

(H. B. 775)

(No. 38-2017)

(Approved June 30, 2017)

AN ACT

To adopt the “Government of Puerto Rico Uniform Administrative Procedure Act,” and repeal Act No. 170 of August 12, 1988, as amended, known as the “Commonwealth of Puerto Rico Uniform Administrative Procedures Act.”

STATEMENT OF MOTIVES

Act No. 170 of August 12, 1988, as amended, known as the “Commonwealth of Puerto Rico Uniform Administrative Procedures Act,” was enacted for the purpose of providing the People with high-quality, dedicated, efficient, and prompt public services; and it stems from the liberal application and interpretation of the due process in order to achieve the aforementioned purpose within the framework of the basic safeguards provided thereunder. It establishes a uniform judicial review procedure for actions taken by Government agencies when adopting regulations or adjudicating a case. Moreover, it provides for the exhaustion of all informal procedures prior to resorting to formal procedures, among others.

The Administration of former Governor Alejandro García-Padilla approved Act No. 210-2016, for the purpose of adopting the “Administrative Law Reform Act,” which would have become effective on July 1, 2017. From the title of the aforementioned Act, it would seem as if it was intended to create a new law on Administrative Law; however, it was not so. Act No. 210, *supra*, amends Act No. 170, *supra*, rather than reform it, has caused much confusion among Administrative Law practitioners and the people in general.

It is worth noting that, during the research process for this bill, this Legislative Assembly learned that Senate Bill 1663, which ultimately became Act No. 210, *supra*, was not filed in accordance with the legislative rules and procedures. For such reason, the document as it was enacted fails to identify the text that was either added or deleted from the amendments introduced by the bill's sponsor. The bill was enacted into law despite such defects.

The Statement of Motives of Act No. 210, *supra*, reads:

It has been twenty-five (25) years since the enactment of Act No. 170 of August 12, 1988, as amended, known as the "Commonwealth of Puerto Rico Uniform Administrative Procedures Act." During this time, it has been an efficient tool for the adjudication of matters and disputes, as well as for the award and recognition of the people's rights and responsibilities. The merits of this Act extend beyond the inherent value thereof and constitute a procedural framework that embodies the basic safeguards derived from the constitutional principle of due process. It is one of the most important laws for social coexistence and even for the interactions between the people and the State.

In addition, it is worth mentioning that the legislative process to amend Act No. 170, *supra*, during the previous administration has been problematic and rushed from the beginning. The previous Administration first attempted to amend the aforementioned statute through House Bill 1130. Despite having been passed by both Houses, then-Governor Alejandro García-Padilla vetoed the bill. A second attempt was subsequently made to substantially amend Act No. 170, *supra*; however, this second was even more rushed. Act No. 210-2016 introduced some substantial amendments that were passed during a special legislative session called by the then-Governor of Puerto Rico only days before the end of said his term of office. The effective date of said Act, however, was postponed to July 1, 2017.

The foregoing shows that the evaluation of Act No. 210, *supra*, lacked a careful process or a legislative assessment that would lead to a meticulous and informed analysis of a statute as important as this one, which governs the relations between citizens and the administrative agencies of the Executive Branch as well as their obligations and rights. Absent of a meticulous analysis of the amendments adopted under Act No. 210, we are compelled to preserve the current statute, prevent the amendments adopted under Act No. 210, *supra*, from becoming effective as of July 1 of this year, and avoid the confusion that would arise therefrom.

In spite of the foregoing, a law that did not need to be amended underwent changes, thus creating a complete confusion.

Therefore, to effectively address the aforesaid, this Legislative Assembly deems it necessary to repeal Act No. 170, *supra*. In doing so, the following is achieved: (1) we dispel all doubts and clarify that Act No. 210, *supra*, was not a new Uniform Administrative Procedure Act, nor a reform of Puerto Rico's administrative Law; (2) our current statute on Administrative Law is maintained; and (3) from this starting point, we pave the way for a future reform of administrative law based on a thorough analysis and the contribution of persons with a vast experience in the practice of administrative law in Puerto Rico, within an environment of dialogue, careful analysis and evaluation.

In light of the foregoing, this Legislative Assembly deems it necessary to repeal Act No. 170 of August 12, 1988, as amended, known as the "Commonwealth of Puerto Rico Uniform Administrative Procedures Act," and adopt the "Government of Puerto Rico Uniform Administrative Procedure Act."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

CHAPTER I.- GENERAL PROVISIONS

Section 1.1.- Title.

This Act shall be known and may be cited as the “Government of Puerto Rico Uniform Administrative Procedure Act.”

Section 1.2.- Public Policy.

It is hereby declared as the public policy of the Government of Puerto Rico to encourage the informal settlement of administrative matters before an agency in order to make unnecessary more elaborate proceedings. Agencies shall prescribe rules and procedures that allow for the informal settlement of matters submitted for their consideration without impairment to the rights guaranteed by this Act. This Section is intended to encourage, not to require or compel a party to submit and settle a matter informally.

The provisions of this Act shall be construed liberally in order to ensure that administrative procedures are carried out in a speedy, just, and inexpensive manner ensuring a fair solution of the cases under consideration by an agency.

Section 1.3.- Definitions.

For the purposes of this Act the following terms or phrases shall have the meaning stated below:

(a) Agency - Means any board, body, examining board, public corporation, commission, independent office, division, administration, bureau, department, authority, officer, person, entity, or any instrumentality of the Government of Puerto Rico or administrative body authorized by law to make rules, conduct investigations, or issue decisions, or with authority to issue licenses, certificates, permits, concessions, and accreditations, grant privileges and franchises, and to charge or adjudicate, but this term does not include:

(1) The Senate and the House of Representatives of the Legislative Assembly.

(2) The Judicial Branch.

(3) The Office of the Governor and all offices within the Office of the Governor except those where the applicability of the provisions of this Act have been expressly stated.

(4) The Puerto Rico National Guard.

(5) The municipal governments or the entities or corporations thereof.

(6) The State Election Commission.

(7) The Conciliation and Arbitration Bureau of the Department of Labor and Human Resources.

(8) The Advisory Board of the Department of Consumer Affairs on the Classification System of the Television Programs and Hazardous Toys.

(9) The Commission to Resolve Disputes over Payments and Debts between Government Agencies.

(b) Adjudication - Means an agency's decision determining the rights, duties, or privileges of a party.

(c) Guidance Document - Means a record, whether in electronic or paper format, of general applicability developed by an agency which lacks the force of law but states the agency's interpretation of any law, the agency's public policy, or that describes how and when the agency shall exercise discretionary functions. It includes official interpretations as defined in this Act. This term does not include regulations or rules as defined in this Act.

(ch) Record - Means all the documents that have not been exempt from disclosure by a law, and other material related to a specific matter which is or has been under consideration by an agency.

(d) Agency Head - Means an individual or body of individuals in whom the ultimate legal authority of an agency is vested by any provision of law.

