

NEWSLETTER No. 118

JULY 2024



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SUMMARY

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**LAW ENACTED AMENDING THE CIVIL CODE TO STANDARDIZE
INTEREST RATES AND MONETARY ADJUSTMENT AND EXEMPT
THE APPLICATION OF THE "USURY LAW"**

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LAW ENACTED AMENDING THE CIVIL CODE TO STANDARDIZE INTEREST RATES AND MONETARY ADJUSTMENT AND EXEMPT THE APPLICATION OF THE "USURY LAW"

On July 1, 2024, Law no. 14,905/2024 was published, which introduces amendments to the Civil Code (Law no. 10,406/2002) concerning rules on monetary adjustment and interest rates in cases of non-compliance with civil obligations.

Monetary adjustment

According to the new wording of Article 389 of the Civil Code, introduced by Law no. 14,905/2024, if a civil obligation is not fulfilled, the debtor shall be liable for damages, interest, monetary adjustment, and lawyer's fees. In the absence of specific legal or contractual provisions, the monetary adjustment rate shall correspond to the variation of the Broad National Consumer Price Index (IPCA), published by the Brazilian Institute of Geography and Statistics (IBGE), or another official index that may replace it.

Legal interest rates

In addition, Law no. 14,905/2024 also amends Article 406 of the Civil Code, which deals with legal interest rates. According to the new wording of the article's main provision, "when not agreed upon, or when agreed upon without a specified rate, or when derived from legal determination, interest rates shall be fixed according to the legal rate."

In this context, the legal rate shall correspond to the reference rate of the Special System for Settlement and Custody (Selic), deducting the monetary adjustment index referred to in the sole paragraph of Article 389 of the Civil Code (i.e., IPCA). If Selic presents a negative result, it shall be considered zero for the purpose of interest calculation during the reference period.

Without prejudice to legal provisions, the methodology for calculating the legal rate and its application shall be defined by the National Monetary Council (CMN) and announced by the Central Bank of Brazil (BACEN). Similarly, Law no. 14,905/2024 stipulates that BACEN shall provide an interactive application, publicly accessible, allowing simulation of the use of the legal interest rate in "everyday financial situations."

Exceptions to the "Usury Law"

Decree no. 22,626/1933, known as the "Usury Law," prohibits stipulating interest rates exceeding twice the legal rate in any contracts.

In this regard, according to Article 3 of Law no. 14,905/2024, the provisions of Decree no. 22,626/1933 shall no longer apply to obligations: (i) contracted between legal entities; (ii) represented by credit instruments or securities; (iii) contracted with: (a) financial institutions and other institutions authorized by the Central Bank of Brazil to operate; (b) investment funds or clubs;

(c) leasing companies and simple credit companies; (d) public interest civil entities dedicated to credit granting; or (iv) conducted in financial, capital, or securities markets.

Law no. 14,905/2024 shall enter into force as follows: on the date of its publication, exclusively concerning the new wording of Article 406, §2 of the Civil Code; and 60 days after its publication (i.e., on August 30, 2024), in all other cases.

More information, as well as the full text of Law no. 14,905/2024, can be found on the website of the Presidency of the Republic (www.gov.br/planalto/pt-br).

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