

(H. B. 3011)

**(No. 169)**

(Approved November 21, 2007)

## **AN ACT**

To amend Section 14 of Act No. 55 of May 12, 1933, as amended, known as the “Banking Law,” to renumber Section 14 to provide for a Section 14(a) and Section 14(b), add subsections (o) and (p) to said Section 14(a), and rename the present subsection (o) as the new Section 14(b), in order to empower banks to conduct any operation, whether incidental or germane to these institutions, and to provide for the power to carry out any activity that a national bank is expressly authorized to carry out under Federal laws, regulations, or an administrative determination from the Office of the Comptroller of the Currency, being subject to the power of the Commissioner of Financial Institutions to deny, not to act or to condition of the exercise of such powers; and for other purposes.

### **STATEMENT OF MOTIVES**

In Puerto Rico, the banking industry is at a stage of unprecedented maturity and solidity. Commercial banking is the most significant component of the financial industry of the Island and its contributions to the economy and the general public welfare are unquestionable.

In order to continue to grow, commercial banking needs to be given resources to be able to effectively perform and compete within the global economy that prevails at present.

For that purpose, it is necessary to expeditiously and effectively provide our banks with the powers necessary to enable them to perform adequately and to offer more and better services as cost-efficiently as possible.

The amendment hereby proposed has the intent of placing our banks on equal footing with national banks in relation to the new activities the latter

are empowered to carry out from time to time by virtue of federal laws, regulations or administrative determinations issued by the Comptroller of the Currency. A great number of states of the United States have incorporated within their banking laws, provisions similar to those proposed in this measure.

The amendment hereby proposed seeks to strike a balance between the expansion of powers and the financial health and security of our banks. This balance is achieved by the intervention of the Commissioner of Financial Institutions, to whom power is reserved to evaluate, within a specific term, the effects, if any, of engaging in the activity proposed by the proposing bank. The Commissioner of Financial Institutions may, after so requested by the bank so interested and within an established term, deny the request, take no action on the same or impose reasonable conditions on the exercise of the activity, should he/she determine that the same is necessary to ensure the financial health and security of the bank and to safeguard the interest of depositors and the general public.

This Legislature believes that it better serves the interest of Puerto Rico, to maintain a banking industry that is modern, agile and healthy, capable of meeting the challenges presented by a global economy, and therefore it believes that the approval of this measure is indispensable to achieve the purposes stated above.

***BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:***

Section 1.—Section 14 of Act No. 55 of May 12, 1933, as amended, is hereby amended to read as follows:

“Section 14.—Powers of Banks and Applicable Conditions.—

Section 14(a).—Powers.—

In addition to the express general and incidental powers conferred upon Puerto Rican corporations by the laws of Puerto Rico, all banks and foreign banks shall also have the power to carry out the following activities, operations and services through their boards of directors, officials or authorized agents:

(a) Buy, sell, discount and negotiate bills of exchange, drafts and promissory notes and other negotiable instruments; make loans for specified terms to natural or juridical persons, with or without personal, collateral or mortgage guaranty, goods in warehouse or standing crops; and to contract loans or advances with the Government of Puerto Rico, municipal corporations and other dependencies of the Government of Puerto Rico.

(b) Receive deposits.

(c) Buy and sell drafts and deal in gold and silver, receive securities on deposit and make all sorts of collections and payments on account of another.

(d) Borrow money.

(e) (1) Buy, sell and underwrite bonds and other securities and evidence of indebtedness of the Governments of Puerto Rico and the United States, their agencies, instrumentalities, states, municipalities and political subdivisions thereof, or which are wholly secured, directly or indirectly, by any of the entities listed above, which are current and whose interest payments are not in arrears.

(A) Buy, sell and distribute without further liability and on account of their clients, shares, bonds, and other securities issued by entities other than those listed in clause (1) of this subsection.

(B) Subject to the approval of and the conditions established by the Commissioner for such an approval, buy, sell and distribute shares, bonds and securities issued by entities other than those listed in clause (1) of this subsection.

(2) Acquire and hold common stock and obligations issued by the Federal National Mortgage Association, the Student Loan Marketing Association, the Federal Home Loan Bank System or by any Federal Land Bank, Federal Intermediate Credit Bank or Bank for Cooperatives, organized and authorized to do business in Puerto Rico, pursuant to the Laws of the Congress of the United States. The Commissioner is hereby empowered to list, from time to time, those other entities similar to or successors of those herein listed.

(3) Buy, sell and distribute, without further liability and on account of their clients, shares, bonds and other securities issued by entities other than those listed in clause (1) of this subsection.

(4) They may also buy and sell on their own behalf, without further liability, obligations which represent debts of any person, partnership, association or corporation in the form of bonds, promissory notes or debentures known as 'investment securities,' subject to the provisions issued by the Commissioner to such effects through regulations.

(5) Provide investment consulting services.

