

(H. B. 2958)

(No. 348)

(Approved September 2, 2000)

AN ACT

To amend Sections 38 and 95 of the Mortgage Act of 1979, for the purpose of harmonizing them with the provisions of Act No. 282, of August 21, 1999, known as the “Non-Contentious Notarial Matters Act”.

STATEMENT OF MOTIVES

The Non-Contentious Notarial Matters Act was created through the approval of Act No. 282 of August 21, 1999. The same authorizes notarial jurisdiction in contentious matters which, until now, were within the jurisdiction of the courts. This is a way to contribute toward relieving the courts from some of their work load, resulting in a more efficient use of resources in the Judiciary Branch.

The Mortgage Act of 1979, in its Section 38, establishes matters related to deeds, documents and contracts to be recorded in the Property Registry. Among them are final judicial decisions declaring the lack of legal ability to administer assets, absence, death, and any other impediment to civil legal capacity that people may have concerning the free disposal of their estate of their assets. However, for this Section 38 to harmonize with the new Non-Contentious Notarial Matters Act, it is necessary to amend it,

adding reference to notarial documents that Act No. 282, mentioned above, establishes can be performed by notaries.

Thus, the notary may establish what is pertinent for such proceedings, in a notarial deed, once the documents have been analyzed and the notary has concluded that the petition may be acted on, as provided in Act No. 282, mentioned above.

On the other hand, Section 95 of the Mortgage Act determines the inheritance rights and the hereditary succession documents that may be recorded. It establishes in particular that the hereditary succession documents, for purposes of the Registry, is the one which contains the will or the decree of intested persons entitled to succeed.

However, it is necessary to eliminate the reference to judicial decree for the notary to carry out the proceedings authorized by the Non-Contentious Notarial Matters Act.

This Legislature understands that the approval of this Act is necessary in order to clarify and prevent confusion in the construction of the Act for Non-Contested Matters before a Notary.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Subsection 7 of Section 38 of the Mortgage Act of 1979 is hereby amended to read as follows:

“7th. Final judicial decisions declaring the lack of legal ability to administer assets, absence, death, and any other impediment modifying the civil legal capacity that people may have concerning the free disposition of their assets.

8th. Notarial documents to process the matters and proceedings established in Act No. 282 of August 21, 1999, known as the “Non-Contentious Notarial Matters Act.”

Section 2.- The first paragraph of Section 95 of the Mortgage Act of 1979 is hereby amended to read as follows:

“For purposes of the Registry, the hereditary succession document, contains the will or the succession of heirs in absence of a will, be it of a judicial nature or in agreement with Act No. 282, of August 21, 1999, known as the “Non-Contentious Notarial Matters Act.”

Section 3.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 348 (H.B. 2958) of the 7th Session of the 13th Legislature of Puerto Rico:

AN ACT to amend Sections 38 and 95 of the Mortgage Act of 1979, for the purpose of harmonizing them with the provisions of Act No. 282, of August 21, 1999, known as the “Non-Contentious Notarial Matters Act”,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 2nd of February of 2005.

Luis Fusté-Lacourt
Director