

(H. B. 3836)

**(No. 234)**

(Approved September 2, 2003)

**AN ACT**

To amend subsection (e), add a new subsection (f), add a new subsection (g), and renumber subsection (f) as (h), of Section 37(a) of Act No. 55 of May 12, 1933, as amended, known as the “Banking Act of Puerto Rico,” in order to clarify the power of the Commissioner of Financial Institutions to sell and dispose of the unclaimed amounts transferred by the banks when they are securities; and to establish the term for the Commissioner to dispose of said securities.

**STATEMENT OF MOTIVES**

By virtue of the Organic Act of the Office of the Commissioner of Financial Institutions, Act No. 4 of October 11, 1985, as amended, all the functions and duties of the Secretary of the Treasury related to innumerable laws, among which is Act No. 55 of May 12, 1933, as amended, known as the “Banking Act of Puerto Rico,” were transferred to it. Section 37(a) of Act No. 55, supra, provides that “every Bank or Foreign Bank shall be bound to render a report annually ....., as of the previous June 30, to the Commissioner, which states the amounts in custody of said institutions, in excess of one dollar (\$1.00), which have been unclaimed by the depositor or the person entitled thereto, for the preceding five (5) years. The institution holding of the funds “shall turn over the same to the Commissioner, who shall transfer them to the Secretary of the Treasury to be covered into the General Fund of the Government of the Commonwealth of Puerto Rico.”

The unclaimed amounts may be delivered in cash, securities, and other negotiable instruments. When the amounts are delivered in cash, the Commissioner provides that same shall subsequently be transferred to the General Fund of the Commonwealth of Puerto Rico. However, when the amounts are delivered in securities such as stocks, bonds and mutual funds, among other instruments, neither Act No. 55, supra, nor its regulations, clearly establish the power of the Commissioner of Financial Institutions sic, holds approximately 33,800 shares in diverse companies evidenced by certificates of shares, and around \$2,440,000 in unclaimed mutual funds, which are awaiting directives for their final disposal. Said properties still remain unclaimed by their owners, for which they may devalue or increase in value, depending on market conditions. The abovementioned circumstances do not benefit the owners of the accounts, nor the Office, nor the General Fund. On the contrary, they have caused in the Office uncertainty on the handling and the disposal of said properties.

The amendment to Act No. 55, supra, clearly establishes the power of the Commissioner to dispose of the unclaimed amounts when they are shares, and sets forth guidelines for their disposal. Thus we prevent these goods from remaining in the limbo of the market fluctuations.

**BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:**

Section 1.- Section 37(a) of Act No. 55, is hereby amended to read as follows:

“Section 37(a)- Every bank or foreign bank shall be bound to render a report annually, as of June 30, to the Commissioner, and not later than the 10<sup>th</sup> of August, evidencing the amounts in the custody of said institutions, greater than one dollar (\$1.00), which have been unclaimed by the depositor or the person entitled thereto during the preceding five

(5) years, excluding:

(a) ...

(b) ...

(c) ...

(d) ...

(e) During the month of December of each year, and not later than the 10<sup>th</sup> day of said month, every bank or foreign bank that after publication of the announcement required above and attending to any claims made pursuant to law holds unclaimed amounts in its custody, regardless of their amount, shall deliver them to the Commissioner, who shall in turn transfer them to the Secretary of the Treasury to be covered into the General Fund of the Commonwealth of Puerto Rico.

No action whatsoever shall be brought against the bank or foreign bank for the recovery of amounts delivered to the Commissioner, pursuant to the provisions of this Act, or for alleged damages for such delivery.

(f) Within a term of not more than two (2) years from the date of the delivery, the Commissioner shall sell, negotiate, liquidate, redeem, exchange, endorse, or otherwise dispose of any asset, certificate or instrument that has been delivered to same, and the product shall be transferred to the Secretary of the Treasury to be covered into the General Fund of the Commonwealth of Puerto Rico.

(g) Within a term of ten (10) years from the date of delivery to the Commissioner of any unclaimed amount, any person who believes he/she is entitled to said amount, or part thereof, shall claim same from the Commissioner, who is hereby authorized to restore it to

its proper owner with interest, as set forth by regulation. Within a term of thirty (30) days from the date of the notice of the rejecting resolution of the Commissioner, the claimant may resort to the Court of First Instance, Superior Court of San Juan, to which exclusive jurisdiction is hereby conferred to hear said cases, in civil suit against the Commissioner.

- (h) Any bank or foreign bank that incurs in any violation of the provisions of this Section, shall be liable to the penalties prescribed in subsection (j) of Section 28 of this Act.”

#### Section 2.- Effectiveness

This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 234 (H.B. 3836) of the 5<sup>th</sup> Session of the 14<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend subsection (e), add a new subsection (f), add a new subsection (g), and renumber subsection (f) as (h), of Section 37(a) of Act No. 55 of May 12, 1933, as amended, known as the “Banking Act of Puerto Rico,” in order to clarify the power of the Commissioner of Financial Institutions to sell and dispose of the unclaimed amounts transferred by the banks when they are securities; and to establish the term for the Commissioner to dispose of said securities,

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

In San Juan, Puerto Rico, today 8<sup>th</sup> of October of 2004.

Elba Rosa Rodríguez-Fuentes  
Director