(6) Subject to: (i) the approval of and the conditions established by the Commissioner; (ii) the provisions of Act No. 60 of June 18, 1963, as amended, known as the 'Uniform Securities Act,' and the regulations adopted under said Act, and (iii) the provisions of

this chapter and its regulations, offer any securities services in addition to those listed in clauses (1) through (5) of this subsection.

(f) Become a member of the Federal Deposit Insurance Corporation and, after notice to the Commissioner, the Federal Reserve Bank System, meeting all the requirements prescribed by the laws creating both organizations.

(g) Accept drafts or bills of exchange drawn against themselves which are the result of transactions involving the import or export of articles of commerce from or to foreign countries; or which result from transactions involving the shipping of articles of commerce.

(h) Buy, hold and receive real property by conveyance for the following purposes and none other:

(1) Such as may be necessary to install the offices for the transaction of their business, allowing them to lease to others unused space in the same building, whether furnished or not.

(2) Such as may be necessary to house their employees.

(3) Such as may be conveyed in payment of personal or mortgage debts previously contracted in the course of their operations.

(4) Such as may be purchased or acquired at sales foreclosure, decrees or mortgages in favor of the bank, or purchased or acquired to secure debts due the latter.

Except when the Commissioner grants an extension to the term fixed herein in writing, or authorizes a bank or a foreign bank to hold said property for the purposes established in clauses (1) and (2) of this subsection, no bank or foreign bank shall hold any real property acquired by virtue of the provisions of clauses (3) and (4) of this subsection for a period greater than five (5) years; Provided, That after

the lapse of the five-year (5) term, or the extension granted by the Commissioner if the bank or the foreign bank has not been disposed of said property, the bank or foreign bank shall be compelled to sell the same at public auction, fixing as minimum price of the sale the official assessed value of the property to be sold; further Provided, That no bank may, without the approval of the Commissioner: (A) Intervene in real property as authorized in clauses (1) and (2) of this subsection, or (B) make loans to, or with the security of the shares of any corporation which owns the premises occupied by the bank, if the aggregate total of such investments and loans exceeds the amount of fifty percent (50%) of the paid-in capital in common and preferred stock of the bank, the reserve fund and undistributed benefits of the bank.

(i) Establish, pursuant to the regulations adopted by the Commissioner to such effect, branches, offices and service units in Puerto Rico, in the states of the United States of America or any territory of the United States of America or in foreign countries. The Commissioner may deny the authorization to establish said facilities if, in his/her judgment, he/she determines that the financial condition or the experience or capacity of the management of the bank or the public interest justify the denial of the license. Should the Commissioner deny the license, any fees collected by the Commissioner as an incidental cost to the proposed establishment of a branch, office or service unit, shall be retained and the amount on account of the annual license fee shall be returned to the petitioner. The Commissioner shall be empowered to authorize a bank to establish a service unit or office in Puerto Rico in which only certain operations related to banking services

may be conducted, in the form and manner provided by regulations, but that service unit or office shall in no way constitute a branch.

(j) Take, accept and comply with or execute all types of trusts lawfully entrusted to them, acting as trustees in all cases prescribed by law; Provided, That all banks shall comply with all orders, bond requirements, and rules and regulations prescribed by the Commissioner or otherwise applicable to this type of transactions; and further Provided, That the provisions of the Sections of this Act in no way vary or alter the provisions and obligations established in the Act which authorizes the incorporation and regulation of trust companies in Puerto Rico.

(k) Directly or indirectly engage in the insurance business, including doing so through a subsidiary of the bank. For the purposes of this subsection, it is provided that the insurance business hereby allowed includes the sale, the negotiation or solicitation marketing and insurance reciprocity of insurance products, and marketing, fixed or variable annuities. Provided, however, That any bank engaged in the business of selling insurance, insurance products or annuities, must be duly authorized therefor, according to the requirements established in Act No. 77 of June 19, 1957, as amended, known as the 'Code of Puerto Rico Insurance,' including the amendments made by virtue of the preemption of various of its provisions as provided in the federal law entitled 'Gramm-Leach-Bliley Act of 1999.'

(l) Subject to the conditions established by the Commissioner, invest in shares of any corporation or entity engaged in one or more of the activities listed in subsections (a) through (k) of this section:

(m) Subject to the prior approval of an to the conditions established by the Commissioner for such an approval, invest in or acquire shares of, or establish or organize any corporation or entity engaged in one or more of the

activities listed in subsections (a) through (k) of this section or one or more of the following activities

(1) Grant mortgage loans, consumer loans and commercial loans.

(2) Grant small personal loans, as this phrase is defined in Act No. 106 of June 28, 1965, as amended, known as the 'Small Personal Loan Act.'

(3) Conduct credit investigations and revision of collateral securities.

(4) Issue credit cards, render credit card authorization services, own and operate machines and systems for the electronic transfer of funds and other related systems to be used by the bank and other banking and financial institutions.

