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Anexo I - Judiciary Act, 1925

CHAP. 229.—An Act To amend the Judicial Code, and to further define the jurisdiction of the circuit courts of appeals and of the Supreme Court, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 128, 129, 237, 238, 239, and 240 of the Judicial Code as now existing be, and they are severally, amended and reenacted to read as follows:

SEC. 128. (a) The circuit courts of appeal shall have appellate jurisdiction to review by appeal or writ of error final decisions—

First. In the district courts, in all cases save where a direct review of the decision may be had in the Supreme Court under section 238.

Second. In the United States district courts for Hawaii and for Porto Rico in all cases.

Third. In the district courts for Alaska or any division thereof, and for the Virgin Islands, in all cases, civil and criminal, wherein the Constitution or a statute or treaty of the United States or any authority exercised thereunder is involved; in all other civil cases wherein the value in controversy, exclusive of interest and costs, exceeds \$1,000; in all other criminal cases where the offense charged is punishable by imprisonment for a term exceeding one year or by death, and in all habeas corpus proceedings; and in the district court for the Canal Zone in the cases and mode prescribed in the Act approved September 21, 1922, amending prior laws relating to the Canal Zone.

Fourth. In the Supreme Courts of the Territory of Hawaii and of Porto Rico, in all civil cases, civil or criminal, wherein the Constitution or a statute or treaty of the United States or any authority exercised thereunder is involved; in all other civil cases wherein the value in controversy, exclusive of interest and costs, exceeds \$5,000, and in all habeas corpus proceedings.

Fifth. In the United States Court for China, in all cases.

(b) The circuit court of appeals shall also have appellate jurisdiction—

First. To review the interlocutory orders or decrees of the district courts which are specified in section 129.

Second. To review decisions of the district courts sustaining or overruling exceptions to awards in arbitrations, as provided in section 8 of an Act entitled ‘An Act providing for mediation, conciliation, and arbitration in controversies between certain employers and their employees,’ approved July 15, 1913.

(c) The circuit courts of appeal shall also have an appellate and supervisory jurisdiction under sections 24 and 25 of the Bankruptcy Act of July 1, 1898, over all proceedings, controversies, and cases had or brought in the district courts under that Act or any of its amendments, and shall exercise the same in the manner prescribed in those sections; and the jurisdiction of the Circuit Court of Appeals for the Ninth Circuit in this regard shall cover the courts of bankruptcy in Alaska and Hawaii, and that of the Circuit Court of Appeals for the First Circuit shall cover the court of bankruptcy in Porto Rico.

(d) The review under this section shall be in the following circuit courts of appeal: The decisions of a district court of the United States within a State in the circuit court of appeals for the circuit embracing such State; those of the District Court of Alaska or any division thereof, the United States district court, and the Supreme Court of Hawaii, and the United States Court for China, in the Circuit Court of Appeals for the Ninth Circuit; those of the United States district court and the Supreme Court of Porto Rico in the Circuit Court of Appeals for the First Circuit; those of the District Court of the Virgin Islands in the Circuit Court of Appeals for the Third Circuit; and those of the District Court of the Canal Zone in the Circuit Court of Appeals for the Fifth Circuit.

(e) The circuit courts of appeal are further empowered to enforce, set aside, or modify orders of the Federal Trade Commission, as provided in section 5 of 'An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,' approved September 26, 1914; and orders of the Interstate Commerce Commission, the Federal Reserve Board, and the Federal Trade Commission, as provided in section 11 of 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914.

SEC. 129. Where, upon a hearing in a district court, or by a judge thereof in vacation, an injunction is granted, continued, modified, refused, or dissolved by an interlocutory order or decree, or an application to dissolve or modify an injunction is refused, or an interlocutory order or decree is made appointing a receiver, or refusing an order to wind up a pending receivership or to take the appropriate steps to accomplish the purposes thereof, such as directing a sale or other disposal of property held thereunder, an appeal may be taken from such interlocutory order or decree to the circuit court of appeals; and sections 239 and 240 shall apply to such cases in the circuit courts of appeals as to other cases therein: Provided, That the appeal to the circuit courts of appeals must be applied for within thirty days from the entry of such order or decree, and shall take precedence in the appellate court; and the proceedings in other respects in the district court shall not be stayed during the pendency of such appeal unless otherwise ordered by the court, or the appellate court, or a judge thereof: Provided, however, That the district court may, in its discretion, require an additional bond as a condition of the appeal."

