

(H.B. 2888)

(No. 153)

(Approved August 11, 2000)

AN ACT

To amend Subsection (3) and add a new Subsection (16) to Section 11; and amend Section 18 of Act No. 214 of October 14, 1995, as amended, known as the “Regulation of the Financial Intermediation Business Act”, in order to include false representations and disloyal or illegal competence in the prohibited practices; to include directors, officers and employees as persons prohibited to incur in certain practices; to identify as an infringer to any person who takes part, instigates or cooperates in the commission of any of the prohibited practices; to typify some of these practices as felonies; and to impose the penalty of restitution, and for other purposes.

STATEMENT OF MOTIVES

The Office of the Commissioner of Financial Institutions, created by virtue of Act No. 4 of October 11 of 1985, as amended, is empowered to inspect, supervise and regulate the financial institutions that operate or do business in Puerto Rico. Under the laws that the Office of the Commissioner of Financial Institutions administers there is Act No. 214 of October 14, 1995, as amended, known as the “Regulation of the Financial Intermediation Business Act”, which regulates any person or agent who engaged in the financial intermediation business, as defined in Section 2A of said Act.

This Act, in addition to regulating the issuance of licenses and their revocation, establishes the requisites, norms, duties, restrictions and penalties that apply to those institutions or individuals engaged in the financial intermediation business.

Some of the prohibited practices related to the businesses regulated by Act No. 214, supra, leads to a conduct that, when not incurred in the practice of the financial intermediation business, shall constitute a felony under the provisions of the 1976 Penal Code, as amended. At present, under Act 214, said conduct is typified as a misdemeanor. It is necessary that amendments be made in order to specify which of the prohibited practices must be typified as a felony, so that the penalty of incurring in said conduct is consistent with the similar conduct so typified in the Penal Code. In addition, it is hereby added among the prohibited practices that of making false representations and incurring in disloyal or illegal competence, a paragraph stating the any person who participates, instigates or cooperates with these practices shall incur in a violation, whether he/she benefited or not, and a penalty of restitution be imposed in those applicable cases.

This Legislative Assembly understands that the amendments to Act No. 214 of October 14, 1995 as amended, known as the “Regulation of the Financial Intermediation Business Act”, included in this measure, shall have a preventive effect to avoid that, in the future, unscrupulous persons take advantage of other person’s economic needs, making them victims of deception and fraud.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1. – Subsection (3) is hereby amended and Subsection (16) is hereby added to Section 11 of Act No. 214 of October 14, 1995, as amended, known as the “Regulation of the Financial Intermediation Business Act”, to read as follows:

“Section 11. – Prohibited Practices

No licensee, member of the Board of Directors, of the Committees, nor any Executive Officer, Officer, Employee or Licensee Agent under the provisions of this act may:

(1) ...

(3) Make promises to clients with the purpose of trying to induce them to engage in business activities, with the knowledge that said promises shall not be kept, or make any false representation about a material fact with the purpose of inducing them to an error.

(4) ...

(16) Incur in disloyal or illegal competence practices.

In addition, any person who participates, instigates or cooperates in the commission of these acts, whether he/she obtained personal economic benefit or not, will incur in a violation.”

Section 2. – Section 18 of Act No. 214 of October 14, 1995, as amended, known as the “Regulation of the Financial Intermediation Business Act”, is hereby amended to read as follows:

“Section 18. – Penalties

The Commissioner is hereby authorized to impose and collect administrative fines of not less than one hundred (100) dollars nor more than five thousand (5,000) dollars, for any violation to the provisions of this chapter or to the provisions contained in the Rules and Regulations promulgated by virtue thereof.

The Commissioner shall bring a criminal suit against the offender when the nature of the violation of this act or the Rules or Regulations, or the orders and resolutions issued by the Commissioner, justifies it, in addition to

the imposition of the administrative fine authorized by the preceding paragraph.

Any violation to the provisions of this chapter or the provisions contained in the Rules and Regulations promulgated by virtue thereof, or to the orders and resolutions issued by the Commissioner, shall constitute a misdemeanor, punishable by a fine of not more than five hundred (500) dollars or with imprisonment for a term not to exceed six (6) months, or both penalties, at the discretion of the court.

The violations to Subsections 3, 6, 8, 9 and 13 of Section 11 shall be excepted, which shall constitute a felony, punishable by a fine of not more than five thousand (5,000) dollars or with an established penalty of imprisonment for a term six (6) years, or both penalties, at the discretion of the court. The penalty of imprisonment for a felony may be increased up to a maximum of ten (10) years if aggravating circumstances are involved; if mitigating circumstances are involved, it may be reduced to a minimum of four (4) years. In any of the cases, the court may impose the penalty of restitution when applicable, in addition to the penalty established.”

Section 3. - This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 153 (H.B. 2888) of the 7th Session of the 13th Legislature of Puerto Rico:

AN ACT to amend Subsection (3) and add a new Subsection (16) to Section 11; and amend Section 18 of Act No. 214 of October 14, 1995, as amended, known as the “Regulation of the Financial Intermediation Business Act”, in order to include false representations and disloyal or illegal competence in the prohibited practices; to include directors, officers and employees as persons prohibited to incur in certain practices; to identify as an infringe to any person who takes part, instigates or cooperates in the commission of any of the prohibited practices; etc.,

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

In San Juan, Puerto Rico, today 12th of December of 2003.

Elba Rosa Rodríguez-Fuentes
Director