

(S. B. 1363)
(Conference)

(No. 142-2012)

(Approved July 20, 2012)

AN ACT

To amend Sections 11.1 and 11.4 of Act No. 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” and paragraph (a) of subsection (1) of Section 16 of Act No. 75 of June 24, 1975, as amended, known as the “Puerto Rico Planning Board Organic Act,” for the purpose of providing the Land Use and Permit Reviewing Board with additional powers and prerogatives that allow it to fully perform its duties; to establish new effective terms for site consultations; and for other related purposes.

STATEMENT OF MOTIVES

Section 19 of Article VI of the Constitution of Puerto Rico establishes as public policy of the Commonwealth to conserve, develop, and use its natural resources in the most effective manner possible for the general welfare of the community

Adequate, responsible, and comprehensive land use planning is a critical element for the economic development of all towns. For such reason, Puerto Rico has entities such as the Planning Board, the Permit Management Office (OGPe), and Municipal Territorial Ordinance Offices that substantially contribute to the development and use of our lands.

Site consultation is one of the most important processes regarding the use of land. Site consultation is the process whereby proposed land uses that are not allowed due to applicable regulations are evaluated and decided upon; however, regulatory provisions allow for consideration thereof. Site consultations, which require meticulous, detailed, and extensive analysis, are a mechanism to implement

land uses and activities that are conducive to our population growth and economic development. Due to the comprehensive analysis required by site consultations and the complexities of implementing the same, it is necessary to provide public instrumentalities in charge of evaluating and authorizing said consultations with legal provisions that shall allow them to establish the effective period and the duration of said consultations. The foregoing shall enable entities with expertise in the approval and enforcement of site consultations to establish the effectiveness and duration thereof through regulations.

Furthermore, Act No. 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” established a speedy, reliable, and modern system in Puerto Rico for the evaluation and issuance of permits. For these purposes, said Act also created the OGPe, the Office of the Chief Permit Inspector (OIGPe, Spanish acronym), and the Land Use and Permit Reviewing Board (“Reviewing Board”).

In complying with our responsibility and commitment to the proper evaluation, issuance, and review of permits, it is deemed necessary to amend Act No. 161-2009, *supra*, to provide the Reviewing Board with additional powers and prerogatives which shall allow it to fully perform its duties. Likewise, it is necessary to amend Act No. 161-2009 to clear up any doubts regarding the power of the members of the Reviewing Board to appoint officials to serve as Hearing Officers in the adjudicative proceedings conducted in said agency.

The amendments included herein exemplify the continuous commitment of this Legislative Assembly to the effective use, planning, and development of our lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 11.1 of Act No. 161-2009, as amended, is hereby amended to read as follows:

“Section 11.1.- Creation of the Land Use and Permit Reviewing Board.-

The Land Use and Permit Reviewing Board is hereby created as an independent, collegiate, and specialized body. Such body shall establish any organizational structure as necessary for the proper operation thereof, including sharing its administrative resources or components with other agencies. The Reviewing Board shall be entrusted with reviewing the final determinations issued by the Adjudicatory Board, the Permit Management Office, an authorized professional, and Autonomous Municipalities with I to V granted hierarchy.”

Section 2.- Subsections (h) and (k) are hereby amended; new subsections (t), (u), (v), (w), and (x) are hereby added; and subsections (t) and (u) are hereby renumbered as (y) and (z), respectively of Section 11.4 of Act No.161-2009, as amended, to read as follows:

“Section 11.4.- Powers, Duties and Functions of the Reviewing Board and its Chair.-

The powers, duties, and functions of the Reviewing Board and its Chair shall be the following:

(a) ...

...

(h) Upon agreement, to use resources available in other agencies and public instrumentalities, such as: information that is pertinent to the duties performed by the Land Use and Permit Reviewing Board, offices, accounting services, finance services, human resources, legal affairs, personnel, equipment, materials, and other facilities. Duties shall be understood to be anything related to planning and the issuance of permits.

...

(k) The Chair shall be empowered to designate work areas to one (1) or more members during the administrative phase, as well as during the adjudicative and operational phases of the Reviewing Board. Such work area designation may be altered or rendered ineffective by the Chair, when in his/her judgment, any factor or factors regarding public interest or operational efficiency so warrant;

...

(t) To appoint Hearing Officers to preside over adjudication proceedings and hearings held before the Board;

(u) To adopt a job classification and compensation plan;

(v) To enter into agreements or arrangements as are necessary and convenient to achieve the objectives of the Reviewing Board with agencies of the Federal government, State governments, and municipal governments, as well as with other departments, entities, and instrumentalities of the Government of Puerto Rico and with private institutions;

(w) For administrative purposes, the Chair may appoint an official to act as Chair during his/her absence;

(x) To acquire, lease, sell, or otherwise dispose of property as is necessary to fulfill the purposes of this Act, in accordance with any applicable laws or regulations;

...”

Section 3.- Paragraph (a) of subsection (1) of Section 16 of Act No. 75 of June 24, 1975, as amended, is hereby amended to read as follows:

“Section 16.- Regulations.-

The Board shall adopt, among others, the following regulations:

(1) ...

(a) To establish districts or zones, both in urban and rural areas, for the use and development of public and private lands and buildings for such purposes as industry, trade, transportation, residence, public or semipublic civic activities, sports and recreation, including all beaches and bathing resorts. Site consultations approved in accordance with this Act or Act 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” shall have the applicable effective term as provided by the Joint Permit Regulations for Construction Works and Land Use.

(b) ...

...”

Section 4.- Pursuant to the provisions of Section 3 of this Act, the Joint Permit Regulations for Construction Works and Land Use shall be amended for the purpose of including new effective terms for site consultations. It is hereby provided that the terms of effective terms established in Act No. 75 of June 24, 1975, as amended, and in Act No. 161-2009, as amended, as well as the regulations promulgated in accordance with the same prior to the approval of this Act, shall not apply to site consultations that have been approved and are current as of the effective date of this Act, until the Joint Permit Regulations for Construction Works and Land Use is amended for the purposes established herein.

Section 5.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 142-2012 (S. B. 1363) (Conference)** of the **7th Regular Session** of the **16th Legislative Assembly of Puerto Rico:**

AN ACT to amend Sections 11.1 and 11.4 of Act No. 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act,” and paragraph (a) of subsection (1) of Section 16 of Act No. 75 of June 24, 1975, as amended, known as the “Puerto Rico Planning Board Organic Act,” for the purpose of providing the Land Use and Permit Reviewing Board with additional powers and prerogatives that allow it to fully perform its duties; to establish new effective terms for site consultations; 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 this 9th day of October, 2015.

Juan Luis Martínez Martínez
Director