

“Musical Arts Corporation Act”

Act No. 4 of July 31, 1985, as amended

(Contains amendments incorporated by:

Act No. 147 of August 2, 1988

Act No. 12 of November 29, 1990

Act No. 14 of November 29, 1990

Act No. 57 of August 2, 1997

Act No.36 of January 24, 2006)

To create the Musical Arts Corporation; establish its purposes, duties and powers; repeal Act No. 76 of May 30, 1980, and appropriate funds.

STATEMENT OF MOTIVES

The Legislature of Puerto Rico passed a series of laws related to the promotion and development of culture in 1980. Some of these establish administrative mechanisms for the best functioning of the Puerto Rico Symphony Orchestra, the Puerto Rico Conservatory of Music, the Children's Strings Program and the Performing Arts Company. However, under Act No. 76 of May 30, 1980, the Arts and Culture Development Administration was created, giving it the same functions, powers and authority that correspond to the Puerto Rico Institute of Culture and which the Institute had been performing since its origin. In addition, by virtue of said Act No. 76 of 1980, the Arts and Culture Development Administration was charged with the administration of the Puerto Rico Fine Arts Center, which the Institute of Puerto Rican Culture conceived, acted upon, and had been building for a period of over ten years.

The Legislature feels that it must repeal Act No. 76 of May 30, 1980, to return to the Institute of Puerto Rican Culture the functions and powers that belong to it. Also, the Musical Arts Corporation should be created to replace the Arts and Culture Development Administration, with the purpose of promoting the development and enhancement of the musical arts programs. To achieve these ends, it is necessary to attach the Puerto Rico Conservatory of Music Corporation created by Act No. 77 of May 30, 1980; the Puerto Rico Symphony Orchestra Corporation, created by Act No. 44 of May 12, 1980, and the Puerto Rico Performing Arts Corporation, created by Act No. 42 of May 12, 1980, as subsidiaries thereof. The Musical Arts Corporation shall thus be enabled to devote all its efforts to the development of music and musical arts and stagecraft, without interfering with or affecting the functions that belong to the Institute of Puerto Rican Culture.

Be it enacted by the Legislature of Puerto Rico:

Section 1. — Title. (18 L.P.R.A. § 1165)

This Act shall be known as the "Musical Arts Corporation Act".

Section 2. — Creation. (18 L.P.R.A. § 1165a)

A public corporation is hereby created which shall function as an entity separate from the Government of the Commonwealth of Puerto Rico and its agencies and political subdivisions and shall be known as the "Musical Arts Corporation", hereinafter denominated as "the Corporation". It shall be directed by a Board of Directors appointed by the Governor of the Commonwealth of Puerto Rico with the advice and consent of the Senate of Puerto Rico. The Board shall exercise the powers of the Corporation and shall adopt the regulations, norms and procedures needed to comply with the purposes of this Act. It shall designate an Executive Director with the Governor's approval who shall hold office at the Board's volition. The Corporation's Board of Directors shall fix the Executive Director's salary. The Executive Director in addition to the powers, duties and authority granted to him in this Act shall have those prerogatives conferred on him by the Board of Directors.

Section 3. — Purposes, Powers and Functions. (18 L.P.R.A. § 1165b)

The Corporation shall be responsible for promoting the development and enhancement of music and musical arts and stagecraft in Puerto Rico. It shall administer the Commonwealth of Puerto Rico's programs in this field without interfering with or affecting the programmatic work of the Institute of Puerto Rican Culture in any way. To such ends, it shall have the following powers and functions:

- (a) To establish the standards and guidelines needed to achieve the optimum development of its programs.
- (b) To establish the standards and guidelines to evaluate and process the applications for financial assistance which the Corporation may give from its own fund to other entities in the field of music and musical arts and stagecraft.
- (c) To carry out whatever studies and investigations are needed.
- (d) To coordinate the activities that lead to the development of music and musical arts and stagecraft which are desirable for the furthering of our music and our musical arts and stagecraft in Puerto Rico or outside of our country, without excluding all those musical expressions from other people which have achieved universal patrimony.
- (e) To promote and foster the disciplines of musical arts and stagecraft among our citizens.
- (f) To create an awareness of the importance of music, opera, ballet and of musical arts and stagecraft in general.
- (g) To help to improve the services for recreation and enjoyment in the area of musical production that should be offered by the Government.
- (h) To promote and foster the development of theatrical arts related to music such as the ballet, opera, operetta and zarzuela.
- (i) To promote and organize artistic and musical contests, competitions and festivals.
- (j) To sue and be sued.

