

(S. B. 424)

(No. 92)

(Approved September 10, 2009)

AN ACT

To add a second paragraph to Section 7 of Act No. 84 of June 18, 2002, as amended, known as the “Code of Ethics for Contractors, Suppliers and Applicants for Economic Incentives of the Executive Agencies of the Commonwealth of Puerto Rico,” in order to clarify the powers of the Executive Agencies to conduct investigations when they find a possible violation of such Code; and for other related purposes.

STATEMENT OF MOTIVES

The People of Puerto Rico demand that their government operate honestly and transparently, and that government entities operate under standards of integrity, probity, transparency and efficiency.

In seeking to fight corruption and assuring the trust of the people in government institutions, Act No. 84, *supra*, imposed on the Agencies of the Executive Branch the responsibility of overseeing strict compliance with the provisions of said Code of Ethics. Said Act also empowered the Agencies of the Executive Branch to bring before their administrative forums any possible violation of the Code of Ethics for Contractors, Suppliers and Applicants for Economic Incentives of the Executive Agencies of the Commonwealth of Puerto Rico.

The statement of public policy of such Code sets forth that it responds to the need of confronting every possible act of corruption in the agencies and municipalities of the Commonwealth of Puerto Rico. The aforesaid statement provided that “[...] the creation of this code of ethics shall be a useful mechanism in the oversight analysis of transactions between the private business sector and the

Commonwealth.” In harmony with such public policy and in compliance with the duty entrusted to all Agencies of the Executive Branch of overseeing true compliance with the provisions contained in such Code, it is hereby clarified that, since its approval in 2002, such Agencies were empowered to investigate any possible violation of the Code.

Regarding the investigative power of the Agencies to oversee compliance with the provisions of the above cited Code, the Supreme Court of Puerto Rico has expressed that an administrative Agency is empowered to investigate, so as to ensure compliance with the authority delegated thereon as to determining whether there have been any irregularities. *Cooperativa Cafeteros de Puerto Rico v. Colón-Torres*, 84 D.P.R. 278 (1961). Furthermore, our Supreme Court has emphasized that the purpose of an investigation is precisely to find out if someone has acted against the law and the result of such investigation could lead the public body to determine whether the filing of a complaint is in order.

Pursuant to the above, there is no doubt that since the approval of the Code of Ethics in 2002, the clear and unequivocal legislative intent set forth in its Section 7 had the purpose of granting Executive Agencies an oversight function, that is to say, to be responsible for overseeing compliance with the provisions of said Code. It is well known that the oversight power inherently entails the power to investigate, inspect, summon witnesses, and approve any necessary regulations to make the purposes of the statute feasible. Likewise, the oversight power implies that the agency has the power to gather the necessary evidence to process before the administrative forum the violators of said Code, in order for them to be processed in the corresponding administrative forum.

This Legislature has the strong commitment of watching over the sound and proper operation of our government entities and instrumentalities. Furthermore, this Legislature, in seeking to assure the trust of the people, promotes strict

compliance with the provisions set forth in the Code of Ethics for Contractors, Suppliers and Applicants for Economic Incentives of the Executive Agencies of the Commonwealth of Puerto Rico.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- A second paragraph is hereby added to Section 7 of Act No. 84 of June 18, 2002, as amended, to read as follows:

“Section 7.- Procedure

It shall be the responsibility of every government agency of the Commonwealth of Puerto Rico to ensure compliance with the provisions of the Code of Ethics established herein ...

Pursuant to such obligation, the Executive Agencies of the Commonwealth of Puerto Rico are hereby empowered to carry out investigations in order to determine whether a contractor, supplier or applicant for economic incentives has acted in violation of this Code of Ethics. Said investigative power shall be exercised by any official designated by the Agency for such purposes, as provided in the regulations approved by every Agency for the implementation of the provisions of this Act.

Violations of the provisions of this Code shall be elucidated before the administrative forums of the executive agencies pursuant to the provisions of Act No. 170 of August 12, 1988, as amended, known as the ‘Commonwealth of Puerto Rico Uniform Administrative Procedures Act.’

...”

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

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 92 (S. B. 424)** of the **2nd Session of the 16th Legislature** of Puerto Rico:

AN ACT to add a second paragraph to Section 7 of Act No. 84 of June 18, 2002, as amended, known as the “Code of Ethics for Contractors, Suppliers and Applicants for Economic Incentives of the Executive Agencies of the Commonwealth of Puerto Rico,” in order to clarify the powers of the Executive Agencies to conduct investigations when they find a possible violation of such Code; and for other related purposes.

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

In San Juan, Puerto Rico, on the 30th day of September, 2010.

Solange I. De Lahongrais, Esq.
Director