

(H.B. 3012)

(No. 283)

(Approved December 22, 2006)

## **AN ACT**

To amend Section 27 of Act No. 55 of May 12, 1933, as amended, known as the “Puerto Rico Banking Law,” in order to clarify the process for determining when a loan must be acknowledged as a loss in the bank books.

### **STATEMENT OF MOTIVES**

The purpose of the present amendment is to clarify the process for determining when a loan must be acknowledged as a loss and adjust the same to the trends in modern banking rules in order to establish consistency between generally accepted accounting norms and the accounting norms established by the banking regulatory agencies, making unnecessary the exception provided in Section 27 of the Puerto Rico Banking Law relative to mortgage loans. Thus we shall adjust and give coherence to our body of laws.

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

Section 1.-Section 27 of Act No. 55 of May 12, 1933, as amended, known as the “Puerto Rico Banking Law,” is hereby amended to read as follows:

“Section 27.-Annual balance

Each year, on the date fixed by its bylaws, each bank shall prepare a general balance of its operations, which shall be submitted to a regular general meeting of the stockholders, together with a report thereon. The

directors shall make all such explanations as may be asked for by the stockholders regarding the aforesaid balance and operations of the bank for the year to which the same refers.

Net profits shown by the balance shall be apportioned as provided in the bylaws, but at least ten percent (10%) of such profits shall be devoted annually to the creation of a reserve fund, such apportionment of profits to continue until the reserve fund shall be equal to the total of the capital paid in common and preferred stock.

Unpaid interest shall not be included in the computation of profits where the principal obligation is more than three (3) months overdue. Interest unpaid on mortgage loans due for a period not exceeding one (1) year for which adequate security is held, may be regarded as income when computing profits; provided, however, that on all statements of the bank it shall be set forth that such interest has not been actually paid. Expenses shall include all those incurred, whether ordinary or extraordinary, in the management of the affairs of the bank, interest paid and interest due by it, and all losses sustained in the business. For the purpose of the computation of profits, all debts owing to the bank and one (1) year overdue, and upon which no interest has been paid during that time, shall also be included in losses, unless well secured and in process of collection in court, in which case they may be retained in the books for up to the amount of the fair value of the security. Provided, that the loans in liquidation may also be retained in the books.

Prior to submitting the annual general balance to the stockholders there shall also be charged against the undistributed profits, reserve fund or capital account in paid-in stock, any loan or part of loan, assets or part of assets; there shall be reflected the segregation of any portion of future benefits; and

there shall be created the asset valuation reserves as may have been directed by the Commissioner according to Section 28 of this Act, or as determined by the board of directors of the bank.

When the expenses of a bank are greater than the income, the excess of the former over the latter shall be charged to the bank profits to be distributed. The balance, if any, shall be charged to the reserve fund as a reduction of the same.

If the reserve fund is not sufficient to totally or partially cover said balance, the outstanding amount shall be charged to the capital account and no dividends shall be declared until the capital again reaches its original amount and the reserve fund reaches twenty percent (20%) of the original capital.

A copy of the annual balance referred to in this Section shall be forwarded to the Commissioner after being presented to the general stockholders board. Said annual balance shall be duly authorized by the president or by any other bank officer and certified by at least three (3) members of the board of directors, declaring under oath that said balance is true and correct in all its parts. The annual balance shall be sent to the Commissioner together with a report within the ten (10) days following the date on which the stockholders board meeting was held for its presentation; Provided, that foreign banks shall present the aforementioned copies of the annual balance and report in the manner below provided.”

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

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 283 (H.B. 3012) of the 4<sup>th</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend Section 27 of Act No. 55 of May 12, 1933, as amended, known as the “Puerto Rico Banking Law,” in order to clarify the process for determining when a loan must be acknowledged as a loss in the bank books,

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

In San Juan, Puerto Rico, today 28<sup>th</sup> of September of 2007.

Francisco J. Domenech  
Director