SEC. 237. (a) A final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of the United States, and the decision is against its validity; or where is drawn, in question the validity of a statute of any State, on the ground of its being repugnant to Constitution, treaties, or laws of the United States, and the decision is in favor of its validity, may be reviewed by the Supreme Court upon a writ of error. The writ shall have the same effect as if the judgment or decree had been rendered or passed in a court of the United States. The Supreme Court may reverse, modify, or affirm the judgment of such State

court, and may, in its discretion, award execution or remand the cause to the court from which it was removed by the writ.

(b) It shall be competent for the Supreme Court, by certiorari, to require that there be certified to it for review and determination, with the same power and authority and with like effect as if brought up by writ of error, any cause wherein a final judgment or decree has been rendered or passed by the highest court of a State in which a decision could be had where is drawn in question the validity of a treaty or statute of the United States; or where is drawn in question the validity of a statute of any State on the ground of its being repugnant to the Constitution, treaties, or laws of the United States; or where any title, right, privilege, or immunity is specially set up or claimed by either party under the Constitution, or any treaty or statute of, or commission held or authority exercised under, the United States; and the power to review under this paragraph may be exercised as well where the Federal claim is sustained as where it is denied. Nothing in this paragraph shall be construed to limit or detract from the right to a review on a writ of error in a case where such a right is conferred by the preceding paragraph; nor shall the fact that a review on a writ of error might be obtained under the preceding paragraph be an obstacle to granting a review on certiorari under this paragraph.

(c) If a writ of error be improvidently sought and allowed under this section in a case where the proper mode of invoking a review is by a petition for certiorari, this alone shall not be a ground for dismissal; but the papers whereon the writ of error was allowed shall be regarded and acted on as a petition for certiorari and as if duly presented to the Supreme Court at the time they were presented to the court or judge by whom the writ of error was allowed: Provided, That where in such a case there appears to be no reasonable ground for granting a petition for certiorari it shall be competent for the Supreme Court to adjudge to the respondent reasonable damages for his delay, and single or double costs, as provided in section 1010 of the Revised Statutes."

SEC. 238. A direct review by the Supreme Court of an interlocutory or final judgment or decree of a district court may be had where it is so provided in the following Acts or parts of Acts, and not otherwise:

(1) Section 2 of the Act of February 11, 1903, 'to expedite the hearing and determination' of certain suits brought by the United States under the antitrust or interstate commerce laws, and so forth.

(2) The Act of March 2, 1907, 'providing for writs of error in certain instances in criminal cases' where the decision of the district court is adverse to the United States.

(3) An Act restricting the issuance of interlocutory injunctions to suspend the enforcement of the statute of a State or of an order made by an administrative board or commission created by and acting under the statute of a State, approved March 4, 1913, which Act is hereby amended by adding at the end thereof, 'The requirement respecting the presence of three judges shall also apply to the final hearing in such suit in the district court; and a direct appeal to the Supreme Court may be taken from a final decree granting or denying a permanent injunction in such suit.'

(4) So much of 'An Act making appropriations to supply urgent deficiencies in appropriations for the fiscal year 1913, and for other purposes,' approved October 22, 1913, as relates to the review of interlocutory and final judgments and decrees in suits to enforce, suspend, or set aside orders of the Interstate Commerce Commission other than for the payment of money.

(5) Section 316 of 'An Act to regulate interstate and foreign commerce in livestock, livestock products, dairy products, poultry, poultry products, and eggs, and for other purposes' approved August 15, 1921."

