

(H. B. 1351)

**(No. 103)**

(Approved August 26, 2005)

**AN ACT**

To add a new subsection (k) to Section 9 of Act No. 230 of July 23, 1974, as amended, known as the “Puerto Rico Government Accounting Act,” to establish that under no circumstances shall credit cards be issued to public employees or officers as disbursement mechanisms to defray expenses incurred in the performance of their duties, with the exception of cases expressly authorized by this Act; to add a new subsection (e) to Section 8.004 of Act No. 81 of August 30, 1991, as amended, known as the “Autonomous Municipalities Act of the Commonwealth of Puerto Rico of 1991,” to limit and restrict the use of credit cards as disbursement mechanisms to defray official expenses exclusively to Mayors and Municipal Legislature Presidents.

**STATEMENT OF MOTIVES**

Article VI, Section 9 of the Constitution of the Commonwealth of Puerto Rico sets forth that “Public property and funds shall only be disposed of for public purposes, for the support and operation of state institutions, and pursuant to law.” According to Section 9 of Article VI of the Constitution, public funds should be used for purposes of the public interest, provided legal authorization exists thereto; however, they should never be used to promote private businesses, nor for the benefit of individual persons or entities in their condition as such. Opinion of the Secretary of Justice No. 21 of 1993.

This constitutional principle is reaffirmed in Section 201 of the Penal Code of Puerto Rico and in subsection (c) of Section 3.2 of Act No. 12 of

July 24, 1985, as amended, better known as the Ethics in Government Act of the Commonwealth, which imposes sanctions on those who use public funds inappropriately. Our code of laws also has provisions directed to regulating the mechanisms for the disbursement of public funds.

Act No. 230, *supra*, proposes to establish controls governed by accounting principles in order to guarantee adequate monitoring on the use and administration of public funds. Furthermore, Section 2(h) of said Act states that the policy of the Commonwealth of Puerto Rico with respect to the control and accounting of public funds and property requires government spending to be based upon practicality and austerity.

Section 9 of the “Puerto Rico Government Accounting Act,” *supra*, establishes the conditions that shall govern the disbursement of public funds for the government dependencies and regulates matters pertaining to travel expenses and per diems for employees of the Executive, Judicial and Legislative branches in the performance of their duties. This Section empowers the Secretary of the Treasury to perform the accounting of disbursements, but to seemingly to provide flexibility to the governmental dependencies in the establishment of mechanisms to carry out those disbursements. In the specific case of Judicial, Legislative and Municipal dependencies, it provides that these shall be governed by the rules to be established by the Chief Justice of the Supreme Court, the President of the Senate and the Speaker of the House with respect to these respectively, the Comptroller of Puerto Rico with respect to his/her Office, and the corresponding Municipal Legislature in the case of the municipalities.

In accordance to the broad discretion granted in the “Puerto Rico Government Accounting Act” and in the absence of legislative measures to limit such practice, the Government dependencies, to wit, departments,

bureaus, administrations, boards, commissions, offices, agencies, and public corporations, as well as the legislative, judicial and municipal bodies and any other Government entities, have incurred the practice of issuing credit cards to public officers and employees to defray expenses and per diems related to their duties, including travel expenses. However, the use of credit cards has been carried out without establishing the appropriate mechanisms to determine which public employees or officers should have said credit cards.

In the absence of effective controls, complaints have proliferated against public officers and employees who have made improper use of the credit cards issued to them by Government dependencies. The impact was such that, by means of Circular Letter OC-99-11 of February 5, 1999, the Office of the Comptroller of Puerto Rico issued a warning regarding said situation. As a result of the lack of good judgment in the use of credit cards, many public employees and officers, at least one cabinet member, and more recently, a mayor and a female high officer of a public corporation were fined for violations to the Ethics in Government Act, *supra*, for incidents related to inappropriate use for personal recreational travel of the credit cards issued for the performance of public duties.

