

(H. B. 2393)

(No. 242)

(Approved November 10, 2006)

## **AN ACT**

To amend Section 9 of Act No. 9 of July 24, 1952, as amended, which creates the Office of the Comptroller of Puerto Rico, to provide that every employee or public official summoned by the Comptroller to offer evidence, or to testify on any matter under investigation, shall be oriented on the provisions and scope of Act No. 426 of November 7, 2000, known as the “Act to Protect the Rights of Public Employees and Officials Who Report, Accuse, or Witness Alleged Acts Which Constitute Corruption”; Act No. 115 of December 20, 1991, as amended, known as the “Act of Retaliations Against an Employee for Offering Testimony and Cause for Action”; and Act No. 14 of April 11, 2001, known as the “Act for the Protection and Compensation of Persons Who Denounce Acts of Corruption Against Public Funds and Property.”

## **STATEMENT OF MOTIVES**

Our code of laws contemplates various statutes that protect the rights of the persons who denounce illegal behaviors, to wit, Act No. 426 of November 7, 2000, known as the “Act to Protect the Rights of Public Employees and Officials Who Report, Accuse, or Witness Alleged Acts Which Constitute Corruption,” Act No. 115 of December 20, 1991, as amended, known as the “Act of Retaliations Against an Employee for Offering Testimony and Cause for Action”; and Act No. 14 of April 11, 2001, known as the “Act for the Protection and Compensation of Persons Who Denounce Acts of Corruption Against Public Funds and Property.”

Like Act No. 426, *supra*, Act No. 14, *supra*, also establishes civil and criminal penalties. A civil action shall be filed within three (3) years after the date in which the damage was caused or upon the affected person becomes aware of the violation and the person who committed said violation. The remedy to be granted in the event of a violation of this Act is the compensation for actual damages suffered, mental anguish, destitution from employment, unearned wages and benefits and attorney's fees. One difference between Act No. 426, *supra*, and Act No. 14, *supra*, is who are subject to its jurisdiction. Act No. 426, *supra*, is only directed to prohibit that public servants discriminate, threaten, dismiss, or retaliate against other public servants. Furthermore, Act No. 14, *supra*, extends said prohibition, so that no one shall harass, discriminate, dismiss, threaten, or suspend the benefits of any person because the latter has furnished information about an alleged illegal use of public property or funds. Another difference is that Act No. 426, grants a term of one (1) year to file a civil action, unlike Act No. 14, *supra*, which grants three (3) years to file the same. Finally, Act No. 426, *supra*, grants the recovery of three times the unearned wages while Act No. 14, *supra*, does not. On the other hand, Act No. 115, *supra*, prohibits that any employer discharge, threaten, or discriminate against an employee regarding terms, conditions, compensation, and location, among others, should said employee offer or attempt to offer testimony or information before any forum.

Through the approval of Act No. 426, *supra*, the Legislature of Puerto Rico declared that ethical responsibility and moral integrity are the governing principles of public officials and institutions, agencies, dependencies, and instrumentalities of the Government of Puerto Rico. There was also established that it is imperative to guarantee that government

management at all levels incorporates and eradicates corruption in the Government.

Act No. 426, *supra*, is directed to deter any public employee or official from being dismissed, threatened, discriminated or otherwise retaliated against, regarding the terms, conditions, compensation, location, benefits, and privileges of the employment or public service should he/she offer information or testimony about alleged illegal or improper acts in the use and management of public property or funds.

The provisions of Act No. 426, *supra*, apply to public employees and officials of public agencies and instrumentalities, municipalities, public corporations, and those dependencies of the Legislative, Executive, and Judiciary Branches of Puerto Rico. However, the provisions of Act No. 14, *supra*, and Act No. 115, *supra*, shall apply to both the public and private sectors.

In order to expedite the investigations conducted by the Office of The Comptroller, and for public employees and officials who have been summoned to testify or offer evidence to be duly aware of the provisions and scope of Act No. 426, *supra*, Act No. 115, *supra*, and Act No. 14, *supra*, it is necessary to set forth as public policy the orientation of all those public employees or officials summoned by the Office of the Comptroller to offer evidence or testify about a matter under its investigation.

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

Section 1.- Section 9 of Act No. 9 of July 24, 1952 as amended, is hereby amended to read as follows:

“Section 9.-

In case of default or refusal to obey a summons issued by the Comptroller or by the official designated by him, any part of the Court of

First Instance of Puerto Rico within whose jurisdiction the person guilty of such default or refusal is, resides, does business, or performs his functions, shall, at the request of the Comptroller, issue against such person an order requiring same to appear before the Comptroller or before the Officer designated by him, any part of the Court of First Instance of Puerto Rico within whose jurisdiction the person guilty of such default or refusal is, resides, does business, or performs his functions, shall at the request of the Comptroller, issue against such person an order requiring him/her to appear before the Comptroller or before the Officer designated by him, to offer evidence if so directed, or to testify on the matter under investigation. Failure to obey the order of the court shall make such person guilty of contempt.

Any public employee or official summoned to offer evidence or to testify shall be oriented about the provisions and scope of Act No. 426 of November 7, 2000, known as the “Act to Protect the Rights of Public Employees and Officials Who Report, Accuse, or Witness Alleged Acts Which Constitute Corruption,” Act No. 115 of December 20, 1991, as amended, known as the “Act of Retaliations Against an Employee for Offering Testimony and Cause for Action”; and Act No. 14 of April 11, 2001, known as the “Act for the Protection and Compensation of Persons Who Denounce Acts of Corruption Against Public Funds and Property.” This requirement shall not prevent the Office from exercising its investigative powers, nor to allege that a validly offered testimony may not be used in the pertinent forums.”

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. 242 (H.B. 2393) of the 4<sup>th</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend Section 9 of Act No. 9 of July 24, 1952, as amended, which creates the Office of the Comptroller of Puerto Rico, to provide that every employee or public official summoned by the Comptroller to offer evidence, or to testify on any matter under investigation, shall be oriented on the provisions and scope of Act No. 426 of November 7, 2000, known as the “Act to Protect the Rights of Public Employees and Officials Who Report, Accuse, or Witness Alleged Acts Which Constitute Corruption”; etc. ,

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

In San Juan, Puerto Rico, today 28<sup>th</sup> of September of 2007.

Francisco J. Domenech  
Director