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DECREE 2952 OF 2010

(August 06)

by which articles 12 and 13 of Law 1266 of 2008 are regulated.

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Subtype: REGULATORY DECREE

The President of the Republic of Colombia, in exercise of his constitutional and legal powers, especially those conferred by paragraph 11 of article 189 of the Political Constitution and in development of the provided for in articles 12 and 13 of Law 1266 of 2008,

CONSIDERING:

That on December 31, 2008, Statutory Law number 1266 was issued, which dictates the general provisions of Habeas Data and regulates the management of the information contained in databases. personal, especially financial, credit, commercial, services and from third countries and other provisions are dictated.

That said statutory law aims to develop the constitutional right that all people have to know, update and rectify the information that has been collected about them in data banks, and the other rights, freedoms and constitutional guarantees related to article 15 of the Political Constitution, as well as the right to information established in article 20 ibid.

That based on the content and scope of the constitutional principle of solidarity, concrete and opposable duties are derived from the State and citizens according to which when situations of force majeure, it is possible to grant victims of kidnapping, forced disappearance and kidnapped persons, due to their state of manifest weakness, a differentiated treatment in the administration of their financial, credit and commercial information.

That it is required to make details about the special requirements for information sources in the terms of article 12, as well as aspects related to the permanence of information from in accordance with the provisions of article 13 of Law 1266 of 2008.

DECREE:

Article 1 . *Breach of obligations due to force majeure* . In the event that the breach of the monetary obligation (s) in charge of an information holder originates in a situation of force greater caused by the kidnapping, forced disappearance or forced displacement of said owner, he / she will have the right that the non-compliance is not reflected as negative information in his / her report.

The holder or persons with whom he is related up to the fourth degree of consanguinity, second degree of affinity, first civil, or with whom he is linked by marriage or permanent union, as the case may be, They may request the update of the report before the information operators, observing the procedure provided in numeral II of article 16 of Law 1266 of 2008.

In the event that the owner is kidnapped, the operator must submit the judicial certification referred to in article 5 of Law 986 of 2005.

If the holder has been forcibly displaced, the registration in the Single Register of Displaced Population (RUPD), administered by the Presidential Agency for Social Action and International Cooperation or the entity that takes its place.

The conditions of a victim of kidnapping, forced disappearance or the condition of forced displacement may also be accredited by other means, such as a certification issued by the Attorney General's Office. of the Nation, or whoever takes his place, of the formally presented complaint of the kidnapping or forced disappearance.

In any case, the documents provided to the operator must contain the identification of the person victim of the kidnapping or forced disappearance, full names and identity document, as well as the probable date of occurrence of the event.

When the request complies with the legal requirements, the operators will proceed as follows, depending on the case:

a) *Updating of the report of holders kidnapped or forcibly disappeared* . Operators must "inactivate" or "hide" all the commercial and credit information of the holder (positive and negative) in a that users cannot access it.

The operator will return to reflect the information of the owner when the cessation of the fact is accredited. In any case, you will only be able to include the negative data of the person who was kidnapped once again. the term provided in the first paragraph of article 11 of Law 986 of 2005 has elapsed.

b) *Update of the report of forcibly displaced holders* . Operators must eliminate from the holder's report the current monetary obligations whose breach has been caused as of the date when the displacement occurred and on the occasion of said situation. The reports of the monetary obligations that are acquired after said date, will adjust to the provisions provided in the Law 1266 of 2008 and its regulatory decrees.

Article 2. *Negative Information Report* . In development of the provisions of the second paragraph of article 12 of Law 1266 of 2008, the report of negative information on breach of obligations only Prior communication to the owner of the information will proceed, which may be included in the periodic extracts that the information sources send to their clients, as long as it is included clearly and readable.

The information sources may agree with the holders, other mechanisms through which the sending of the communication in question is fulfilled, which may consist, among others, of any type of data messages, provided that they comply with the provisions of Law 527 of 1999 and its regulatory decrees and that the communication can be consulted later.

In the event that successive and continuous delays occur, the obligation to previously notify the owner of the information will be understood to have been fulfilled with the communication corresponding to the initial default.

Article 3. *Permanence of Negative Information* a. In the event of a delay of less than two (2) years, the term of permanence of the negative information may not exceed twice the delay.

For all other events, the term of permanence of negative information will be four (4) years from the date on which the default is extinguished in any way.

In the case of breach of obligations in which delinquency times cannot be computed, such as with current accounts canceled due to mismanagement, the term of permanence of the Negative information will be four (4) years counted from the date the breach ceases or the product is canceled.

Article 4. *Validity* . This decree is effective as of the date of its publication.

Be published and enforced.

Given in Bogotá, DC, on August 6, 2010.

ÁLVARO URIBE VÉLEZ

The Minister of Finance and Public Credit

Óscar Iván Zuluaga Escobar.

The Minister of Commerce, Industry and Tourism

Luis Guillermo Plata Páez.