In view of the negative impact of the use of credit cards as a disbursement mechanism, which substantially exceeds its benefits, the Legislature deems it necessary to establish that under no circumstances shall credit cards be issued to government employees or officers as disbursement mechanisms to defray expenses incurred in the performance of their duties, with the exception of cases expressly authorized by this Act.

***BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:***

Section 1.- Section 9 of Act No. 230 of July 23, 1974, as amended, known as the “Puerto Rico Government Accounting Act,” is hereby

amended to add a new subsection k and to read as follows:

“Section 9 -

- (a) ...
- (b) ...
- (c) ...
- (d) ...
- (e) ...
- (f) ...
- (g) ...
- (h) ...
- (i) ...
- (j) ...
- (k) No dependency of the Executive government, to wit, departments, bureaus, administrations, boards, commissions, offices, agencies of the Executive Branch or Legislative dependencies, including the House of Representatives, the Senate, the Office of the Comptroller or any other agency attached to the Legislative Branch to which Act No. 230 of July 23, 1974, as amended, known as the “Puerto Rico Government Accounting Act” applies may use the mechanism of issuing credit cards to any public officer or employee for making disbursements on behalf of the dependency.

Due to the nature of their duties, excluded from this prohibition are, the Governor of Puerto Rico, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, the Secretary of State, the Mayors, the President of the University of Puerto

Rico, the Comptroller of Puerto Rico, the latter as of October 2, 2008, the Nominating Authorities and Chief Executives of the executive agencies, upon prior authorization of their respective presidents and officers or chief executives who are responsible for procurement in government entities.

With respect to Procurement Officers, the use of credit cards is hereby authorized for emergency procurement, travel tickets, trainings and, in situations in which providers require immediate payment, provided the procurement rules and procedures established by the government entity are complied with.

The use of credit cards for the purchase of alcoholic beverages, gifts, gambling and personal transactions is prohibited.

All public officers authorized to use credit cards shall provide to the Office of Government Ethics the same information required for personal credit cards in the Annual Report that they are required to submit pursuant to the provisions in the Ethics in Government Act.”

Section 2.- Section 8.004 of Act No. 81 of August 30, 1991, as amended, known as the “Autonomous Municipalities Act of the Commonwealth of Puerto Rico of 1991,” is hereby amended by adding a new subsection (e) to read as follows:

“The obligation and disbursement of municipal public funds shall only be done to commit or pay for services, supplies of materials and equipment, claims or any other items authorized by laws ordinance or resolution approved to such effects and by the regulations adopted by virtue thereof.

- (a) ...
- (b) ...
- (c) ...
- (d) ...

- (e) The use of credit cards as disbursement mechanisms to defray official expenses is hereby limited and restricted exclusively to the Mayors and Presidents of the Municipal Legislatures.

No disbursement whatsoever shall be authorized with regard to contracts without the evidence that the contract was sent to the Office of the Comptroller of Puerto Rico as provided in Sections 97 *et seq.* of Title 2 and its regulations.”

Section 3.- The dependencies of the Government of Puerto Rico, including all Executive, Legislative and Municipal dependencies, are hereby directed to take the necessary measures to comply with the provisions of Sections 1 and 2 of this Act, including the required amendments to the regulations and the cancellation of credit cards issued to employees and officers who are not authorized by law to have them within thirty (30) days as of the approval of this Act.

Section 4.- This Act shall take effect thirty (30) days after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 103 (H.B. 1351) of the 1<sup>st</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to add a new subsection (k) to Section 9 of Act No. 230 of July 23, 1974, as amended, known as the “Puerto Rico Government Accounting Act,” to establish that under no circumstances shall credit cards be issued to public employees or officers as disbursement mechanisms to defray expenses incurred in the performance of their duties, with the exception of cases expressly authorized by this Act; to add a new subsection (e) to Section 8.004 of Act No. 81 of August 30, 1991, as amended, known as the “Autonomous Municipalities Act of the Commonwealth of Puerto Rico of 1991,” etc.,

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

In San Juan, Puerto Rico, today 6<sup>th</sup> of March of 2006.

Francisco J. Domenech  
Director