(5) Provide accounting, data procedure and electronic equipment services for financial purposes.

(6) Finance all types of personal property through financial leases, conditional sales contracts and mortgages on personal property or any other arrangement or contract by which some type of lien is held on personal property as established in Act No. 241 of September 19, 1996, as amended, known as the 'Law of Commercial Transactions of 1996.'

(7) Administer mortgage and other types of loans.

(8) Operate the safety deposit box leasing system.

(9) Provide services to a bank or its subsidiaries when said services concern the internal operations of the bank or its subsidiaries. The term 'service for internal operations' includes, but is not limited to, the following services: (A) Audits; (B) Publicity and public



relations; (C) Personnel services; (D) Messenger services; (E) Own or operate properties of the bank or its subsidiaries, devoted exclusively or substantially, to the operations of the bank or its subsidiaries; Provided, That in the case of real property to be used by the bank in its operations, the bank's investment shall not exceed the limits established in subsection (h) of this Section; (F) Liquidate or dispose of the assets of the bank and its other subsidiaries; (G) All other services that the Commissioner, through the official interpretation to such effect, may determine as services for the internal operation of the bank or its subsidiaries.

(10) Operate as an international banking entity under the provisions of Act No. 52 of August 11, 1989, as amended, known as the 'International Banking Center Regulatory Act.'

(n) Those determined by the Commissioner to be financial banking activities, or activities related thereto, in accordance with the banking industry throughout the rest of the United States of America, provided they comply with the provisions of the 'Gramm-Leach-Bliley Act of 1999.'

(o) Conduct any other operation which is incidental or germane to the nature of banking institutions or of entities listed or described in this Section.

(p) Conduct any other activity which a national bank is expressly authorized to conduct under federal law, regulations, or an administrative determination from the Office of the Comptroller of the Currency. However, the powers conferred by virtue of this subsection shall be subject to:

(1) the same limitations and conditions as national banks would be subject to in conducting such an activity;

(2) the applicable license or registration requirements under the laws of the Commonwealth of Puerto Rico to conduct such an activity; and

(3) the bank's request to the Commissioner for the authorization to exercise its power under this subsection prior to commencing such an activity, not later than thirty (30) days before the date the bank intends to engage in such an activity. The bank shall enclose with the request a copy of the legal provision or administrative determination that authorizes national banks to conduct the activity intended along with reasonable documentation that shows that the institution meets the requirements imposed, if any, by the Comptroller of the Currency on national banks concerning the exercise thereof.

Within the aforementioned thirty-day (30) term, the Commissioner may:

(A) deny the authorization requested if, in his/her judgment, he/she determines that the financial status, or the experience, or the capability of the bank's management, or the public interest warrants such a denial;

(B) take no action on said request, in which case, it shall be understood that the Commissioner approves the exercise of the activity as submitted by the requestor, including the terms and conditions included within the aforementioned request; or

(C) issue an administrative determination describing the activity in question and establishing those conditions that

are reasonable in order to ensure the financial health and security of the bank in the exercise of such an activity.

Section 14(b).—Applicable Conditions.—

(1) No bank may conduct operations or activities or exercise powers under this Section 14, except for those incidental to and necessary as preliminary steps for its organization, until the same has been duly authorized by the Commissioner to start business operations.

(2) Provided there is no express prohibition by Law or regulations, any bank may conduct any of the activities authorized in subsections (a) through (k) of this Section 14, both inclusive, and subsections (n), (o), and (p) of this Section 14, whether directly in their own departments or through their branches or divisions.

(3) Subject to the prior approval of and to the conditions established by the Commissioner for such an approval, any bank may conduct any of the activities authorized in this Section through a bank subsidiary, provided the exercise of said activity conducted through the proposed bank subsidiary is not expressly prohibited by law or regulations.

(4) Any parent company of a bank authorized under this chapter to operate in Puerto Rico and any subsidiary company of said parent company that conducts any of the activities authorized in this Section in Puerto Rico, shall provide, as required by the Commissioner, any or all of the following types of information:

A. Any information required by the Commissioner regarding any of its activities in Puerto Rico;

B. Any information directly or indirectly related to the solvency or financial stability of the bank conducting business in Puerto Rico.”

Section 2.—Effectiveness.—

This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 169 (H.B. 3011) of the 6<sup>th</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend Section 14 of Act No. 55 of May 12, 1933, as amended, known as the “Banking Law,” to renumber Section 14 to provide for a Section 14(a) and Section 14(b), add subsections (o) and (p) to said Section 14(a), and rename the present subsection (o) as the new Section 14(b), in order to empower banks to conduct any operation, whether incidental or germane to these institutions, and to provide for the power to carry out any activity that a national bank is expressly authorized to carry out under Federal laws, regulations, or an administrative determination from the Office of the Comptroller of the Currency, etc.,

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

In San Juan, Puerto Rico, today 31<sup>st</sup> of March of 2008.

Francisco J. Domenech  
Director