

(H. B. 2390)

**(No. 175)**

(Approved August 30, 2006)

**AN ACT**

To amend Section 2.004 of Act No. 4 of December 20, 1977, as amended, known as the “Puerto Rico Electoral Act,” to provide that persons who are permanent residents of homes for the elderly, retirement centers, or assisted living facilities may claim said residence as an electoral domicile, if they meet the requirements of domicile.

**STATEMENT OF MOTIVES**

In order to define the exercise of certain rights, the legal system of Puerto Rico recognizes the concepts of residence and domicile as elements that are related yet distinct. A person can own many residences, but has only one domicile, which is where the person, in addition to having established a residence around which his main personal and family activities take place has expressed his/her intention of remaining in such place. The person must maintain an access to the residence in which he bases his claim of domicile and live therein with reasonable frequency. In Puerto Rico, given its geographical extension, population density, distribution of work and study centers, and housing it is common for a person to carry out a great part of his/her personal, family and professional activities in places other than the one that constitutes his domicile. For purposes of Act No. 4 of December 20, 1977, as amended, known as the “Puerto Rico Electoral Act,” domicile determines the precinct in which the elector may exercise his/her right to vote.

In the present day, Puerto Rico demographic changes entail the ever-growing phenomenon of elderly persons or persons with special needs who establish their residence in special facilities, such as homes for the elderly, retirement centers or assisted living facilities. These are not persons who are ill and admitted into a hospital institution, but rather persons who have chosen to live in a community environment in which certain services are available to them on a permanent basis. If, for example, a survey was to be made of the number of residents of Casa del Veterano in Juana Díaz, it would be reveal that many of them have sold their residence and intend to remain in said community definitely.

When the primary residence of a person in those circumstances is not recognized as his domicile, it is possible that the burdensome requirement of transferring to the precinct in which he/she resided prior to the move could be imposed. Given that among the conditions for the recognition of domicile are the presence of the family group and income tax returns, the persons could also be forced to transfer to the location of a relative who, due to being his source of support, claims him as a dependant. Through this amendment, the electoral domicile of persons who have decided to move permanently into an assisted living facility is recognized.

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

Section 1.- Section 2.004 of Act No. 4 of December 20, 1977, as amended, is hereby amended to read as follows:

“Section 2.004.- Electoral Domicile

Every elector must vote in the precinct in which he has established his domicile. For electoral purposes, there can be but one domicile and the same is constituted in that precinct in which the elector has established a residence

around which his personal and family activities take place and has, further, manifested his intention of remaining there.

An elector cannot lose his domicile because he has one or more residences available which are used for work or study engagements, or for personal and family activities. Nevertheless, the elector must maintain an access to the residence on which he bases his claim as his domicile, and live in it with reasonable frequency. A person who lives in a home for the elderly, retirement center, assisted living community or a similar facility for pensioners, veterans or persons with special needs may claim said residence as an electoral domicile, if it meets the condition that his main personal activities take place around it, he has expressed his intention of remaining there, and he maintains an access and lives therein with reasonable frequency.

An elector cannot claim that he has established his domicile in a summer or vacation house. For the purposes of this Act, a summer or vacation house is one of occasional use, devoted primarily to such purposes by a person who has another residence which constitutes the main center of personal, family and work activities.

A person who is in Puerto Rico rendering military service, studying or working temporarily does not, by this fact, acquire electoral domicile in Puerto Rico. He could, however, acquire said domicile if he establishes a residence with his family and manifests his intention of remaining in Puerto Rico.

The intention of remaining, as established in this Section, shall be determined on the basis of factors such as the involvement of an elector in the community, the presence of his immediate family in the residence around which his personal activities revolve, income tax returns and other similar

factors. Nevertheless, in the case of electors residing in homes for the elderly, retirement centers or assisted living facilities for pensioners, veterans and persons with special needs, the presence of relatives in or near the residence and any claim of him as a dependant by other family members for tax or social benefit purposes shall not be determinant factors as long as the elector is competent for manifesting his decision.”

Section 2.- This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 175 (H.B. 2390) of the 4<sup>th</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend Section 2.004 of Act No. 4 of December 20, 1977, as amended, known as the “Puerto Rico Electoral Act,” to provide that persons who are permanent residents of homes for the elderly, retirement centers, or assisted living facilities may claim said residence as an electoral domicile, if they meet the requirements of domicile,

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

In San Juan, Puerto Rico, today 30<sup>th</sup> of March of 2007.

Francisco J. Domenech  
Director