

“Commonwealth of Puerto Rico Historic Preservation Office Organic Act”

Act No. 183 of August 21, 2000

To create the Commonwealth Historic Preservation Office, attached to the Office of the Governor; to define its functions and powers; and to appropriate funds.

STATEMENT OF MOTIVES

Since 1985, the Government of Puerto Rico, through the Executive Order of July 31, 1985, Administrative Bulletin No. OE-4498-1985, which attached the Commonwealth Office for Historic Preservation to said Office, has been able to achieve and develop those activities required under Federal Law of October 15, 1966 (P.L. 89-665), as amended, known as the "National Historic Preservation Act of 1966". Said Office provides advisory services to the Office of the Governor on Culture, Planning and Urban Development. It likewise evaluates and issues opinions on infrastructure projects that require federal funds, permits, guarantees and licenses and coordinates capital improvements for the Palacio de Santa Catalina (La Fortaleza) and the rehabilitation of historic buildings in Barrio Ballajá.

During the past few years the work of the Commonwealth Office for Historic Preservation has been affected by the loss of its human resources due the fact that the members of its staff are not permanent employees. This situation has brought about a considerable loss of monies, documents and time needed to train a new work team for the Office which, at the same time, hinders the progress achieved by the historic preservation program. The Federal Government requires that the body in charge of issuing opinions on infrastructure projects carried out with federal funds conduct its business uninterruptedly so as to guarantee the objectivity and effectiveness of the parameters established by the United States Department of the Interior.

This Act creates the Commonwealth Historic Preservation Office as successor of the Commonwealth Office for Historic Preservation to be attached to the Office of the Governor and to be deemed to be an Individual Administrator pursuant to the provisions of Act No. 5 of October 14, 1975, as amended, known as the "Puerto Rico Public Service Personnel Act", so as to comply and give continuity to the projects and tasks delegated by the Legislature, the Governor of Puerto Rico and the Federal Government.

Be it enacted by the Legislature of Puerto Rico:

Section 1. — Title. — (3 L.P.R.A § 1111 note)

This Act shall be known as the "Commonwealth of Puerto Rico Historic Preservation Office Organic Act".

Section 2. — Commonwealth Historic Preservation Office. — (3 L.P.R.A § 1111)

The Commonwealth Historic Preservation Office, henceforth, "the Office", is hereby created to be attached to the Office of the Governor. Said Office shall have an Executive Director appointed by the Governor and confirmed by the Senate, who shall be the Commonwealth Official for Historic Preservation, henceforth "the Commonwealth Official", pursuant to the provisions of Title 1, Section 101 of Federal Law of October 15, 1966 (P.L. 89-665), as amended, known as the "National Historic Preservation Act of 1966". The initial salary of the Executive Director shall be similar the that of those public officials of equal hierarchy pursuant to the provisions of Act No. 89 of July 12, 1979, as amended, known as the "Uniform Compensation Act".

The Office shall be deemed to be an Individual Administrator pursuant to the provisions of Act No. 5 of October 14, 1975, as amended, known as the "Puerto Rico Public Service Personnel Act" regarding the administration of its human resources. The Commonwealth Official shall select and appoint the professional, technical, secretarial and clerical personnel deemed necessary for the proper operation of the Office and for complying with the duties imposed by this Act. Said Official shall likewise determine their qualifications, requirements, functions and duties pursuant to the provisions of the aforementioned Act No. 5. The Classification Plan and the Compensation Plan of the Office shall be developed independently from those of the Office of the Governor, in consideration of the particular nature of said Office. Said Office may be assisted by the Office of the Governor in the administration of its human resources regarding its payroll transactions and other matters besides those regarding appointments, contracts, classification or compensation.

Section 3. — Powers and Duties of the Commonwealth Historic Preservation Office. — (3 L.P.R.A § 1112)

The Office shall have the following powers and duties:

(a) Fulfill the responsibilities assigned to the Commonwealth Official pursuant to the aforementioned Public Law No. 89-665, as amended, known as the National Historic Preservation Act, to wit:

- (1) Coordinate and conduct research and studies to ascertain which properties are historic and maintain an inventory of the same, in cooperation with Federal and Commonwealth agencies, private organizations and individuals.
- (2) Identify, nominate and distribute applications for nominating properties eligible for inclusion in the National Register of Historic Places.
- (3) Draft and implement a Commonwealth Plan for Historic Preservation.
- (4) Administer the Commonwealth Program of Federal Assistance for the Preservation of Historic Properties on the Island.
- (5) Provide advice and assistance to Federal and Commonwealth agencies, including the municipalities of Puerto Rico, in compliance with its responsibilities for historic preservation.
- (6) Cooperate with the Secretary of the Interior, the Advisory Council on Historic Preservation, Federal and Commonwealth agencies, private organizations and individuals to

ensure that the historic properties be considered throughout all planning and development stages.

