

(S.B. 1630)

(No. 71)

(Approved January 10, 2003)

AN ACT

To add a new subsection (e), re-number the current subsections (e), (f), and (g) as subsections (f), (j) and (h) respectively, in Section 2; to amend Section 4; to amend subsections (a), (f), (g), (h), (i), (j), (k), (o), (p), and (q), and to add a new subsection (r) to Section 5, and to amend Sections 6, 8, 9, 10, 11, 13, and 15 of Act No. 66 of August 17, 1989, as amended, known as the “Puerto Rico Public Housing Administration Organic Act”, to create the Public Housing Administration Governing Board; establishing its powers and duties; and other purposes.

STATEMENT OF MOTIVES

Through Act No. 66 of August 17, 1989, as amended, known as the “Puerto Rico Public Housing Administration Organic Act”, the Public Housing Administration, adjoined to the Department of Housing, was created. This government agency has the specific duty to manage the local public housing programs and public housing projects. Said Act established that the Administration’s powers and duties shall be exercised by an Administrator, appointed by the Secretary of Housing, with the approval of the Governor of the Commonwealth of Puerto Rico.

The public housing projects are found in several points of the island and the responsibilities of the Public Housing Administration concerning same range from the rendering of daily maintenance services, to the development of extraordinary improvements, and refurbishing works. The complexity of the problems that arise, which must be solved in each public housing project in a single day, are many. The attention required by our public housing

projects warrants a multidisciplinary effort, which effectively incorporates the public sector, as well as the community sector.

Housing is not merely a physical structure, but rather the home where our family is nourished and developed; therefore, it is this Administration's priority to study and to adequately solve the complex problems that beset members and residents of local public housing sectors, particularly in the public housing projects. It is also this Administration's priority to discharge its governmental duty to manage the public housing program within a framework of good public administration, and in such a manner that becomes transparent for the People. The making of decisions by the Administration and the rendering of services needed in the public housing sectors of the country requires civic integration and participation of the members and components of our public housing projects, from professionals in areas of related interest, as well as from the government agencies and entities concerned. Therefore, with the purpose of fostering citizen participation in the democratic process of making decisions, the control and the integrity of the administration's procedures and the rendering of the required services for the sectors of local public housing projects, this Legislature deems it necessary and convenient to create through this Act a Public Housing Administration Governing Board. Such Board shall be comprised by the Secretary of Housing, the Secretary of the Department of the Family, the Secretary of Labor and Human Resources, the Executive Director of the Housing Financing Authority, two community representatives who reside in two of the country's different public housing projects and a representative of the private sector with training or experience, without being limited to one of the following areas: social work, psychology, mental health, sociology, family planning, accounting,

management or public administration, business administration, physical education, law, architecture, engineering, urbanism and planning.

With the creation of the Board, we will maximize the use of Government resources and improve the quality of life in our public housing projects, thus improving the services needed, fostering community activity, and the personal and family development of the residents.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- A new subsection (e) is hereby added and current subsections (e), (f), and (g) are re-numbered as subsections (f), (g), and (h), respectively, Section 2 of Act No. 66 of August 17, 1989, as amended, is hereby amended to read as follows:

“Section 2.- Definitions.-

For purposes of this Act, the following terms and phrases shall have the following meaning:

(a) ...

(e) “Board”.- shall mean the Public Housing Administration
Governing Board of Puerto Rico;

(f) ...

(g) ...

(h) ...

Section 2. - 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 Administration powers shall be exercised, and its public policy shall be determined by a Governing Board which shall be known as the Public Housing Administration Governing Board, and shall be formed and directed as established by the following:

(a) Composition of the Board - The Board shall consist of the following seven (7) members: the Secretary of Housing, who shall have the position of President of the Board, the Secretary of the Department of the Family, the Secretary of the Department of Labor and Human Resources and the Executive Director of the Authority for Housing Financing, who shall serve as ex-officio members of the Board; and three (3) representatives of the private sector appointed by the Secretary with the approval of the Government of the Commonwealth of Puerto Rico, two (2) of these selected from among the residents of two (2) different public housing projects, and one (1) private sector representative with training or experience, without being limited to one of the following areas: social work, psychology, mental health, sociology, family planning, accounting, management or public administration, business administration, physical education, law, architecture, engineering and urbanism or planning. The provisions set forth in of Act No. 12 of July 24, 1985, as amended, known as the “Ethics in Government Act of the Commonwealth of Puerto Rico”, shall apply to said representation of the private sector and the filing of reports concerning the non-salaried nature of his duties shall be required. The Board shall elect a Vice-President among its members annually.

