

## EXTERNAL RESOLUTION 3 OF 2012 (unofficial translation)<sup>1</sup>

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(April 30)

Whereby the maximum interest rate is set for loans intended for long-term financing of individual housing, housing construction projects, and social subsidized housing, as well as housing leasing contracts and operations intended for family housing.<sup>2</sup>

### THE BOARD OF DIRECTORS OF *BANCO DE LA REPÚBLICA*,

Pursuant to the constitutional and legal powers vested upon it, especially those provided for in item(e) of Article 16 of Law 31 of 1992, hereby

### WHEREAS:

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**FIRST:** Law 31 of 1992, item (e) of Article 16, vests upon the Board of Directors of *Banco de la República* the power to set the maximum interest rates which credit institutions are allowed to charge or pay during their active and passive operations, without inducing negative real rates.

**SECOND:** Law 546 of 1999, among other provisions, established the objectives and criteria for regulating a specialized housing financing system and created savings instruments for such financing.

**THIRD:** The Constitutional Court declared, through judicial ruling C-955/2000, numeral 02 of Article 17 of Law 546 of 1999 as a constitutional instrument, on the grounds that it shall be understood and applied under the following conditions: "*Numeral 02 is CONSTITUTIONAL only under the condition that the remuneration interest rate referred thereto will not include the value of inflation, and it shall always be lesser than the lower real rate being charged on other loan operations applicable to financial operations, as per certification released by the Financial Superintendency of Colombia, and the maximum value thereof shall be set by the Board of*

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<sup>1</sup> The translations made by Banco de la República with respect to the contents of its websites are for information purposes. Therefore, when there is an inconsistency between the Spanish language version and the English language version, the native version shall prevail, that is to say, in the language in which it was initially written. In particular, with respect to legislation that has been translated into English (unofficial translation) by *Banco de la República* for information purposes, it is the responsibility of the user or visitor to verify the official version in the Spanish language. More information at [Legal Notice | Banco de la República](#) of our web site.

<sup>2</sup> Native version of this resolution: [Normatividad relacionada con la Unidad de Valor Real \(UVR\) | Banco de la República](#)

*Directors of Banco de la República, in conformity with decisions made by the Constitutional Court, through judgments C-481 of 07 July 1999 and C-208 of 01 March 2000."*

**FOURTH:** The Constitutional Court through the same ruling C-955/2000 declared the paragraph of article 28 of Law 546 as constitutional, and added that once the term of validity of said rule has expired "... *the Board of Directors of Banco de la República will, in accordance with its constitutional and legal powers, be the competent authority for setting the financing conditions for social interest housing loans, which should be the most appropriate and favorable, in order to consider the affordability of debtors and protect their family equity, also understanding that the real interest rate shall not include inflation and shall be lower than the interest rate currently applicable to all other housing loans.*"

**FIFTH:** Judgment C-48111999 of the Constitutional Court confirmed the constitutional principle according to which decisions made by the Board of Directors of *Banco de la República* must be implemented in coherence with the general economic policy to keep the balance and dynamism of the economy.

**SIXTH:** Ruling C-208/2000, of the Constitutional Court reaffirmed the technical autonomy of *Banco de la República* to administratively set interest rates, which must be done within the legally established framework. Said framework includes provisions set by Article 16 of Law 31 of 1992, whereby it is ordered that *Banco de la República* is to be held liable for deeply analyzing and adopting monetary, credit, and exchange measures aimed at regulating monetary circulation, financial market liquidity, and the proper functions of the payment system.

**SEVENTH:** Law 795 of 2003 authorized banking institutions to provide housing leasing operations.

**EIGHTH:** Judicial ruling C-936/2003 of the Constitutional Court declared Article 01 of Law 795 of 2003 as constitutional "... *Being it understood that regulations to be issued by the National Government shall adhere to the objectives and criteria set forth by article 51 of the Colombian Chart and by articles 01 and 02 of framework act 546 of 1999 and other rules of this act that are applicable to leasing for housing and the purpose of which is facilitating access to housing.*"

**NINTH:** The National Government, through Decree 1787 of 03 June 2004, regulated the housing leasing operations provided for by Law 795 of 2003. Pursuant to that decree and in accordance with judgment C-936/2003, the Government established a difference between housing leasing operations which are procedures intended for family housing acquisition and those operations that are not intended for such a purpose.

Likewise, Article 02 of Decree 1787 stated that housing leasing operations and contracts used for the purchase of a family housing will be subject to a set of rules including those described in paragraphs 02, 03, 06, 07, 08, 09, 10 as well as rules under the paragraph of Article 17 of Law 546 of 1999, items (b) and (c) of Article 01 of Decree 145 of 2000 and provisions set by Chapter 03 of the aforementioned Decree 1787.

**TENTH:** Decree 1787 of 2004 was incorporated by Decree 2555 dated 15 July 2010 "Whereby regulations on the financial, insurance, and stock market sectors are collected and reissued, as well as other provisions" plus decisions thereof incorporated in Part 02, Book 28, Title 01, articles 2.28.1.1.1 et seq. of Decree 2555 mentioned herein.

**ELEVENTH:** In accordance with the aforementioned, the leasing operations and contracts for housing intended to finance housing shall be subject to the limit of remuneration interest rates set by the Board of Directors of *Banco de la República*, in conformity with regulations set by the Colombian Chart through its judicial ruling C-955/2000.

