

(S. B. 2263)

**(No. 170)**

(Approved August 6, 2008)

## **AN ACT**

To amend Section 37a of Act No. 55 of May 12, 1933, as amended, known as “Puerto Rico Banking Law,” in order to clarify that the publication of the “Notice Concerning Unclaimed Amounts in Custody of ...” by every bank authorized to do business in Puerto Rico shall be made in a newspaper of general circulation, which is published at least six days a week, to require the banks to publish said notice in their web site; and for other purposes.

### **STATEMENT OF MOTIVES**

Section 37a of Act No. 55 of May 12, 1933, as amended, known as “Puerto Rico Banking Law,” establishes, in general terms, that all banks or foreign banks doing business in Puerto Rico shall be bound to render an annual report as to June 30 of the same year to the Commissioner of Financial Institutions not later than the 10<sup>th</sup> of August of each year, stating the amounts in the custody of said banking institutions, greater than one dollar and that have been unclaimed by the depositor or the person entitled thereto during the preceding five years.

Act No. 55, *supra*, also establishes that every bank or foreign bank doing business in Puerto Rico, which is bound to render the report required by the referred to statute, shall have the obligation to annually publish a notice under the title of “Notice Concerning Unclaimed Amounts in Custody of ...”, once every August and September of each year in a newspaper of general circulation.

The aforementioned notice shall state, in alphabetical order, the names of the persons who, according to the last report rendered, are entitled to claim amounts totaling one hundred dollars or more; the last known address of each of said persons; and the respective amounts to which they are entitled.

During the following October, and not later than the 10<sup>th</sup> day of said month, the bank or foreign bank shall file with the Commissioner a certificate of the publication of said notice. A copy of the notice or the report on unclaimed amounts shall be displayed for review by any interested person in a conspicuous and accessible place at every branch of the bank in question from the date of publication of the notice to November 30<sup>th</sup> of each year.

Finally, the cited legislation sets forth that the expenses incurred in said publication shall be defrayed by the bank or foreign bank and charged to the accounts contained in such notice, deducting the amount of said expenses from the total sum thereof.

One of the most important aspects for the citizens in a democratic system is the right to be duly informed about all issues that could affect their life and patrimony. Both traditional and modern communications media enable our citizens to be duly informed. More modern media, such as the Internet, promote almost instant information broadcasting to our people.

For the purpose of complying with the requirement of providing the most extensive broadcasting possible to the annual publication of the “Notice Concerning Unclaimed Amounts in Custody of ...” during August and September issued by the banks of Puerto Rico, this Legislature deems it prudent to amend Act No. 55, *supra*, in order to clarify that the publication of said notice shall be made in a newspaper of general circulation, which is published at least six days a week in Puerto Rico. At the same time,

Act No. 55, *supra*, is hereby amended to require that every bank publish said notice over its website.

This legislative measure seeks to provide citizens who may be entitled to claim from any banking institution authorized to do business in Puerto Rico, any amounts in its custody unclaimed by the persons entitled to do so, with additional tools that would allow them to be duly notified of said situation. This is particularly important, since any unclaimed amounts in the custody of a bank or a foreign bank authorized to do business in Puerto Rico, that were included in said notice, shall be forwarded to the Commissioner of Financial Institutions, who would transfer them to the Secretary of the Treasury to be covered into the General Fund of the Government of Puerto Rico.

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

Section 1. – Section 37a of Act No. 55 of May 12, 1933, as amended, is hereby amended to read as follows:

“Section 37a - Unclaimed Accounts, Annual Reports

Every bank or foreign bank shall be bound to render an annual report as to June 30, to the Commissioner, and not later than the 10<sup>th</sup> day of August, stating the amounts in the custody of said institutions of over one dollar (\$1.00), which have been unclaimed by the depositor or the person entitled thereto during the preceding five (5) years, except:

(a) Amounts owed to a depositor which have been reduced by withdrawals or increased by deposits, except for credits for interest, within said five (5)-year period; or

(b) Amounts represented by passbooks in possession of the depositors, presented for credit entries for interest within said five (5)-year period; or

(c) Amounts with regard to which the bank or foreign bank has written evidence, received within the previous five (5) years, that the person entitled to such amounts has knowledge thereof. Said report shall state the name and the amount owed to each depositor or rightful owner, as they appear in the records of the bank or foreign bank, the last known address of said depositor or rightful owner, and the date of the last transaction in connection with the respective amounts. All names appearing in said report shall be listed in alphabetical order.

In the event that a bank or foreign bank, as to the date mentioned in the first paragraph of this section, does not have any unclaimed amounts in its custody as established above, said bank or foreign bank shall, within the prescribed term, render a report to the Commissioner setting forth this fact.

(d) Any bank or foreign bank bound to submit the report required by the first paragraph of this section, shall publish an annual notice, once during each of the months of August and September, in a newspaper of general circulation, which is published at least six days a week, under the title 'Notice Concerning Unclaimed Amounts in Custody of ...' The notice shall be published as a general list in alphabetical order. In addition, beginning on January 1<sup>st</sup>, 2004, every bank shall publish the information so required in its webpage, and as of January 1<sup>st</sup>, 2005, the Office of the Commissioner of Financial Institutions shall require every institution to submit said information electronically, so that the webpage of said office may contain a global list through which any citizen may verify alphabetically the existence of any unclaimed amount in any financial institution in Puerto Rico. In the event that the names are of natural persons, they shall be in alphabetical order, starting with the last names.

Such a notice shall contain a global list, in alphabetical order, of the names of the persons who, according to the last report rendered, are entitled to claim amounts totaling one hundred (100) dollars or more; the city of the last known address of each of said persons, the respective amounts to which they are entitled, and a website (World Wide Web) in which a copy of said notice may be accessed. During the following month of October, and not later than the tenth (10<sup>th</sup>) day of said month, the bank or foreign bank shall file with the Commissioner a certification of the publication of said notice. A copy of the notice or report on unclaimed amounts shall be displayed for review by any person interested in a conspicuous and accessible place at each branch of the bank in question from the date of publication of the notice to November 30<sup>th</sup> of each year. Likewise, a copy of said notice or report on unclaimed amounts shall be published by the bank or foreign bank in the corresponding website.

The expenses incurred in relation to the publication required by this section shall be defrayed by the bank or foreign bank and charged to the accounts contained in said notice, deducting the amount of said expenses from the total sum. This shall be the only item that may be charged to the unclaimed amounts. It shall be illegal for a bank or foreign bank to impose fees for services on inactive savings accounts or to otherwise eliminate them from the books.

e) ...

f) ...

g) ...

h) ...”

Section 2. - Should any part of this Act be declared null by a court with competent jurisdiction, such ruling shall not affect or invalidate the remaining provisions of this Act and its effect shall be limited to the part subject to said court ruling.

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. 170 (S. B. 2263) of the 7<sup>th</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend Section 37a of Act No. 55 of May 12, 1933, as amended, known as “Puerto Rico Banking Law,” in order to clarify that the publication of the “Notice Concerning Unclaimed Amounts in Custody of ...” by every bank authorized to do business in Puerto Rico shall be made in a newspaper of general circulation, which is published at least six days a week, to require the banks to publish said notice in their web site; and for other purposes.

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

In San Juan, Puerto Rico, today 15<sup>th</sup> of September of 2009.

Solange I. De Lahongrais, Esq.  
Director