(e) Official Interpretation - Means the agency's official interpretation as to a law or regulation administered by it, which is issued at the request of a party or on the agency's own motion, and incorporated in the formal catalog of the agency's interpretations.

(f) Intervenor - Means a person other than an original party to any adjudicative proceeding conducted by an agency and who shows that has standing or an interest in the proceeding.

(g) Order or Decision - Means any agency statement or action of particular applicability that determines the rights or duties of a specific person or persons, or that impose administrative penalties or sanctions, except for executive orders issued by the Governor.

(h) Partial Order or Decision - Means any agency action that determines a right or duty, which disposes a single aspect rather than the whole matter.

(i) Interlocutory Order - Means any agency action in an adjudicative proceeding disposing a purely procedural matter.

(j) Person - Means any public or private natural or juridical person other than an agency.

(k) Party - Means any person or agency authorized by law against which an agency action is directed specifically, or that is a party to an action, or is permitted to intervene or participate therein, or has filed a petition for review or enforcement of an order, or is named as a party in said proceeding.

(l) Administrative Procedure - Means the rulemaking process, the formal disposition of any issue or matter under consideration by an agency, the issuance of licenses, and any other investigative process initiated by an agency within the scope of its legal authority.

(m) Rule or Regulation - Means any agency rule or body of rules of general applicability that implements or interprets public policy or law, or that prescribes the procedure or practice requirements of an agency and has the force of law. The term includes the amendment, repeal, or suspension of an existing rule. The term does not include:

(1) Rules concerning the internal management of an agency or intra-agency or interagency communications not affecting the rights, procedures, or practices available to the public.

(2) Guidance documents as defined in this Act.

(3) Price setting orders of the Department of Consumer Affairs and other similar decrees or orders issued or to be issued in the future by other agencies merely disposing one or several regulatory parameters based on a previously adopted regulation that contains the rules for the issuance thereof.

(4) Forms and instructions, provided, they are not guidance documents.

(n) Rulemaking - Means the process followed by an agency for formulation, adoption, amendment, or repeal of rules or regulations.

(o) Secretary - Means the Secretary of State.

Section 1.4.- Applicability.

This Act shall apply to all administrative procedures conducted before all the agencies not expressly exempted hereunder. The following functions and activities shall be excluded from this Act:

Investigative and criminal prosecution duties discharged by the Department of Public Safety and its operational components.

To the extent necessary to avoid a denial of funds and services from the Federal Government of the United States of America, which would otherwise be available, agencies shall be granted discretion to conform their administrative procedures to those required by applicable federal laws, including the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.* If the procedures of the Administrative Procedure Act are followed, the agency shall not be required to duplicate procedures in the actions it takes. The agency shall adhere to the provisions of said Act concerning those matters that are pertinent to the action that is subject to an agreement, provision of funds or services, or delegation of authority by the United States Government. Even in such cases, the disclosure and publication requirements established by this Act shall always apply.

Section 1.5.- Implementation of this Act.

The Governor may designate a Commission composed of five (5) members from among the Secretaries of the Cabinet, Agency Heads, Members of Collegiate Boards or Commissions, or other persons of recognized expertise in the field of Administrative Law to render a report with recommendations to the Governor and the Legislative Assembly on the progress of the implementation of this Act in the various agencies of the Government of Puerto Rico. Upon its constitution, this Commission shall be in charge of overseeing and facilitating the implementation of this Act. This Commission shall operate for a four (4)-year term from the effective date of this Act, but said term may be extended for additional terms at the discretion of the Governor.

Section 1.6.- Implementation Terms and Requirements.

Within one (1) year from the date of approval of this Act, each agency shall:

(a) Update the diagrams and summaries describing its administrative and operational organization, their rulemaking procedures, the formal or informal

petition filing procedures, and the means whereby the public may obtain information.

(b) Adjust, if necessary, the rules or regulations thereof establishing the formal rulemaking and adjudication procedures, in accordance with the provisions of this Act.

(c) Compile approved rules or regulations that were in effect as of the date of approval of this Act that have not been previously filed with the Department of State in accordance with Act No. 112 of June 30, 1957, as amended. Each agency shall submit the rules or regulations described in the preceding sentence to the Office of the Secretary for publication in accordance with Section 2.9 of this Act, indicating as the effective date of each rule or regulation the date on which it originally became effective. Provided, that the requirements of subsection (b) of this Section are also met within the period provided therein.

(d) Have available for copying, at the request of an interested party and upon payment of reasonable duplication charges, the final orders, decisions, and interpretation of laws adopted by the agency. Provided, that in case of emergencies or natural disasters, catastrophic accidents, or fire and for civil protection in general, in accordance with Act No. 20-2017, entitled the “Puerto Rico Department of Public Safety Act,” the agency shall provide a control number or a copy to serve as a receipt of any petition made by any person to the agency, in order to guarantee the due process and the granting of the different types of assistance available as a result of such events. It shall also prepare and maintain an index, by subject, of all decisions and interpretations rendered, which set a precedent or establish a guidance. Said records and indexes shall include all interpretations and decisions.

CHAPTER II.- RULEMAKING PROCESS

Section 2.1.- Notice of Proposed Rule.

Whenever the agency intends to adopt, amend, or repeal a rule or regulation, it shall publish a notice in Spanish and English, in at least one newspaper of general circulation in Puerto Rico, and in Spanish and English on the Internet. Provided, that if the adoption, amendment, or repeal of the rule or regulation affects a specific community of residents, the agency shall also publish the same notice in a newspaper of regional circulation in the area where the community is located, and schedule an advertisement in the local radio station with the largest audience or nearest to the affected community on at least two (2) occasions at any time between 7:00 in the morning and 7:00 in the evening. The radio advertisement shall indicate the date on which the notice was published in the newspaper. The radio advertisement as well as the notice shall include a summary or short explanation of the purpose of the proposed action; a reference to the legal authority authorizing said action, and the manner, place, time a person may submit comments in writing or by electronic mail, or a written request for an oral hearing on the proposed action stating the grounds on which the petitioner bases said request, and the place or website where the full text of the proposed rule to be adopted shall be available to the public. Upon receiving comments by electronic mail, the agency shall issue an electronic acknowledgement receipt within two (2) business days from receipt. The newspaper notice shall also include the website where the agency has chosen to publish the Internet notice, and the full text of the rule or regulations.

Every notice of proposed rules that has been published or is to be published pursuant to the provisions of this Section shall be exempt from the application of the provisions of Section 12.001 of Act No. 78-2011, as amended, known as the “Puerto Rico Election Code for the 21st Century.”

Section 2.2.- Public Participation.

The agency shall provide an opportunity to submit comments in writing for a period of at least thirty (30) days after the date of publication of notice.

Section 2.3.- Public Hearings.

Agencies may hold public hearings at their discretion, or if mandated by their organic Acts or any other law.

A recording or stenographic record of the hearing may be made. The presiding officer shall prepare a report for consideration by the agency summarizing the oral comments made at the hearing.

