

(H. B. 4454)

(No. 239)

(Approved August 9, 2008)

AN ACT

To repeal Section 77 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notary Act” and to establish a new Section 77, in order to provide the fixed nature and the rates to be charged for notary fees, and to prohibit the collection of notary fees by natural or juridical persons or by organizations not authorized to exercise the notary profession.

STATEMENT OF MOTIVES

A Notary, unlike other professionals, is both a professional of the law and by delegation, an officer of the State. This double capacity cannot be rescinded since the suppression of any of these two functions would prevent the Notaries from complying with the functions that the State and society have entrusted to them. The safeguard of legality is the backbone of the Latin notary system, which is practiced in Puerto Rico and in seventy-five (75) countries around the world, and which historically comes to our code of laws from Spain. The Puerto Rico notary receives a special delegation from the State to guarantee legal security and the authentication of public instruments, testimonies and contracts. Notaries exercise an independent activity within the frame of public office in the form of a profession subject to control and monitoring by the powers of the State with respect to the observance of norms with regard to a notary document as well as to the regulation of the rates to be charged for their services. Furthermore, notaries have a preventive function similar to that of a judge directed to the reduction

of lawsuits, in which they act as impartial advisors and guarantee social peace.

Section 77 of Act No. 75 of July 2, 1987, as amended, established the compensation to be received by notaries for their notary services and which has not been revised since that time. The rate set forth in this section is not observed in detriment of the Puerto Rico notaries thus compromising the stability and impartiality of such an important officer.

The purpose of this Act is to reaffirm a fixed compensation system for notary services as public policy so that the State is that which shall establish the rates for notary fees in order to protect the parties and the security of juridical traffic in general, as well as the necessary equality of the citizenry in accessing notary services. A system of uncontrolled prices for notary services would cause a decline in the quality of the services and would disrupt the public faith system, thus affecting the value of the notary function and of its necessary and essential impartiality in order to guarantee legal security. The existence of a rate fixed by a competent authority eliminates uncertainty in the cost of notary services and compels compliance from all the parties that intervene in the transactions as well as from the members of the notary profession. It further allows the consumer to evaluate the qualities of the notary, such as the quality of the professional service, the juridical education, the working capacity, the promptness, the diligence, the organization of the notary, and the professional and personal background, among other subjective values. The fixed rate definitely works for the benefit of the consumer who shall know, beforehand, the cost of the professional service to be received, fixed always on a fair price basis. This shall free the parties from petty discussions regarding the value of the work to be performed with those who know the time and the responsibility the

notary service shall entail, thus the importance of the notarial function is put into perspective.

Except as provided in the Act itself, it is herein established that a notary shall not reduce the notarial rate fixed so as to prevent that under an uncontrolled competition in prices and the undue pressure of institutions and persons, the notary function of safeguarding legality be compromised. The Act provides that in exceptional cases, the notary may dispense, in their totality, the fees accrued by any act or contract whose documentation he/she authorizes. It is imperative to assess, in its merits, the notarial function of providing the useful and quality service that our code of law demands. This Act shall provide stability to the practice of the notarial profession by doing justice to the notary as well as to society by safeguarding legal security in transactions.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.—Section 77 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notary Act” is hereby repealed, and a new Section 77 is hereby established:

“Section 77.—Notarial Fees – Rates.—

Notaries are hereby authorized to charge the following fees for their notarial services, fixed pursuant to the rate established in the following norms:

(1) Nonvaluable documents.—

(a) For the authorization of nonvaluable public instruments, the notarial fees shall be fixed by agreement between the parties and the notary, but it shall never be less than one hundred and fifty (150) dollars.

(b) For the authorization of testimonies, sworn statements and authentication of signatures or affidavits, the notarial fees shall be fixed by agreement between the parties and the notary.

(2) Documents concerning valuables.—

For authorization of instruments concerning valuables, the notarial fees to be received shall be in that amount which results from applying the value of the assets subject to the documented legal transaction or where a thing or amount of a determinable value is involved, in accordance to the following schedule:

(a) For the authorization of an instrument concerning valuables or where a thing or amount of a determinable value is involved, whose value does not exceed ten thousand (10,000) dollars, the notarial fees fixed by this rate shall be one hundred and fifty (150) dollars.