SEC. 239. In any case, civil or criminal, in a circuit court of appeals, or in the Court of Appeals of the District of Columbia, the court at any time may certify to the Supreme Court of the United States any questions or propositions of law concerning which instructions are desired for the proper decision of the cause; and thereupon the Supreme Court may either give binding instructions on the questions and propositions certified or may require that the entire record in the cause be sent up for its consideration; and thereupon shall decide the whole matter in controversy in the same manner as if it had been brought there by writ of error or appeal."

SEC. 240. (a) In any case, civil or criminal, in a circuit court of appeals, or in the Court of Appeals of the District of Columbia, it shall be competent for the Supreme Court of the United States, upon the petition of any party thereto, whether Government or other litigant, to require by certiorari, either before or after a judgment or decree by such lower court, that the cause be certified to the Supreme Court for determination by it with the same power and authority, and with like effect, as if the cause had been brought there by unrestricted writ of error or appeal.

(b) Any case in a circuit court of appeals where is drawn in question the validity of a statute of any State, on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, and the decision is against its validity, may, at the election of the party relying on such State statute, be taken to the Supreme Court for review on writ of error or appeal; but in that event a review on certiorari shall not be allowed at the instance of such party, and the review on such writ of error or appeal shall be restricted to an examination and decision of the Federal questions presented in the case.

(c) No judgment or decree of a circuit court of appeals or of the Court of Appeals of the District of Columbia shall be subject to review by the Supreme Court otherwise than as provided in this section."

SEC. 2. That cases in a circuit court of appeals under section 8 of "An Act providing for mediation, conciliation, and arbitration in controversies between certain employers and their employees," approved July 15, 1913; under section 5 of "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914; and under section 11 of "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, are included among the cases to which sections 239 and 240 of the Judicial Code shall apply.

SEC. 3 (a) That in any case in the Court of Claims, including those begun under section 180 of the Judicial Code, that court at any time may certify to the Supreme Court any definite and distinct questions of law concerning which instructions are desired for the proper disposition of the cause; and thereupon the Supreme Court may give appropriate instructions on the questions certified and

transmit the same to the Court of Claims for its guidance in the further progress of the cause.

(b) In any case in the Court of Claims, including those begun under section 180 of the Judicial Code, it shall be competent for the Supreme Court, upon the petition of either party, whether Government or claimant, to require, by certiorari, that the cause, including the findings of fact and the judgment or decree, but omitting the evidence, be certified to it for review and determination with the same power and authority, and with like effect, as if the cause had been brought there by appeal.

(c) All judgments and decrees of the Court of Claims shall be subject to review by the Supreme Court as provided in this section, and not otherwise.

SEC. 4. That in cases in the district courts wherein they exercise concurrent jurisdiction with the Court of Claims or adjudicate claims against the United States the judgments shall be subject to review in the circuit courts of appeals like other judgments of the district courts; and sections 239 and 240 of the Judicial Code shall apply to such cases in the circuit courts of appeals as to other cases therein.

SEC. 5. That the Court of Appeals of the District of Columbia shall have the same appellate and supervisory jurisdiction over proceedings, controversies, and cases in bankruptcy in the District of Columbia that a circuit court of appeals has over such proceedings, controversies, and cases within its circuit, and shall exercise that jurisdiction in the same manner as a circuit court of appeals is required to exercise it.

SEC. 6. (a) In a proceeding in habeas corpus in a district court, or before a district judge or a circuit judge, the final order shall be subject to review, on appeal, by the circuit court of appeals of the circuit wherein the proceeding is had. A circuit judge shall have the same power to grant writs of habeas corpus within his circuit that a district judge has within his district; and the order of the circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

(b) In such a proceeding in the Supreme Court of the District of Columbia, or before a justice thereof, the final order shall be subject to review, on appeal, by the Court of Appeals of that District.

(c) Sections 239 and 240 of the Judicial Code shall apply to habeas corpus cases in the circuit courts of appeals and in the Court of Appeals of the District of Columbia as to other cases therein.