Section 2.4.- Agency Determination.

In addition to the written and oral comments submitted thereto, the agency shall take into consideration experience, technical competence, specialized knowledge, discretion, and judgment.

Section 2.5.- Content, Style, and Format of Rule or Regulation.

Every rule or regulation adopted or amended by an agency shall contain the following information in addition to the text of the rule or regulation:

- (a) A citation of the statutory authority under which it is adopted or amended;
- (b) A short and concise explanation of its purposes or the reasons for its adoption or amendment, including an executive summary clearly and accurately stating its purpose, justification, as well as the costs and benefits of the proposed rule or regulation;
- (c) A reference to all rules or regulations amended, repealed, or suspended upon its adoption;
- (d) The date of adoption; and
- (e) The effective date.

Section 2.6.- Record.

The agency shall maintain an official record available for public inspection containing all the information related to the proposed rule or regulation, as well as the adopted or amended rule or regulation, including, but not limited to:

- (a) Copies of all publications relating to the rule or proceeding.
- (b) All written petitions, requests, submissions, or comments received by the agency, and all other written materials considered by the agency in connection with the adoption of the rule and the proceeding on which the rule is based.
- (c) Any memorandum prepared by the presiding officer summarizing the contents of the presentations.
- (d) A copy of any regulatory analysis prepared for the proceeding upon which the rule is based.
- (e) A copy of the rule and the explanatory statement thereof.
- (f) All petitions for exceptions to, amendments of, or repeal or suspension of, the rule.

Section 2.7.- Invalidity of Rules or Regulations and Time Limit to File Action.

- (a) A rule or regulation adopted after the effective date of this Act shall be invalid, unless adopted in substantial compliance with the provisions of this Act.
- (b) Any action to contest the validity of a rule or regulation on its face on the ground of noncompliance with the provisions of this Act shall be commenced before the Court of Appeals within thirty (30) days from the effective date of said rule or regulation. The judicial region where the domicile of the petitioner is located shall have jurisdiction over the action.

(c) An action to contest a rulemaking process shall not stay the effectiveness of the rules or regulations, unless the law under which they were adopted expressly provides otherwise.

Section 2.8.- Filing of New Regulations.

(a) All regulations adopted by any agency of the Government of Puerto Rico shall be filed with the Department of State, in Spanish together with the English translation thereof, if submitted simultaneously, in an original and three (3) copies. Once the regulations are received at the Department of State, said agency shall be responsible for submitting a copy thereof to the Legislative Library of the Office of Legislative Services. The Director of the Office of Legislative Services shall prescribe by regulations, the format for filing documents, which may be in paper or electronic form. As a general rule, regulations shall become effective thirty (30) days after filing thereof, unless:

(1) otherwise provided by the statute under which the regulations were adopted, in which case the effective date provided therein shall apply;

(2) the agency establishes a later effective date, as part of the regulations, if the statute under which the regulations were adopted thus provides; or

(3) it is an emergency regulation, as provided in Section 2.13 of this Act.

(b) The agency may file, jointly or subsequently, an English translation of the regulation. In cases where the agency files a translation, said filing shall not affect the effective date of the regulations.

(c) The requirement established in subsection (a) of this Section to file regulations and Spanish copies thereof, may be waived by the Secretary with respect to the technical national standards which have been incorporated in a regulation to be promulgated; provided, that the adopting agency requests such

waiver properly stating in a memorandum the reasons why a Spanish translation shall be impractical owing to the highly technical content of the regulations. If the Secretary determines that the request is reasonable, he shall authorize the waiver in writing and a copy of the authorization shall be attached to the regulation. In such cases, the standards shall be filed in English and shall be enclosed with the regulation and Spanish copies thereof.

(d) The Secretary shall publish in two (2) newspapers of general circulation a summary of the content of each filed regulation, including its number, effective date, and the agency that adopted it. The regulation shall be published within twenty-five (25) days from the filing date thereof.

(e) If a citizen, an agency including those listed in subsection (a) of Section 1.3 of this Act, those of the Legislative and Judicial Branches, a partnership, a corporation, or any other juridical person requests, and adequately justifies to the Secretary the need for obtaining an English translation of any regulation or part thereof or of the amendments or some of the provisions thereof, the Secretary shall direct the agency concerned to prepare and file a translation with the Office of the Secretary within the period prescribed by him, subject to the provisions of Sections 2.9 through 2.12 of this Act.

Section 2.9.- Rule on Publication and Form; Statutory References.

The Secretary shall promulgate rules on the form in which the regulations filed pursuant Section 2.8 of this Act shall be published. Said rule shall prescribe a standard size to be used for filing regulations in accordance with said Section, and shall provide that all regulations shall contain a citation of the statutory authority pursuant to which said regulations or any part thereof are adopted, as well as the reference to the specific statutory provisions being implemented, supplemented, or interpreted, as applicable, and a copy of the public notice referred to in Section 2.1

of this Act. The rules shall also require that all amendments to the regulations refer to the original regulations.

The Secretary may adopt model rules for use by agencies, as well as manuals and other instruments to facilitate the implementation of this Act. In cases where special laws impose on different agencies the duty to regulate, the Secretary may file a model rule following the procedures established in Chapter II of this Act. Said model rule shall apply to all agencies with the duty to regulate, except for agencies which have previously adopted rules on the subject matter.

Section 2.10.- Proof of Filing; Permanent File; Public Inspection.

The Secretary shall affix to each copy of the regulations the time and date of filing, and shall keep a permanent file in his office for public inspection. Likewise, the Secretary shall establish and maintain permanently on the Department of State's Internet website a copy of all regulations filed therewith for public access and inspection. Such access shall be free of charge and available in a format readily accessible for the public.

Section 2.11.- Approval of the Secretary of State.

The Secretary shall examine all regulations filed with his office pursuant to Section 2.8 of this Act in order to determine compliance with the rules adopted by the Secretary pursuant to Section 2.9 of this Act. If a regulation is approved, the Secretary shall state so on each copy of the regulation, which shall then be deemed to have been properly filed as required by law.

Section 2.12.- Correction of Regulations.

If, upon examination, the Secretary concludes that a specific regulation fails to comply with the provisions of this Act or the rules adopted by the Secretary pursuant to Section 2.9 of this Act, then the Secretary may:

(a) Return it to the originating agency stating his objections so that the agency correct and draft it according to law, indicating to the agency whether the

corrections constitute an amendment to the regulation for purposes of Chapter II of this Act.

(b) Make as many corrections or amendments as needed for the regulation to be approved by the Secretary.

In either case, the regulation shall not be deemed filed for purposes of this Act until the originating agency makes the changes and the Secretary approves the new text, or the agency confirms the amendments made by the Secretary.

Section 2.13.- Emergencies that Warrant Adoption without Meeting the Public Notice Requirement.