(b) For the authorization of an instrument concerning valuables or where a thing or amount of a determinable value is involved, whose value exceeds ten thousand (10,000) dollars, but does not exceed five hundred thousand (500,000) dollars, the notarial fees fixed by this rate shall be one percent (1%) of its value.

(c) For the authorization of an instrument concerning valuables or where a thing or amount of a determinable value is involved, whose value exceeds five hundred thousand (500,000) dollars, the notarial fees fixed by this rate shall be one percent (1%) up to said amount plus half percent ($\frac{1}{2}\%$) for the excess of said amount up to ten million (10,000,000) dollars.

(d) For the authorization of an instrument concerning valuables or where a thing or amount of a determinable value is involved, whose value exceeds ten million (10,000,000) dollars, the notarial fees fixed by this rate shall be the rate fixed in the preceding subsections (b) and (c) plus the notary fees established by agreement between the parties and the Notary for the excess over ten million (10,000,000) dollars.

(e) For the issuing of certified copies of deeds, the charges shall be based on the amount of the document, excluding costs, expenses and disbursements, in the following manner:

i) from \$0.00 to \$10,000: fifteen (15) dollars.

ii) from \$10,000 to \$500,000: twenty-five (25) dollars.

iii) from \$500,000.01 and over: fifty (50) dollars.

(3) Exceptions.—

(a) In transactions where the Puerto Rico Housing Financing Authority, the Puerto Rico Economic Development Bank, and the Government Development Bank for Puerto Rico intervene, as well as any other government agency or instrumentality, whether state, municipal or federal, be it directly or through subsidy programs, the rate shall be fixed by agreement between the institution and the notary, but it shall never be less than half of one percent ($\frac{1}{2}\%$) or two hundred and fifty (250) dollars, whichever is greater, except when the enabling act or regulations that establish the government program provide otherwise.

(4) Complementary norms.—

(a) A notary shall not charge or receive for notarial services compensation other than that established in this Act, be it through the reimbursement of fees, granting of discounts or privileges, or through any other method used to reduce the fees herein established. This prohibition does not include the rendering of services gratuitously when the notary deems and considers it necessary, provided it does not become a customary practice in business or a subterfuge to violate the purpose of this Act.

(b) When a notary is employed by a law firm, partnership or professional services corporation that renders notarial services, the obligation and responsibility established in the preceding paragraph shall fall on the employer who employs the notary at the time of rendering the notarial services.

(c) A notary who fails to comply with the norms established by the rate fixed in this Act or shares the notary fees herein fixed with natural or juridical persons who are not in compliance with the provisions of this Act shall be sanctioned by the Supreme Court of Puerto Rico by means of reprimand, fine, or temporary or permanent suspension.

(d) Any natural or juridical person, not composed of notaries, who is not authorized to exercise as a notary as provided by the Puerto Rico Notary Act that charges, receives or shares fees for notary services with a notary or instigates the same, shall be guilty of a felony in its fourth degree modality and upon conviction shall be imposed a fixed penalty of imprisonment for one (1) year, in addition to a five thousand (5,000) dollar fine. In the case that the conviction falls on a juridical person, its Certificate of Incorporation shall be cancelled by the Department of State of Puerto Rico.”

Section 2.—Effectiveness.—

This Act shall take effect immediately after its approval and shall apply to those legal acts or transactions dated after its effectiveness.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 239 (H.B. 4454) of the 7th Session of the 15th Legislature of Puerto Rico:

AN ACT to repeal Section 77 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notary Act” and to establish a new Section 77, in order to provide the fixed nature and the rates to be charged for notary fees, and to prohibit the collection of notary fees by natural or juridical persons or by organizations not authorized to exercise the notary profession,

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

In San Juan, Puerto Rico, today 15th of September of 2008.

Francisco J. Domenech
Director