

February 8, 2017

NOTICE TO CLIENTS AND FRIENDS

PR Development: Amendments to the Puerto Rico Permit Process Reform Act

Yesterday, the current administration presented Senate Bill 310 (the “Bill”) for the reform of Puerto Rico’s Permitting Process. More specifically, the Bill proposes a series of amendments to Act 161-2009, as amended, known as the “Puerto Rico Permit Process Reform Act”.

The Bill intends to improve Puerto Rico’s competitiveness, attract investment and jumpstart the recovery of the economic development through modifications that would further streamline, and make more agile and efficient the process to evaluate permits for the development and use of land and structures in Puerto Rico. Furthermore, some of the proposed amendments are focused on bringing additional transparency and certainty to the permitting process.

Among other things, the Bill:

- Establishes the use of the Unified Information System for the filing and processing of permits, authorizations, licenses and certifications for land uses and operation of businesses by the Autonomous Municipalities with Hierarchy I to V (Autonomous Municipality (ies) and the Authorized Professionals. This system would have access to the governmental databases necessary for the processing of such permit applications;
- Gives jurisdiction to OGPe or the Adjudicative Board, as applicable, over discretionary matters, permits and siting consultations (*Consultas de Ubicación*);
- Establishes the Office of Permits Management (“OGPe” by its Spanish Acronym) Adjudicative Board to be composed of a President (the OGPe Executive Director), 2 Associate Members (one would be the President of the Planning Board or a duly authorized representative) and an Alternate Member¹;
- Introduces the Single Permit (*Permiso Único*) to be issued by OGPe to commence or continue the operation of a business, a construction and/or activity incidental to the same in which all permits licenses, authorization or certifications would be consolidated;

¹ The other Associate Member and the Alternate Member would be appointed by the OGPe Executive Director.

- Introduces the Administrative Review Division which would have jurisdiction to review the actions and the determinations issued by the OGPe, the Adjudicative Board, the Authorized Professionals and the Autonomous Municipalities. The Director of this Division would be an Administrative Judge appointed by the Governor. The Division would have a maximum term of 150 days to adjudicate a petition;
- Establishes that the determination of environmental compliance with Article 4(C) of Act 416-2004, as amended, would be a component of the final determination of the proposed activity;
- Creates the Permits Auditing Officer, who would be appointed by the Planning Board and would manage the Audits and Complaints Division. This Officer would review the compliance of the final determinations issued by OGPe, the Autonomous Municipalities and the Authorized Professionals with applicable laws and regulations.
- Authorizes the automatic issuance of a Use Permit when: a licensed Engineer or Architect certifies that (i) the used requested is allowed under the zoning of the property; (ii) complies with the parameters for the zoning district; (iii) complies with the environmental health and fire preventions requirements; and (iv) no license is required for its operation.
- Requires the Puerto Rico Appeals Court to give priority to administrative review petitions under Act 161-2009 and establishes a term of 60 days for the judges to issue their decision; and
- Requires the Planning Board to review the zoning nomenclature used in the Joint Regulation, Land Use Plans, Special Regulations and Territorial Ordinance Plans to address in a uniform manner the uses of land and structures in Puerto Rico.
- Establishes an amnesty period (six months from the enactment of the Bill) for the legalization of construction commenced, the use of land or structures for residential uses without a permit.

To further discuss or obtain additional information on how this development may impact you, please feel free to contact us at your convenience.

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