The provisions of Sections 2.1, 2.2, 2.3, and 2.8 of this Act may be waived whenever the Governor certifies that, due to an emergency or any other compelling circumstance, the public interest warrants that the regulation or amendment become effective without the delay required by Sections 2.1, 2.2, 2.3, and 2.8 of this Act.

In all such cases, the regulation or the amendment thereto, together with a copy of the Governor's certification, shall be filed by the Secretary. Once a regulation or amendment thereto is filed, the agency shall comply with the provisions of Sections 2.1, 2.2, and 2.3 and, if modifications or amendments are made to the regulation filed in accordance with this Section, such modifications or amendments shall be filed with the office of the Secretary of State and the provisions of Section 2.8 of this Act shall be complied with.

Section 2.14.- Presumption of Correction of Published Regulations; Judicial Notice.

(a) The publication of a regulation in the "Government of Puerto Rico Register of Regulations" raises a rebuttable presumption that the text of said regulations thus published is the text of the regulations as they were approved.

(b) The Courts of the Government of Puerto Rico shall take judicial notice of the contents of all regulations published in the “Government of Puerto Rico Register of Regulations.” To this end, the Secretary shall deliver a copy of the publication free of charge to the libraries of the Supreme Court, the Court of Appeals, the Court of First Instance, and the Libraries of the Law Schools of the universities of Puerto Rico, as well as the Library of the U. S. District Court for the District of Puerto Rico.

Section 2.15.- Government of Puerto Rico Register of Regulations—
Codification and Publication.

The Secretary is hereby authorized to:

(a) Contract for the compilation, codification, and publication of all the regulations filed with his Office pursuant to Section 2.9 of this Act. The publication of compiled regulations shall be known as the “Government of Puerto Rico Register of Regulations.”

(b) Establish the manner and form that said compilation and codification shall be published, printed, and organized.

Section 2.16.- Distribution of Register.

(a) The Secretary may sell the register provided in this Chapter at a fair and reasonable price for the Government of Puerto Rico. All the revenues from the sale of the register, as well as funds received from public corporations which may be charged for the publication of their regulations, shall be deposited with the Department of the Treasury in a Special Fund to be known as the “Special Department of State Register Fund.” This Fund shall be used only to cover all or part of the direct costs of the register, including the cost of preparing compilations and periodic supplements. This Fund shall be separate from the Fund created under Section 8.4 of this Act.

The Secretary may contract an editor or editors for the publication, sale, and distribution of the “Government of Puerto Rico Register of Regulations,” any part thereof, or any individual regulation. The Secretary may enter into a separate contract for conventional register, for the digital version of the regulations, and to provide any regulations for disclosure and/or any information service thereon.

(b) The Secretary shall deliver copies of the register and its respective supplements as provided in this Act, at no charge, to the offices of the Governor of Puerto Rico, the heads of departments and executive agencies of the Government of Puerto Rico, and to property registrars who so request. The Secretary shall also deliver, at no charge and upon request, a copy of said register to the members of the Legislative Assembly of Puerto Rico, as well as to the Clerk of the House of Representatives and the Secretary of the Senate to be used by both legislative bodies, to the Office of Legislative Services, and a copy to the schools of law of the University of Puerto Rico and other duly recognized universities of the Island. As provided by the Legislative Assembly or the Governor, copies of the register may be delivered to other government offices.

Section 2.17.- Rules and Regulations Adopted by Virtue of Federal Law.

All that pertains to the approval, procedures, promulgation, and implementation of regulations adopted by any agency under any federal law or by virtue of a delegation of authority from a federal official shall be governed by the applicable federal statutes.

Section 2.18.- Joint Regulations.

Two or more agencies may adopt joint regulations pursuant to the laws that they administer, respectively, whenever the services to the citizenry warrant it.

The agency heads concerned shall jointly designate an examining official or panel to be in charge of the rulemaking process and submit a single report to all the agency heads concerned.

Section 2.19.- Duty to Periodically Review Regulations.

Every five (5) years, each agency shall review its regulations to determine whether said regulations effectively further the public policy of the agency or the legislation under which they were adopted. Upon the approval of this Act, all agencies shall initiate a regulation review process. However, if an agency regulation was adopted within less than five (5) years, and has not been affected by a recent law, said agency shall not be required to review its regulations until five (5) years have elapsed from the adoption thereof.

(i) For regulations that are required to be reviewed as provided by law or an amendment to the organic Act of the agency or administrative entity before the expiration of the periodic review process herein provided, the five (5)-year review period shall start to run as of the last review.

(ii) Upon completion of the review process, if it is determined that there is no need to amend the regulation or regulations, a notice shall be published in two (2) newspapers of general circulation inviting interested parties to submit their comments in writing within thirty (30) days from the last notice. Once a final determination that the regulation or regulations do not require to be amended, the agency or administrative entity shall certify to the Department of State the effective date of the current regulation on or before ten (10) days from the determination. If it is determined that the regulation or regulations require amendments, the rulemaking process shall be conducted in accordance with the provisions of Sections 2.1 through 2.8 of this Act.

(iii) Every regulation repealed during the review process, whether by a provision of law or amendment to an organic Act of the agency or administrative entity, shall be included in a compilation of obsolete regulations to be filed with the Certifications and Regulations Division of the Department of State together with a certification of effective date of the current regulation or of the filing of a new regulation.

Section 2.20.- Guidance Documents.

(a) An agency may issue guidance documents without following the rulemaking process set forth in Sections 2.1 through 2.12 of this Act.

(b) An agency that proposes to rely on a guidance document to the detriment of a person in any administrative proceeding shall afford the person an adequate opportunity to contest the legality or wisdom of a position taken in the document.

(c) A guidance document may contain binding instructions to agency staff members if, at an appropriate stage in the administrative process, the agency's procedures afford an affected person an adequate opportunity to contest the legality or wisdom of a position taken in the document.

(d) A guidance document may be considered by an agency in an adjudication, but does not bind the agency. If an agency proposes to act in adjudication at variance with a position expressed in a guidance document, its explanation for the variance must include a reasonable justification.

(e) Each agency shall maintain a physical index available to the public of all of its guidance documents. In addition, the agency shall publish each one of them on its Internet website conspicuously, permanently, continuously, free of charge, and readily accessible. The Secretary shall coordinate the implementation of the provisions of this Section. The agency shall publish the guidance document within thirty (30) days from its approval.

CHAPTER III.- ADJUDICATIVE PROCEEDINGS

Section 3.1.- Bill of Rights.

(a) When by a provision of law, rule, or regulation, or this Act, an agency must formally adjudicate a matter in controversy, the proceedings shall be governed by this Chapter. Voluntary dispute resolution processes prescribed by law or regulation shall not be included. Procedures concerning matters and actions of the Secretary of the Treasury relating to the internal revenue laws of the Government of Puerto Rico shall be governed by the following standards:

(1) An official designated by the Secretary of the Treasury shall make an initial determination;

(2) A taxpayer who is dissatisfied with an initial determination shall request an informal hearing to be presided over by an official other than the one who made the initial determination. This official shall make the final determination by delegation of the Secretary of the Treasury.