(7) Provide public information, education, training and technical assistance in historic preservation.

(8) Cooperate with and provide technical assistance to local governments for the development of historic preservation programs.

(9) Consult with Federal agencies concerning the projects under their direct or indirect jurisdiction that may affect historic properties in order to protect them and minimize and mitigate potential damages.

(10) Provide advise in the evaluation of proposals for rehabilitation projects that might qualify for Federal financial assistance.

(b) Recommend to the Governor and the Legislature of Puerto Rico, in collaboration with the Institute of Puerto Rican Culture, the public policy regarding the preservation of historic properties or resources, as defined in Section 301 of Public Law No. 89-665.

(c) Make recommendations and provide technical assistance to the Governor on all matters related to Culture, Planning and Urban Development for the preparation of development plans and projects and projects for the preservation of historic properties in Puerto Rico.

(d) Review and appraise projects and activities for the development and Preservation of historic properties in Puerto Rico consistent with the public policy established by the Federal Government.

(e) Conduct research, studies, inspections and analyses that foster the infrastructure needed to comply with this Act.

(f) Actively explore the acquisition of funds from public, semipublic and/or private funds in order to fulfill the purposes of this Act.

(g) Solicit, accept and obtain the cooperation and the technical and economic assistance of Federal, Commonwealth and Municipal agencies according to the provisions of the aforementioned Public Law No. 89-665 and any other Federal, Commonwealth and Municipal laws for the development of projects.

(h) Coordinate and supervise the administration and development of various buildings of historic and architectural value in Barrio Ballajá, Cuartel de Ballajá and its plazas, Paseo Jardín, Paseo Norzagaray, Plaza del V Centenario, Plaza de la Beneficencia, Plaza del Soportal, Galería del Soportal, Ballajá Underground Parking and the former Hospital Nuestra Señora de la Concepción.

(i) Make recommendations and provide technical assistance for taking steps leading to achieve the restoration, rehabilitation and stabilization of the Palacio de Santa Catalina and other Fortaleza

dependencies in order to ensure their Preservation and cultural heritage for the enjoyment of present and future generations.

(j) Make recommendations and provide technical assistance for taking steps leading to achieve the restoration, rehabilitation and stabilization of those historic properties delegated by the Governor of Puerto Rico, the Federal Government, the Legislature of Puerto Rico and/or by agreement with municipal governments.

(k) Contract the services of individuals and public and private entities, as well as with others deemed necessary to carry out its functions.

Section 4. — Organizational Structure. — (3 L.P.R.A § 1113)

The Executive Director shall be empowered to establish the organizational structure of the Office deemed necessary to comply with the provisions of this Act, subject to the provisions of Act No. 147 of June 18, 1980, as amended, known as the "Office of Management and Budget Organic Act".

Section 5. — Creation of the Council for the Development and Administration of the Ballajá Area. — (3 L.P.R.A § 1114)

- (a) The Council for the Development and Administration of the Ballajá Area, henceforth the "Council", attached to the "Office", is hereby created.
- (b) The Council shall be constituted by seven (7) members, two (2) of which shall be ex-officio members and five (5) shall be citizens appointed by the Governor. The ex-officio members shall be: the Commonwealth Official for Historic Preservation and one (1) of the members of the Board of Directors of the Institute of Puerto Rican Culture, to be appointed by the Governor.
- (c) The members of this Council shall be appointed for a minimum term of five (5) years and may be reappointed for an additional term of five (5) years.
- (d) The operations of the Council shall be directed by a President, to be appointed by the Governor.
- (e) The incumbent members of the Council for the Development and Administration of the Ballajá Area, created through the Executive Order of April 16, 1998, Administrative Bulletin OE-1998-12, shall remain in office as provided in this Act, for a term of five (5) years as of the date of effectiveness of this Act.
- (f) The Council shall have the following faculties and obligations, among others:
 - (1) Recommend to the Office projects, activities and tasks to implement the Plan for Use which governs the development of the Ballajá Area.
 - (2) Sell articles and and/or souvenirs alluding to the Ballajá Area.
 - (3) Solicit funds, donations and other contributions from government bodies as well as from private entities that may be used to achieve the purposes of this Act. Said resources shall be covered into the Special Fund created by virtue of Act No. 6 of January 8, 1994, under the administration of the Office.
 - (4) Advise the Office regarding the agreements and accords entered into with the Federal Government and its agencies or with any private person or private or government entity needed to achieve the purposes of this Act.
 - (5) The Council shall render an annual report to the Governor.

