

(S. B. 367)

**(No. 18-2013)**

(Approved May 15, 2013)

## **AN ACT**

To amend subsections (a), (d), and (e) of Section 3.002 of Act No. 201-2003, as amended, known as the “Commonwealth of Puerto Rico Judiciary Act”; Rule 52.2 of the Rules of Civil Procedure of Puerto Rico, as approved by Act No. 220-2009, as amended; and Sections 1.5, 12.4, 12.5, 12.7, 13.1, 13.2, 13.3, 13.4, 13.5, and 13.6 of Act No. 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” in order to revise the original and appellate jurisdiction of the Supreme Court; and for other purposes.

### **STATEMENT OF MOTIVES**

Section 2 of Article V of the Constitution of the Commonwealth of Puerto Rico establishes that

[t]he courts of Puerto Rico shall constitute a unified judicial system for purposes of jurisdiction, operation and administration. The Legislative Assembly may create and abolish courts, except for the Supreme Court, in a manner not inconsistent with this Constitution, and shall determine the venue and organization of the courts.

By virtue of this authority, from 1952 to present, the Legislative Assembly has statutorily determined the jurisdiction of the Supreme Court to make feasible its constitutional function as the court of last resort and of highest interpreter of the Constitution and the laws of the Commonwealth of Puerto Rico.

The first Judiciary Act, promulgated in 1952, established the right to appeal before the Supreme Court any ruling of the Superior Court as a court of instance. See, Art. IV §14, Act No. 11 of July 24, 1952. However, in 1958, this mandatory jurisdiction was substantially reduced, since it was determined that an appeal filed

with the Supreme Court would only be considered to review rulings in constitutional cases and criminal judgments issued by a Superior Court. At the time, the number of administrative agencies subject to direct review by said forum was also reduced. See, Act No. 115 of June 26, 1958. According to renowned jurists such as José Trías-Monge and José Julián Álvarez-González,

[t]he purpose of this reform was to reduce the backlog of cases in the Court and to promote timely adjudication. Indirectly, this reform also promoted that the Court could devote most of its efforts to further Puerto Rico Law.

José Julián Álvarez-González, *La nueva Ley de la Judicatura y la competencia obligatoria del Tribunal Supremo: Algunas jorobas de un solo camello*, 65 Rev. Jur. UPR 1, 44 (1996), citing José Trías-Monge, *El Sistema Judicial de Puerto Rico*, 145-46 (1978). Consistently with the foregoing, the Court of Appeals was created in 1992, and the mandatory jurisdiction of the Supreme Court was fully eliminated, except from constitutional cases. Likewise, direct review of all administrative agencies by the Supreme Court was eliminated. See, Section 2 of Act No. 21-1992.

Although said trend was temporarily interrupted with the approval of the Judiciary Act of 1994, which extended the mandatory jurisdiction of the Supreme Court and caused some problems in the appellate practice and the adequate operation of the Judicial Branch, the trend directed to reducing the appellate jurisdiction of the Supreme Court to facilitate its constitutional function was reinstated with the approval of Act No. 201-2003, as amended, known as the “Judiciary Act of the Commonwealth of Puerto Rico.” In this Act, the mandatory jurisdiction of the Supreme Court on appeals was limited to two instances: 1) the review of final rulings of the Court of Appeals, in which the unconstitutionality of a law, joint resolution, concurrent resolution, rule, or regulations of an agency or public instrumentality or municipal ordinance has been determined pursuant to the Constitution of the United

States of America or the Constitution of the Commonwealth of Puerto Rico; and (2) in the event of a conflict between rulings of the Court of Appeals in cases appealed before said Court. All other rulings and resolutions of the Court of Appeals may be reviewed upon filing a writ of certiorari, granted discretionally, which constitutes the main procedural vehicle used by our highest forum to address cases under its consideration.

