

(S.B. 64)

(No. 80)

(Approved August 26, 2005)

AN ACT

To amend Sections 24 and 28 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notarial Act,” in order to provide that the unity of action and the signatures of all those who appear before the notary on the same natural day of the execution, in addition to those cases in which it is required by law, shall be indispensable only in those cases in which those witnesses attesting to the execution of a public instrument appear.

STATEMENT OF MOTIVES

Section 24 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notarial Act,” provides that there shall be unity of action, in addition to those cases in which the same is required by law, when witnesses appear at the execution of a public instrument, to which the notary, under his/her authority shall certify in the deed.

However, according to Rule 35 of the “Puerto Rico Notarial Regulations,” promulgated by the Supreme Court of Puerto Rico, the unity of action to which the aforementioned Section 24 refers is indispensable only in the execution of public instruments to which attesting witnesses appear, in which case the notary shall attest to said fact in the deed executed. Likewise, Rule 36 of the aforementioned Regulations provides that when the execution only requires the presence of witnesses with personal knowledge, the unity of action shall not be needed.

Furthermore, Section 28 of Act No. 75, *supra*, provides that in the execution of a public instrument if there are no witnesses, the notary may receive the signatures of those appearing within the same calendar day of the execution. However, it is not made clear that when attesting witnesses appear, the unity of action is necessary in the execution. *In re Torres Olmeda*, 145 D.P.R. 384 (1998).

The Legislature of Puerto Rico, for the purpose of harmonizing the provisions of the “Puerto Rico Notarial Act,” with those of the “Puerto Rico Notarial Regulations,” on the unity of action required and the signature of all those appearing before the Notary, when attesting witnesses appear at the execution of a public instrument, believes it prudent and necessary to amend Sections 24 and 28 of the aforementioned Act.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.-Section 24 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notarial Act,” is hereby amended to read as follows:

“Section 24.-Unity of action.

When attesting witnesses appear at an execution, unity of action shall be indispensable, to which the notary shall attest to in the deed. Provided, that when the execution only requires the presence of a witness with personal knowledge, who at the same time is not an attesting witness, said unity of action shall not be necessary. However, at the act of signing, there shall coincide before the notary, the witness with personal knowledge and the party making an appearance that the witness knows and identifies for the notary, who shall so attest to in the deed.”

Section 2.-Section 28 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notarial Act,” is hereby amended to read as follows:

“Section 28.-Signatures.

Those persons who sign a public instrument on any account, shall do so by signing at the end and affixing the initials of their name and surname or surnames in the margin of all folios, in the manner they usually do and the notary shall do so after them, flourishing, signing and sealing it.

If there are no attesting witnesses, it shall not be necessary for those appearing to sign the document together in the presence of the notary, but he/she may personally receive their signatures at any time within the same calendar day of the execution, pursuant to the provisions of Section 24 of this 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. 80 (S.B. 15) of the 1st Session of the 15th Legislature of Puerto Rico:

AN ACT to amend Sections 24 and 28 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notarial Act,” in order to provide that the unity of action and the signatures of all those who appear before the notary on the same natural day of the execution, in addition to those cases in which it is required by law, shall be indispensable only in those cases in which those witnesses attesting to the execution of a public instrument appear,

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

In San Juan, Puerto Rico, today 20th of January of 2006.

Francisco J. Domenech
Director