(c) Compensation - No member of the Board shall receive any compensation for his services. The members of the Board, except for those who are officials of the Commonwealth of Puerto Rico, shall receive a per diem equivalent to the minimum per diem, established by the Political Code for members of the Legislature, for each Board meeting they attend, which shall be established in the regulations adopted by the Administration.

(d) Quorum and Vote - Five (5) members of the Board shall constitute quorum for the purposes of holding any Board meeting. All

actions by the Board shall be approved by the affirmative vote of at least five (5) members, which shall constitute a Board majority; provided, however, that concerning those matters in which private sector members of the Board cannot vote due to a conflict of interest pursuant to Section 4 (f) of this Act, a minimum of three (3) members of the public sector shall constitute quorum and all the decisions related to such matters must be approved by the affirmative vote of at least three (3) members of the public sector, who shall constitute a Board majority for such matters.

e) Administrator - The Administration shall be directed by an Administrator appointed by the Board with the approval of the Governor of the Commonwealth of Puerto Rico. The Administrator shall perform his duties at the Board's volition and must be a person of extensive training and professional experience in the areas of management and public administration, must have shown a genuine interest in the study and application of social sciences, and must 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 customary norms in 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 to which he is subscribed at the moment of his appointment. He may also avail himself of Act No. 133 of June 28, 1996, as amended, which establishes the Puerto Rico Commonwealth Employees Savings and Loan Fund.

The Administrator, with the approval of the Board, may appoint a Sub-Administrator who shall substitute him in case of temporary absence, and shall perform those tasks, responsibilities and duties that are assigned or delegated by the Administrator, except for the approval of regulations. The person appointed as Sub-Administrator shall meet all the qualities required in this Section for the position of Administrator.

(f) Conflict of Interest - No member of the Board with a personal or economic interest (as such terms are defined later on) may participate in any decision or have access to any information related to the matter or matters where he has such interest and are under the Board's consideration. For purposes of this subparagraph, the term "economic interest" shall mean any economic benefit that can be directly received by a Board member or a member of his "family unit" (as defined later on), as a consequence of a determination that is pending consideration by the Board, related with the administration of public housing in the country or direct or indirect ownership, be it legal or in equity, of an individual or a member of his family unit as defined later on, of (1) at least 10% of the shares issued by a corporation; (2) at least a 10% interest in any other entity; or (3) ownership of enough shares or participations in an entity allowing such person an effective control over such entities' decisions. The term "personal interest" shall mean any personal or economic interest of a Board member or of people related to him, that are or reasonably may be in conflict with the public interest or if there is the appearance of a personal interest conflict. The term "family unit" shall mean a person's spouse, his children, dependents and all those people who share his legal residence or whose financial interests are under the legal or factual control of such person. Concerning a Board member who resides in a local public housing project,

the fact that he or she resides in a local public housing project shall not be considered a conflict of interest, except when a determination for consideration before the Board exclusively affects the public housing project where the member of the Board resides. The Administration may issue all the rules, regulations or circular letters that it deems necessary to implement the provisions of this subsection”.

Section 3.- Subsections (a), (f), (h), (i), (j), (k), (o), (p), and (q) are hereby amended and a new subsection (r) is hereby added to Section 5 of Act No. 66 of August 17, 1989, as amended, to read as follows:

“Section 5.- Powers of the Administrator

The Administrator 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 adequate functioning and operation with the approval of the Board.
- (b)
- (c) ...
- (d) ...
- (e) ...
- (f) With the prior authorization of the Board, to contract technical and professional services, and to authorize the purchases that are needed to carry out the purposes of this Act, provided however, that he can grant such contracts and authorize the purchases that are needed to carry out the purposes of this Act without the previous authorization of the Board in those contracts or purchases that do not exceed one hundred thousand (100,000) dollars, all in compliance with the applicable rules and regulations of the

Department of the Treasury, and of any other state or federal agency, which regulates contracts for professional services and government purchases.

