

(H. B. 1093)

(No. 136-2009)

(Approved November 14, 2009)

AN ACT

To amend Section 3, subsections (b), (h), (m), and (q) and add subsection (v) to Section 7, and to amend Sections 43 and 45 of Act No. 133 of June 28, 1966, as amended, known as the “Puerto Rico Commonwealth Employees Association Act,” in order to ban the use of income generated from the contributions made by members or those generated from its other financial operations or activities, as well as to ban the use of the facilities and properties for activities that are or may seem contrary to the purposes for which it was created; and for other purposes.

STATEMENT OF MOTIVES

The Puerto Rico Commonwealth Employees Association (AEELA, Spanish Acronym) is an institution created by virtue of Act No. 133 of June 28, 1966, as amended, for the purpose of servicing both active and pension-covered members of the Government of Puerto Rico and their relatives. It is regarded as an entity of a particular nature, established with purposes related to public interest, which were clearly set forth in Section 3 of such Act.

In consideration of the above, the Supreme Court has resolved that “it may not be considered as a government agency, department, instrumentality, or public corporation.” *Puerto Rico Commonwealth Employees Association v. Vázquez*, 130 D.P.R. 407, 409 (1992). On the other hand, our highest judicial forum has recognized that AEELA does not receive government financial aid, but rather that it operates based on the funds it generates on its own. *Puerto Rico Commonwealth Employees Association v. Vázquez*, *supra*, p. 428.

It is important to mention that the property, accounts, disbursements, and income of AEELA are subject to the oversight and audits of the Office of the Comptroller of the Commonwealth of Puerto Rico. Further, it is under the jurisdiction and subject to the authority of the Office of Government Ethics in respect to its transactions and business, as well as the behavior of its executive officers and members of the Board of Directors. AEELA is likewise subject to the scrutiny of the Office of the Commissioner of Financial Institutions and the Insurance Commissioner regarding the transactions that are under the supervision and oversight of both offices.

In regards to the powers and authority of the Assembly of Delegates and the Board of Directors, these shall not infringe the right of any of its active or pension-covered members. The use of AEELA funds for any purpose other than the betterment and progress of its active or pension-covered members shall result in a misappropriation of funds.

The membership of the Association is composed of persons from diverse races, religions, and ideologies. Therefore, any activity that results or may seem to result in the use of funds for purposes other than those established by law, or that may be construed in any manner as damaging to one sector within the diversity of the membership must be banned. Moreover, funds and property may not be used to sponsor, in any manner, the activities or services of the different groups that represent public employees, which are covered by the particular contributions they make, such as labor unions and professional associations, among others.

To ensure the sound use of all the financial resources of the members of AEELA, it is necessary to redefine the purposes established in Section 3 of this Act, and set the boundaries of the powers and authority of the Assembly of Delegates, the Board of Directors, the Executive Director, and the Executive Officers of AEELA.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 3 of Act No. 133 of June 28, 1966, as amended, is hereby amended to read as follows:

“Section 3.- Purpose.-

There is hereby provided the continuation of the Puerto Rico Government Employees Association created by Act No. 52 of July 11, 1921, as amended, and the directing bodies of said association are hereby vested with the necessary powers and authority to prescribe regulations, make agreements, and adopt the indispensable resolutions toward the attainment of the ends of the Association, to wit:

To stimulate saving among the employees and pension-covered members of the Association, to establish insurance plans including death insurance, to make loans, provide the employees and pension-covered members with homes and hospital facilities for medical treatment for themselves and their families. No activity may derail the Association from the above-mentioned ends for which it was created. The Association shall retain its legal personality and capacity to sue and be sued.

Its main office shall be located in the Municipality of San Juan, but it may establish other offices within the Commonwealth of Puerto Rico.”

Section 2.- Section 7 is hereby amended and a new subsection is added to Act No. 133 of June 28, 1966, as amended, to read as follows:

“Section 7.- Powers and Authority of the Board of Directors.-

(A) ...

(B) To establish a security fund for personal loans by levying on the loans and collecting a surcharge to be fixed annually. Out of this fund such reserve shall be set aside, as may annually be deemed reasonable, and any remaining balance shall be strictly used for purposes necessary to guarantee the efficient operation and financial stability of the entity.