- (k) To perform acts, formalize agreements and enter into contracts of any kind to carry out the purposes of this Act.
- (l) To establish the standards, regulations and procedures needed for its internal operations and functioning and to govern the Corporation's programs and activities.
- (m) To solicit and receive any funds, donations or assistance from the federal government, the Government of the Commonwealth of Puerto Rico, including its agencies, public corporations and political subdivisions or from private sources to carry out the purposes of this Act.
- (n) To sponsor projects originated under federal statutes and act as the intermediary agency and supervise the use of the funds thus obtained. This authorization does not extend to those federal programs where other agencies of the Commonwealth of Puerto Rico have been designated by law as the agencies charged with participating in such programs, unless such functions have been transferred to the Corporation.
- (o) To have absolute control of its properties and activities.
- (p) To have absolute control of all its expenditures and establish the way they shall be authorized and paid for.
- (q) To acquire by any legal manner, possess and administrate personal and real property or any interest therein that are deemed necessary to fulfill its goals and lease, sell or otherwise dispose of them when they no longer serve such purposes.
- (r) To provide services and technical assistance and cede the use of its personal or real property in accordance with the standards and regulations approved by its Board of Directors.
- (s) To appoint personnel and contract officials, agents, employees and technical and professional services, and fix and pay the corresponding compensation or remuneration.
- (t) To coordinate the activities and collaborate with all the government agencies whose purposes and functions are related to the Corporation's purposes and functions.
- (u) To ensure that Puerto Rican performers receive the broadest participation and preferential treatment.
- (v) To establish a program of support, assistance and advancement for soloists, instrumentalists, singers, orchestra directors and choir leaders, among others.
- (w) The Executive Director, with the prior approval of the Board of Directors, shall contract the services of teachers and supervisors of the Department of Education and shall pay them due compensation for the additional services they render to the Corporation as music teachers, outside of their regular working hours, without being subject to the provisions of Article 177 of the 1903 Political Code [3 L.P.R.A. § 551] or the provisions of any other applicable law.
- (x) Coordinate with the Department of Education, universities, institutes, and private schools for these to offer courses, seminars, workshops, and educational campaigns that foster the teaching and development of the theatrical musical arts such as opera, operetta, zarzuela and ballet, among others.

Section 4. — Executive Director. (18 L.P.R.A. § 1165c)

The Corporation's Board of Directors shall designate by majority vote from among its members an Executive Director who shall be a person of recognized knowledge and service in behalf of culture, and shall have all the powers, faculties, attributes and prerogatives

delegated on him by the Board of Directors. The Executive Director may appoint a Deputy. In case of the Executive Director's absence or temporary disability, the Deputy Director shall substitute for him and shall perform all the functions and exercise all his powers for the duration of his absence or temporary disability. In case of the Executive Director's death, resignation or dismissal from office, the Deputy Director shall exercise all his functions as long as the vacancy exists. The Executive Director shall render an annual report to his Board of Directors, the Governor and the Legislature of all the activities held by the Corporation, on or before November 30 of each year. The annual report shall include:

- (a) A report of the financial condition of the Corporation and its subsidiaries, duly audited by a firm of certified public accountants;
- (b) a report of the transactions carried out by the Corporation and its subsidiaries during the preceding fiscal year, and
- (c) a report of all the activities held by the Corporation and its subsidiaries since its creation or since the date of its last annual report.

Section 5. — Board of Directors. (18 L.P.R.A. § 1165d)

The Board of Directors of the Musical Arts Corporation is hereby created with the purpose of establishing, directing, supervising and carrying out all the programs whose objectives are closely related to musical culture and musical arts and stagecraft, pursuant to the faculties and powers conferred by this Act. The Board members shall be of legal age, residents of Puerto Rico and committed to comply with the principles and purposes of this Act. The Board shall be composed of seven (7) members appointed by the Governor, with the advice and consent of the Senate of Puerto Rico. Three (3) of the members shall be persons who are knowledgeable in the field of musical arts, three (3) shall have administrative experience and the remaining member shall be the Chairman of the Board of Directors of the Institute of Puerto Rican Culture, who shall have voice and vote.

