

(H.B. 575)

(No. 50)

(Approved July 25, 1997)

AN ACT

To amend Section 21 of Act No. 109 of June 28, 1962, as amended, known as the "Puerto Rico Public Service Act", in order to provide for the imposition of administrative fines up to a maximum of two hundred and fifty thousand (250,000) dollars.

STATEMENT OF MOTIVES

Act No. 109 of June 28, 1962, as amended, known as the "Puerto Rico Public Service Act", created the Public Service Commission as the administrative agency empowered to establish all the procedures to grant, renew, alter or modify the franchises of public service companies.

Given the fact that granting a franchise to operate a public service company is equivalent to granting a privilege and not a right, the agency has the power to regulate, supervise and control public service companies in general.

For decades, the Public Service Commission has, among other duties, dealt with the imposition of administrative fines as a dissuasive means the process of supervising and controlling the actions of the public service companies. At present, the Commission can impose fines up to a maximum of ten thousand (10,000) dollars for violations of the provisions of Act No. 109, supra. The total amount of these fines is not sufficient to achieve the desired dissuasive effect and for this reason public safety could be affected.

We believe that an increase of the maximum limit of the administrative fines imposed by the Public Service Commission, as an administrative entity, shall have the effect of allowing the Commission to watch over the public safety and at the same time guarantee that safe services are rendered by discouraging any possible violations of Act No. 109, supra.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Section 21 of Act No. 109 of June 28, 1962, as amended, is hereby amended to read as follows:

"Section 21.- Judicial and Administrative Actions.-

It shall be the duty of the Commission to require that the Secretary of Justice, on behalf of the Commonwealth of Puerto Rico, institutes those civil or criminal procedures that may be necessary to enforce the provisions of this Act and the rules approved thereunder, and to enjoin and bar public service companies, contract carriers, or persons from committing or continuing to commit any act or to punish any acts committed in violation of the provisions of this Act. In addition to the judicial actions established in this Act, the Commission is hereby empowered to impose administrative penalties and fines for violations of this Act and the rules approved thereunder incurred by public service companies, contract carriers or by any person subject to its provisions. Administrative fines shall not exceed ten thousand (10,000) dollars for each violation, it being understood that each day the violation persists shall be deemed as a separate violation up to a maximum of two hundred and fifty thousand (250,000) dollars. Administrative fines imposed pursuant to this Act shall never exceed five percent (5%) of the gross sales, fifteen percent (15%) of the net income or ten percent (10%) of the net assets of the enterprise or person penalized, whichever is greater, corresponding to the most recent taxable year. In the event a public service company, contract carrier or other

person subject to the provisions of this Act shows contumacy in the commission or continuation of actions for which an administrative fine has been imposed or in the commission or continuation of actions in violation of this Act and its regulations, or shows contumacy in obeying any order or resolution issued by the Commission, the latter may, in the exercise of its discretion, impose administrative fines of up to a maximum of fifty thousand (50,000) dollars a day, it being understood that every day the violation persists shall be deemed as a separate violation up to a maximum of five hundred thousand (500,000) dollars for any of the actions set forth herein, and in such cases of contumacy and through the unanimous decision of the Commission, fines may be imposed for up to double the limits on the basis of sales, income or assets established in this Act, up to maximum of five hundred thousand (500,000) dollars."

Section 2.- This Act shall take effect immediately after its approval.

June 5, 1998

José A. Figueroa-Lugo, Director of the Office of Legislative Services of the Legislature of Puerto Rico, hereby certifies to the Secretary of State that he has duly compared the English and Spanish texts of Act No. 50 (H.B. 575) of the 1st Session of the 13th Legislature of Puerto Rico, entitled:

AN ACT to amend Section 21 of Act No. 109 of June 28, 1962, as amended, known as the "Puerto Rico Public Service Act", in order to provide for the imposition of administrative fines up to a maximum of two hundred and fifty thousand (250,000) dollars,

and finds the same are complete, true and correct versions of each other.

José A. Figueroa-Lugo