

(H. B. 2683)
(Conference)

(No. 216-2010)

(Approved December 27, 2010)

AN ACT

To provide that every document presented by April 30, 2010, shall be deemed to be recorded; provide for documents exempted from the provisions of this Act; establish a term to record all documents; and for other related purposes.

STATEMENT OF MOTIVES

The Property Registry is the government body that registers and maintains a record of acts and contracts in connection with real property and the recordable rights thereof. Its main function is to make such acts and contracts publicly available. The Registry is declaratory in nature, for the rights recorded therein are granted elsewhere; however, mortgages and documents related to horizontal property become legally valid upon registration. For instance, mortgage and commercial banks lend capital for both owners and the development of housing and commercial projects, only if they are certain that their investments are secured by mortgage loans. The delay in the registration process prevents these loans from having actual guarantees, which renders access to capital and, consequently, economic development more difficult.

Contrary to other registration models or systems, the judgment on and registration of documents in Puerto Rico has a conclusive effect. Thus, recorded real property rights and contracts are valid and legal. Such presumption of correctness, which is essential for investments that further the economic development of the Island, is also affected by the existing delay in the Registry.

On the other hand, the Property Registry not only promotes economic development, but also generates high revenues for Puerto Rico. For the past twenty years, the Registry's contribution to the general fund on account of collection of fees has amounted to more than one billion dollars (\$1,000,000,000.00), whereas its expenditures have amounted to less than three hundred million dollars (\$300,000,000.00). However, despite generating about 75% in profits from collections, it annually loses and fails to collect millions of dollars in fees due to the delay in registering approximately 600,000 documents that have accumulated over the years. Various factors have caused this delay, to wit, the dramatic increase in the presentation of documents during the 1990s; the slow implementation of modern computerized systems, the complexity of the documents; and, above all, the serious disproportion between the human and fiscal resources allocated to the Property Registry and the function it carries out within our society.

The delay in the registration of documents jeopardizes the legal process regarding real property and impairs the rights of citizens since they have to wait 10 or 15 years for their deeds to be recorded. On occasion, documents cannot be registered due to defects found therein and, given the long time that has elapsed since the presentation of such documents, it is impossible to correct such defects without causing the notary or the interested party to incur additional expenses. This measure seeks to restore the confidence of consumers, notaries, and the financial sector of the Island in the correctness of the document registration process, which shall, in turn, secure the legal process and make economic development feasible. It should be noted that Notaries certify, by the authority vested on them to attest documents, the correction of documents they authorize and the legitimacy of the legal transaction executed before them.

This Administration is taking measures to eliminate delays and modernize the Property Registry, namely, the acquisition of new computer hardware and software to facilitate the document registration process; the review of the Mortgage Regulations and the Mortgage Law to adjust them to the 21st century and streamline document processing; the review of bylaws; and the creation of various task forces constituted by Registrars, to judge and record housing development projects pending registration. Nevertheless, due to the serious existing delay, it is necessary to adopt a provisional measure that allows for judgment and recording efforts to be focused on documents related to the economic development of the Island, without impairing the basic principles of mortgage law, the authority of the Registry to attest documents, or the correctness of recorded titles.

This Legislative Assembly deems it necessary to update the Property Registry due to the urgency of eliminating the negative effect that the delay in such Registry has on legal processes related to real property and the economic development of the Island.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Title.-

This Act shall be known as the “Act to Streamline the Property Registry.”

Section 2.- Documents to Which this Act Applies.-

Any document presented in the Property Registry by April 30, 2010, shall be deemed to be recorded, except for those listed below:

- (a) Documents concerning property subdivisions.
- (b) Documents concerning the assemblage of properties.
- (c) Documents concerning attachment of properties.
- (d) Documents concerning eminent domain.
- (e) Documents concerning ownership records.
- (f) Documents correcting a capacity or describing a surplus.

(g) Documents constituting a Horizontal Property Regime.

(h) Subsequent documents arising from legal transactions, as mentioned in subsections (a) through (g) of this Section, as well as documents presented after the effective date of this Act.

(i) Documents notified, expired, or under reconsideration.

