

Reorganization Plan No. 4 of 1994

*Prepared by the Governor of Puerto Rico and remitted to the Twelfth Legislature, convened in its Third Regular Session, in accordance with the Executive Reorganization Act of 1993, to create the Department of Economic Development and Commerce.*

### **§ I. Creation of the Department.**

The Department of Economic Development and Commerce is hereby created, hereinafter, "the Department", and the Office of Secretary of Economic Development and Commerce, to direct it. The Secretary shall be appointed by the Governor with the advice and consent of the Senate, who shall serve at the volition of the Governor and shall earn the salary assigned to a Secretary of the Government, which can be raised up to a third more.

### **§ II. General Functions of the Department.**

The Department shall be responsible for implementing and supervising the execution of Puerto Rico's public policy on economic development in the various entrepreneurial sectors of industry, commerce, tourism, services, credit unions and others. As such it shall constitute the government body in charge of planning, promotion, organization and coordination under an integrated view of the government activity related to the stated sectors. It shall also propitiate the development of a stable self-sustaining private economy with a view to the future, taking into consideration the globalizing of the economy and the constitution of regional economic alliances.

### **§ III. Powers, Duties and Functions of the Secretary.**

The Secretary of Economic Development and Commerce, hereinafter "the Secretary", in addition to the powers, duties and functions conferred by other acts and this Reorganization Plan, shall have all the powers, duties, faculties, attributes and prerogatives inherent to his/her office, among which the following are listed, without it being construed as a limitation:

- (a) Advise the Governor and the Legislature on all matters related to the mission and functions of the Department.
- (b) Collaborate and advise the Governor and the Legislature on the statement of public policy and its implementation in an integral and coordinated manner.
- (c) Coordinate strategic planning in an integrated manner for all the sectors that compose it, as well as reviewing, harmonizing and approving the plans of each of its sectors. Define the policies, strategies and priorities according to the strategic economic development plans for Puerto Rico.
- (d) Carry out economic, marketing and other studies and research related to the local economy, that of the United States and of other jurisdictions in order to position the Department's programs and activities, identify opportunities, anticipate situations that could cause problems and trace new strategies.

- (e) Coordinate and supervise the administration and operations of the components of the Department, as well as the communications, public relations and promotional campaigns of the Department and its components, according to the established norms, goals, objectives and public policy.
- (f) Evaluate and audit the operations of the components of the Department, render reports to the Governor and adopt the needed measures to keep the body functioning efficiently.
- (g) Establish the coordination of everything related to the planning, promotion and development of important special projects that involve the participation of several or all of the components of the Department and other government bodies besides it.
- (h) Prepare and present to the Governor an annual integrated budget for the Department. The directors of the components of the Department shall submit their respective budget proposals to the Secretary, annually.
- (i) Recommend changes to the Governor in the organization of the Department, that may comprise the modification, fusion, termination, or transfer of functions, programs and agencies under its jurisdiction.
- (j) Approve the regulations to be adopted by the components of the Department, as well as any amendment or repeal thereof. The directors of said components shall prepare and submit the necessary regulations, including any amendments or the repealing thereof, for the approval of the Secretary.
- (k) Render an overall annual report of the Department to the Governor and the Legislature. The Directors of the Department's components shall submit their annual report to the Secretary.
- (l) Develop and implement rules, norms and procedures which apply generally to the Department, as well as approve those of specific application to its components, unless the Secretary has delegated such approval.
- (m) Promote the participation of the citizenry and the private entrepreneurial sector in the functions of the Department, through the mechanisms he/she deems pertinent.
- (n) Delegate on officials or employees of the Department, including the bodies that constitute administrative components thereof, any powers, faculties duties or functions that have been conferred on them, except the faculty of adopting or approving regulations which can not be delegated by legal mandate.
- (o) Preside over the Economic Development Committee created under this Plan.
- (p) Create the boards and advisory committees needed for the proper functioning of the Department.

#### **§ IV. Components of the Department.**

The Department shall be constituted by the following operating components:

- (a) The Tourist Company
- (1) The Hotel Development Corporation
- (b) The Commercial Development Administration
- (c) The Economic Development Administration
- (1) The Industrial Development Company
- (d) The Cinematographic Industry Development Corporation
- (e) The Cooperative Development Administration
- (f) The Land Administration
- (g) The Horse Racing Industry and Sport Administration.  
(Amended July 25, 1997, No. 46, § 1.)

#### **§ V. Tourist Company.**

The Tourist Company is hereby attached to the Department. The Company shall operate under §§ 671-672d of [Title 23](#). The Governor shall appoint the Executive Director of the Tourist Company with the advice and consent of the Senate, and shall fix his/her salary. The Secretary of Economic Development and Commerce shall be the Chairman of the Company except when the Secretary is also the Executive Director of the Tourist Company. The Executive Director shall answer to the Board.

(Amended Aug. 4, 1994, No. 51, § 1.)

