

(H. B. 3647)

**(No. 238-2011)**

(Approved December 11, 2011)

## **AN ACT**

To amend subsection (c) and add new subsections (x) and (y) to Section 6 of Act No. 83 of May 2, 1941, as amended, known as the “Puerto Rico Electric Power Authority Act”; add a new subsection (c) to Section 22 of Act No. 115 of June 2, 1976, as amended, known as the “College of Expert Electricians of Puerto Rico Act”; and to amend Section 12 of Act No. 319 of May 15, 1938, as amended, known as the “College of Engineers and Surveyors of Puerto Rico Act,” in order to empower the Executive Director of the Electric Power Authority to impose sanctions for alterations to the electrical system or installations designed to prevent the correct measuring of electric power consumption; empower the Executive Director of the Electric Power Authority to remit any evidence to the corresponding Boards of Examiners and professional colleges when one of their members alters the electricity meters and/or makes installations that have the effect of preventing the correct measures of power consumption; define such practice as an illegal practice of the profession and provide for the revocation of licenses or certificates as the corresponding disciplinary measures; provide that any person who uses violence or intimidation against an employee of the Electric Power Authority to prevent said employee from investigating or reporting misuse of electric power, shall be guilty of a fourth-degree felony; and for other purposes.

### **STATEMENT OF MOTIVES**

In 2009, the Electric Power Authority (hereinafter, “PREPA”) implemented the “NO HURTE” program as a means to inform PREPA’s clients of the impact of electricity theft, such as the increase in the cost of electricity, which is subsequently reflected in the electricity bills of the consumers.

The year in which the Program began, PREPA investigated more than 35,000 customers and detected over 5,000 cases involving misuse of electric power, which cost nearly \$17.6 million to the agency. In 2010, these numbers increased to \$20.9 million. Such amount includes electric power consumed and not billed, metering fees, and administrative expenses incurred by the agency to detect the improper use thereof.

Since tampering with a meter is considered a crime under Section 196 of Act No. 149-2004, as amended, known as the “Penal Code of the Commonwealth of Puerto Rico,” we deem it feasible to eliminate such reference from PREPA’s Organic Act. However, we increased the cap on the administrative fines that the Executive Director may impose on any natural or juridical person that alters the electrical system or incurs in misuse of electric power, materials, or equipment. Furthermore, the Board of Examiners of Expert Electricians, the College of Expert Electricians, and the College of Engineers and Surveyors of Puerto Rico are hereby empowered in their Enabling Acts to impose as a sanction the revocation of the license of expert electricians or engineers that use their professional skills to alter meters or the electrical system in any way.

The public policy of the Government of Puerto Rico strongly condemns electricity theft, and it is our responsibility to provide the necessary tools to all entities that in some way may be related to the administration, interaction, study, maintenance of electric power, among others, so that they can monitor and prevent electricity theft.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- Subsection (c) is hereby amended and a new subsection (x) is hereby added to Section 6 of Act No. 83 of May 2, 1941, as amended, to read as follows:

Section 6.- Powers.

The Authority is hereby created for the purpose of conserving, developing and utilizing, and aiding in the conservation, development and utilization of water and energy resources of Puerto Rico, for the purpose of making available to the inhabitants of the Commonwealth, in the broadest economic manner, the benefits thereof, and by this means to promote the general welfare and increase commerce and prosperity; and the Authority is granted and shall have and may exercise all rights and powers necessary or convenient to carry out the aforesaid purposes, including (but without limiting the generality of the foregoing) the following:

(a) ...

(b) ...

(c) To prescribe, adopt, amend, and repeal bylaws and regulations governing the manner in which its general business may be conducted and the powers and duties granted to and imposed upon it by law may be exercised and performed; as well as, with the intention of guaranteeing the safety of persons or property, to regulate the use and enjoyment of its properties and of such other properties under its administration; the use and consumption of electric power; the tampering with and manipulation of equipment, enterprises, facilities, devices, instruments, wires, meters, transformers, and objects of any other analogous nature owned by the Electric Power Authority and used in connection with the production, transmission, distribution, and use and consumption of the electric power produced by said entity. The regulations so adopted shall have force of law once the provisions of §§ 2101 et seq. of Title 3, known as the “Uniform Administrative Procedures Act of the Government of Puerto Rico,” are complied with.

