

(House Substitute for H. B. 1140)

(No. 49-2013)

(Approved June 30, 2013)

AN ACT

To amend subsections (c) and (e) of Section 2; Section 4 and its subsection (e); Sections 5, 6, 8, 11, and 13; and add a new Section 5.1 to Act No. 66 of August 17, 1989, as amended, known as the “Puerto Rico Public Housing Administration Organic Act,” to grant additional powers to the Public Housing Administration Governing Board; and for other related purposes.

STATEMENT OF MOTIVES

The Public Housing Program was established in Puerto Rico in 1988, to provide low-income families with safe and hygienic housing in an adequate environment. In the beginning, the Public Housing Project was part of the Department of Housing and was in charge of rendering services to public housing projects, from daily cleaning and maintenance services to the development of special improvement works and modernization projects.

The projects included in the Public Housing Program — aimed at providing essential services to public housing projects, develop and implement new methods and systems to improve the administration, maintenance, beautification, and modernization of said housing projects — showed that the services rendered to public housing projects should be grouped and placed under the custody of a specific entity that, even if governed by the public policy and functions of the Department of Housing, is able to operate with a certain degree of independence. Consequently, the Puerto Rico Public Housing Administration was created.

The Administration was created by virtue of Act No. 66 of August 17, 1989, as amended, attached to the Department of Housing. The main purpose of the Administration is to improve the quality of life of the residents of public housing projects, and in turn, encourage community activity, as well as the personal and family development of its residents.

Subsequently, Act No. 71-2003 amended the Organic Act of the Administration in order to create its Governing Board and establish its powers and duties. At that time, it was deemed that the attention warranted by our public housing projects required a multidisciplinary effort to effectively integrate the public sector and the community. The decision-making process in the administration and the rendering of services required by the public housing sector of the Island call for citizen involvement and participation, namely, the stakeholders and components of our public housing projects, and of professionals in related areas and areas of interest, as well as of the concerned government agencies and entities.

For all of the foregoing, the Legislative Assembly deems it necessary to increase, by law, citizen involvement in the democratic decision-making process, the oversight of administrative procedures, and the rendering of services required in the public housing sectors of the Island. Hence, the Public Housing Administration Governing Board of Puerto Rico would thus become the proper body to maximize the use of government resources and to improve the quality of life in our public housing projects by rendering the services required, promoting community activity, and the personal or family development of its residents.

Taking into consideration the extensive and broad powers of the Administration, it is imperative to impose greater responsibilities on the seven Board members with respect to the governance thereof. Due to the nature of the offices they hold, all these persons have firsthand knowledge (and extensive preparation) to work with the sector that reaps the benefits of the services rendered by the

Administration. Therefore, this Act is a logical step in the integration practice of the Commonwealth in seeking to improve services for public housing project residents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Subsections (c) and (e) of Section 2 of Act No. 66 of August 17, 1989, as amended, are hereby amended to read as follows:

“Section 2.- Definitions

...

(a) ...

(b) ...

(c) ‘Administrator’ - Shall mean the executive official of the Administration, who shall report directly to the Public Housing Administration Governing Board, and shall carry out any task, instruction, or undertaking entrusted thereto by the Board. He shall be responsible for discharging all the duties and responsibilities of the Administration delegated to him by the Governing Board.

(d) ...

(e) ‘Board’ - Shall mean the Public Housing Administration Governing Board of Puerto Rico. It shall be the highest ranking entity in the Public Housing Administration, and to which the Administrator shall report. The Board shall be responsible for the organization, direction, and the performance of all the duties and responsibilities of the Administration, which may be delegated thereby to the Administrator, at its discretion.

(f) ...

(g) ...

(h) ...”

Section 2.- Subsection (e) of Section 4 of Act No. 66 of August 17, 1989, as amended, is hereby amended to read as follows:

“Section 4.- Governing Board; Administrator

The powers, duties, and responsibilities of the Administration shall be exercised, and its public policy shall be set forth by a Governing Board, which shall be known as the Public Housing Administration Governing Board, and shall be constituted and directed as follows:

(a) ...

...

(e) ‘Administrator’ - The Administrator shall be appointed by the Governor with the advice and consent of the Senate of the Commonwealth of Puerto Rico. The Administrator shall hold office at the discretion of the Board, shall be a person of extensive training and professional experience in the areas of public management and administration, have shown a genuine interest in the study and application of social sciences, and be committed to the attainment of the purposes of this Act.

The Board shall fix the salary or remuneration of the Administrator according to the general rules of the Commonwealth of Puerto Rico for positions of an equal or similar level, duties and responsibilities. The Administrator may avail himself of the benefits of Act No. 447 of May 15, 1951, as amended, known as the ‘Employees Retirement System of the Government of Puerto Rico and its Instrumentalities Act,’ or any other retirement system subsidized by the Government of the Commonwealth of Puerto Rico of which he is a participant at the time of his appointment. He may also avail himself of Act No. 133 of June 28, 1966, as amended, which creates the Puerto Rico Commonwealth Employees Savings and Loan Fund.