**TWELFTH:** Pursuant to guidelines of judicial ruling C-955/2000, the Board of Directors of *Banco de la República* has periodically reviewed and issued various resolutions, while External Resolution 08 of 25 August 2006 being in force "*Whereby the maximum remunerating interest rate of loans applicable to the Long-term financing for individual housing, of housing construction projects, and of social subsidized housing, as well as housing leasing contracts and operations for family housing.*"

**THIRTEENTH:** The Financial Superintendency of Colombia through notices filed under No. 2012013326-005-000 of 25 April 2012, and No. 2012013326-008-000 of 26 April 2012, submitted to the Monetary and Reserves Office attached thereto the certification of the nominal interest rates that, according to information reported by the entities as ruled by the External Circular 053 of 2004, were the rates charged in the financial market as of December 31<sup>st</sup> 2011, as set forth in the Constitutional Court Judicial Ruling C-955 dated 26 July 2000.

**FOURTEENTH:** The SGMR-0412-24-J work document dated 27 April 2012, prepared by the Monetary and Reserves Office of *Banco de la República*, was submitted to the Board of Directors, prepared in accordance with the instructions indicated in the aforementioned Judicial Ruling C-955/2000, wherein it is recommended to amend the limits to the interest rate of loans to be used to funding individual housing in the long term, with respect to housing construction projects, of social interest housing, as well as of contracts and operations of housing leasing aimed at the acquisition of family housing, as established by External Resolution No. 08 of 2006. Said recommendations were accepted by the Board of Directors, which hereby

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RESOLVES:

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## CHAPTER I

### LIMITS ON REMUNERATIVE INTEREST RATES ON LOANS OTHER THAN THOSE INTENDED FOR THE FINANCING OF SOCIAL-INTEREST HOUSING

**Article 01. MAXIMUM LIMITS ON INTEREST RATES FOR UVR LOANS.** The interest rate on long-term individual housing loans and loans to finance housing construction projects denominated in UVRs shall not exceed 12.4 effective annual percentage points in addition to the UVR value.

**Article 02. MAXIMUM LIMITS ON INTEREST RATES ON LOANS IN LEGAL TENDER.** The interest rate on long-term individual housing loans and loans to finance housing construction projects denominated in legal currency shall not exceed 12.4 effective percentage points per year, plus the variation in UVR for the previous 12 months in force as of the time of the contract's execution.

## CHAPTER II

### LIMITS ON REMUNERATIVE INTEREST RATES ON LOANS INTENDED FOR FINANCING SOCIAL INTEREST HOUSING

**Article 03. MAXIMUM LIMITS ON INTEREST RATES FOR SOCIAL-INTEREST HOUSING LOANS IN UVRs.** The interest rate on loans denominated in UVRs to finance construction, enhancement, and acquisition of social-interest housing shall not exceed 10.7 percentage points in addition to UVR.

**Article 04. MAXIMUM LIMITS ON INTEREST RATES ON SOCIAL-INTEREST HOUSING LOANS IN LEGAL TENDER.** Interest rate on loans denominated in legal currency for funding the construction, enhancement, and acquisition of social-interest housing shall not exceed 10.7 percentage points, plus variation in UVR for the previous 12 months in force as of the time of the contract's execution.

## CHAPTER III

### LIMITS ON INTEREST RATES FOR HOUSING LEASE CONTRACTS AND OPERATIONS INTENDED FOR FAMILY HOUSING

**Article 05.** The maximum interest rates for loans intended for long-term individual housing financing and loans intended for financing social housing provided for herein shall be applicable

to housing leasing contracts and transactions intended for the acquisition of family housing under the terms provided for in Decree 1787 of 03 June 2004, incorporated by Decree 2555 dated 15 July 2010.

## CHAPTER IV MISCELLANEOUS

**Article 06. SCOPE.** Limits set forth herein shall apply to transactions agreed on or to be agreed on in the future for long-term financing of individual housing, housing construction projects, social interest housing, as well as to housing leasing contracts and transactions for family housing, denominated in UVRs or legal tender; consequently, credit institutions must not charge ordinary interests exceeding the corresponding limits on the installments accrued from the date on which this resolution comes into effect.

The interest rates provided herein make up maximum limits only, which means that credit institutions can abide to interest rates lower than such limits.

**Article 07. FREQUENCY.** The Board of Directors of *Banco de la República* shall amend the limits addressed in the resolution herein when it is technically considered that conditions existing at the time of setting the interest rate have changed to a large extent.

**Article 08. REPORT SUBMITTED TO THE FINANCIAL SUPERINTENDENCY OF COLOMBIA.** Credit institutions shall report to the Financial Superintendency of Colombia rates established for the long-term individual housing loans, loans to finance housing construction projects, low-income housing loans, and housing leasing contracts and transactions, in accordance with instructions issued by said agency.

**Article 09. SANCTIONS.** Without prejudice to personal sanctions that could be applicable to Directors, Managers, Auditors or Employees of institutions, in accordance with Article 209 of the Financial System Organic Statute, entities breaching the provisions herein set forth will be subject to monetary penalties as an institutional sanction that will be dosed and imposed by the Financial Superintendency of Colombia.

**Article 10. VALIDITY.** This resolution shall become effective from the date of its publication.

Dated in Bogotá, D.C, on the thirtieth (30) day of the month of April in the year two thousand twelve (2012).

JUAN CARLOS ECHEVERRY-GARZÓN / Chair of the Board of Directors.

ALBERTO BOADA-ORTÍZ / Secretary of the Board of Directors.