(d) ...

(e) ...

...

...

...

(x) The Executive Director or the official whom he/she designates shall be empowered to issue administrative fines to any natural or juridical person that:

(1) Violates the provisions of this Act and/or the regulations adopted by PREPA, or violates the permits, licenses, or authorizations issued by PREPA. Administrative fines under this item shall not exceed ten thousand dollars (\$10,000) for each violation; provided, that for each day the violation continues, it shall be considered a separate violation. If the failure to comply with this Act and/or the regulations adopted by the Authority involves the misuse of electric power or materials or equipment as defined by PREPA through regulations, the administrative fine may increase to fifty thousand dollars (\$50,000) for each violation. In the event that the economic benefit derived from such misuse exceeds fifty thousand dollars (\$50,000), the administrative fine may increase to one hundred thousand dollars (\$100,000) for each violation; provided, that in both cases, each day the violation continues it shall be considered a separate violation.

(2) Fails to comply with any resolution, order, or decision issued by PREPA. Administrative fines under this item shall not exceed ten thousand dollars (\$10,000) for each violation; provided, that for each day the violation continues, it shall be considered a separate violation.

(3) Alters, in whole or in part, the electrical system or installation to such extent that the actual consumption cannot be measured properly and/or makes an installation designed to prevent the correct measuring of electric power consumption. Administrative fines under this item shall not exceed fifty thousand dollars (\$50,000).

PREPA shall establish, by regulations, the standards and procedures to impose the administrative fines established in subsection (x) of this Section. The fine to be imposed shall be based on: the severity of the violation, the time over which the violation occurred, reoccurrence of the violation, the economic benefit derived from said violation, or misuse of electric power or materials or equipment, and the risk entailed or damages caused to health and/or safety as a result of such violation.

The amount of the administrative fines based on the misuse or alteration of the electrical system in order to prevent the correct measuring of electric power consumption shall be covered into PREPA's Theft and Misuse Division for its exclusive use. PREPA shall file an annual report to the Legislative Assembly itemizing the fines imposed under this Act and the use given to the same.

(y) When PREPA has evidence that the person who tampered with the meter or the electric system and/or has made an illegal installation is an expert electrician or an engineer, as provided in subsection (x) of this Section, the Executive Director or the official whom he/she designates shall immediately refer such evidence and/or documentation to the corresponding governing bodies in order for them to impose the appropriate disciplinary measures as set forth in their respective regulations and in this Act.”

Section 2.- A new subsection (c) is hereby added to Section 22 of Act No. 115 of June 2, 1976, as amended, to read as follows:

“Section 22.- Authorized Electrical Installations; Penalties.

Every public or private service company:

(a) ...

(b) ...

(c) In every case that the Electric Power Authority determines that an Expert Electrician altered a meter, installation, or electric power system in order to prevent the correct measuring of electric power consumption, and/or made an installation designed to prevent the correct measuring of electric power consumption, it shall immediately refer such evidence and/or documentation to the Board of Examiners of Expert Electricians and the College of Expert Electricians. If, upon completion of the disciplinary procedure, the Board of Examiners of Expert Electricians validates the conduct alleged by the Electric Power Authority, it shall revoke such person’s license as an Expert Electrician for a minimum term of three (3) years. In case of recurrence, such license shall be revoked indefinitely and the holder of the revoked license shall not be entitled to apply for a new license for a term of five (5) years. The Board of Examiners of Expert Electricians shall conclude the disciplinary procedure within six (6) months as of receiving the referral, unless there is just cause. Any Expert Electrician who, after the revocation his/her license, continues to carry out expert electrician work illegally shall be imposed the sanctions determined in the second paragraph of subsection (b) of this Section.”

Section 3.- Section 12 of Act No. 319 of May 15, 1938, as amended, is hereby amended to read as follows:

“Section 12.- Illegal Practice of Profession; Penalties.