The Administrator may recommend for the Board's approval, the appointment of a Deputy Administrator who shall perform those tasks, responsibilities, and duties as are assigned or delegated by the Administrator, insofar as said tasks, responsibilities, and duties are within the powers of the Administrator. The person appointed as Deputy Administrator shall meet the requirements of this Section for the position of Administrator.

(f) ...”

Section 3.- Section 5 of Act No. 66 of August 17, 1989, as amended, is hereby amended to read as follows:

“Section 5.- Powers of the Board

The Board shall have the following powers and duties, in addition to any others provided in this Act:

(a) To establish the internal organization of the Administration and any necessary systems for its proper functioning and operation.

(b) To plan, establish, and direct all necessary administrative and managerial actions for the implementation of this Act and the regulations adopted thereunder, as well as for the implementation of any other laws, regulations, services, or programs attached to the Administration.

(c) To plan, establish, and direct every activity, operation, and transaction of the Administration and represent it in all actions and agreements as required.

(d) To appoint trust personnel, including the Deputy Administrator, as necessary for the implementation of this Act, who may avail themselves of the benefits of Act No. 447 of May 15, 1951, as amended, which establishes the Employees Retirement System of the Commonwealth of Puerto Rico and its Instrumentalities, and Act No. 133 of June 28, 1966, as amended, which establishes the Puerto Rico Commonwealth Employees Savings and Loan Fund. The Administration shall constitute an individual administrator for purposes of Act No.

5 of October 14, 1975, known as ‘Public Service Personnel Act of Puerto Rico.’ Upon the approval of this Act, the Board shall be empowered to evaluate and/or dismiss employees as deemed necessary to ensure faithful compliance with the public policy set forth thereby.

(e) To contract technical and professional services, and authorize procurement as necessary to attain the purposes of this Act. As part of its duties, the Board may also review and/or cancel those contracts executed by the Administration as deemed necessary.

(f) To delegate, at its full discretion, to the Administrator the powers, duties, and responsibilities conferred thereto by this Act.

(g) To approve regulations and ensure compliance therewith.

(h) To control and decide the nature and need of all of the Administration’s expenses, how they shall be incurred, authorized, and paid, subject to the regulations of the Department of the Treasury for the disbursement of public funds or the applicable federal regulations.

(i) To periodically evaluate the programs and rules to develop procedures, methods, and systems in order to redirect the Administration’s efforts according to changing needs in the areas of services and activities entrusted thereto by this Act.

(j) To prepare and adopt the plans of action, activities, agreements, and programs that are necessary and convenient to implement the Administration’s powers and duties.

(k) To adopt the rules for the use, control, and conservation of public property under the custody of the Administration and for the storage and distribution of goods acquired to render services to public housing projects and to any other programs under its administration.”

Section 4.- Section 5.1 is hereby added to Act No. 66 of August 17, 1989, as amended, to read as follows:

“Section 5.1.- Powers of the Administrator

(a) To ensure compliance with the systems established by the Board for the proper functioning and operation of the internal organization of the Administration.

(b) To take all necessary administrative and managerial actions as established by the Board for the implementation of the public policy set forth by the Board, except for the appointment of trust employees, salary raises, the granting of differentials, and any other administrative and managerial action that entails a budget impact.

(c) To ensure compliance with the regulations adopted by the Board, as well as for the implementation of any other laws, regulations, services, or programs approved by the Board and attached to the Administration.

(d) To supervise every activity, operation, and transaction of the Administration, as established by the Board, and represent the Administration in all actions and agreements as required.

(e) To appoint, in compliance with the applicable state and federal legislation and regulations, trust personnel as necessary for the implementation of this Act, who may avail themselves of the benefits of Act No. 447 of May 15, 1951, as amended, known as the ‘Employees Retirement System of the Government of Puerto Rico and its Instrumentalities Act,’ and Act No. 133 of June 28, 1966, as amended, which establishes the Puerto Rico Commonwealth Employees Savings and Loan Fund. The Administration shall constitute an individual administrator for purposes of Act No. 5 of October 14, 1975, known as the ‘Public Service Personnel Act of Puerto Rico.’

(f) To assign tasks, duties, and responsibilities to officials and employees of the Administration based on criteria that shall allow for a more efficient use of human resources.

(g) To authorize purchases that do not exceed fifty thousand dollars (\$50,000), in accordance with the applicable rules and regulations of the Department of the Treasury, and any other state or federal agency, which governs government procurement.

(h) To delegate to any officials or employees of the Administration the tasks, duties, and responsibilities conferred to him by this Act, except for the appointment of trust employees and the approval of purchases.

(i) To draw up the Administration's expense budget for the consideration and approval of the Board.

(j) To compile the budget requests of the Administration's programs and services to be submitted as a whole for the Board's approval.

(k) To establish an accounting system, with the approval of the Board and of the Secretary of the Treasury, to keep a full and detailed record and accounting of all expenses, disbursements, and revenues of the Administration, as well as to properly control all its fiscal operations. Provided, that the accounting system shall be consistent with all the applicable federal laws and regulations. If there is a conflict between an applicable federal law or regulation and a state law, the federal law shall prevail.