(d) The provisions of sections 765 and 766 of the Revised Statutes, and the provisions of an Act entitled "An Act restricting in certain cases the right of appeal to the Supreme Court in habeas corpus proceedings," approved

March 10, 1908, shall apply to appellate proceedings under this section as they heretofore have applied to direct appeals to the Supreme Court.

SEC. 7. That in any case in the Supreme Court of the Philippine Islands wherein the Constitution, or any statute or treaty of the United States is involved, or wherein the value in controversy exceeds \$25,000, or wherein the title or possession of real estate exceeding in value the sum of \$25,000 is involved or brought in question, it shall be competent for the Supreme Court of the United States, upon the petition of a party aggrieved by the final judgment or decree to require, by certiorari, that the cause be certified to it for review and determination with the same power and authority, and with like effect, as if the cause had been brought before it on writ of error or appeal; and, except as provided in this section, the judgments and decrees of the Supreme Court of the Philippine Islands shall not be subject to appellate review.

SEC. 8. (a) That no writ of error, appeal, or writ of certiorari, intended to bring any judgment or decree before the Supreme Court for review shall be allowed or entertained unless application therefor be duly made within three months after the entry of such judgment or decree, excepting that writs of certiorari to the Supreme Court of the Philippine Islands may be granted where application therefor is made within six months: Provided, That for good cause shown either of such periods for applying for a writ of certiorari may be extended not exceeding sixty days by a justice of the Supreme Court.

(b) Where an application for a writ of certiorari is made with the purpose of securing a removal of the case to the Supreme Court from a circuit court of

appeals or the Court of Appeals of the District of Columbia before the court wherein the same is pending has given a judgment or decree the application may be made at any and time prior to the hearing and submission in that court.

(c) No writ of error or appeal intended to bring any judgment or decree before a circuit court of appeals for review shall be allowed unless application therefor be duly made within three months after the entry of such judgment or decree.

(d) In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree, may be stayed for a reasonable time to enable the party aggrieved to apply for and to obtain a writ of certiorari from the Supreme Court. The stay may be granted by a judge of the court rendering the judgment or decree or by a justice of the Supreme Court, and may be conditioned on the giving of good and sufficient security, to be approved by such judge or justice, that if the aggrieved party fails to make application for such writ within the period allotted therefor, or fails to obtain an order granting his application, or fails to make his plea good in the Supreme Court, he shall answer for all damages and costs which the other party may sustain by reason of the stay.

SEC. 9. That in any case where the power to review, whether in the circuit courts of appeals or in the Supreme Court, depends upon the amount or value in controversy, such amount or value, if not otherwise satisfactorily disclosed upon the record, may be shown and ascertained by the oath of a party to the cause or by other competent evidence.

SEC. 10. That no court having power to review a judgment or decree of another shall dismiss a writ of error solely because an appeal should have been taken, or dismiss an appeal solely because a writ of error should have been sued out; but where such error occurs the same shall be disregarded and the court shall proceed as if in that regard its power to review were properly invoked.

SEC. 11. (a) That where, during the pendency of an action, suit, or other proceeding brought by or against an officer of the United States, or of the District of Columbia, or the Canal Zone, or of a Territory or an insular possession of the United States, or of a county, city, or other governmental agency of such Territory

or insular possession, and relating to the present or future discharge of his official duties, such officer dies, resigns, or otherwise ceases to hold such office, it shall be competent for the court wherein the action, suit, or proceeding is pending, whether the court be one of first instance or an appellate tribunal, to permit the cause to be continued and maintained by or against the successor in office of such officer, if within six months after his death or separation from the office it be satisfactorily shown to the court that there is a substantial need for so continuing and maintaining the cause and obtaining an adjudication of the questions involved.

(b) Similar proceedings may had and taken where an action, suit, or proceeding brought by or against an officer of a State, or of a county, city, or other governmental agency of a State, is pending in a court of the United States at the time of the officer's death or separation from the office.

