

Newsletter

Real Estate, Infrastructure and Hospitality

Decree amending and adding several provisions to the Notary Law of the State of Nuevo León, the Civil Code for the State of Nuevo León and the Law of the Registry and Cadastral Institute of the State of Nuevo León

On January 24, 2024, the Government of the State of Nuevo Leon issued the decree by which several provisions of the Notary Law of the State of Nuevo Leon, the Civil Code for the State of Nuevo Leon and the Law of the Registry and Cadastral Institute of the State of Nuevo Leon were amended and added.

Among said amendments and additions, the following are highlighted:

Notary Law of the State of Nuevo León

Article 84...

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(ADDED, P.O. JANUARY 24, 2024)

Notaries are obliged to disclose and record the previous history and **successive registry tract of the corresponding act or fact**. In addition, the Notary Public must validate the background of the public deed through the original testimony or certified copy of the property tax paid, verifying if the property in question is part of a family heritage.

We emphasize that mentioning "successive tract" does not provide much clarity regarding how many operations the Notary Public should investigate backwards to comply with this article. Therefore, it is left to the discretion of the Notary or corresponding authority.

(ADDED, P.O. JANUARY 24, 2024)

Likewise, they must use the **Registry and Cadastre Alert** from the Registry and Cadastral Institute of the State of Nuevo León when certifying any legal act or fact that must be registered or notified to said institution.

It is important to mention that, as of today, the Registry and Cadastre Alert system only allows property owners to register. Notaries cannot directly register in this system, so it is practically impossible for them to comply with this requirement.

Article 87...

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(ADDED, P.O. JANUARY 24, 2024)

The notary **must suspend any process** when the information **does not match the corresponding real estate folio**.

As of today, there is no system that allows Notaries to request a "real estate folio" that shows the complete successive tract of the respective property. Evidently, if any processes are suspended for this reason, it would undermine the rights of individuals to enter into legal acts before a Notary Public.

Article 105...

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(ADDED, P.O. JANUARY 24, 2024)

Likewise, public deeds must have a **digital seal endorsed by the competent institution**. This endorsed digital seal will refer to the legal act, deed number, and operation number.

(ADDED, P.O. JANUARY 24, 2024)

A digital seal is understood to be one that certifies that a digital document was received by the corresponding authority. In this case, the digital seal will identify at least the department that received the document, and it will be presumed, unless proven otherwise, that the digital document was received at the time

and date stated in the mentioned acknowledgment of receipt.

Similar to the comments regarding the Registry Alert, the digital seal mentioned in this article has not been implemented as of today, so any Notary Public practicing in the State is unable to comply with this provision.

Article 106...

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(ADDED, P.O. JANUARY 24, 2024)

In the case of legal acts transferring ownership, the Notary must validate the background of the deed with whoever conducted the previous operation, either through the original testimony or certified copy of the property tax paid.

(ADDED, P.O. JANUARY 24, 2024)

Testimonies from Public Notaries from other Federal Entities **must be endorsed by the current General Notarial Archive of the Federal Entity to which the Notary belongs.**

The last paragraph of this article also mandates that General Notarial Archives in states other than Nuevo León must validate the testimonies presented to the Notary of Nuevo León. Which only adds variables and bureaucratizes Notary processes.

Article 107...

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(AMENDED, P.O. JANUARY 24, 2024)

For the purposes of the previous paragraph, the notary will record their identity and capacity with official documents accrediting them, containing a photograph, full name of the person concerned, or the identity document authorized by the Competent Authorities, which they will examine and attach as a copy to the appendix, which must be validated through biometrics and verification by the institutions issuing said official documents, and record it.

As of this date, only the voter ID card issued by the National Electoral Institute meets the requirements of official identification mentioned in this article; however, it also adds the burden to Notaries of obtaining a system similar to the one used by the INE to verify biometrics.

It is not specified how Notaries in Nuevo León will fulfill these obligations in the event of the execution of a legal act before them by foreigners or nationals who do not have a valid voter ID card.

Civil Code for the State of Nuevo León:

Article 2449.

I to III....

(ADDED, P.O. JANUARY 24, 2024)

The power of attorney for acts of ownership and

administration must be granted without exception in a public deed.

By mentioning "without exception", there is no doubt that any type of mandate or power of attorney intended to be granted for acts of ownership or management must be granted by means of public deed. Therefore, Notaries must ensure that the grantors comply with the requirements of the Notary Law for the purposes of granting legal acts in a public deed.

Law of the Registry and Cadastral Institute of the State of Nuevo León:

Article 7.

The purpose of the Institute shall be to integrate, electronically, the information of the databases and public files of the Public Registry of Property and Commerce, as the case may be, and the Cadastre of the State, in order to provide security and certainty to the legal acts celebrated or with effects in the State, promote and procure the efficiency and effectiveness of the administrative functions of the Government of Nuevo Leon and strengthen the rational operation of the society, procuring that truthful and reliable information is available in the State; As well as to perform the functions and render the services related to the public registry of property and commerce and the cadastre in the State.

(ADDED, P.O. JANUARY 24, 2024)

For the purposes of the foregoing, among other instruments, it shall use the Registry and Cadastre Alert in terms of the provisions of the corresponding regulations.

In the same order of ideas as the amendment to Article 84 of the Notary Law of the State of Nuevo Leon, it is important to emphasize that to date no mechanism has been implemented to allow Notaries to register directly to the system of Alerts.

It will be important to closely follow how the implementation of the reforms and additions described above evolves, since it should be noted that the transitional provisions of these laws provide 180 days for the authorities to implement the necessary mechanisms to make these reforms possible in practice.

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