

(H.B. 2226)

(No. 208)

(Approved September 27, 2006)

AN ACT

To amend subsection (d) of Section 15 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notarial Act,” in order to eliminate as a requirement as to the contents of a public deed, that the Social Security Number of the executors must be included therein.

STATEMENT OF MOTIVES

This past year, over 9.3 million consumers within United States jurisdictions suffered damages because of the identification theft phenomenon. This modality of fraud whereby the personal information of another, obtained legally or illegally, or through intentional action or negligence, is used to obtain through any means, goods or services, accede to rights or privileges, incur obligations or make compromising representations or expressions in the name of the prejudiced person, has seen a rapid increase with regard to recent technological changes.

One insidious modality of this practice involves the configuration of schemes whereby its participants, armed with partial information about a citizen, approach agencies that collect information with the excuse of being conducting legitimate transactions and so obtain additional information about a consumer.

One of the pieces of information which is most vulnerable to undue use is the Social Security Number of a citizen. This piece of information is frequently used in ways that were not foreseen when said program was created. The origin and purpose of the Social Security Number was to serve as a taxpayer's account number designed to be used for conducting transactions by the Social Security itself, for tax transactions and for transactions involving labor benefits and was never designed to be a universal identification number nor the identity card number of a citizen. However, that number is frequently used for verifying the identity of a person, precisely because it allows for making reference to taxpayer lists or payrolls.

The Federal Laws authorize certain specific uses of the Social Security Number by local and state agencies and entities. It is mainly permitted and in certain cases ordered to obtain the Social Security Number for the purpose of verifying the identity of a person in the following cases:

- Birth and death certificates
- Applications for any economic or social assistance programs
- Professional or business licenses
- All types of government contracts
- Obviously, all employment contracts and every tax transaction
- Registration of vehicles (involves the payment of excise taxes)
- Driver's licenses
- Jury lists
- Court cases
- Divorce decrees, child support, heirs
- Blood donors (in public facilities)

To allow requiring the Social Security Number for the purpose of verifying the identity of a person does not however mean that there is an obligation or the freedom to use the same as a public identification, employee, case or registration number.

The Social Security Administration, the Federal Trade Commission and other government and industrial entities recommend that those companies or agencies that use or obtain Social Security Numbers refrain from displaying said number so as to be in casual view of the public and maintain the same as confidential data for internal use as reference taking information security measures at all times.

Section 15 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notarial Act,” establishes the general requirements regarding the contents of public deeds. Subsection (d) of the aforementioned Section specifically establishes the circumstances that must be consigned in a public document in relation to the executors. The same provides that public deeds must bear “the name and surname or surnames, as the case may be, age or legal age, civil status, profession and residence of the executors, their Social Security Number, if they have one, name and circumstances of the witnesses, if any, according to their statements.”

The obligation of including the Social Security Number in public documents authorized by the Notaries constitutes a requirement of form demanded in the Notarial Act. However, it is not necessary for this to be part of what becomes a public document which also contains additional data such as the profession, civil status and residence of the citizen. The notary may make use of the document identification number at his/her reach to conduct the verification transaction without needing to turn the Social Security Number into public information.

To excessively use this number as universal identification not only exposes the citizen to identity theft, but has also the potential for devaluating its usefulness for legitimate uses. If everybody knows the Social Security Number of a person, to offer the same proves nothing. In considering this reality, it is necessary to legislate to ensure that the uses that shall be given to the Social Security Number in cases under the jurisdiction of Puerto Rico do not breach the security of such information.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.-Subsection (d) of Section 15 of Act No. 75 of July 2, 1987, as amended, is hereby amended to read as follows:

“Section 15.-Public documents – Formal requirements; cognizance; legal warnings.

The expository and dispositive part of the public deed, together with the legal transaction which motivates its execution, its antecedents and the facts witnessed and consigned by the notary shall contain the following:

(a) ...

(b) ...

(c) ...

(d) The name and surname or surnames, as the case may be, age or legal age, civil status, profession and residence of the executors and the name and circumstances of the witnesses, if any, according to their statements. In the event any of these executors is married and the appearance of the spouse is not necessary, the name and surname of the spouse shall be stated even though the latter does not appear at the execution.

(e) ...

(f) ...

(g)”

Section 2.-None of the provisions of this Act shall have the effect of imposing on Notaries or Property Registrars the amendment of documents in effect issued or copies thereof made prior to their approval.

Section 3.-Effectiveness

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 208 (H.B. 2226) of the 4th Session of the 15th Legislature of Puerto Rico:

AN ACT to amend subsection (d) of Section 15 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notarial Act,” in order to eliminate as a requirement as to the contents of a public deed, that the Social Security Number of the executors must be included therein,

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

In San Juan, Puerto Rico, today 15th of November of 2006.

Francisco J. Domenech
Director