The award of bids, the granting of loans, scholarships, subsidies, grants, debt issues, capital investments, awards or prizes, and all transactions or stages of the environmental documents review process required under Section 4(B)(3) of Act No. 416-2004, as amended, known as the “Environmental Public Policy Act,” and the regulations adopted thereunder, shall be deemed to be informal, not quasi-judicial proceedings; therefore, quasi-judicial proceedings shall not be subject to this Act, except as provided below. In none of these proceedings or the stages into which they are divided shall the agency be required to support its decisions with findings of fact and conclusions of law. The administrative procedure to process environmental documents shall be governed exclusively by the regulations adopted by the Environmental Quality Board for such purposes. Reconsideration of the decisions issued in all of these cases shall be governed by

the provisions of Section 3.15, except those relating to bids, which shall be governed by the provisions of Section 3.19.

The following rights shall be safeguarded in every formal adjudicative proceeding before an agency:

(A) The right to be timely notified of the charges or complaints or claims against one of the parties.

(B) The right to present evidence.

(C) The right to an impartial adjudication.

(D) The right to have the decision based on the record.

(b) The Environmental Quality Board shall file a report with the Legislative Assembly not later than one hundred and fifty (150) days from the effective date of this Act on the effects thereof in streamlining processes and on environmental impact during its first one hundred and twenty (120) days of effectiveness.

Section 3.2.- Adjudicative Proceeding.

Except as otherwise provided by law, an agency may commence an adjudicative proceeding *motu proprio* or upon filing a complaint, application, or petition, whether in person or in writing, within the period prescribed by law or regulation with respect to a matter within the agency's jurisdiction.

Every agency shall adopt regulations to govern their adjudicative proceedings.

Section 3.3.- Hearing Officers.

Every agency may appoint hearing officers, who need not be attorneys, to preside over the adjudicative proceedings to be conducted in the agency, particularly in informal adjudication.

The agency head may delegate his adjudicatory authority to one or more agency officials or employees. These officials or employees shall be designated as administrative judges.

In cases where the facts raise issues that may be adjudicated under the authority of more than one agency, the agency heads concerned may delegate the adjudication of the case to a single administrative judge, who may be an official or employee of any of said agencies.

Section 3.4.- Information Required Upon Filing a Complaint; Application or Petition.

(1) Complaints Filed by the Agency. - Every agency may file complaints with their administrative forum for violations of the laws or regulations they administer.

The complaint shall contain:

- (a) The name and mailing address of the respondent.
- (b) The facts constituting the violation.
- (c) The statutory or regulatory provisions allegedly violated.

It may contain also a proposed fine or penalty to which the respondent may agree and report compliance therewith or payment thereof, as the case may be.

(2) Complaints Filed by a Person outside of the Agency. - Any person bringing an action before an agency shall include the following information in the complaint, application, or petition:

- (a) The name and mailing address of all parties.
- (b) The facts constituting the claim or violation.
- (c) The reference to the applicable statutory provisions, if known.
- (d) The relief requested.
- (e) The signature of the complainant.

Section 3.5.- Petition for Intervention in an Adjudicative Proceeding.

Any person having a legitimate interest in an adjudicative proceeding before an agency may file a written, duly supported petition for intervention or participation in said proceeding. The agency may grant or deny the petition at its discretion taking into consideration, among others, the following factors:

(a) Whether the petitioner has an interest that may be adversely affected by the adjudicative proceeding.

(b) Whether the petitioner's interests can be adequately protected by other legal means.

(c) Whether the petitioner's interests are already adequately represented by existing parties to the proceeding.

(d) Whether the petitioner's participation may reasonably be expected to assist in developing a sound record of the proceeding.

(e) Whether the petitioner's participation may excessively broaden the issues or delay the proceedings.

(f) Whether the petitioner represents or is the spokesperson for other community groups or entities.

(g) Whether the petitioner may contribute information, expertise, specialized knowledge, or technical advice that otherwise would not be available in the proceeding.

The agency shall apply the above criteria liberally and may require the presentation of additional evidence in order to rule on the petition for intervention.

Section 3.6.- Denial of Petition for Intervention.

If the agency decides to deny a petition for intervention in an adjudicative proceeding, it shall give written notice of its decision to the petitioner stating the grounds therefor, and the review process available.

Section 3.7.- Prehearing Conference; Summary Decisions and Orders.

(a) If the agency determines that it is necessary to hold an adjudicative hearing, all parties or their authorized representatives and intervenors may be summoned on its own motion or by petition of a party to a prehearing conference, for the purpose of reaching a settlement or simplifying the issues or the evidence to be considered at the hearing. Stipulations may be accepted; provided, that the agency determines that it is in the public interest.

(b) If the agency determines, upon petition of a party and upon analyzing the documents attached to the motion for summary decision or order and the documents attached to the opposition to motion, as well as those in the record of the agency, that holding an adjudicative hearing is unnecessary, the agency may enter final or partial summary decisions or orders, upon a severable dispute between the parties, except as otherwise provided in the organic Act of the agency.

The agency may not enter summary decisions or orders when (1) there are controverted material or essential facts; (2) there are affirmative allegations in the complaint which have not been rebutted; (3) the documents attached to the petition give rise to a genuine dispute of a material and essential fact, or (4) it is not appropriate as a matter of law.

Section 3.8.- Discovery Methods.

(a) Discovery procedures shall not apply to administrative adjudication unless authorized in the agency's regulations on adjudicative proceedings and by the presiding officer in an adjudicative proceeding. The foregoing notwithstanding, the agencies' regulations shall guarantee every respondent's right to discovery whenever an adjudicative proceeding is initiated on the agency's own initiative.

(b) It may also issue subpoenas requiring the attendance of witnesses and the production of documents, materials, or other objects, as well as protective orders, pursuant to the Rules of Civil Procedure.

(c) In case of noncompliance with an order or subpoena issued under subsection (b) of this Section, the agency may file a petition in aid of jurisdiction with the competent part of the Court of First Instance, which may enter order to compel compliance by the person in question under penalty of contempt.

Section 3.9.- Notice of Hearing.

The agency shall give written notice to all parties or their authorized representatives and intervenors, of the date, time, and place of the adjudicative hearing. The notice shall be served by mail or in person at least fifteen (15) days before the date of the hearing, unless for duly justified reasons stated in the notice, it is necessary to reduce said period, and shall include the following information:

(a) The date, time, and place of the hearing, as well as the nature and purpose thereof.

(b) A statement that the parties including corporations and partnerships may appear *pro se* or by counsel.

(c) A statement of the legal or regulatory provision under which the hearing is to be held.

(d) A reference to the legal or regulatory provisions allegedly violated, if charged with a violation thereof, and the facts constituting such violation.

(e) A warning of the measures to which the agency may resort if a party fails to appear at the hearing.

