restoration Fund for the financing of environmental restoration projects and scientific research.

§ 1 (vetoed)

§ 2 (vetoed)

§ 3 (vetoed)

Art. 37. shall be a resource of the Fund pursuant to art. 36 of this Law:

I - budgetary allocations Union

II- proceeds from donations, cash contributions, values, movable and immovable property, which may receive from individuals and legal entities, national or international

III- income of any nature, who will earn as compensation arising from applications of its assets;

IV - others, for the law

Art. 38 will benefit from resources of the Atlantic Forest biome Restoration Fund projects involving conservation of remaining native vegetation, scientific research or areas to be restored, implemented in municipalities that have municipal plan of conservation and restoration of the Atlantic Forest, duly approved the Municipal Environmental Council.

§ 1. They will support priority projects for the conservation and recovery of permanent preservation areas, legal reserves, private reserves of natural heritage and areas surrounding protected areas.

§ 2 the projects may benefit public and private areas and are run by public agencies, public academic institutions and civil society organizations of public interest that work in conservation, restoration or scientific research in the Atlantic Forest biome.



## CHAPTER II

### servitude ENVIRONMENTAL

Art. 39. (vetoed)

Art. 40. (vetoed)

## CHAPTER III

### credit incentives

Art. 41. The owner or possessor who has primary or secondary vegetation in advanced and middle stages of regeneration of the Atlantic Forest biome receive the benefits credit financial institutions, including:

I - priority in granting agricultural credit to small farmers and populations traditional

II- (vetoed)

III - (vetoed)

sole paragraph. The criteria, conditions and control mechanisms of the benefits referred to in this Article shall be defined annually, subject to liability, by the relevant body of executive power, after agreement of the competent organ of the Ministry of Finance.

## TITLE V

### PENALTIES

Art. 42. The act or omission of the natural or legal persons importing breach the provisions of this Law and its regulations or result in damage to the flora, fauna and other natural attributes subject violators to the penalties provided by law, in particular those laid down in law No. 9,605, of February 12, 1998, and its regulatory decrees.

Art. 43. Law no 9.605, of February 12, 1998, is effective plus the following art. 38a:

"Art. 38a. Destroying or damaging primary or secondary vegetation in advanced or medium stage of regeneration of the Atlantic Forest biome, or use them in violation of the standards of protection:

Penalty - detention of 1 (one) to 3 (three) years or fine or both penalties cumulatively.

sole paragraph. If the crime is guilty, the penalty will be reduced by half.

"Art.44. (vetoed)

## TITLE VI

### FINAL PROVISIONS

Art. 45. (vetoed)

Art. 46. The competent authorities shall take the necessary measures for the strict and faithful compliance with this Act, and stimulate scientific and technical studies for the conservation and rational management of the Atlantic Forest biome and its biodiversity.

Art. 47. For the purposes of item I of the caput art. 3 of this Act shall only be considered rural properties with area of up to fifty (50) hectares, registered in registry office to the start date of this Act, except in cases of fractionation causa mortis.

Art. 48. Art. 10 of Law n 9.393, of December 19, 1996, becomes effective with the following wording:

"Art. 10. ....

§1

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II - .....

d) under forest or environmental easement regime;

e) covered by native forests, primary or secondary in middle stage or advanced regeneration;

.....

IV - .....

.....

b) that in items of section II of this paragraph;

..... "(NR)

Art. 49. § 6

of art. 44 of Law No.

4,771, of September 15, 1965, amended by Provisional

Measure No.

2166-7 of August 24, 2001, becomes effective with the following wording:

"Art. 44. ....

.....

§ 6

The landowner may be released from obligations under this article, by donating to the competent environmental authority area located within the public domain conservation unit, pending regularization, respecting the criteria set out in section III of this article . "(NR)

Art. 50. (vetoed)

Art. 51. This Law shall enter into force on the date of its publication 2006.;

Brasilia, December 22, 1985

Independence and 118

.of the Republic

*Luiz Inácio Lula da Silva Márcio Thomaz Bastos Guido Mantega Marina Silva Álvaro Augusto Ribeiro Costa*

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