(c) Before a substitution under this section is made, the party or officer to be affected, unless expressly consenting thereto, must be given reasonable notice of the application therefor and accorded an opportunity to present any objection which he may have.

SEC. 12. That no district court shall have jurisdiction of any action or suit by or against any corporation upon the ground that it was incorporated by or under an Act of Congress: Provided, That this section shall not apply to any suit, action, or proceeding brought by or against a corporation incorporated by or under an Act of Congress wherein the Government of the United States is the owner of more than one-half of its capital stock.

SEC. 13. That the following statutes and parts of statutes be, and they are, repealed:

Sections 130, 131, 133, 134, 181, 182, 236, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, and 252 of the Judicial Code.

Sections 2, 4, and 5 of "An Act to amend an Act entitled 'An Act to codify, revise, and amend the laws relating to the judiciary,' approved March 3, 1911," approved January 28, 1915.

Sections 2, 3, 4, 5, and 6 of "An Act to amend the Judicial Code, to fix the time when the annual term of the Supreme Court shall commence, and further to define the jurisdiction of that court," approved September 6, 1916.

Section 27 of "An Act to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those islands," approved August 29, 1916.

So much of sections 4, 9, and 10 of "An Act to provide for the bringing of suits against the Government of the United States," approved March 3, 1887, as provides for a review by the Supreme Court on writ of error or appeal in the cases therein named.

So much of "An Act restricting in certain cases the right of appeal to the Supreme Court in habeas corpus proceedings," approved March 10, 1908, as permits a direct appeal to the Supreme Court.

So much of sections 24 and 25 of the Bankruptcy Act of July 1, 1898, as regulates the mode of review by the Supreme Court in the proceedings, controversies, and cases therein named.

So much of "An Act to provide a civil government for Porto Rico, and for other purposes," approved March 2, 1917, as permits a direct review by the Supreme Court of cases in the courts in Porto Rico.

So much of the Hawaiian Organic Act, as amended by the Act of July 9, 1921, as permits a direct review by the Supreme Court of cases in the courts in Hawaii.

So much of section 9 of the Act of August 24, 1912, relating to the government of the Canal Zone as designates the cases in which, and the courts by which, the judgments and decrees of the district court of the Canal Zone may be reviewed.

Sections 763 and 764 of the Revised Statutes.

An Act entitled "An Act amending section 764 of the Revised Statutes," approved March 3, 1885.

An Act entitled "An Act to prevent the abatement of certain actions," approved February 8, 1899.

An Act entitled "An Act to amend section 237 of the Judicial Code," approved February 17, 1922.

An Act entitled "An Act to amend the Judicial Code in reference to appeals and writs of error," approved September 14, 1922.

All other Acts and parts of Acts in so far as they are embraced within and superseded by this Act or are inconsistent therewith.

SEC. 14. That this Act shall take effect three months after its approval; but it shall not affect cases then pending in the Supreme Court, nor shall it affect the right to a review, or the mode or time for exercising the same, as respects any judgment or decree entered prior to the date when it takes effect.

Approved, February 13 1925.

Anexo II - PLS 12 – 15.02.06

Art. 1º Esta lei regulamenta o art. 102, § 3º, da Constituição Federal, disciplinando o procedimento para o exame da repercussão geral das questões constitucionais discutidas no recurso extraordinário para o Supremo Tribunal Federal.

Art. 2º Compete ao Supremo Tribunal Federal julgar, mediante recurso extraordinário, as causas decididas em única ou última instância, quando a decisão recorrida:

I – contrariar dispositivo da Constituição Federal;

II – declarar a inconstitucionalidade de tratado ou lei federal;

III – julgar válida lei ou ato de governo local contestado em face da Constituição Federal;

IV – julgar válida lei local contestada em face de lei federal.

Art. 3º Compete ao Tribunal de origem, na forma do seu regimento interno, o exame de admissibilidade do recurso extraordinário.

§ 1º É irrecorrível a decisão que, na origem, admite o recurso extraordinário; o exame de admissibilidade realizado na origem, todavia, não vincula o Supremo Tribunal Federal.