(f) A warning that the hearing cannot be suspended.

Section 3.10.- Default.

If a duly summoned party fails to attend a prehearing conference, or any other stage of the adjudicative proceeding, the presiding officer may hold the party in default and conduct further proceedings without the participation of the defaulting party, but shall give written notice of his decision to said party, stating the grounds therefor and the review process available.

Section 3.11.- Request for Closed Hearing.

Hearings shall be open to the public unless a party files a written, duly grounded request for closed hearing, and the presiding officer grants it, if he believes that it may cause irreparable harm to the petitioner.

Section 3.12.- Cancellation of Scheduled Hearing.

The presiding officer of an adjudicative proceeding cannot cancel any scheduled hearing unless it is requested in writing stating the causes that warrant said cancellation. The request for cancellation shall be filed within five (5) days before the date of said hearing. The petitioner shall serve a copy of the request to the other parties and intervenors in the proceeding, within the above five (5)-day period.

Section 3.13.- Procedure at Hearing.

(a) The hearing shall be recorded or stenotyped, and the presiding officer shall draft a report for consideration of the agency or shall issue the decision in writing if the authority to do so has been delegated to him.

(b) The presiding officer shall afford to all parties to the extent necessary for full disclosure of all relevant facts and issues, timely opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, except as restricted or limited by the stipulations in the prehearing conference.

(c) The presiding officer may exclude evidence if it is irrelevant, immaterial, repetitious, or excludable on constitutional or statutory grounds or on the basis of an evidentiary privileges recognized in the courts of Puerto Rico.

(d) The presiding officer may take official notice of any fact that could be judicially noticed in the courts of law.

(e) The Rules of Evidence shall not apply to administrative hearings, but the basic principles of evidence may be used to secure a speedy, just, and inexpensive determination of the proceeding.

(f) The presiding officer may allow the parties a period of fifteen (15) days from the conclusion of the hearing for the submission of proposed findings of fact and conclusions of law. The parties may voluntarily waive the submission of the findings of facts.

(g) Every matter brought in an adjudicative proceeding before an agency shall be resolved within six (6) months from the filing date thereof, except in exceptional circumstances.

Section 3.14.- Final Orders or Decisions.

A final order or decision shall be issued in writing within ninety (90) days from the conclusion of the hearing or upon the filing of the proposed findings of fact and conclusions of law, unless this period is waived or extended with the written consent of all parties, or for good cause shown.

The order or decision shall include, separately stated, the findings of fact, if not waived, and the conclusions of law supporting the adjudication, as well as the reconsideration or review process available, as the case may be. The order or decision shall be signed by the agency head or any other official authorized by law.

The order or decision shall notify the right to request reconsideration by the agency or to file a petition for review as a matter of law before the Court of Appeals, as well as the parties to be served with notice of said petition for review, and the pertinent time limits therefor. The aforementioned time limits shall start to run once these requirements have been met.

In the certification of its decisions or orders, the agency shall specify the names and addresses of the natural or juridical persons to whom, in their capacity as parties, notice of the decision was served so that they may effectively exercise their right to seek judicial review conferred by law.

The agency shall serve as soon as practicable a copy of the order or decision on the parties and their attorneys, if any, by regular and certified mail. The agency shall also file in the case record a copy of the final order or decision and proof of service. No party shall be required to comply with a final order unless said party has been served with notice thereof.

Section 3.15.- Reconsideration.

The party aggrieved by a partial or final order or decision may file a motion for reconsideration of such order or decision within twenty (20) days after the date of entry of the order or decision. The agency shall consider the motion within fifteen (15) days from filing. If the agency denies the motion outright or fails to act on it within fifteen (15) days, the time to request review shall start to run again from the date of notice of the denial or from the expiration of the fifteen (15)-day period, as the case may be. If a determination is made upon consideration, the time to request review shall start to run from the date notice of the agency's final decision disposing the motion for reconsideration is entered in the case record. Such decision shall be issued and entered in the case record within ninety (90) days from the filing of the motion for reconsideration. If the agency grants the motion for reconsideration but fails to act on it within ninety (90) days from filing, it shall lose jurisdiction over the motion and the time to request judicial review shall start to run upon the expiration of said ninety (90)-day period, unless the agency, for good cause and within said ninety (90) days, extends the time to dispose the motion for a period not to exceed thirty (30) additional days.

If the date notice of entry of order or decision is entered in the record differs from the mailing date thereof, time shall be computed from the mailing date.

Section 3.16.- Termination of Proceedings.

If an agency concludes or decides not to conduct or continue an adjudicative proceeding in response to a particular case, it shall terminate the proceeding and serve notice of its determination in writing by certified mail return receipt requested upon the parties stating the grounds therefor and of any review process available, including the warnings provided in Section 3.14 of this Act.

Section 3.17.- Emergency Adjudicative Proceedings.

(a) An agency may use emergency adjudicative proceedings in a situation involving an immediate danger to the public health, safety, and welfare, requiring immediate agency action.

(b) The agency may take only such action as is necessary under the circumstances described in the above subsection (a) that justify the use of an emergency adjudication.

(c) The agency shall issue an order or decision including a brief statement of the findings of fact, conclusions of law, and public reasons for the decision if it is an exercise of the agency's discretion to take the specific action.

(d) The agency shall give such notice as is practicable to persons who are required to comply with the order or decision. The order or decision is effective when entered.

(e) After entering an order or decision under this Section, the agency shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

Section 3.18.- Agency Official Record.

The agency shall create a unit to keep the official records of adjudicative proceedings. Subunits thereof may be established in the regional offices of the agency or the various programs of the agency as needs of service may require.

The agency shall maintain an official record of each adjudicative proceeding under this Chapter. The record shall include, but not be limited to:

- (a) Notices of all proceedings.
- (b) Any pre-hearing interlocutory order or decision.
- (c) Any motions, pleadings, petitions, or requests.
- (d) Evidence received or considered.
- (e) A statement of all matters officially noticed.
- (f) Proffers of proof and objections and rulings thereon.
- (g) Proposed findings of facts and conclusions of law, requested orders, and exceptions.
- (h) The record prepared by the presiding officer, together with any transcript of all or part of the hearing considered before final disposition of the proceeding, in case the presiding officer has no authority to adjudicate.
- (i) Any final order, initial order, or order on reconsideration.

The agency's record shall constitute the exclusive basis for agency action in adjudicative proceedings under this Act, and for judicial review thereof.

Section 3.19.- Procedure and Time to Request Reconsideration in the Award of Bids.