(l) To oversee compliance with the rules for the use, control, and conservation of public property under the custody of the Administration approved by the Board; and those approved for the storage and distribution of goods acquired to render services to public housing projects and any other programs of the Administration.

(m) To administer, on behalf of the Board, any project owned by or under the jurisdiction of the Administration, whether leased thereby or conveyed thereto in any legal manner.

(n) To enter into agreements with other agencies of the Commonwealth of Puerto Rico or of the Federal Government, any municipality, or any public or private person to administer any public housing project; provided, that it is beneficial and convenient to achieve the objectives of this Act, and has been previously approved by the Board.

(o) To transfer funds and resources, with the approval of the Board and the Governor or the official to whom the latter delegates, to agencies or municipalities of the Commonwealth of Puerto Rico or the Federal Government to enable said agencies to carry out specific stages or activities of the programs, services, and functions of the Administration when, in its judgment, said action facilitates or accelerates the attainment of the objectives of this Act.

(p) To receive, with the approval of the Board, money, equipment, materials, or services through donation, usufruct, or any other legal means from other agencies or municipalities of the Government of the Commonwealth of Puerto Rico, the Government of the United States of America, or from any private person, for its objectives and purposes.

(q) To submit an annual report to the Legislative Assembly and the Governor of Puerto Rico, through the Board, on the activities of the Administration, the funds appropriated or generated during the year covered in the report, their source, the disbursements made, and surplus, if any.

(r) To ensure compliance with the action plans drafted and adopted by the Board.”

Section 5.- Section 6 of Act No. 66 of August 17, 1989, as amended, is hereby amended to read as follows:

“Section 6.- Acquisition and Distribution of Materials and Supplies

...

The Administration, through the Board, shall design and implement a program or system for the acquisition and distribution of materials, equipment, and supplies. It shall also adopt the rules, procedures, and systems as needed to ensure that the procurement of materials, supplies, equipment, and non-personal services of the different public housing projects is carried out without any unjustified delay and at the lowest cost. Likewise, it shall establish an effective system for the distribution of materials, equipment, and supplies according to the rules prescribed through regulations.”

Section 6.- Section 8 of Act No. 66 of August 17, 1989, as amended, is hereby amended to read as follows:

“Section 8.- Construction, Improvements, and Repair Programs in Public Housing Projects

The Administration, through the Board, shall be responsible for the regular and special preventive maintenance, planning, and scheduling area, as well as for the public housing modernization. Every year, the Administrator shall prepare and submit a schedule to the Board, on the date required thereby for the repair, maintenance, and modernization or rehabilitation of public housing projects and the structures and facilities of the programs and activities under its administration.

The Administration, through the Board, shall have the obligation to establish, maintain, and implement programs as are necessary for the maintenance, cleaning, and beautification of housing projects. It shall also carry out regular and special repairs, improvements, and modernization works of the public housings. The Board may contract with the municipalities to carry out said services and works, provided,

they have the necessary capacity therefor. Likewise, it shall promote the participation of residents in these programs to promote a sense of belonging to their community and strengthen families.

The Administrator, through the Board, shall prescribe through regulations the minimum standards for the conservation and maintenance of all public housing projects and the buildings and facilities of the programs under its administration.”

Section 7.- Section 11 of Act No. 66 of August 17, 1989, as amended, is hereby amended to read as follows:

“Section 11.- Organization of Transferred Programs

The Administrator, with the approval of the Board, shall organize the programs, services, units, divisions, and branches that are transferred to the Administration through this Act and any others to be transferred in the future, in such a manner that services are not affected and the purposes of this Act are achieved. For purposes of this restructuring, which shall be submitted to the Board for approval, the Administrator shall take into consideration the claims and indications of the programs and services transferred, the public housing project residents and, in particular, the public policy of the Board in order to ensure the utmost effectiveness of the Administration’s services.”

Section 8.- The first paragraph of Section 13 of Act No. 66 of August 17, 1989, as amended, is hereby amended to read as follows:

“Section 13.- Rulemaking Authority

The Board is hereby empowered to adopt rules and regulations as are necessary for the implementation of this Act and for the funding of the Administration as well as the programs, services, units, divisions, or branches transferred thereto under this Act.

...”

Section 8.[sic]- Section 15 of Act No. 66 of August 17, 1989, as amended, is hereby amended to read as follows:

“Section 15.- Public Agencies Collaboration

To fulfill the purposes of this Act, the Board may request the services, facilities, and personnel of any public agency and municipality, and they may make them available thereto. Any official or employee of a public agency who is temporarily transferred to the Administration by virtue of the provisions of this Section, shall retain all his rights, benefits, classification, and position in the former public agency.

The Board may likewise request any public agency to conduct any study or investigation as necessary to attain the purposes of this Act.”

Section 9.- Effectiveness

This Act shall take effect immediately after its approval.