Section 3.- Record or Note.-

The Presentation Day Book entry and the first page of any document recorded by virtue of this Act shall include the following note: “RECORDED in accordance with the Act to Streamline the Property Registry.”

Property Registrars shall submit a weekly report to the Office of the Administrative Director of the Property Registry that includes a list of the documents that had been identified as recorded by virtue of this Act. Such report shall include the following: entry, day book, serial number and amount of cancelled stamps, employee initials, and the signature of the Registrar in charge of supervising the process.

Section 4.- Abbreviated Record Entry; Content.-

The judgment and record of documents excluded pursuant to Section 2 above, the documents presented after the date of effectiveness of this Act and/or the issue of a Registration Certificate shall prompt the extension of a record entry of the documents recorded under this Act. Such entry shall only include the following: owner of the rights, marital status, nature of the legal transaction, and document prompting such entry. Such entry shall also indicate any existing special condition, presentation date and data, and rights recorded.

Section 5.- Recording of Excluded Documents; Term.-

Registrars shall have a non-deferrable, which shall not exceed two (2) years, from the effective date of this Act to judge all the documents that have not been recorded by virtue of this Act. Any document presented as of May 1st, 2010, shall

be judged within a non-deferrable term of 90 business days counted as of the effective date of this Act. Failure to meet the terms herein established for reasons attributable only to the conduct of the Registrar shall entail the disciplinary actions to be established through regulations.

Section 6.- Documents Presented after April 30, 2010, and Documents Exempted under this Act.-

The registration of documents presented after April 30, 2010, and documents exempted under this Act shall be preceded by a record entry that shall meet the requirements established in Section 4 of this Act.

Such preceding record or note shall be made in just one record entry as provided in the Regulations, and shall bear the signature of the Registrar.

Section 7.- Presumption of Correctness.-

Records made in accordance with this Act shall be deemed to be correct. Any error shall be corrected pursuant to Act No. 198 of August 8, 1979, as amended, known as the “Mortgage and Property Registry Act”; and the Regulations to Enforce the Mortgage and Property Act, Regulations No. 2674 of July 13, 1980, as amended, or any subsequent Regulations.

Section 8.- Fees.-

The fees included in the documents recorded in accordance with this Act shall be deemed to be correct and automatically cancelled.

Section 9.- Recovery and Destruction of Recorded Documents

Documents recorded in accordance with this Act shall be kept by the Property Registry for a period of two (2) years after the effective date of this Act, provided that a record entry has been extended, as provided in Section 4 of this Act. Once such period elapses and the record entry has been extended, the Registry

shall keep such documents for an additional period of 90 days before applying the provisions of Act No. 444 of September 22, 2004, known as the Act that provides for the destruction of documents.

Notwithstanding the foregoing, documents concerning easements and restrictive conditions related to housing developments and horizontal property regimes shall be filed in the corresponding Property Registry Unit.

Section 10.- Severability.-

If any section of this Act were ruled null by a Court with jurisdiction over the matter, all other sections thereof shall remain in effect.

Section 11.- Statute of Limitations.-

Any claim against a Notary that authorizes a document recorded by virtue of this Act due to an error caused by or arising from a registration made in accordance with this Act shall prescribe one year after the extension and signature of such record entry. This statute of limitations shall not apply to acts that are fraudulent or contrary to the Law.

Section 12.- Savings Clause.-

The provisions of this Act are provisional. They respond to special and emergency circumstances, safeguard the effectiveness of mortgage principles, and shall prevail over any other conflicting law or regulation.

Section 13.- Rulemaking Authority.-

The Secretary of Justice shall have a term of forty (40) days after the approval of this Act to adopt regulations for the implementation thereof.

Section 14.- Effectiveness

This Act shall take effect forty-five (45) days after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 216-2010 (H. B. 2683) (Conference)** of the **4th Session of the 16th Legislature** of Puerto Rico:

AN ACT to provide that every document presented by April 30, 2010, shall be deemed to be recorded; provide for documents exempted from the provisions of this Act; establish a term to record all documents; and for other related purposes.

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

In San Juan, Puerto Rico, on the 6th day of May, 2013.

Juan Luis Martínez Martínez
Acting Director