Now, then, in recent years the historic trend to reduce the jurisdiction of the Appellate Court has continued in order to expedite the proceedings and the resolution of the cases and controversies under consideration by the Judicial Branch of Puerto Rico. It must be stressed that in 2009, the Supreme Court approved and submitted to the Legislative Assembly the new Rules of Civil Procedure, which are governed by the principle of procedural economy and expedited judicial proceedings in both the Court of First Instance and the appellate courts. Based on the foregoing, Rule 52.1 of the Rules of Civil Procedure limited the circumstances, including those in which a writ of certiorari would be granted by the Court of Appeals, particularly in what pertains to reviewing of the actions and interlocutory judgments of the Court of First Instance.

Undoubtedly, interlocutory appeals to be reviewed by either the Court of Appeals or the Supreme Court, can cause delays and entail additional costs in the proceedings that go against procedural economy and the timely and economical resolution of cases. Therefore, this Legislative Assembly deems it necessary to amend the Judiciary Act and the Rules of Civil Procedure in order to extend the same principles of procedural economy and swiftness to the writs of certiorari filed with the Supreme Court. To such effect, the jurisdiction of the Supreme Court to review the interlocutory actions of the Court of Appeals and the rulings or judgments of the Court of Appeals on interlocutory matters from the Court of First Instance is hereby limited. Thus, this Legislative Assembly deems it necessary to restore the writ of

certiorari to its extraordinary and special nature. See, *Job Connection v. Supermercados Econo, Inc.*, 2012 TSPR 85; José A. Cuevas Segarra, *Tratado del Derecho Procesal Civil*, 2da ed., Ed. Publicaciones JTS 2011, T. IV, page 1503.

On the other hand, even though the Supreme Court is an appellate forum, it also has original jurisdiction to take cognizance of certain cases by virtue of legislation expressly approved to such effect. *Piovanetti v. Vivaldi*, 80 D.P.R. 108 (1957). Nevertheless, this Legislative Assembly is convinced that the essential function of the Supreme Court in the administration of justice in Puerto Rico is to serve as an instrument of review or of appeal and not as a court of first instance. *Chamberlain v. Delgado*, 82 D.P.R. 6 (1960). Therefore, this Act also limits the original jurisdiction of the Supreme Court to the minimum established in Section V of Article V of the Constitution, to wit, the writ of habeas corpus.

Consistent with the foregoing, and for the purpose of promoting a timely adjudication of the cases filed for its consideration, this Legislative Assembly deems it necessary to modify the inter-jurisdictional procedure. As it is known, this procedural mechanism is frequently used by litigants in an attempt to evade the regular proceedings of matters pending in the Court of Appeals and the Court of First Instance. By requiring all cases to follow their regular course and all appellate options be exhausted before they are addressed by our highest judicial forum, this Legislative Assembly allows the Supreme Court to devote its efforts to further Puerto Rican Law in accordance with its constitutional mandate.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- Subsections (a), (d), and (e) of Section 3.002 of Act No. 201-2003, as amended, known as the “Judiciary Act of the Commonwealth of Puerto Rico,” are hereby amended to read as follows:

“Section 3.002.- Jurisdiction of the Supreme Court

The Supreme Court or each of its Courtrooms shall hear on the following matters:

(a) At first resort, on a writ of *habeas corpus*. Likewise, each of the judges in said Court shall be able to hear in first resort the writ of habeas corpus, but their rulings in such cases shall be subject to review by the Supreme Court, which, when so requested by the interested party, shall review the ruling of the judge in any of such cases within ten (10) days after service, and shall pronounce judgment as appropriate.

...

(d) Through a writ of certiorari, to be issued discretionally, shall review the final rulings of the Court of Appeals resolving the matter appealed, the petition for administrative review or a writ of certiorari to review final rulings of the Court of First Instance filed with the Court of Appeals within the terms provided in the rules of procedure or in special laws.

