

(H. B. 2513)

(No. 224)

(Approved October, 4, 2006)

AN ACT

To amend subsection (b) of Article 210 of Act No. 149 of June 18, 2004, known as the “Penal Code of the Commonwealth of Puerto Rico,” to penalize any person who fraudulently performs acts or omissions that affect the estate rights or interests on real or personal property to the prejudice of the State.

STATEMENT OF MOTIVES

Article 210 of Act No. 149 of June 18, 2004, known as the “Penal Code of the Commonwealth of Puerto Rico,” typifies the crime of fraud classified as a felony in the fourth degree. Subsection (a) of said Section penalizes any person who fraudulently “induces another person to perform acts or omissions that affect the estate rights or interests on real or personal property of said person, the State (underlining ours) or a third party to their prejudice.” Subsection (b) of said Article penalizes any person who fraudulently “performs acts or omissions that deprive another person or that affect the estate rights or interests on real or personal property of said person to the prejudice of same or of a third party.” In other words, subsection (b) penalizes the person who performs the fraudulent act or omission, while subsection (a) penalizes those who induce another person to perform the fraudulent act or omission. Notice that in subsection (b) the person who fraudulently commits the act or incurs the omission against the State is not penalized.

On the other hand, Article 2 of the Penal Code of 2004 establishes the principle of legality, which provides that no criminal action shall be filed against any person for an action that is not expressly defined as a crime in this Code or by special law, nor shall any penalty or security measure be imposed that is not established by law prior to the facts.

In accordance with the principle of legality described above, no criminal action may be filed against any person who fraudulently commits an act or incurs an omission that affects the property of the State. In the case that a person, instigated by another, fraudulently commits an act or incurs an omission to the prejudice of the State, the person who instigated the other would be criminally processed, but not the person who performed the act or incurred the omission.

It is the public policy of the Legislature to prevent that the interests or rights over personal or real property of the State be prejudiced by fraudulent acts or omissions; therefore, subsection (b) of Article 210 is hereby amended to correct the aforementioned omission.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Subsection (b) of Section 210 of Act No. 149 of June 18, 2004, is hereby amended to read as follows:

“Section 210.- Fraud

Any person who fraudulently performs any of the following shall incur a felony in the fourth degree:

- a) To induce another person to perform acts or omissions that affect the estate rights or interests on real or personal property of said person, the State or a third party to their prejudice; or
- b) To perform acts or omissions that deprive another person or that affect the estate rights or interests on real or personal property of

said person to the prejudice of same, the State or a third party to their prejudice.

The court may also impose the penalty of restitution.”

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. 224 (H.B. 2513) of the 4th Session of the 15th Legislature of Puerto Rico:

AN ACT to amend subsection (b) of Article 210 of Act No. 149 of June 18, 2004, known as the “Penal Code of the Commonwealth of Puerto Rico,” to penalize any person who fraudulently performs acts or omissions that affect the estate rights or interests on real or personal property to the prejudice of the State,

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

In San Juan, Puerto Rico, today 17th of September of 2007.

Francisco J. Domenech
Director