The award of bids shall be an informal process; and the regulations and terms thereof shall be established by the agencies; provided, that they fully comply with the substantive legislation applicable to the Government of Puerto Rico procurement, and without impairment to the rights and obligations of bidders, in accordance with the public policy and laws in effect in the jurisdiction of Puerto

Rico. The party aggrieved by a decision may, within twenty (20) days from the US Postal Service mailing date of the notice of award, file a motion for reconsideration with the agency. Alternatively, the aggrieved party may file a request for review with the General Services Administration Reviewing Board or appropriate appellate body, as provided by law or regulation, within twenty (20) calendar days from the US Postal Service mailing date of the notice of award. The agency or the Reviewing Board shall consider the request within thirty (30) days from filing. The Board may extend said period only once for an additional period of fifteen (15) calendar days. If a determination is made thereon, the time to request a judicial review shall start to run from the US Postal Service mailing date of a copy of the notice of the decision of the agency, appellate body, or the Reviewing Board disposing the motion. If the agency, appellate body, or the Reviewing Board fails to act on the motion for reconsideration or the request for review within the prescribed time, as provided in this Act, it shall be understood that the motion was denied outright and the time to request judicial review shall start to run from said date.

Section 3.20.- Payment of Interest.

Every decision of an administrative body ordering the payment of money shall include interest on the amount imposed from the date on which said payment was ordered and until such payment is satisfied at the rate established by regulations of the Finance Board for civil judgments, and as certified by the Commissioner of [sic] Institutions of Puerto Rico and which is in effect at the time the decision was entered.

Section 3.21.- Penalties.

In its quasi-judicial capacity, the agency may assess penalties in the following cases:

(a) If the petitioner or the respondent in an action fails to comply with the rules and regulations or with any order of the agency head, administrative judge, or hearing officer, the agency may, on its own initiative or on motion of any party, order said party to show cause why the penalty should not be assessed. The order shall state the rules, regulations, or orders that have not been complied with, and grant a period of twenty (20) days from the date of service of notice of order, to show cause. If said order is not complied with, or if it is found that noncompliance is not justified, then a monetary penalty shall be assessed in favor of the agency or any party, which shall not exceed two hundred dollars (\$200) for each separate assessment on the party or his attorney, if the latter is liable for the noncompliance.

(b) To order the dismissal of the action in the case of petitioner, or dismiss the pleadings in the case of the respondent if, after having assessed and given notice of the monetary penalties on the appropriate party, the noncompliance with the agency's orders continues.

(c) To award attorney's fees and costs as provided in Rule 44 of Civil Procedure, as amended.

CHAPTER IV.- JUDICIAL REVIEW

Section 4.1.- Applicability.

The provisions of this Act shall apply to final orders, decisions, and adjudication orders issued by agencies or administrative officials, which are reviewable by the Court of Appeals through a Petition for Review, except for:

(a) Orders issued by the Secretary of the Treasury with respect to the internal revenue laws of the Government of Puerto Rico, which shall be reviewed by filing a complaint and holding a trial *de novo*, before the competent part of the Court of First Instance. Every plaintiff contesting a determination of deficiency made by the Secretary of the Treasury shall be required to pay the portion of the

uncontested tax and post a bond for the unpaid balance of the tax determined by the Secretary of the Treasury, on or before filing the complaint; and

(b) Orders issued by the Municipal Revenues Collection Center with respect to deficiencies, assessments, and taxes under the Personal and Real Property Tax Act, which shall be governed by the applicable provisions of Act No. 83 of August 30, 1991, as amended.

Section 4.2.- Time for Filing Petition for Review.

A party aggrieved by an agency's final decision or order, who has exhausted all remedies available within the agency or the appropriate administrative appellate body may file a petition for review before the Court of Appeals within thirty (30) days from the date notice of the agency's final order or decision is entered in the record, or from the date prescribed in Section 3.15 of this Act, when the time to request judicial review has been tolled by the timely filing of a motion for reconsideration. The party shall serve a copy of the petition for review on the agency and all other parties within the prescribed time. Such notice may be served by mail. Provided, that if the date notice of the agency's or the appropriate administrative appellate body's final order or decision is entered in the record differs from the mailing date thereof, time shall be computed from the mailing date.

If a bid protest is filed, the party aggrieved by a final decision or order of the agency, the Public Bid Reviewing Board of the General Services Administration, or the appellate body for bids, as the case may be, may file a petition for review with the Court of Appeals within twenty (20) days of entry of notice of entry of the agency's, the Public Bid Reviewing Board of the General Services Administration's, or appellate body's final order or decision within the prescribed period of twenty (20) calendar days from the expiration of the time provided in

Section 3.19 of this Act. The mere filing of a petition for review under this Section shall not have the effect of staying the award of the protested bid.

The petition for judicial review shall be heard by a panel or panels designated to hear matters arising in the judicial region or judicial regions corresponding to the place where the activity or incident that led to the dispute is taking or has taken place, or the place where the bid was processed or awarded; or by the panels designated to hear appeals according to their subject matter or nature, pursuant to the Rules of Appellate Procedure.

An interlocutory order or decision of an agency, including those issued in proceedings conducted in stages, shall not be directly reviewable. The interlocutory disposition of an agency may be subject to an assignment of error in the petition for review of the agency's final order or decision.

The judicial review provided herein shall be the exclusive means to review the merits of an administrative decision issued under this Act, whether contested or informal.

Section 4.3.- Exhaustion of Administrative Remedies; Relief.

The court may relieve a petitioner of the requirement to exhaust any or all administrative remedies to the extent that the administrative remedies are inadequate, or requiring their exhaustion would result in irreparable harm to the petitioner and, in the balancing of interests, requiring exhaustion is not justified, or when a substantive violation of constitutional rights is alleged, or when the exhaustion of administrative remedies would be futile due to an excessive delay of proceedings, or when it is a clear case of lack of agency jurisdiction, or when it is strictly a question of law and administrative expertise is unnecessary.

Section 4.4.- Petition for Review; Requirements.

The Supreme Court of Puerto Rico shall adopt rules to regulate the judicial review procedure, which shall promote easy, economical, and effective access to the citizens, avoid the dismissal of petitions for review due to defects of form and notification, and allow for petitioners' effective appearance *pro se* and in forma *pauperis*. In order to make appearances *pro se* and in forma *pauperis* effective, the Supreme Court may adopt special procedures and simple forms.

Section 4.5.- Scope of Judicial Review.

The court may grant the appropriate remedy if it determines that the petitioner is entitled thereto.

The court may affirm the findings of fact of the decisions of the agencies if they are supported by substantial evidence on the administrative record.

All aspects of conclusions of law may be reviewable by the court.

Section 4.6.- Remedies.

The Court of Appeals shall review the final decisions, orders, and resolutions of administrative agencies or bodies as a matter of law. The mere filing of the petition shall not stay the proceedings of the administrative agency or body, unless the Court so determines.

The Rules of Appellate Procedure approved by the Supreme Court shall govern the petition for review procedure.

Unless it is so ordered by the Court, it shall not be mandatory for the Government of Puerto Rico to appear before the Court of Appeals.

The court may grant the requested relief or any other appropriate relief, including extraordinary remedies, even if not requested, and may award reasonable attorney's fees, costs, and expenses to the prevailing party in judicial review.