The members with experience in the field of musical arts may be selected by the Governor from twelve (12) candidates recommended by the Faculty of the Conservatory of Music, the musicians who make up the Symphony Orchestra, the Faculty of the Department of Music of the University of Puerto Rico and of the Free Schools of Music. Provided, That each of these institutions may only recommend three (3) candidates. The Governor shall designate the Chairman of the Board who, in turn, may designate a Vice Chairman from among its members. The presence of four (4) members of the Board shall constitute a quorum and the decisions shall be made by an absolute majority of all its members. The Board shall meet at least once every two (2) months in regular meetings, and may meet as many times as it deems pertinent by summons of its Chairman.

After the approval of this act, the members of the Board of Directors shall be appointed as follows: three (3) of the directors shall be appointed for a term of four (4) years, and four (4) for a term of three (3) years. Once these first terms have ended, the Governor shall appoint the members of the Board of Directors for a term of four (4) years each with the advice and consent of the Senate of Puerto Rico. The directors shall perform their duties until their terms expire and their successors take office. If other vacancies arise, the Governor shall appoint substitutes who will perform their duties for the unexpired term of the member who was originally appointed.

If the office of Chairman were to be vacated or in his absence or temporary disability the Vice Chairman shall assume the Chairman's functions until the absence or temporary disability has ceased, or until the Governor has appointed a person to fill the vacancy.

Section 6. — Per diems and expenses. (18 L.P.R.A. § 1165e)

The members of the Board shall receive fifty (50) dollars for each day they attend Board meetings. Whenever a member of the Board is abroad and it is imperative to summon him to a Board meeting, he shall be entitled to the reimbursement of any travel expenses he may incur in order to return to Puerto Rico, but it is hereby provided that those members of the Board of Directors of the Musical Arts Corporation who submit proof that their travel expenses incurred to attend the Board's meetings between the period of July 31, 1985 through August 2, 1988, be reimbursed said expenses for the amount corresponding to the evidence of expenses submitted.

Section 7. — Functions of the Board. (18 L.P.R.A. § 1165f)

The Board of Directors which is created hereby shall be a body for the direction and supervision of the public policy related to our music and our musical arts and stagecraft; it shall determine the viewpoints and programs that shall be adopted to promote and protect musical culture and education as well as the stagecraft related to music, and shall promote its diffusion in the national and international scenes.

Section 8. — Exemptions. (18 L.P.R.A. § 1165g)

The Corporation and its subsidiaries shall be exempted from all types of taxes, rights, levies or charges including license fees which are generally imposed by the Government of the Commonwealth of Puerto Rico or any of its political subsidiaries.

The Corporation and its subsidiaries are also exempted from all types of fees or taxes required by law for the execution of judiciary procedures, the issuing of certificates in the offices and agencies of the Government of the Commonwealth of Puerto Rico and its political subdivisions and the issuing of public documents and their registration in any public registry in Puerto Rico.

Section 9. — Organization. (18 L.P.R.A. § 1165h)

The Executive Director is hereby empowered to establish the internal organization of the Corporation together with the Office of the Management and Budget and with the Governor's approval and for such purposes may reorganize, consolidate and modify the titles of the programs, activities and units, with the provision that no program established by law shall be eliminated without the consent of the Legislature of Puerto Rico.

In addition to the above provisions, the Board of Directors shall establish by regulations the standards that shall propitiate the Executive Director's provision of adequate administrative services to the Musical Arts Corporation's subsidiary corporations inasmuch as the Corporation's resources may allow.

Section 10. — Budget. (18 L.P.R.A. § 1165i)

The Corporation shall submit its general budget of expenses and the consolidated expense budget of each of its subsidiary corporations each year to the Legislature of Puerto Rico through the Office of the Governor pursuant to the provisions of Act No. 147 of June 18, 1980 [23 L.P.R.A. §§ 101 et seq.].

All of the Corporation's moneys shall be deposited in recognized banking institutions located in the Commonwealth of Puerto Rico. The accounts shall be opened in the Corporation's name and the disbursements shall be made according to the Corporation's standards and regulations.

(a) All documents that involve or imply obligations or disbursements chargeable to the funds appropriated to the Corporation shall bear the signature of the Executive Director or of the officials or employees upon whom he delegates to authorize said documents.

