

**REAL ESTATE AND COMMERCIAL FINANCE ALERT**

**August 27, 2008**

**Governor Signs Bill Establishing Fixed Fees for Notarial Services**

The Governor signed into law House Bill 4454, Act No. 239 of August 9, 2008 which amends Article 77 of the Notarial Act of Puerto Rico. Article 77 fixes the Notary fees that are payable in connection with the execution of deeds. In particular, Article 77 requires that notaries charge, subject to certain exceptions, the following fees with respect to deeds:

AMOUNT	NOTARIAL TARIFF
\$0 up to \$10,000	\$150
>\$10,000 up to \$500,000	1%
>\$500,000 up to \$10,000,000	(1% of \$500,000) + (½% for the excess up to \$10,000,000)
>\$10,000,000	(1% of \$500,000) + (½% for the excess up to \$10,000,000) + (agreement between the parties and the notary for the excess of \$10,000,000)

Article 77 provides that the parties are free to negotiate notary fees for instruments that do not have a specified amount provided that they cannot be less than \$150.

Notary fees for certified copies are set as follows:

- deeds without a specified amount: \$15.00
- deeds having a specified amount up to \$10,000.00: \$15.00
- deeds with a specified amount in excess of \$10,000.00 up to \$500,000.00: \$25.00.
- deeds with a specified amount in excess of \$500,000.00: \$50.00.

The following are exceptions to the fixed rates stated above: (i) in transactions involving any governmental agency or instrumentality (state, municipal or federal), the notary fees will be established by agreement between the parties but cannot be less than ½% of the amount of the transaction or two hundred and fifty dollars (\$250), whichever is free of change, unless the organic act or regulation that establishes the governmental program provides otherwise; and (ii) the notary can perform free notarial services whenever he/she deems it necessary and as long as it is not part of a common practice or a subterfuge to violate the provisions of Article 77.

Furthermore, Article 77 provides that notaries are prohibited from charging a lower rate for their services by means of reimbursements, discounts or any other privileges.

Article 77 provides that a notary who violates its provisions is subject to reprimand, fine, temporary or permanent suspension by the Supreme Court of Puerto Rico. In addition, any person or entity which violates its provisions may be charged with a felony and may be subject to one year in jail plus a fine of five thousand dollars (\$5,000). Also, in the case of an entity, its Certificate of Incorporation may be cancelled at the State Department.

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If you have any questions or comments, or wish additional information regarding this matter, please contact any of the attorneys listed below, members of our Real Estate and Commercial Finance Practice Group.

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