Section 4.7.- Review – *Certiorari*.

Any party aggrieved by a judgment of the Court of Appeals may seek review by filing a petition for a writ of *Certiorari* within the Supreme Court within the jurisdictional term of thirty (30) days from entry in the case record of notice of entry of judgment or ruling of the Court of Appeals disposing a duly filed motion for reconsideration. If the date notice of entry of judgment or ruling is entered in the record differs from the mailing date thereof, time shall be computed from the mailing date.

CHAPTER V.- PROCEDURE FOR ISSUING LICENSES, FRANCHISES, PERMITS, AND SIMILAR FORMS OF AUTHORIZATION

Section 5.1.- Procedure for Issuing Licenses, Franchises, Permits, and Similar Forms of Authorization.

Agencies shall establish a streamlined and efficient procedure for the issuance of licenses, franchises, permits, endorsements, and similar forms of authorization. Agencies shall prescribe by regulations the rules for processing said documents and the time to complete the consideration process of a license, franchise, permit, endorsement and similar form of authorization. A suggested period of thirty (30) days is hereby established to issue the approvals referred to in this Section; agencies, however, may establish shorter or longer periods, in this last case.

Section 5.2.- Joint Approvals.

Agencies may establish one-stop centers to jointly process applications for licenses, franchises, permits, and other similar forms of authorization, so that these may be issued with the participation of several agencies simultaneously, through officials to whom the authority to issue licenses, franchises, permits, and similar forms of authorization have been delegated by the heads of the agencies concerned.

Section 5.3.- Regionalization of Functions.

Agency heads may delegate to agency officials serving in regional offices such functions and authority as may be necessary or convenient to render services to citizens in the most efficient manner, including the issuance of licenses, franchises, permits, endorsements, permissions, and similar forms of authorization. The one-stop centers referred to in Section 5.2 of this Act may also be established in the agencies' regional offices.

Section 5.4.- Denial of Licenses, Franchises, Permits, Endorsements, Permissions, and Similar Forms of Authorization.

Every person whose application for a license, franchise, permit, endorsement, permission, or similar form of authorization is denied by an agency shall have the right to appeal the agency's decision through an adjudicative proceeding as provided in the special law in question and in Chapter III of this Act.

CHAPTER VI.- OVERSIGHT, INSPECTION, AND JOINT TRANSACTIONS

Section 6.1.- Inspections.

Agencies may conduct inspections to ensure compliance with the laws and regulations they administer and the decisions, orders, and authorizations they issue without a search or seizure warrant, in the following cases:

- (a) In case of emergency, or in a situation involving an immediate danger to the public health or safety;
- (b) By virtue of the authority to issue licenses, franchises, permits, or other similar authorization;
- (c) When information is obtainable by simple observation because it is in public places.

Section 6.2.- Request for Information.

Agencies may compel persons under their jurisdiction to submit information pursuant to the laws they administer and within the scope of the interests contemplated therein.

Every person compelled to submit information under this Section may contest the agency's request in an adjudicative proceeding as provided in the special law in question and in Chapter III of this Act. Said contest may only be supported on the fact that the request for information is unreasonable or exceeds the agency's authority because it has no relation whatsoever with the scope of interest of the law or laws in question.

Section 6.3.- Self-incrimination.

Every person invoking his constitutional privilege against self-incrimination may be compelled to produce the information required by the agency, through a court order entered by the Court of First Instance, in which case the court order shall state that the information cannot be used in any criminal proceeding against the person who produced it.

Section 6.4.- Joint Inspections.

Agencies may conduct joint inspections and investigations in order to broaden and facilitate their authority to oversee compliance with the special laws administered by them.

Section 6.5.- Administrative Complaints.

The officials of any administrative agency may file an administrative complaint with any other agency upon identifying a violation of any legal or regulatory provision administered by the other agency.

CHAPTER VII.- ADMINISTRATIVE PENALTIES

Section 7.1.- Administrative Fines.

Every violation of the laws administered by the agencies or the regulations adopted thereunder may be punished by administrative fines of not more than five thousand dollars (\$5,000) for each violation.

If the special law in question only provides for criminal sanctions, the agency head, at his option, may file an administrative complaint under this Section to process the case administratively.

If the administrative penalty prescribed by the special law in question is higher than that established in this Section, the agency may impose the higher penalty.

CHAPTER VIII.- SUPPLEMENTAL PROVISIONS

Section 8.1.- Procedures Not Contemplated in this Act.

With regard to administrative procedures not contemplated in this Act, agencies shall regulate their practices in accordance with the provisions of this Act.

Section 8.2.- Holding of Unconstitutionality.

A judicial holding of unconstitutionality of any part of this Act shall not affect the validity of the remaining provisions thereof.

Section 8.3.- Repeal.

Act No. 170 of August 12, 1988, as amended, known as the “Commonwealth of Puerto Rico Uniform Administrative Procedures Act,” is hereby repealed. Any reference to Act No. 170 of August 12, 1988 in any regulation, executive order, or other official document of the Government of Puerto Rico shall be treated as referring to this Act. Likewise, any reference in any law to Act No. 170 of August 12, 1988, is hereby amended and substituted by this Act.

Section 8.4.- Special Fund.

The amounts collected on account of reasonable reproduction costs, as authorized by subsection (d) of Section 1.6 of this Act, as well as the monetary penalties referred to in Section 3.21 of this Act shall be included in a special reproduction fund to be created in each agency, the receipts of which shall be deposited in the Department of the Treasury to defray, in part, the costs of reproduction of documents. Any unused or unencumbered balances as of June 30 of each fiscal year shall be transferred to the General Fund of the Government of Puerto Rico.

Section 8.5.- Severability.

If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be void or unconstitutional, the ruling, holding, or judgment to such effect shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act thus held to be void or unconstitutional. If the application to a person or a circumstance of any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be void or unconstitutional, the ruling, holding, or judgment to such effect shall not affect or invalidate the application of the remainder of this Act to such persons or circumstances where it may be validly applied. It is the express and unequivocal will of this Legislative Assembly that the courts enforce the provisions and application thereof to the greatest extent possible, even if it renders ineffective, void, invalidates, impairs, or holds to be unconstitutional any part thereof, or even if it renders ineffective, invalidates, or holds to be unconstitutional the application

thereof to any person or circumstance. This Legislative Assembly would have approved this Act regardless of any determination of severability that the Court may make.

Section 8.6.- Effectiveness.

This Act shall take effect as of July 1, 2017.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 38-2017 (H. B. 775)** of the **1st Regular Session** of the **18th Legislative Assembly of Puerto Rico**:

AN ACT adopt the “Government of Puerto Rico Uniform Administrative Procedure Act,” and repeal Act No. 170 of August 12, 1988, as amended, known as the “Commonwealth of Puerto Rico Uniform Administrative Procedures Act.”

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

In San Juan, Puerto Rico, on this 18th day of January, 2023.

Mónica Freire-Florit, Esq.
Director