

(S.B. 685)

**(No. 108)**

(Approved September 1, 2005)

## **AN ACT**

To amend Section 2.1 of Act No. 12 of July 24, 1985, as amended, known as the “Ethics in Government Act of the Commonwealth of Puerto Rico,” in order to clarify that the Office of Government Ethics is excluded from the application of Act No. 45 of February 25, 1998, known as the “Puerto Rico Public Service Labor Relations Act,” and from the Exclusive Register of Bidders, attached to the General Services Administration; to exclude said Office from the application of Act No. 5 of December 8, 1955, as amended, known as the “Public Documents Administration Act;” from Act No. 197 of August 18, 2002, known as the “Act to Regulate the Transition Process of the Government of Puerto Rico Act;” from Act No. 265 of September 3, 2003, known as the “Act for Regulating Certain Government Financing and Personal Property Leasing Contracts;” from Act No. 147 of June 18, 1980, as amended, known as the “Office of Management and Budget Organic Act;” and from Act No. 209 of August 28, 2003, known as the “Puerto Rico Institute of Statistics Act.”

## **STATEMENT OF MOTIVES**

The Ethics in Government Act of the Commonwealth of Puerto Rico, approved on July 24, 1985, created the Office of Government Ethics of Puerto Rico (OMB). This Office was given ample powers to promote ethical conduct in public service as well as to prevent and penalize the behavior of those public servants who violate basic ethics principles of excellence.

On May 30, 1985, the Joint Report of the Committee on Government and the Penal Judiciary Committee of the House of Representatives of Puerto Rico, in recommending the approval of the bill which would finally become the Ethics in Government Act, stated that the OMB had been conceived so as to be as isolated as possible from the undue influence that other Government officials might exert over said Office.

The aforementioned legislative intention was consigned in Section 2.1 of the Ethics in Government Act since after its creation in 1985 the OMB has been exempted from the application of Act No. 164 of July 24, 1974, as amended, known as the “General Services Administration Act;” of Act No. 5 of October 14, 1975, as amended, known as the “Public Service Personnel Act;” of Act No. 184 of August 3, 2004, as amended, known as the “Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico;” and of Act No. 230 of July 23, 1974, as amended, known as the “Puerto Rico Government Accounting Act.”

Subsequently, and in harmony with the aforementioned public policy of independence, the OMB was excluded from the application of Act No. 45 of February 25 of 1998, the “Puerto Rico Public Service Labor Relations Act;” and from the application of the Exclusive Register of Bidders, attached to the General Services Administration, through Act No. 54 of January 4, 2003, known as the “General Services Administration Act.”

The Secretary of Justice interpreted and the Office of Management and Budget has adopted the administrative practice that indicates that the OMB is exempted from the application of Act No. 147 of June 18, 1980, as amended, better known as the “Office of Management and Budget Organic Act.”

We consider it necessary that the aforesaid state of the law be consigned in the enabling statute of the OMB. Furthermore, in order to reiterate the public policy that governs the administrative independence of the OMB, we believe it necessary to exclude said agency from the application of Act No. 197 of August 18, 2002, known as the “Act to Regulate the Transition Process of the Government of Puerto Rico”; of Act No. 209 of August 28, 2003, known as the “Puerto Rico Institute of Statistics Act;” of Act No. 265 of September 3, 2003, known as the “Act for Regulating Certain Government Financing and Personal Property Leasing Contracts;” and of Act No. 5 of December 8, 1955, as amended, known as the “Public Documents Administration Act.” It is the intention of the Legislature that the OMB be as isolated as possible from influences that might contravene the autonomy that we wish to guarantee through this means.

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

Section 1.-Section 2.1 of Act No. 12 of July 24, 1985, as amended, is hereby amended to read as follows:

“Section 2.1.-Creation

The Office of Government Ethics of Puerto Rico, hereinafter denominated the Office, which shall be charged with ensuring strict compliance with the provisions of law that establish specific prohibitions to public officials and employees due to their office or employment or that demand that specific officials disclose financial information, is hereby created.

In order to promote the administrative independence which is indispensable to carry out the delicate function hereby entrusted to it, the Office shall be excluded from the application of Act No. 184 of August 3, 2004, as amended, known as the “Public Service Human Resources

Administration Act of the Commonwealth of Puerto Rico;” of Act No. 230 of July 23, 1974, as amended, known as the “Puerto Rico Government Accounting Act;” of Act No. 164 of July 24, 1974, as amended, known as the “General Services Administration Act;” of Act No. 45 of February 25 of 1998, known as the “Puerto Rico Public Service Labor Relations Act;” and from the application of the Exclusive Register of Bidders, attached to the General Services Administration; of Act No. 5 of December 8, 1955, as amended, known as the “Public Documents Administration Act;” of Act No. 197 of August 18, 2002, known as the “Act to Regulate the Transition Process of the Government of Puerto Rico”; of Act No. 265 of September 3, 2003, known as the “Act for Regulating Certain Government Financing and Personal Property Leasing Contracts;” of Act No. 147 of June 18, 1980, as amended, known as the “Office of Management and Budget Organic Act;” and of Act No. 209 of August 28, 2003, known as the “Puerto Rico Institute of Statistics Act.”

The above notwithstanding, the fiscal operations of the Office shall be audited and examined by the Comptroller of Puerto Rico at least once every two (2) years. The Office shall have the capacity to sue and be sued.”

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. 108 (S.B. 685) of the 1<sup>st</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend Section 2.1 of Act No. 12 of July 24, 1985, as amended, known as the “Ethics in Government Act of the Commonwealth of Puerto Rico,” in order to clarify that the Office of Government Ethics is excluded from the application of Act No. 45 of February 25, 1998, known as the “Puerto Rico Public Service Labor Relations Act,” and from the Exclusive Register of Bidders, attached to the General Services Administration; to exclude said Office from the application of Act No. 5 of December 8, 1955, as amended, known as the “Public Documents Administration Act;”, etc.,

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

In San Juan, Puerto Rico, today 24<sup>th</sup> of January of 2006.

Francisco J. Domenech  
Director

