

Commissioner of Financial Institutions—Amendments

(S.B. 1049)

(H.B. 1287)

(Conference)

[No. 76]

[Approved August 28, 1991]

AN ACT

To amend clause (7) of subsection (g) of Section 4; to amend subsection (b) of Section 8, and to amend clause (4) and add a clause (14) to subsection (a) of Section 10 of Act No. 4 of October 11, 1985, as amended, in order to clarify and complete the powers of the Commissioner of Financial Institutions and to modify the term "Financial Institutions."

STATEMENT OF MOTIVES

Act No. 4 of October 11, 1985, as amended, created the Office of the Commissioner of Financial Institutions with the main purpose of regulating and supervising the banking, securities and financial institutions industries. Said industries have an enormous influence on the economy of any country, are highly developed and possess the latest technology in their field. Due to their extraordinary development and because of the complexity of their operations, the Office of the Commissioner of Financial Institutions was created in order to enable the proper supervision of these industries by recruiting personnel with the necessary specialized knowledge.

As an important part of its duties, the Office of the Commissioner of Financial Institutions has the responsibility of watching over the orderly development of the financial industry in general, and of all its components in particular. Since the financial industry is invested with a high public, economic and social interest, the responsibility of the regulation, supervision and investigation thereof should not be limited to those institutions, entities and persons that have complied with the requirements imposed by the law and have been duly authorized to engage in any one type of regulated financial business. It is also necessary and convenient that said regulation, supervision

and investigation be extended to those other institutions, entities or persons that engage, openly or covertly, in financial mediation businesses as money brokers, agents, or investment, deposit, loan or financing brokers or mediators, without being duly authorized by the law or by regulations for such specific purposes. Through the amendment proposed in this measure to Section 4 of the aforementioned Act No. 4, any natural or judicial person who engages in financial mediation businesses as a money broker, agent, or investment, deposit, loan or financing broker or mediator, is included within the definition of the term "Financial Institutions." The Commissioner of Financial Institutions is thus conferred the power to regulate, supervise and investigate said persons.

Since the Office of the Commissioner of Financial Institutions is an agency with highly specialized supervisory functions, it is desirable that said Office internally establish a proper legal structure to assume its representation in any case or dispute. For such purposes, the Commissioner of Financial Institutions is empowered to file any legal remedies needed to fulfill the purposes of the laws under his/her jurisdiction, using his/her own attorneys. Should the case so merit, he/she is authorized to request the representation of the Secretary of Justice.

Likewise, it is deemed desirable that the Commissioner of Financial Institutions has the power to establish fees for certain services his/her Office renders, so that it can collect funds to improve its services and, at the same time, to discourage any unjustified requests for services.

Be it enacted by the legislature of Puerto Rico:

Section 1.—Clause (7) of subsection (g) of Section 4 of Act No. 4 of October 11, 1985, as amended,⁶⁴ is hereby amended to read as follows:

"Section 4.—Definitions

To the effects of this Act, the following terms shall have the meanings stated hereinbelow:

(a) . . .

(g) 'Financial Institutions' shall mean and include:

⁶⁴ 7 L.P.R.A. § 2004(g)(7).

1. . . .

7. any other institution or person who engages in the financial mediation business as a money broker, agent, or as an investment, deposit, loan or financing broker or mediator, with a combined volume of business in excess of ten thousand dollars (\$ 10,000), without being specifically authorized for such purposes by any law or regulation. Subject to the provisions of Act No. 170 of August 12, 1988, as amended, the Commissioner is hereby empowered to approve, promulgate, amend, enact, apply and enforce the rules, regulations, orders, resolutions and determinations he/she deems necessary or convenient in order to authorize, deny, regulate, supervise and investigate the activities and persons described in this clause 7.”

Section 2.—Subsection (b) of Section 8 of Act No. 4 of October 11, 1985, as amended,⁶⁵ is hereby amended to read as follows:

“Section 8.—Financing Board

(a) . . .

(b) The other members shall be: the Secretary of the Treasury, who shall act as Chairman of the Board; the Secretary of Commerce; the Secretary of Consumer Affairs; the Chairman of the Planning Board; the President of the Government Development Bank, and three (3) persons representing the private sector.

Provided, besides, that the members that represent the private sector shall not be considered as members of the Board when it exercises its functions of fixing maximum rates of interest and the maximum finance charges pursuant to any law or regulation conferring the Board such a power, or when acting according to the provisions of Act No. 8 of January 24, 1987, as amended, known as ‘Tax Incentives Act of Puerto Rico.’ In such cases, the Board’s quorum, as well as the number of affirmative votes required for the decision making, shall be of four (4) members.”

⁶⁵ 7 L.P.R.A. § 2008(b).

Section 3.—Clause (4) is hereby amended, and clause (14), added to subsection (a) of Section 10 of Act No. 4 of October 11, 1985, as amended,⁶⁶ to read as follows:

“Section 10.—Faculties of the Commissioner.

(a) In addition to the powers and faculties transferred hereby, the Commissioner shall have the power and faculty to:

(1) . . .

(4) File any legal remedies, actions or procedures necessary or convenient for the implementation of the purposes of this or any other act or regulation whose compliance or supervision has been assigned to him/her, be it with through his/her legal representatives or by the Secretary of Justice, upon previous request for such purposes.

(14) The Commissioner is hereby authorized to establish, through regulations, those fees he/she deems reasonable for consultations, issuing administrative opinions or determinations, granting permits authorized by law or regulations, or for rendering any other service of the like in relation to any of the laws or regulations he/she administers or that are under his/her jurisdiction, attune with the guidelines established in Act No. 15 of July 20, 1990. Provided, that in no case shall said fee exceed the amount of five hundred (500) dollars.”

Section 4.—This Act shall take effect immediately after its approval.

Approved August 28, 1991.

⁶⁶ 7 L.P.R.A. § 2010(a)(4) and (14).