The interlocutory actions of the Court of Appeals and the judgments or resolutions of the Court of Appeals on interlocutory matters of the Court of First Instance shall not be directly reviewed by the Supreme Court. However, and as an exception to the foregoing, the Supreme Court may review, through a writ of certiorari, the judgments or resolutions of the Court of Appeals denying a dispositive motion, the admissibility of material witnesses of facts or expert witness on matters relating to evidentiary privileges, attorney disqualification, entry of default, or family relations cases before the Court of First Instance. If a writ of certiorari is issued to revoke a decision of the Court of Appeals for lack of jurisdiction, the Supreme Court may adjudicate the merits of the controversy between the parties without remanding the case to the Court of Appeals.

Any other judgment, resolution or order on interlocutory matters before the Court of First Instance issued by the Court of Appeals may be reviewed by the Supreme Court in an appeal or a writ of certiorari filed with said forum against a final judgment of the Court of Appeals resolving the appeal or the petition for administrative review filed with said Court, subject to the provisions of Rule 50 of the Rules of Civil Procedure on non-prejudicial errors.

(e) Through a writ of certification, to be issued discretionally, *motu proprio* or upon motion of a party, it may bring forth immediately, to consider and to resolve, any matter pending in the Court of Appeals, if there is a conflict between previous decisions of the Court of Appeals or if there are new questions of law or a question of imperative public importance that include any substantial constitutional matter under the Constitution of the Commonwealth of Puerto Rico or the Constitution of the United States.

(f) Through a writ of certification, to be issued discretionally, or upon motion of the parties, it may bring forth immediately, to consider and to resolve, any matter pending in the Court of First Instance, if there is a conflict between previous decisions of the Court of Appeals or if there are new questions of law or a question of imperative public importance that includes any substantial constitutional matter under the Constitution of the Commonwealth of Puerto Rico or the Constitution of the United States.

(g) Through a writ of certification, it shall be able to take cognizance of any matter certified thereto by the United States Supreme Court, a United States Circuit Court of Appeals, a United States District Court, or the highest appellate court of any of the states of the United States, when thus requested by any of such courts, if the requesting Court is considering a matter involving Puerto Rico Law that may determine the outcome thereof, and for which, in the opinion of the requesting Court, there are no clear precedents in said Court's case law.

(h) By means of an appeal from a decision of the Property Registrar, denying a recordation requested by the petitioner, pursuant to the terms and requirements of Act No. 198 of August 8, 1979.

(i) Of any other writs or causes determined by a special statute.”

Section 2.- Rule 52.2 of the Rules of Civil Procedure of Puerto Rico, as approved by Act No. 220-2009, as amended, is hereby amended to read as follows:

“Rule 52.2.- Terms and Effects of Filing an Appeal, a Writ of Certiorari, or a Writ of Certification.–

(a) ...

...

(d) Writs of Certification to the Supreme Court. By filing a writ of certification, to be issued discretionally, *motu proprio*, or upon motion of a party, the Supreme Court shall immediately take cognizance to consider and resolve any matter pending in the Court of Appeals, if there is a conflict between previous decisions of the Court of Appeals, or if there are new questions of law or a question of imperative public importance that includes any substantial constitutional matter under the Constitution of the Commonwealth of Puerto Rico or the Constitution of the United States.

Also, the writ of certification shall be formalized when the Supreme Court of the United States of America, a Circuit Court of Appeals of the United States of America, a United States of America District Court, or the highest appellate court of any of the states and territories of the United States of America has a case under its consideration involving matters of Puerto Rico Law that may determine the result thereof, and for which, in the opinion of the requesting Court, there are no clear precedents in said Court’s case law.

(e) ...

...

(h) ...”

Section 3.- Subsection (90) of Section 1.5 of Act No. 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” is hereby amended to read as follows:

“(90) Court of Appeals.- The Court of Appeals of the Commonwealth of Puerto Rico;”

Section 4.- Section 12.4 of Act No. 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” is hereby amended to read as follows:

“Section 12.4.- Procedure; Hearing.

