

## Draft Law for Public Notaries in the State of Veracruz is contrary to competition the competition process and free market access

- *Among other obstacles, the draft law artificially limits the number of notaries, gives the state executive discretionary powers to authorize notary patents and establishes unique tariffs for the service.*
- *Said proposals would deteriorate quality, price, accessibility and opportunity of the service, affecting consumers and the efficient operation of multiple markets that require notary services.*
- *COFECE's Board of Commissioners recommends the state of Veracruz' executive and legislative powers to modify the draft law. If approved, the state would have one of the most restrictive notary laws.*

**Mexico City, October 31, 2018.-** The Federal Economic Competition Commission's (COFECE or Commission) Board of Commissioners considered that the *Draft Decree creating the Notary Law for the state of Veracruz (Draft Law)* contains provisions that may affect free market access and competition conditions in notary services rendered in the state, to the detriment of their quality, accessibility and price. Therefore, the Board recommended governor Miguel Angel Yunes Linares and the state's Congress to eliminate the restrictions to the competition process identified before passing or enacting the law.

Notary publics certify authenticity and grant legal certainty to diverse acts, such as the commercialization of properties, testaments, the certification of documents, among others. Therefore, the regulation of said activity, which is a state attribution, must favor the provision and access to these services under the best possible conditions. Notary services are important for the efficient functioning of markets, as such, the potential number of service suppliers should not be artificially limited, nor should access users have.



In its analysis, COFECE detected restrictions, that, should the *draft law* be approved, would affect the entry of notaries and diminish their incentives to compete, as the *draft law* stipulates:

- A limit in the number of notaries (one for every 40 thousand inhabitants), may reduce from 3.6 to 2.5 for each 100 thousand inhabitants in the state of Veracruz;
- state executive discretionary powers in the publication of vacancies and the suppression of notary patents “when deemed necessary” or by petition of the Association of Notaries. The latter, which is comprised by active notaries, may have the incentives to limit market entry;
- fixed tariffs hinder notaries from offering more attractive price conditions for users; and,
- criminal sanctions to notaries for the exercise of their powers outside of their boundaries, limit users from having access to a greater number of service alternatives.

Therefore, the Commission recommends the modifications be made in terms of the following: i) allow for the number and location of notaries to adjust naturally according to the population’s needs (notaries obtain the corresponding qualifications to enter the market and operate where they consider their services are needed); ii) eliminate the control the Association of Notaries has over activation of processes for admission to notarial functions; iii) the freedom notaries have to decide over when and what means to use to publicize their services and iv) if any, establish maximum tariffs on services with the purpose of allowing notaries to differentiate themselves via price competition.

If adopted, the state of Veracruz would have one of the most stringent notary laws affecting the free exercise of notary functions in Mexico.

In Mexico, many state legal frameworks that regulate notarial activities limit competition in these services, to the detriment of the users of these certification services. For instance, in 18 of the 32 federal entities, a governor may, in use of discretionary powers, determine the number of notaries and in 24 entities, establish fixed tariffs on the fees for services rendered.

[See the opinion and its annex in Spanish.](#)



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*The Federal Economic Competition Commission is entrusted with safeguarding competition and free market access. This contributes to people's well-being and the efficient functioning of markets. With its work, COFECE seeks better conditions for consumers, more services of higher quality and a "level playing field" for companies.*



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