Any person who, not being duly admitted and licensed to practice the profession as provided by this Act, or who during the suspension of his/her license practices as if capable and authorized therefor, advertises as such or purports to be a practicing engineer or surveyor, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine, which shall not be less than one hundred dollars (\$100) nor more than three hundred dollars (\$300), or by imprisonment for a term of not less than two (2) months or more than six (6) months, or by both penalties, at the discretion of the Court.

The Secretary of Justice, on his own initiative or at the request of the College, may file and handle the procedures and corresponding actions with the competent Courts against those persons who practice these professions illegally.

In every case that the Electric Power Authority determines that an In-training, Associate, or Licensed Engineer altered a meter, installation, or electric power system in order to prevent the correct measuring of electric power consumption, and/or made an installation designed to prevent the correct measuring of electric power consumption, it shall immediately refer such evidence and/or documentation to the Board of Examiners of Engineers, Architects, Surveyors, and Landscape Architects of Puerto Rico, and to the College of Engineers and Surveyors of Puerto Rico. If, upon completion of the disciplinary procedure, the College of Engineers and Surveyors of Puerto Rico and the Board of Examiners of Engineers, Architects, Surveyors, and Landscape Architects validate the conduct alleged by the Electric Power Authority, it shall revoke such person's certificate or license as a Training, Associate, or Licensed Engineer for a minimum term of three (3) years. In case of recurrence, the license shall be

revoked indefinitely and the holder of the revoked license shall not be entitled to apply for license reactivation for a term of five (5) years. The College of Engineers and Surveyors of Puerto Rico and the Board of Examiners of Engineers, Architects, Surveyors, and Landscape Architects shall conclude the disciplinary procedure within six (6) months as of receiving the referral, unless there is just cause. Any engineer who, after the revocation of his/her license, continues to illegally engage in such practices shall be imposed the sanctions determined in this Section.”

Section 4.- The Electric Power Authority shall inform the Secretary of Justice of those persons and/or entities that, in its opinion, have engaged in the illegal practice of the profession of engineering or expert electrician as established in this Act. The Secretary of Justice shall investigate all referrals made by PREPA regarding the illegal practice of the engineering or expert electrician profession, and conduct the corresponding processes and procedures based on the findings thereof. Likewise, the Secretary of Justice, on his/her own initiative or at the request of the respective governing bodies of such trades and professions may file and process the corresponding actions and procedures with the competent courts against those persons who practice the aforementioned professions illegally.

Section 5.- Use of Violence or Intimidation against PREPA Employees.-

Any person who uses violence or intimidation against a PREPA employee to compel him/her to commit or omit an act proper to his/her office or to commit an act contrary to his/her official duties, including, but not limited to his/her investigative functions regarding alterations to the electrical system and/or misuse of electric power or materials or equipment, shall be guilty of a fourth degree felony.



Section 6.- Publication.-

The Electric Power Authority shall, within a term of thirty (30) days after the approval of this Act, publish a public notice in at least two (2) newspapers of general circulation specifying the provisions of this Act, including the benefit of amnesty provided therein. The notice shall also be published in the billing statement to PREPA subscribers.

Section 7.- The Electric Power Authority shall, within ninety (90) days after the approval of this Act, adopt the necessary regulations to comply with the purposes, scope, and application of this Act, pursuant to the provisions of Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedures Act.”

Section 8.- If any part of this Act were held to be null by a court with competent jurisdiction, such holding shall not affect nor invalidate the remainder of the Act and its effect shall be limited to the aspect object of said judicial holding.

Section 9.- This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 238-2011 (H. B. 3647)** of the **6<sup>th</sup> Regular Session** of the **16<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to amend subsection (c) and add new subsections (x) and (y) to Section 6 of Act No. 83 of May 2, 1941, as amended, known as the "Puerto Rico Electric Power Authority Act"; add a new subsection (c) to Section 22 of Act No. 115 of June 2, 1976, as amended, known as the "College of Expert Electricians of Puerto Rico Act"; and to amend Section 12 of Act No. 319 of May 15, 1938, as amended, known as the "College of Engineers and Surveyors of Puerto Rico Act," etc.

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

In San Juan, Puerto Rico, on this 27<sup>th</sup> day of April, 2015.

Juan Luis Martínez Martínez  
Acting Director