(g) To delegate to any Administration, officials or employees the tasks, duties and responsibilities conferred to him by this Act, except for the appointing of officials, granting of contracts and approving of purchases in excess of twenty-five thousand (25,000) dollars, and approving regulations.

(h) To prepare, for the Board's consideration and approval, the Administration's expense budget, to control and decide the nature and need of all Administration expenses, the manner in which the same shall be incurred, authorized and paid for, subject to the Department of the Treasury regulations for the disbursement of public funds.

(i) To integrate the budget petitions of the programs and services under his administration for presentation to the Board as a whole.

(j) To establish, with the approval of the Board and of the Secretary of the Treasury, an accounting system for a complete and detailed registry and accounting of all expenses, disbursements and revenues of the Administration, and for the adequate control of all its fiscal operations establishing also that the accounting system shall comply with all the applicable federal laws and regulations. In case the applicable federal laws or regulations conflict with state law, federal law shall prevail.

(k) To adopt, with the approval of the Board, the norms 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 housings and to any other programs under its administration.

(l) ...

(m) ...

(n) ...

(o) To transfer funds and resources, with the approval of the Board and the Governor or the official on whom he delegates, to agencies or municipalities of the Commonwealth of Puerto Rico or the Federal Government so that said agencies can carry out specific stages or activities of the programs, services and functions of the Administration, when in their 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 ends and purposes.

(q) To render an annual report to the Legislature and the Governor of Puerto Rico, through the Board, on the activities of the Administration, the funds appropriated or generated during the corresponding report year, their source, disbursements made, and surplus money, if any.

(r) To prepare and adopt, with the Board's approval, the necessary plans of action to implement the administration's powers and duties under this Act".

Section 4.- 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 timely acquisition of materials, supplies, equipment and non-personal services is hereby declared as essential for an effective administration of public housing projects. The timely availability of the entirety of materials, supplies, equipment and non-personal services that are

essential for fast and efficient execution of the programs and activities of the Administration and for the rendering of mandatory services, contributes to the attainment of the purposes of this chapter.

The Administration shall design and implement a program or system for the acquisition and distribution of materials, equipment, supplies. It shall also adopt the rules, procedures and systems needed to ensure that the requisitions of materials, supplies, equipment and non-personal services of the different public housing projects may be handled without unjustified delay and at the lowest cost. It shall also establish an effective system for the distribution of materials, equipment and supplies according to the rules established through regulations.”

Section 5.- Section 8 of Act No. 66 of August 17,1989, as amended, is amended to read as follows:

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

The Administration shall be responsible for areas of planning and programming, of ordinary and extraordinary preventive maintenance and refurbishing of public residential projects. The Administrator shall prepare and submit a program to the Board each year, on the date it requires for the repair, maintenance and refurbishing or renovation work in public housing projects and of the structures and buildings of the programs and activities under his/her administration.

The Administration shall have the obligation to establish, maintain and execute the programs that are needed for the maintenance, cleaning and beautification of housing projects and to carry out ordinary and extraordinary repairs, and improvements and refurbishing works of the buildings and of public housings. The Administrator may contract with the

municipalities for the performance of such services and works, provided they have the necessary capacity to do so. Likewise, he shall promote the participation of residents in these programs to bolster the sense of belonging to their community and the strengthening of the families.

The Administrator shall establish through regulations the minimum norms for the conservation and maintenance of all public housing projects and the structures and buildings of the programs under his/her administration.”

Section 6.- Section 9 of Act No. 66 of August 17,1989, as amended, is hereby amended to read as follows:

“Section 9.- Transfer of programs and services.-

All the powers and faculties of the Public Housing Program of the Urban Renewal and Housing Corporation are hereby transferred to the Public Housing Administration. Unless the Secretary and the Board provide otherwise, by virtue of the authority conferred in Section 10 of this Act, the Subsidized Housing Projects of the Federal Housing and Urban Development Department and those of the Farmers Home Administration are exempted from this transfer, as well as the Subsidized Housing Projects of the Commonwealth of Puerto Rico and the Urban Renewal and Housing Corporation of Puerto Rico, and the Federal Housing Program adopted pursuant to Section 8, which shall continue to be under the Administration of the Urban Renewal and Housing Corporation, or the Department, as provided by the Secretary and the Board.