(C) To seek the individual and collective betterment and progress of the employees and pension-covered members through Scholarship Programs, the Vacation Center, the Holding of the Public Official Week in coordination with the Office of Human Resources of the Commonwealth of Puerto Rico (ORHELA, Spanish acronym) for educational purposes, as well as Sports and Recreation Programs.

...

(G) ...

(H) To delegate to the Executive Director of the Association, a position created in this Section, such executive functions as deemed pertinent and that shall guarantee the efficient operation and financial stability of the institution pursuant to the purposes of this Act.

(I) ...

(J) ...

(L) ...

(M) To alienate, sell, encumber, exchange, convey, provide put options, sell by installments, lease or otherwise dispose of its property in the course of regular operations, provided that these are directly related to fostering saving among the employees and pension-covered members.

(N) ...

...

(P) ...

(Q) Develop special activities, programs or projects for the financial benefit of its members, which may be accessible to the general public provided that it is complement to achieve their financial stability.

(R) ...

...

(U) ...

(V) The use of income generated from the contributions of the members or as a result from other financial operations and activities, as well as the use of its facilities and property to carry out activities that are or may seem to be contrary to the purposes for which the AEELA was created and have no connection with the saving by employees or pension-covered members is hereby prohibited.

Furthermore, any activity that proves or may be construed as beneficial only to one sector within the diverse membership of the organization is also hereby prohibited.

No funds or properties may be used to finance or sponsor activities or services of particular organizations that group one sector of employees and pension-covered members, such as: labor unions, professional associations, and political parties, among other analogous organizations.”

Section 3.- Section 43 of Act No. 133 of June 28, 1966, as amended, is hereby amended to read as follows:

“Section 43.- Any violation of the provisions of Sections 1 to 42 of this title by the members of the Assembly of Delegates, the Board of Directors of the Association, the Executive Director of the Association, executive officers of the Association, the Boards of subsidiary or affiliated corporations created by virtue of said Sections or by its executive officers, shall constitute a felony.

Any person convicted for the violation of the provisions of Sections 1 to 42 of this title shall be sanctioned by imprisonment for a fixed term of two (2) years or a fine of six thousand dollars (\$6,000) or both penalties at the discretion of the Court. In any case, the Court may also impose restitution in addition to any other penalty.

Should aggravating circumstances exist, the established penalty of imprisonment may be increased to a maximum of four (4) years or the fixed fine may be increased to ten thousand dollars (\$10,000); if there are extenuating circumstances, the established fixed penalty of imprisonment may be reduced to a minimum of one (1) year, or the fine established may be lowered to a minimum of four thousand dollars (\$4,000).”

Section 4.- Section 45 of Act No. 133 of June 28, 1966, as amended, is hereby amended to read as follows:

“The sums of money and other liquid assets that the Association holds, which have not been claimed during the previous (7) seven years, after being notified through certified mail and/or public notice in a newspaper of general circulation, shall be carried over to a capital stock reserve of the Association to be solely used for the Treatment of Catastrophic Illness of the members or to subsidize the *Seguro por Muerte Sobreseído* (a life insurance product that is no longer available). Such capital stock reserve shall be created through regulations

approved by the Board of Directors, which regulation shall be drawn up and approved within ninety (90) days following the approval of this Act for the administration of such funds. Moreover, the availability of such funds for the members, the amount thereof, and the process and requirements to obtain them, shall be published annually in a newspaper of general circulation. Said reserve shall not be subject to the provisions of Sections 21.01 *et seq*, Title 7, known as the “Abandoned or Unclaimed Money and Other Liquid Assets Act.” A separate account shall be created to keep the accounting of the funds deposited annually in this reserve.”

Section 5.- Effectiveness.-

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 136-2009 (H. B. 1093)** of the **2nd Session of the 16th Legislature** of Puerto Rico:

AN ACT to amend Section 3, subsections (b), (h), (m), and (q) and add subsection (v) to Section 7, and to amend Sections 43 and 45 of Act No. 133 of June 28, 1966, as amended, known as the “Puerto Rico Commonwealth Employees Association Act,” in order to ban the use of income generated from the contributions made by members or those generated from its other financial operations or activities, as well as to ban the use of the facilities and properties for activities that are or may seem contrary to the purposes for which it was created; and for other purposes.

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

In San Juan, Puerto Rico, on the 30th day of April, 2012.

María del Mar Ortiz Rivera