§ 2º Da decisão que negar admissão ao recurso extraordinário caberá agravo de instrumento para o Supremo Tribunal Federal, na forma da lei processual.

Art. 4º Ao Supremo Tribunal Federal compete, privativamente, o exame da repercussão geral das questões constitucionais discutidas no recurso

extraordinário, podendo recusá-lo, em decisão irrecorrível, por votação de no mínimo, dois terços de seus membros.

§ 1º Para a análise da repercussão geral, o relator poderá admitir a manifestação de terceiros, mesmo aqueles sem interesse estritamente jurídico na questão objeto do recurso extraordinário, na forma estabelecida pelo Regimento Interno do Supremo Tribunal Federal.

§ 2º O relator examinará a repercussão geral das questões constitucionais discutidas, cabendo-lhe, se for o caso de não conhecimento do recurso, propor, em voto fundamentado, a sua recusa; se, todavia, por voto de pelo menos quatro Ministros, a turma entender que a questão objeto do recurso extraordinário tem repercussão geral, ficará dispensado o exame pelo plenário, não podendo o recurso ser inadmitido por esse motivo.

§ 3º Para a verificação da repercussão geral das questões constitucionais discutidas no recurso extraordinário, serão considerados, necessariamente, os reflexos do julgamento da causa sobre a ordem jurídica, observada a existência de aspectos econômicos, políticos ou sociais que ultrapassem os interesses subjetivos deduzidos na causa.

§ 4º O reconhecimento, pelo relator, da repercussão geral das questões discutidas no recurso extraordinário é irrecorrível; a questão, todavia, pode ser levantada de ofício por qualquer ministro durante a sessão de julgamento.

§ 5º Recusado o processamento do recurso extraordinário por ausência de repercussão geral das questões constitucionais nele discutidas, operar-se-á, com a proclamação do resultado do julgamento, o trânsito em julgado da decisão recorrida.

§ 6º Vencido o relator quanto ao não conhecimento do recurso extraordinário fundado em ausência de repercussão geral das questões constitucionais discutidas, será designado novo relator para a conclusão do julgamento.

§ 7º A súmula da decisão sobre a repercussão geral, e de sua fundamentação, constará de ata, que será publicada na imprensa oficial.

§ 8º Declarada a inexistência de repercussão geral, a decisão terá eficácia em relação a todos os recursos extraordinários versando idêntica matéria, cabendo ao relator negar seguimento liminarmente, salvo revisão da tese, na forma do Regimento Interno do Supremo Tribunal Federal.

Art. 5º Quando houver multiplicidade de recursos extraordinários com fundamento em idêntica controvérsia, a análise da repercussão geral observará o seguinte:

I – caberá ao Tribunal de origem, na forma de seu regimento interno, e obedecidos critérios objetivos previamente estabelecidos pelo Supremo Tribunal Federal, selecionar um ou mais recursos representativos da controvérsia e encaminhá-los ao Supremo Tribunal Federal, sobrestando os demais até que haja pronunciamento definitivo, não podendo esse sobrestamento exceder o período de um ano.

II – recusado o processamento do recurso pelo Supremo Tribunal Federal com base na ausência de repercussão geral, os recursos sobrestados terão seu seguimento automaticamente negado na origem.

III – da decisão proferida na origem que contrariar o entendimento firmado pelo Supremo Tribunal Federal relativo à admissibilidade de recurso extraordinário em razão de sua repercussão geral, caberá agravo de instrumento, na forma da lei processual.

Art. 6º Sem prejuízo de outras reconhecidas pelo Supremo Tribunal Federal, possuem repercussão geral as causas:

I – que contenham julgamento divergente da súmula ou jurisprudência dominante do Supremo Tribunal Federal;

II – relativas à nacionalidade e aos direitos políticos;

III – que discutam direitos ou interesses difusos;

Art. 7º A demonstração da repercussão geral das questões constitucionais discutidas será feita, de plano e objetivamente, em capítulo destacado na petição de recurso extraordinário.

