

(S.B. 1534)

(No. 268)

(Approved December 14, 2006)

## **AN ACT**

To amend Section 12 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notarial Act,” in order to clarify that the fact that a notary has ceased to practice as such shall not be a valid excuse for failing to comply with the monthly indices of his/her notarial activities, except that he/she has submitted his/her resignation to the notarial practice and the same has been accepted by the Supreme Court of Puerto Rico.

## **STATEMENT OF MOTIVES**

The notary is the legal professional who practices a public function. It is so defined in the Act as well as in the Notarial Regulations. The Notarial Act establishes strict compliance requirements that the notary must meet, since his/her primary duty is with the law above all. See, *In Re Bringas Rechani*, 128 DPR 132 (1991.)

One of these duties of strict compliance is to submit a monthly index of his/her notarial activities. In this sense, Section 12 of the Notarial Act clarifies that these indices must be remitted to the Office of the Director of Notarial Inspection of Puerto Rico (ODIN, Spanish acronym) not later than the tenth calendar day of the month reported. Furthermore, the Act requires that even though a notary has not had any notarial activity during a particular month, he/she must submit a negative report for said month to ODIN.

However, the Act does not clarify what happens in the event a notary has ceased to practice law and as a notary, in order to engage in other tasks.

Therefore, the question of whether the notary must continue to submit negative monthly reports arises. The Supreme Court of Puerto Rico faced this situation and in the *In Re Hernández-Ramírez*, 120 D.P.R. 366 (1988), the same clarified that it did not waive their responsibility and that the fact that the notary had ceased to practice law to engage in other tasks was not a valid excuse for failing to comply with the provisions of the Notarial Act.

For all the above, through this Act, this Legislature shall take the above into consideration in order to adjust the jurisprudential reality to the statutory reality and amend Section 12 of the Puerto Rico Notarial Act for such purposes.

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

Section 1.- Section 12 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 2.- Duties of the Notary – Monthly Indices

The notaries shall submit a monthly index of their notarial activities not later than the tenth calendar day of the month following the month reported to the Office of the Director of Notarial Inspection of Puerto Rico that will state with respect to the original deeds and affidavits authorized by them during the preceding month, the order numbers thereof, the name of those appearing, the date, the subject of the instrument or testimony and the name of the witnesses, if any appeared.

In said report the notary shall certify to having sent the tax returns to the Department of the Treasury as required pursuant to Section 11 of this Act.

If the notary has not had any notarial activity during a particular month, he/she shall submit a negative report for said month to the Inspector of

Notaries. Provided, that the fact that the notary has ceased to practice as a notary shall not be a valid excuse for failing to comply with the filing of the monthly index on his/her notarial activity. The above shall not apply if the notary has submitted his/her resignation to the Supreme Court of Puerto Rico through the Office of the Inspector of Notaries and his/her notarial work has been inspected, approved and deposited in the corresponding notarial records and the notary has relinquished his/her notary seal.

The monthly index on the notarial activity shall include the name of the notary, physical address, and telephone number of the notarial office. If the notary is a public employee, said index shall contain the name and address of the public agency in which he/she works.”

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. 268 (S.B. 1534) of the 4<sup>th</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend Section 12 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notarial Act,” in order to clarify that the fact that a notary has ceased to practice as such shall not be a valid excuse for failing to comply with the monthly indices of his/her notarial activities, except that he/she has submitted his/her resignation to the notarial practice and the same has been accepted by the Supreme Court of Puerto Rico,

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

In San Juan, Puerto Rico, today 31<sup>st</sup> of July of 2007.

Francisco J. Domenech  
Director