

(S. B. 2097)

(No. 210)

(Approved August 25, 2000)

AN ACT

To amend Section 8 of Chapter III of Act No. 213 of September 12, 1996, as amended, in order to make mandatory the availability of co-location between Agencies, Public Corporations, Departments, Municipalities and Political Subdivisions of the Government of Puerto Rico and the Telecommunications companies accredited by the Telecommunications Regulatory Board to share their towers and real property; to provide exceptions and establish a process of Settlement of Dispute before the Telecommunications Regulatory Board.

STATEMENT OF MOTIVES

In the declaration of public policy of Act No. 213 of September 12, 1996, the importance of telecommunications services is recognized, for this is a service of high public interest within a competitive market. The Act guarantees that universal service shall be provided at a fair, reasonable, and affordable cost for all by distributing equitably among all companies the obligations, responsibilities and burdens attached to the development and preservation of the universal service.

Until today, Act No. 213 has allowed for the development of the telecommunications industry, increasing the number of companies that offer this service and improving substantially the quality thereof. However, this growth has brought the uncontrolled proliferation of towers that house transmission antennas in urban zones, which pose a threat to the safety of

citizens. To this effect, the Legislature acted and on last June 6, 2000, Act No. 89 was signed into law.

We should not limit the economic development of Puerto Rico by imposing restrictions and onerous burdens to telecommunications companies in order to prevent them to place their equipment so these are able to render their services. We should also protect our citizens. To achieve this purpose, we must find a fair balance between the compelling need of promoting the well being of the latter and the sound development of our economy.

Act 213 itself, *supra*, provides for the Commonwealth to allow private contractors to use the infrastructure and the real property. However, this Act does not place an obligation on any agency or dependency of the Commonwealth or of municipalities to lend or lease its facilities. Therefore, companies are forced to build their own towers, and as a consequence, there has been a proliferation of gigantic towers which affect our quality of life.

This Act intends to make mandatory the co-location, save for certain exceptions, by the Agencies, Public Corporations, Departments, Municipalities, and Political Subdivisions of the Government of Puerto Rico in view of the requests made for this purpose by the telecommunications companies.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.—To amend Section 8 of Act No. 213 of September 12, 1996, in order to make mandatory the availability of co-location by Agencies, Public Corporations, Departments, Municipalities, and Political Subdivisions of the Government of Puerto Rico, to share telecommunications towers and real property with private telecommunications companies.

Section 2.—Section 8 of Act No. 213 of September 12, 1996, is hereby amended to read as follows:

“Section 8.—Availability of Public Property.—The requirement is hereby established in law, in order for Agencies, Departments, Public Corporations, Municipalities, and Political Subdivisions of the Commonwealth of Puerto Rico to make available the real property, right of way and easement under their control for the location of new telecommunications services and equipment to telecommunications companies certified and/or registered before the Telecommunications Regulatory Board. The Board shall establish procedures through regulations, through which the Agencies, Departments, Public Corporations, Municipalities and Political Subdivisions of the Government of Puerto Rico shall make available on a fair, reasonable and non-discriminatory basis for the co-location of certified telecommunications companies, the real property, rights of way and easements under their control, for the location of new telecommunications services and equipment, and for the transmission or reception of telecommunications services. These procedures shall establish the presumption that the requests for the use of real property, rights of way and easements by duly certified providers are being granted provided these are not in direct and unavoidable conflict with the mission of the Department, Agency, Public Corporation, Municipality, or Political Subdivision of the Government of Puerto Rico with the current or intended use of the property, rights of way and easements, or property thereof. Said Departments, Agencies, Public Corporations, Municipalities, and Political Subdivisions of the Government of Puerto Rico may charge reasonable fees for the use of their properties, rights of way and easements pursuant to the regulations of the Puerto Rico Telecommunications Regulatory Board and

the federal laws and regulations applicable. However, the various government instrumentalities should be allowed to retain the discretion of opposing to sharing their infrastructure with a private company when for reasons of emergency, technological incompatibility or security, these could be affected. The Commonwealth shall not be responsible for damages to third parties due to the bad use by the companies of their equipment or the public property leased.

Should a government instrumentality oppose to the co-location of a private company, the private company thus affected may request a hearing with the Puerto Rico Telecommunications Regulatory Board, which shall establish a process for the Settlement of Co-location Disputes. This process shall not exceed sixty (60) days in arriving to its final resolution, counting from the date of filing the request with the Board.”

Section 3.—This Act shall take effect on January 1st, 2001.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 210 (S.B. 2097) of the 7th Session of the 13th Legislature of Puerto Rico:

AN ACT to amend Section 8 of Chapter III of Act No. 213 of September 12, 1996, as amended, in order to make mandatory the availability of co-location between Agencies, Public Corporations, Departments, Municipalities and Political Subdivisions of the Government of Puerto Rico and the Telecommunications companies accredited by the Telecommunications Regulatory Board to share their towers and real property; etc.,

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

In San Juan, Puerto Rico, today 4th of March of 2004.

Elba Rosa Rodríguez-Fuentes
Director