

(S.B. 687)

(No. 146)

(Approved December 12, 2005)

AN ACT

To rename subsection (u) as subsection (v) and add a new subsection (u) to Section 2.4 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 authorize the Executive Director of the Office of Government Ethics to notify certain government entities about an order to withhold and discount in cases of noncompliance with final and binding administrative fines and to authorize the Executive Director of the Office of Government Ethics to adopt regulations on the process for the collection on installments imposed by this measure.

STATEMENT OF MOTIVES

Act No. 12 of July 24, 1985, as amended, known as the Ethics in Government Act of the Commonwealth of Puerto Rico, created the Code of Government Ethics which regulates the conduct of the public servants of the Executive Branch and the former public servants of the three (3) Government Branches. Said Act also contains provisions that refer to the disclosure of financial information by public servants who hold various offices or fill certain functions. The Ethics in Government Act and the Government Ethics Regulation No. 4827 of November 20, 1992, require that public service officials and employees follow principles of honesty, integrity, impartiality and conduct to the highest degree so as to guarantee

the proper operation of the government institutions and retain the trust of the citizens in their Government.

In compliance with its legislative task, the Office of Government Ethics (OEG, Spanish acronym), establishes and administers procedures to identify ethical violations in the public service. Through the implementation of such procedures, the OEG takes and orders those disciplinary, administrative or civil measures that it believes strengthen the trust of the People in its Government and its governmental institutions.

Through the imposition of administrative fines, it is specifically intended to dissuade public servants and former public servants from violating the Law, its regulations and norms and to assure them that those that are found to be in violation thereof shall be judged for having broken the public trust that has been deposited and that they shall personally and economically respond for such behavior. Pursuant to the public policy of sanctioning behavior contrary to government ethics, the Legislature approved Act No. 8 of January 5, 2002, that provided for an increase in the maximum amount of the administrative fines to \$20,000 for each violation.

It is important to emphasize the fact that the fines that are covered into the General Fund originated due to the violation of the ethical postulates that the legislators understood to be vital to the transparency of government activities and to the advancement of sound public administration. This legislative effort to implement and execute said public policy would not achieve its purpose if violators of the aforementioned norms fail to comply with the fine imposed. As a matter of fact, those cases that come before judicial forums to demand compliance with the administrative resolutions entail additional costs for the Government.

This Legislature believes that it is necessary to provide mechanisms that would allow the implementation of the supervisory function of the Office of Government Ethics so as to save time and government resources. The purpose of the present legislative measure is to prevent noncompliance with the administrative fines that are final and binding.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.-Subsection (u) is hereby renamed as subsection (v) and a new subsection (u) added to Section 2.4 of Act No. 12 of July 24, 1985, as amended, to read as follows:

“Section 2.4.-Powers and Authority

The Director shall have the following powers and authority:

(a) ...

...

(u) To notify the Secretary of the Treasury, the Administrator of the Retirement Systems of the Employees of the Government and the Judicature and any other Administrator of Public Retirement Systems, the Executive Director of the Association of Employees of the Commonwealth of Puerto Rico and to the nominating authority about an order to withhold and discount against any tax reimbursement, liquidation of leave or disbursements on account of pensions or contributions to the savings or retirement plans of the public servants or the former public servants who have failed to comply with a final and binding administrative fine. To likewise notify the public servant or former public servant at least within thirty (30) days that his/her noncompliance shall be referred to said Agencies for the corresponding discount, or the applicable actions, as provided

in this Section. During the above provided term of thirty (30) days the public servant or former public servant affected shall be entitled to object to the withholding notified to said Agencies pursuant to Section 4.2 of Act No. 170 of August 12, 1988, as amended, better known as the “Uniform Administrative Procedures Act.”

In the case of an order to withhold and discount against tax reimbursements or the payment for the liquidation of accrued leave, the Secretary of the Treasury shall notify the Office about the total or partial elimination of the fine after the corresponding discount from such funds. In case the Secretary of the Treasury does not have in his/her possession a reimbursement or payment for accrued leave at the time the order to withhold and discount is received, he/she shall so inform the Office. Furthermore, in case funds may only be collected from the order to withhold, he/she shall determine that said collection must be paid in installments as provided by the Office of Government Ethics by regulations. In such a case, the order to withhold and discount shall remain in force and effect until the Director of the Office requests that it be made ineffective.

If an order to withhold and discount against the funds accrued in the aforementioned entities, except for the Department of the Treasury, is involved, the head of the entity concerned shall remit to the Office the discount from the funds of the public servants or former servants who failed to comply with the payment of the final and binding administrative fine. In case the head of the entity does not have in his/her possession the funds at the time the order to withhold and discount is received, he/she shall so inform the Office. In such a case, the order to withhold and discount shall

remain in force and effect until the Director of the Office requests that it be made ineffective.

- v) To take any other action or measure needed or convenient to fulfill the purposes of this Act.”

Section 2.-The Executive Director of the Office of Government Ethics is hereby authorized to promulgate Regulations to provide the payment terms and installment concessions for collecting the fines.

Section 3.-This Act shall take effect immediately and shall also apply to the final and binding fines whose payment has not been covered into the General Fund of the Government of the Commonwealth of Puerto Rico, at the time of its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 146 (S.B. 687) of the 2nd Session of the 15th Legislature of Puerto Rico:

AN ACT to rename subsection (u) as subsection (v) and add a new subsection (u) to Section 2.4 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 authorize the Executive Director of the Office of Government Ethics to notify certain government entities about an order to withhold and discount in cases of noncompliance with final and binding administrative fines and to authorize the Executive Director of the Office of Government Ethics to adopt regulations on the process for the collection on installments imposed by this measure,

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

In San Juan, Puerto Rico, today 1st of March of 2006.

Francisco J. Domenech
Director