...”

Section 7.- Section 10 of Act No. 66 of August 17,1989, as amended, is hereby amended to read as follows:

“Section 10.- Additional Program Transfers

The Secretary may transfer other programs, services, units, divisions or branches of the Department to the Administration, with the purpose of achieving an effective integration and coordination of the administration of public housings and rendering of essential services to their residents. Any transfer made by the Secretary by virtue of this section, must be written down in a document clearly stating the transferred functions, responsibilities, funds and transferred resources. A copy of this document must be remitted to the Legislature, to the Governor of Puerto Rico and to the Government's Office of the Management and Budget no later than fifteen (15) days following the date on which the Secretary and the Board authorizes the transfer of the program, service, unit, division or branch of the Department involved.

...”.

Section 8.- Section 11 of Act No. 66 of August 17, 1989, as amended, is amended to read as follows:

“Section 11.- Organization of Transferred Programs

The Administrator shall organize the programs, services, units, divisions and branches that are transferred to the Administration through this Act and any others that are transferred in the future, in such a way that services are not affected and that the purposes of this Act are complied with. For the purposes of this restructuring, the Administrator shall take into consideration the claims and indications of the programs and services transferred, those of public housing project residents and, in particular, those of the Board, for the purpose of ensuring the greater effectiveness of the administration's services.

Section 9.- Section 13 of Act No. 66 of August 17, 1989, as amended, is amended to read as follows:

“Section 13.- Rules and Regulations

The Administrator is hereby empowered to adopt the rules and regulations that are needed for the execution of this Act and for the financing of the Administration and of the programs, services, units, divisions or branches that are transferred to it through this Act. These regulations shall not take effect until approved by the Board.

Such regulations, except those for internal operation of the Administration, shall be subject to the provisions of Act No. 170 of August 12, 1988, as amended, known as the "Uniform Administrative Procedures Act."

Section 10.- Section 15 of Act No. 66 of August 17, 1989, as amended, is hereby amended to read as follows:

“Section 15.- Collaboration of Public Agencies

To fulfill the purposes of this Act, the Administrator may request the services, facilities and personnel of any public agency and municipality, and they may render and offer him/her their services. 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/her rights, benefits, classification and position in the former public agency.

The Administrator, through the Board, may likewise request any public agency to carry out a study or investigation needed to comply with the purposes of this Act.”

Section 11.- Transitory rules

Any action, regulation, circular, contract, agreement, purchase, disposition, or adjudication, performed, promulgated, or carried out by the

Administration before the appointment of the Government Board of the Administration of Public Housing and before it becomes operational, shall be valid, provided that it has been performed according to the laws and regulations in effect before the approval of this Act. Once the Governing Board of the Public Housing Administration becomes operational, all the acts of the Public Housing Administration shall be ruled by Act No. 66 of August 17, 1989, as amended by this Act.

The Governing Board of the Public Housing Administration shall be appointed and must become operational within ninety (90) days following the approval of this Act.

Section 12.- Effectiveness.-

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 71 (S.B. 1630) of the 5th Session of the 14th Legislature of Puerto Rico:

AN ACT to add a new subsection (e), re-number the current subsections (e), (f), and (g) as subsections (f), (j) and (h) respectively, in Section 2; to amend Section 4; to amend subsections (a), (f), (g), (h), (i), (j), (k), (o), (p), and (q), and to add a new subsection (r) to Section 5, and to amend Sections 6, 8, 9, 10, 11, 13, and 15 of Act No. 66 of August 17, 1989, as amended, known as the “Puerto Rico Public Housing Administration Organic Act”, to create the Public Housing Administration Governing Board; establishing its powers and duties; and other purposes,

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

In San Juan, Puerto Rico, today 3rd of March of 2004.

Elba Rosa Rodríguez-Fuentes
Director