

(H. B. 2183)  
(Reconsidered)

**(No. 85)**

(Approved May 12, 2006)

## **AN ACT**

To amend subsection (t) of 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 clarify the power granted to the Executive Director of the Office of Government Ethics to finance the acquisition or development of the real property that shall house the Office of Government Ethics; to add certain necessary powers for the achievement of such purposes; and to authorize the Executive Director to lease, mortgage, sell, exchange or otherwise dispose of the property acquired.

### **STATEMENT OF MOTIVES**

Act No. 275 of September 14, 2004, amended Act No. 12 of July 24, 1985, as amended, known as the “Ethics in Government Act of the Commonwealth of Puerto Rico,” for the purpose of granting to the Executive Director of the Office of Government Ethics (OEG, Spanish acronym) the power to acquire, through purchase or assignment, the building and the land on which to establish the OEG and to contract the construction works, repairs, improvements or extension of said building. The grounds for such amendment was the need for this Agency to have facilities that allow it to fully comply with its functions and thus terminate the lease fee it has been paying for twenty years.

The abovementioned amendment did not grant the express faculty to finance such transactions, therefore this Legislature approved Act No. 83 of

August 26, 2005. Said amendment did not specify that the transactions authorized would not entail the appropriation of additional public funds, since the financing debt service would approximately be paid with funds currently used for the payment of the lease fees. The limit amount for the authorized transactions would be determined by pledging said budget item.

Upon approving both amendments to the aforementioned Act No. 12, the Legislature recognized the importance of preventing OEG from continuing to incur in leasing expenses, since it is more convenient for the public treasury that OEG own its physical facilities.

The cited laws amending the Ethics in Government Act do not express the intention of this Legislature with sufficient clarity, since Section 2.4 (t) of said Act No. 12 might mistakenly be interpreted as allowing the financing solely through the subsidiaries of the Government Development Bank or public or private entities. The intention of this Legislature is that the Government Development Bank for Puerto Rico, its subsidiaries and affiliates, or any public or private banking institution may provide financing to OEG. The text in effect of Section 2.4 (t) also lacks the specific language that allows for the execution of certain transactions that are closely related to the acquisition and financing of the headquarters of the Office of Government Ethics.

For all of the above, we reiterate the legislative intention of the aforementioned amending laws, and at this time, provisions are included to clarify the extent of the authority delegated upon the Executive Director of OEG, so that he/she it may conduct the necessary transactions for the acquisition of the headquarters of said Agency. Furthermore, it is hereby provided that, pursuant to Act No. 164 of December 17, 2001, the repayment of any obligation contracted with the Government Development Bank for

these purposes shall originate from the annual budget appropriations received by OEG which, as provided in Section 5.4 of the Ethics in Government Act, are included in the Budget without being reviewed.

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

Section 1.- Subsection (t) of Section 2.4 of Act No. 12 of July 24, 1985, as amended, is hereby amended to read as follows:

“Section 2.4.- Authority and Powers

The Director shall have the following duties and powers:

(a) ...

(t) To organize the Office and appoint or contract the necessary personnel to carry out the duties and functions established in this Act pursuant to the criteria that will ensure the rendering of services of the highest quality, without being subject to personnel laws. The Director is also authorized to acquire by means of purchase, transfer, exchange or any other legal means, the necessary real property to house the headquarters of the Office; to execute contracts for construction works, repairs, improvements or extensions for said facilities; to regulate such processes; and to finance said transactions through the Government Development Bank, or any of its subsidiaries or affiliates, or through a public or private banking institution, with the assistance and authorization of the Government Development Bank in its function as fiscal agent of the agencies and instrumentalities of the Government, as provided in Act No. 17 of September 23, 1948, as amended. The repayment of any obligation contracted with the Government Development

Bank for these purposes shall originate from the annual budget appropriations received by the Office.

The Director shall be authorized to reserve, encumber or pledge in whole or in part the budget appropriations presently used for the payment of the lease fee of the Office, in order for said appropriations to respond for the payment of the debt service of any financing contracted under this provision. Likewise, the Director shall be authorized to mortgage the property, whose acquisition is hereby authorized, to respond for the financing debt, and to mortgage, sell, exchange or otherwise dispose thereof with the assistance and authorization of the Government Development Bank in its function as fiscal agent of the agencies and instrumentalities of the Government, as provided by Act No. 17 of September 23, 1948, as amended.

Once the acquisition authorized herein is finalized, the Director shall be authorized to lease part of such facilities to public or private entities, provided that he/she certifies that the part to be leased: (i) is not necessary for the operations of the Office; and (ii) the lease shall yield a necessary or convenient benefit for the operations of the Office.”

#### Section 2.-Effectiveness

This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 85 (H.B. 2183) (Reconsidered) of the 4<sup>th</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend subsection (t) of 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 clarify the power granted to the Executive Director of the Office of Government Ethics to finance the acquisition or development of the real property that shall house the Office of Government Ethics; to add certain necessary powers for the achievement of such purposes; and to authorize the Executive Director to lease, mortgage, sell, exchange or otherwise dispose of the property acquired,

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

In San Juan, Puerto Rico, today 15<sup>th</sup> of October of 2007.

Francisco J. Domenech  
Director