When reviewing the actions, final determinations and resolutions of the Permit Management Office, the Adjudicatory Board, the Authorized Professional or the Autonomous Municipality with I to V granted Hierarchy, the Reviewing Board shall issue its decision with respect to the petition for review within one hundred twenty (120) calendar days. Said term may be extended for an additional thirty (30) days as of the filing of the petition for review, in special cases, as provided in the Bylaws. The Reviewing Board shall issue its decision, after which any interested party may resort to the Court of Appeals by means of a Petition for Administrative Review, pursuant to the provisions of Chapter XIII of this Act.

If the Reviewing Board fails to resolve the administrative review within the term provided herein, the petition for review shall be deemed to be denied outright. The Reviewing Board shall lose jurisdiction over the review and the reviewed determination shall be deemed to be affirmed. Once such term elapses, the term of thirty (30) days to resort to the Court of Appeals shall begin to run, pursuant to the provisions of Chapter XIII of this Act.



When reviewing the actions, final determinations, or resolutions of the Permit Management Office, the Adjudicatory Board or the Autonomous Municipalities with I to V granted Hierarchy regarding discretionary matters, the Reviewing Board shall hold a hearing on its own initiative or upon motion of a party, in which the Board may receive additional proof that could lead it to adjudicate the case. In cases that are ministerial in nature, the Reviewing Board may hold a hearing.

If the hearing is thus held, the parties shall be previously notified, as they appear in the case file, as provided in the Bylaws.”

Section 5.- Section 12.5 of Act No. 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” is hereby amended to read as follows:

“Section 12.5.- Reviewing Standard.

The actions, final determinations, or resolutions of the Permit Management Office, the Adjudicatory Board, Autonomous Municipalities with I to V granted Hierarchy, or an Authorized Professional, as applicable, shall be upheld if the same are based upon substantial evidence on the administrative record, and findings of fact and conclusions of law shall be reviewable in all their aspects by the Reviewing Board and the Court of Appeals. In any case, the Reviewing Board and the Court of Appeals shall show deference to the expertise of the Permit Management Office, the Adjudicatory Board, the Autonomous Municipalities with I to V granted Hierarchy, or the Authorized Professional, as the case may be.”

Section 6.- Section 12.7 of Act No. 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” is hereby amended to read as follows:

“Section 12.7.- Reconsideration.

Any party adversely affected by a resolution of the Reviewing Board concerning a discretionary matter may file a motion for reconsideration within fifteen (15) calendar days after a copy of the resolution notice is filed in the record of the case. If such date is different from the filing date, such term shall begin to run

as of the date said notice is mailed or transmitted by any electronic means, whichever is first, as provided by regulations. The adversely affected party filing a motion for reconsideration with the Reviewing Board shall notify all the parties of such motion by certified mail with return receipt requested or by any electronic means. Within ten (10) calendar days after the filing of the motion for reconsideration, the defendant shall file his opposition and the Reviewing Board shall rule over the same within thirty (30) calendar days following the date on which the motion for reconsideration was duly filed by the adversely affected party. If the Reviewing Board makes a determination with respect to the matter under its consideration, the term to resort to the Court of Appeals shall begin to run as of the date on which a copy of the notice to the parties on the Reviewing Board's decision on such motion for reconsideration is filed in the record of the case. If the Reviewing Board fails to take any action with respect to the motion for reconsideration within thirty (30) days after such motion was filed, it shall be understood that it has been denied outright and the term to resort to the Court of Appeals shall begin to run after the thirty (30)-calendar-day-term to resolve the motion for reconsideration has elapsed. The aforementioned terms may not be extended. The filing of more than one motion for reconsideration by the same party shall not be permitted, should the first one be denied.”

Section 7.- Section 13.1 of Act No. 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” is hereby amended to read as follows:

“Section 13.1.- Term to Resort to the Court of Appeals.

