

(H. B. 327)

**(No. 7)**

(Approved May 2, 2005)

**AN ACT**

To amend Sections 1 and 2 of Act No. 7 of July 24, 1952, as amended, to include the Secretaries of Health, Economic Development and Commerce, and Agriculture in the order of succession in the case of a permanent vacancy in the office of Governor or in an acting administration in the case of a temporary absence; to establish that to hold the office of Governor in the specific case of a permanent vacancy those secretaries who meet the constitutional requirements of age and residence, and who are officially holding office, and whose appointment have been confirmed shall only be eligible following the order of succession; and to provide that to exercise of the functions of acting Governor, compliance with the constitutional provisions of age and residence or confirmation shall not be mandatory; and to specify exceptions and especial cases.

**STATEMENT OF MOTIVES**

Our Constitution sets forth that when an absolute vacancy occurs in the office of Governor, the Secretary of State shall succeed him/her in office, and that if said vacancies occur simultaneously, the office shall correspond to other members of the cabinet as provided by law. Act No. 7 of July 24, 1952, as amended, sets forth the officials who shall hold office in the case of a vacancy, which does not coincide with the number of Secretaries with constitutional rank. It likewise provides the order for the holding of office as acting official.

The Constitution establishes the Departments of State, Justice, and Treasury; Public Education, now Education, Labor, Health, Public Works,

now Transportation and Public Works, and Agriculture and Commerce, which the Constitution itself provided that it would be eventually divided and the last of which is currently known as Economic Development and Commerce. Since these departments created by the Constitution maintain a continuity that applies to changing administrations, it is convenient to have their chief executives in the order of succession, until the People of Puerto Rico establish an alternate method of succession.

In that sense, since our Constitution maintains the order of succession among officials of trust of the First Executive, the fact that all these officials are appointed with the advice and consent of the Senate, and in the case of the Secretary of State also of the House of Representatives, keeps the element of the participation of the people in the process. It is reasonable to conclude that this succession should correspond to those officials who officially hold their office, have been duly confirmed by the Legislature, and meet the constitutional requirements of age and residence. Only in cases where none of the Secretaries meet the above mentioned requirements the order of succession shall be initiated, thus waiving such requirements; with the exception of the provisions of Article IV of Section 9 of the Constitution of the Commonwealth of Puerto Rico.

Likewise, Article IV of Section 3 of the Constitution sets forth a series of requirements to be met by the Governor with regard to age, citizenship, and domicile. It is hereby categorically decreed that the Secretary of State, whose main function is to serve as vice-governor, shall meet the same. By extension, it is reasonable to expect that the official who shall become Governor permanently also meets the same requirements. On the other hand, these requirements shall not be imperative to carry out functions as acting official, which means for a few days and which generally results in the

postponement of making of highly important decisions. In fact, this situation has occurred more than once without it causing any conflicts in the operations of the government.

Although the possibility of facing these situations is not imminent and we rather not resort to them, it is prudent to consign by law, the correct way to handle the same, as well as to clarify and update the language of the statute in effect.

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

Section 1.- Section 1 of Act No. 7 of July 24, 1952, as amended, is hereby amended to read as follows:

“Section 1.- When a vacancy occurs in the office of Governor of the Commonwealth of Puerto Rico due to death, resignation, destitution, total or permanent disability, or any other absolute reason, said office shall be passed on to the Secretary of State, who shall discharge it for the remainder of the term and until a new governor is elected and takes office. If the offices of Governor and Secretary of State are both vacant simultaneously, the order of succession shall be the following:

- (1) Secretary of Justice
- (2) Secretary of the Treasury
- (3) Secretary of Education
- (4) Secretary of Labor and Human Resources
- (5) Secretary of Transportation and Public Works
- (6) Secretary of Economic Development and Commerce
- (7) Secretary of Health
- (8) Secretary of Agriculture

In order to permanently discharge the office of Governor, a Secretary shall officially hold his/her position, and his/her appointment must have

been confirmed; except in the case of the Secretary of State, unless as otherwise provided by Article IV Section 9 of the Constitution of the Commonwealth of Puerto Rico. He/she shall also meet the requirements of age, citizenship and residence provided for the Governor by Article IV of the Constitution of the Commonwealth of Puerto Rico, in its defect the succession shall correspond to the following official in the succession order who thus meet them. Only in the case that none of the Secretaries meets the constitutional requirements and/or meets the requirement of being confirmed, the succession order shall be initiated, thus waiving the requirements set forth in this Section, except when Article VI Section 9 of the Constitution of the Commonwealth of Puerto Rico applies. Until the new Governor has appointed and confirmed a new Secretary of State, he/she shall ensure that no vacancies in the succession order arise.”

Section 2.- Section 2 of Act No. 7 of July 24, 1952, as amended is hereby amended to read as follows:

“Section 2.- When for any cause which originates absence of temporary character, the Governor is temporarily unable to perform his/her functions, he/she shall be substituted, for the duration of the absence, by the Secretary of State. If for any reason, the Secretary of State is unable to discharge the office, the order set forth in the previous section shall be followed. Provided, that in order to discharge the functions of acting Governor, it shall neither be necessary to meet the constitutional requirement of age and residence nor that of the confirmation of the Secretary to succeed him/her.

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. 7 (H.B. 327) of the 1<sup>st</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend Sections 1 and 2 of Act No. 7 of July 24, 1952, as amended, to include the Secretaries of Health, Economic Development and Commerce, and Agriculture in the order of succession in the case of a permanent vacancy in the office of Governor or in an acting administration in the case of a temporary absence; to establish that to hold the office of Governor in the specific case of a permanent vacancy those secretaries who meet the constitutional requirements of age and residence, and who are officially holding office, and whose appointment have been confirmed shall only be eligible following the order of succession; etc.,

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

In San Juan, Puerto Rico, today 20<sup>th</sup> of January of 2006.

Francisco J. Domenech  
Director