Section 5[sic]. — Succession. — (3 L.P.R.A § 1115)

(a) For all purposes the Office shall be the successor of the Commonwealth Office for Historic Preservation created through the Executive Order of July 31, 1985, Administrative Bulletin No. OE-4498-1985, as amended, and for the ends and purposes of this Act, shall have transferred to it the property or any interest in the same, the records, files and documents; the funds already appropriated or to be made available in the future, including surplus funds, assets, accretions of

all kinds; the obligations and contracts of all types; and the licenses, permits and other authorizations of the Commonwealth Office for Historic Preservation.

(b) All personnel working at the Commonwealth Office for Historic Preservation at the time this Act comes into effect shall be transferred to the Office. Said personnel shall retain all vested rights held by the date of effectiveness of this Act, as well as the rights, privileges, obligations and status regarding any pension, retirement and savings and loan fund system to which they are affiliated.

(c) Those employees who by date of effectiveness of this Act hold a career position in any other body of the central administration of the Executive Branch shall retain their former status and be relocated according to what is established in the Classification Plan of the agency from whence they come. Those employees who by date of effectiveness of this Act are on leave without pay from another agency or who are rendering services as confidential employees shall be entitled to return to their former agencies without any impairment to their vested rights and to be relocated to the Office under the established Classification Plan.

(d) The Office shall develop and approve those regulations and standards needed for its proper operation according to the purposes of this Act.

Section 6. — Appropriation of Funds. — (3 L.P.R.A § 1111 note)

The appropriation of funds for the expenses of the Office, including the salaries of the Executive Director and all other personnel, shall be part of the annual budget submitted by the Office to the Legislature.

Section 7. — Relationship with other Laws. — (3 L.P.R.A § 1116)

The Office shall be subject to applicable Commonwealth and Federal laws, besides among others, the following:

(a) Federal Law of October 15, 1966 (P.L. 89-665), as amended, known as the "National Historic Preservation Act".

(b) Act No. 89 of June 21, 1955, as amended, which creates the Institute of Puerto Rican Culture.

(c) Act No. 147 of June 18, 1980, as amended, known as the "Office of Management and Budget Organic Act".

(d) Act No. 230 of July 23, 1974, as amended, known as the "Government of Puerto Rico Accounting Act".

(e) Act No. 164 of July 23, 1974, as amended, known as the "General Services Administration Act".

(f) Act No. 6 of January 8, 1994, as amended, which creates a special fund in the Department of the Treasury, under the administration of the Commonwealth Office of Historic Preservation.

(g) Act No. 170 of August 1988, as amended, known as the "Uniform Administrative Procedures Act".

The Office shall be excluded from the application of Act No. 45 of February 1998, known as the "Puerto Rico Public Service Labor Relations Act".

Section 8. — Severability Clause. — (3 L.P.R.A § 1111 note)

(a) Should any part of this Act be impugned for any legal reason before a court and be declared unconstitutional or null by the latter, said judgment or determination shall not affect, impair or invalidate the remaining provisions and parts of this Act, but the effect thereof shall be limited to said specific part that has been declared unconstitutional or null.

(b) This Act does not repeal or modify the purposes, functions or powers conferred upon the Institute of Puerto Rican Culture by Act No. 89 of June 21, 1955, as amended, known as the "Institute of Puerto Rican Culture Organic Act".

Section 9. — Derogation Clause. — (3 L.P.R.A § 1111 note)

All laws or parts of a law or body of regulations incompatible with the provisions of this Act are hereby repealed.

Section 10. — This Act shall take effect immediately after its 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.