#### **§ VI. Commercial Development Administration.**

The Department of Commerce is hereby renamed the Commercial Development Administration and is attached to the Department. The Commercial Development Administration shall operate under Act No. 132 of July 19, 1960.

The Commercial Development Administration shall be responsible for promoting the establishment and development of small and medium-sized businesses, and providing the latter with the necessary support to facilitate their operations. The Administrator shall answer directly to the Secretary of the Department and shall render any reports that are required. The Governor shall appoint the Administrator with the advice and consent of the Senate, and shall fix his/her salary.

(Amended Aug. 4, 1994, No. 51, § 2.)

#### **§ VII. Economic Development Administration.**

The Economic Development Administration is hereby attached to the Department, and shall operate under Act No. 423 of May 14, 1950. The Administrator shall answer directly to the

Secretary and shall render the reports that are required of him/her. The Governor shall appoint the Administrator with the advice and consent of the Senate and shall fix his/her salary.

The Industrial Development Company, attached to the Economic Development Administration, shall operate under §§ [271--303](#) of [Title 23](#).

#### **§ VIII. Cooperative Development Administration.**

The Cooperative Development Administration is hereby attached to the Department. The Administration shall continue to operate under §§ [931](#) et seq. of [Title 5](#). The Administrator shall answer directly to the Secretary and render those reports which may be required from him/her. The Governor shall appoint the Administrator with the advice and consent of the Senate and fix his/her salary.

(Amended July 25, 1997, No. 46, § 2.)

#### **§ IX. Cinematic Development Corporation.**

The Cinematic Development Corporation is hereby attached to the Department of Economic Development and Commerce, created by Act No. 27 of Aug. 22, 1974. The Executive Director of the Corporation shall answer directly to the Secretary and shall render the reports required of him/her. The Secretary shall submit a report to the Governor and the Legislature, together with the budget petition corresponding to Fiscal Year 1995-96, that includes, without it being understood as a limitation, specific measures that are pertinent to the adequate functioning and operation of this body.

#### **§ X. Land Administration.**

The Land Administration is hereby attached to the Department of Economic Development and Commerce, which shall continue to operate under §§ [311](#) et seq. of [Title 23](#). The Secretary of Economic Development and Commerce shall replace the Governor as a member and Chairman of the Governing Board of the Land Administration. The Governor shall appoint the Executive Director with the advice and consent of the Senate and shall fix his/her salary. The Executive Director shall answer directly to the Board.

#### **§ XI. Horse Racing Sport and Industry Administration.**

The Horse Racing Sport and Industry is hereby attached to the Department of Economic Development and Commerce, and shall continue to operate under §§ 198-198s of [Title 15](#). The Administrator shall answer directly to the Secretary but shall retain its administrative and operating autonomy under the provisions of its organic act. The Governor shall appoint the Administrator with the advice and consent of the Senate.

#### **§ XII. Creation of the Economic Development Committee.**

The Economic Development Committee is hereby created, which shall be composed of the Secretary who shall preside, and the directors or heads of the components of the Department. The Committee shall within its functions, advise the Secretary on the implementation of the public policy and strategic planning of the economic and commercial development, as well as coordinating the operations and development of special projects.

### **§ XIII. Responsibilities of the Directors of the Components.**

The directors of the operating components of the Department shall answer directly to the Secretary with regard to the efficient operation of their respective programs pursuant to the act which applies to them; as well as the compliance of the public policy, plans, goals and objectives established by the Governor of Puerto Rico and the Secretary; shall exercise their powers and faculties in harmony with and subject to the powers, faculties and functions of the Secretary, through the provisions of this Plan.

### **§ XIV. Personnel Administration.**

The Department and each of its components shall be classified as Individual Administrators pursuant to the provisions of Act No. 5 of October 14, 1975, known as the "Puerto Rico Public Service Personnel Act", and Act No. 89 of July 12, 1979, known as the "Uniform Compensation Act", with the exception of those components excluded from the law, which shall retain their present status. The Director of the Central Personnel Administration Office shall approve the classification and compensation plans in accordance with the laws cited above, on the basis of the certification by the Office of Management and the Budget, on the availability of funds.

### **§ XV. General Services.**

The Department of Economic Development and Commerce and its operating components shall be exempted from the provisions of §§ 934 et seq. of this title, the "General Services Administration Organic Act", and shall be governed by their own laws and the regulations established by the Secretary. The Department and its components shall establish through regulations, according to their legal authority, their own systems and regulation of purchases, supplies and auxiliary services, within sound norms of fiscal administration, economy and efficiency. Until the new system and regulations are approved, they shall continue to be governed by the present ones.

### **§ XVI. Faculty to Obtain Assistance and Enter into Agreements.**

The Secretary is hereby authorized to request and obtain assistance or contributions in cash, goods or services of the Government of the United States, the federated states, the Government of the Commonwealth of Puerto Rico or any of its agencies, public corporations or political subdivisions, municipalities and nonprofit institutions, for the purposes of their Department.