§ 1º Se o recurso extraordinário for admitido na origem, a repercussão geral será apreciada pelo Supremo Tribunal Federal nos autos originais do processo.

§ 2º Se o recurso extraordinário não for admitido na origem, e o recorrente agravar da decisão denegatória, deverá, em capítulo destacado na petição do agravo, demonstrar a repercussão geral das questões discutidas, caso em que um único instrumento subirá ao Supremo Tribunal Federal (art. 3º § 2º).

Art. 8º Caberá ao Supremo Tribunal Federal estabelecer, em seu Regimento Interno, as normas necessárias ao cumprimento desta lei.

Art. 9º Aplica-se esta lei aos recursos interpostos a partir do primeiro dia de sua vigência.

Art. 10. Esta lei entra em vigor três meses após a sua publicação oficial.

Anexo III – PLS 12/2006-S

O Art. 1º A Lei nº 5.869, de 11 de janeiro de 1973 – Código de Processo Civil, passa a vigorar acrescida dos seguintes arts. 543-A e 543-B:

“Art. 543-A. O Supremo Tribunal Federal, em decisão irrecorrível, não conhecerá do recurso extraordinário, quando a questão constitucional nele versada não oferecer repercussão geral, nos termos deste artigo.

§ 1º Para efeito da repercussão geral, será considerada a existência, ou não, de questões relevantes do ponto de vista econômico, político, social ou jurídico, que ultrapassem os interesses subjetivos da causa.

§ 2º O recorrente deverá demonstrar, em preliminar do recurso, para apreciação exclusiva do Supremo Tribunal Federal, a existência da repercussão geral.

§ 3º Haverá repercussão geral sempre que o recurso impugnar decisão contrária a súmula ou jurisprudência dominante do tribunal.

§ 4º Se a turma decidir pela existência da repercussão geral por, no mínimo, 4 (quatro) votos, ficará dispensada a remessa do recurso ao Plenário.

§ 5º Negada a existência da repercussão geral, a decisão valerá para todos os recursos sobre matéria idêntica, que serão indeferidos liminarmente, salvo revisão da tese, tudo nos termos do Regimento Interno do Supremo Tribunal Federal.

§ 6º O relator poderá admitir, na análise da repercussão geral, a manifestação de terceiros, subscrita por procurador habilitado, nos termos do Regimento Interno do Supremo Tribunal Federal.

§ 7º A Súmula da decisão sobre a repercussão geral constará de ata, que será publicada no Diário Oficial e valerá como acórdão.”

“Art. 543-B. Quando houver multiplicidade de recursos com fundamento em idêntica controvérsia, a análise da repercussão geral será processada nos termos do Regimento Interno do Supremo Tribunal Federal, observado o disposto neste artigo.

§ 1º Caberá ao tribunal de origem selecionar um ou mais recursos representativos da controvérsia e encaminhá-los ao Supremo Tribunal Federal, sobrestando os demais até o pronunciamento definitivo da Corte.

§ 2º Negada a existência de repercussão geral, os recursos sobrestados considerar-se-ão automaticamente não admitidos. Julgado o mérito do recurso extraordinário, os recursos sobrestados serão apreciados pelos tribunais, turmas de uniformização ou turmas recursais, que poderão declará-los prejudicados ou retratar-se. Mantida a decisão e admitido o recurso, poderá o Supremo Tribunal Federal, nos termos do Regimento Interno, cassar ou reformar, liminarmente, o acórdão contrário à orientação firmada.

§ 3º O Regimento Interno do Supremo Tribunal Federal disporá sobre as atribuições dos ministros, das turmas e de outros órgãos, na análise da repercussão geral.”

Art. 2º Caberá ao Supremo Tribunal Federal, em seu Regimento Interno, estabelecer as normas necessárias à execução desta lei.

Art. 3º Aplica-se esta lei aos recursos interpostos a partir do primeiro dia de sua vigência.

Art. 4º Esta lei entra em vigor 60 (sessenta) dias após a data de sua publicação.