Any party adversely affected by a resolution of the Reviewing Board shall have thirty (30) calendar days to file a Petition for Administrative Review with the Court of Appeals. The term provided herein is jurisdictional in nature. If the Court of Appeals so requests, the Reviewing Board shall forward to the Court of Appeals the record of the case within ten (10) calendar days following the filing of the petition for review.”

Section 8.- Section 13.2 of Act No. 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” is hereby amended to read as follows:

“Section 13.2.- Notice of the Petition for Review.

The petitioner shall serve a copy of the Petition for Administrative Review to all parties, including the Permit Management Office, the Adjudicatory Board, the Autonomous Municipality with I to V granted Hierarchy, or the Authorized Professional, as applicable, and to the Reviewing Board, on the same day such petition is filed, following the procedure established in the Joint Regulation. This requirement is jurisdictional in nature. In the petition, the petitioner shall certify to the Court of Appeals that he has met such requirement. Notice may be served by mail or any electronic means established by law or regulations.”

Section 9.- Section 13.3 of Act No. 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” is hereby amended to read as follows:

“Section 13.3.- Stay of a Final Determination.

The Court of Appeals may issue an order staying the appealed resolution and the proceedings related thereto either *motu proprio* or upon motion of a party, if the Court of Appeals determines that irreparable harm would be caused should the stay not be granted. Said order may not stay any administrative actions that cause no irreparable harm, such as an application for the evaluation of a project draft or preliminary project.”

Section 10.- Section 13.4 of Act No. 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” is hereby amended to read as follows:

“Section 13.4.- Reviewing Standard.

The action, final determination, or resolution of the Permit Management Office, the Adjudicatory Board, the Autonomous Municipality with I to V granted Hierarchy, the Authorized Professional, or the Reviewing Board shall be upheld by

the Court of Appeals if the same is based upon substantial evidence on the record. Conclusions of law shall be reviewable in all their aspects.”

Section 11.- Section 13.5 of Act No. 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” is hereby amended to read as follows:

“Section 13.5.- Reconsideration.

Each party shall be entitled to file one (1) motion for reconsideration with the Court of Appeals.”

Section 12.- Section 13.6 of Act No. 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” is hereby amended to read as follows:

“Section 13.6.- Imposition of Costs and Sanctions.

Costs shall be awarded in favor of the prevailing party. If the Court of Appeals determines that the petition under its consideration is frivolous or that it has been filed to delay the proceedings, the court shall deny or dismiss the same, as the case may be, and impose on the plaintiff or his attorneys the costs, expenses, and attorney fees.”

Section 13.- Repealing Clause.

Any provision of law or regulations in effect that is incompatible, whether expressly or implicitly, with any clause, paragraph, article, section, subsection, or part of this Act are hereby repealed.

Section 14.- Severability Clause.

If any clause, paragraph, subparagraph, article, provision, section, subsection, or part of this Act were held to be unconstitutional by a competent court, said holding shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, article, provision, section, subsection, or part thereof thus held to be unconstitutional.

Section 15.- Effectiveness.

This Act shall take effect immediately after its approval and shall apply to all cases pending before the General Court of Justice. Appeals filed prior to the effective date of this Act shall be governed by the previous procedural laws.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 18-2013 (S. B. 367)** of the **1<sup>st</sup> Regular Session** of the **17<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to amend subsections (a), (d), and (e) of Section 3.002 of Act No. 201-2003, as amended, known as the “Commonwealth of Puerto Rico Judiciary Act”; Rule 52.2 of the Rules of Civil Procedure of Puerto Rico, as approved by Act No. 220-2009, as amended; and Sections 1.5, 12.4, 12.5, 12.7, 13.1, 13.2, 13.3, 13.4, 13.5, and 13.6 of Act No. 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” in order to revise the original and appellate jurisdiction of the Supreme Court; and for other purposes.

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

In San Juan, Puerto Rico, on this 11<sup>th</sup> day of July, 2019.

Orlando Pagán-Ramírez  
Director