The Secretary and the Department shall be the official and agency designated to administer any federal program related to the functions entrusted to the Department by this Reorganization Plan. In this capacity, the Secretary shall negotiate and transact any covenants or agreements that are needed to execute the negotiations for the Commonwealth of Puerto Rico to receive all federal funds and benefits to carry out said programs, as well as between government bodies of the federated states, and the federal government, duly authorized therefor, with regard to the exchange of information, studies and research related to the programs that are carried out, provided said covenants or agreements are within the framework of his/her functions and the laws of the Commonwealth of Puerto Rico.

#### **§ XVII. Transfer of Personnel and Property.**

The personnel, property, resources, and records that are being used in connection with the functions, programs, or agencies and the unexpended balances of appropriations, items or other funds (available or to be available) are hereby transferred to the Department or the corresponding successor component agency that is transferred, merged or attached by the provisions of this Reorganization Plan, to be used, employed or spent in connection with said functions, programs or agencies. Any subsequent measures and other provisions that the Governor deems are needed to carry out the transfers foreseen in this section, shall be made in the manner determined by the Governor and by the agencies designated by him/her.

#### **§ XVIII. General Provisions.**

No provision of this Plan shall be construed to modify, alter or invalidate any agreement, covenant, claim or contract that the responsible officials or employees of the bodies or programs which through this Plan are part of the Department, have granted and are in force when it became effective. Any claim filed by or against said officials or employees and which is pending resolution when this Plan becomes effective, shall subsist until its final conclusion.

All the regulations that govern the operation of the bodies or programs which are integrated into the Department through this Plan, which are in effect when it becomes effective, shall remain in effect until they are altered, modified, amended, repealed or replaced.

All career service employees in the agencies affected by this reorganization, are guaranteed their employment and the vested rights acquired under the personnel laws or regulations as well as the rights, privileges, obligations and status regarding any existing pension or retirement system or systems, or savings and loan funds to which they may be affiliated upon approval of this Plan.

None of what has been provided above, shall be construed as to the Department being liable for any debts that were validly contracted by any of the operational components. Said debts shall continue to be the responsibility of the body that incurred them.

#### **§ XIX. Transitory Measures and Internal Adjustments.**

The Governor is hereby empowered to take any transitory measures needed for the

implementation of his Plan without interrupting the normal work of the bodies affected by it. He may also execute any additional internal reorganizations that are needed for the proper functioning of the Department, except that he/she shall not suppress bodies that are created by law. Those internal reorganizations that require legislation or amendments to statutes in effect, shall be introduced before the Legislature for its consideration and approval.

Within the year following the effectiveness of this Reorganization Plan, the Secretary shall submit an Internal Reorganization Plan to the Governor, which will consider the integration, as far as it is viable and functionally effective, of technical and managerial services common to all the components of the Departments, such as auditing, planning, economic studies, statistics, viability studies, environmental impact evaluations, legal advice and services, computerized data processing systems, and others. The Plan shall also include an analysis and recommendations on the agencies, functions and programs that should be transferred, relocated, merged or eliminated, as well as those that should be established, taking as a basis the Economic Model for Puerto Rico approved by the Governor. The restructuring shall have as its objectives, to eliminate unnecessary duplication, improve coordination, promote savings, and the proper use of public resources and achieve greater efficiency and effectiveness.

Within a term of fifteen (15) months, counted from the effective date of this Reorganization Plan, the Governor shall present in both Legislative Bodies a report on its implementation, together with the organization chart of the Department and its component bodies.

The report shall be filed in the Secretariats of the House of Representatives and the Senate, and shall be referred to the Joint Committee on Executive Reorganization Plans, which shall, within ten (10) days following the presentation of the report, call for public hearings to analyze and submit to the Legislative Bodies its findings, conclusions and recommendations.

The report shall include a statement of the measures established to increase the efficiency and productivity of the bodies that compose the entity, and shall specifically detail the mechanisms adopted, or to be adopted.

The Legislature retains the power to wholly or partially amend or reject the reorganization that has been made or proposed within the terms, and through the procedures established in the Executive Reorganization Act of 1993.

Pursuant to the determinations made throughout this process, the Secretary shall promote the filing of the bills leading to modifying the organic statutes of the component agencies of the Department of Economic Development and Commerce, in order to adjust them to the facts and requirements of their program's mission.

## **§ XX. Appropriation of Funds.**

The sum of one hundred and sixty-five thousand dollars (\$165,000) chargeable to the resources of the General Fund, is hereby appropriated for the initial expenses of the organization and functioning of the Department during Fiscal Year 1993-94. The appropriations needed in subsequent fiscal years shall be consigned in the General Expense Budget.

## **§ XXI. Effectiveness.**

This Reorganization Plan shall become effective immediately after its approval. The activities needed to comply with the purposes of this Plan, including its internal reorganization, shall be initiated within a term that shall not exceed thirty (30) calendar days after its approval, under the coordination, advice, and supervision of the Office of Management and Budget.