(b) When it is necessary and convenient to advance Corporation funds to private persons, the advances shall be made by the Executive Director in the manner prescribed by the Board of Directors, provided said advances are secured by bonds which cover the Executive Director's liability.

Section 11. — Accounting system. (18 L.P.R.A. § 1165j)

The Corporation shall establish an accounting system for the adequate control and registry of all its operations. The Corporation's accounts shall be kept in a way that they may be segregated or separated by activity.

The Controller of Puerto Rico or his representative shall examine the Corporation's books and accounts from time to time pursuant to the terms of the law.

Section 12. — Debts; obligations. (18 L.P.R.A. § 1165k)

The Corporation's debts and obligations shall not constitute debts or obligations of the Commonwealth of Puerto Rico or its agencies, public corporations and its political subdivisions, and shall not encumber the funds of the Commonwealth Treasury.

Section 13. — Purchases. (18 L.P.R.A. § 1165l)

The Corporation shall purchase its equipment, materials and everything it needs to perform the functions with which it has been charged subject to the standards and regulations adopted by the Musical Arts Corporation's Board of Directors.

Section 14. — Personnel. (18 L.P.R.A. § 1165m)

The Corporation shall be an Individual Administrator as defined in Act No. 5 of October 14, 1975 as amended, known as the "Puerto Rico Public Service Personnel Act" and the personnel regulations adopted thereunder.

Section 15. — Appropriation of funds. (18 L.P.R.A. § 1165n)

In addition to the provisions of subsection (c), of Section 16 of this Act, with regard to the transfer of certain funds of the Arts and Culture Development Administration to the Corporation created hereby, for the purposes of this Act, any appropriation of funds included in the General Budget Act for the 1985-86 fiscal year, or in any special appropriations act for said year authorized or that could be appropriated to the Arts and Culture Development Administration shall remain for the benefit of said Corporation excluding those items, equipment, personnel or funds destined for the administration and operation of the Fine Arts Center.

In subsequent years the Corporation's Executive Director shall submit to the Corporation's Board of Directors for its approval a General Consolidated Budget of Expenses for the operation of the Corporation as it has been created hereunder, so that the necessary appropriations can be consigned in the Commonwealth's General Budget Act.

Section 16. — Repeal of Laws and Transfers. (18 L.P.R.A. § 1165 note)

(a) The "Arts and Culture Development Administration" is hereby annulled [eliminated] and Act No. 76 of May 30, 1980, it is hereby repealed.

(b) Any act or part thereof, joint resolution, regulation, or Government opinion that is in contradiction with this act, or any part thereof is hereby repealed.

(c) Any personnel, and all property, files, records, documents, available and surplus funds from any source, licenses, permits and other authorizations, obligations and contracts belonging to the Arts and Culture Development Administration which, in the past, were not destined to the administration and operation of the Fine Arts Center, is hereby transferred to the Musical Arts Corporation.

(d) The personnel that is to be transferred to the Musical Arts Corporation shall retain their status as employees and their vested rights pursuant to the provisions of Act No. 5 of October 14, 1975 as amended, known as the Puerto Rico Public Service Personnel Act, as well as everything related to the retirement system or savings and loan plans to which they belong.

(e) The transfer provided herein shall not affect nor invalidate any agreement, covenant, claim, obligation or contract in force on the date said transfer is effective, and that the annulled agency has granted or carried out pursuant to law.

(f) The regulations that govern the operation of the Arts and Culture Development Administration which are in force on the effective date of the transfer, and the elimination of said Administration authorized hereunder, and which are compatible with this act, shall remain in effect until they are amended or repealed by the corresponding administrative authority.

(g) The effective date for the transfer and the elimination of said Administration provided in this Act, shall be fixed by the Governor by Executive Order no later than ninety (90) days after the effectiveness of this act.

(h) The Governor shall designate an official to carry out everything related to said transfer, who shall adopt all necessary measures so that the Corporation created by this act shall comply with it as effectively as possible.

(i) The Corporation shall adopt all necessary regulations for its programs, operations and internal functioning no later than ninety (90) days after the appointment of its Board of Directors.

Section 17. — Effectiveness. —This act shall take effect immediately after its date of approval.

Note. This compilation was prepared by the Puerto Rico OMB staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text. Compiled by the Office of Management and Budget Library.