

Translation of Proposed 9-1-1 Protection Funds Bill for Puerto Rico

GOVERNMENT OF PUERTO RICO

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SENATE OF PUERTO RICO

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__ of _____ of 2018

Presented by _____

Referred to the Commission on _____

LAW

To amend Act 20 of April 10, 2017, as amended, known as the "Law of the Department of Public Safety," amend Act 26 of April 29, 2017, known as the "Law of Compliance with the Fiscal Plan," and amend the no. 3 of January 23, 2017 law, as amended, known as the "Act to Address the Economic Crisis, Fiscal and Budget to ensure the functioning of the Government of Puerto Rico," in order to ensure that the use of funds received by the 9-1-1 Emergency System are used in accordance with current federal regulations, guarantee their fiscal independence and prohibit the use of such funds for purposes contrary to federal legislation and regulation.

Statement of Purpose

On December 22, 1994, Law 144 was passed, known as the "9-1-1 Calling Act", which established that 9-1-1 was created "to enable the establishment of media and technologies within Public Safety agencies to respond quickly and efficiently to emergency calls of citizens through the implementation of "9-1-1" as a universal telephone number for this purpose, and as a measure to promote a better quality of life for Puerto Rico".

9-1-1 has the arduous and difficult task of being the first point of contact throughout the Island for any emergency that may occur. This Agency operates with its own resources, product of charges that are charged to cell phones, residential or commercial, both wired and wireless in Puerto Rico, which makes this agency autonomous and self-sufficient, not depending on the General Fund.

9-1-1 is under the direct supervision of the Federal Communications Commission (FCC). This responds to the need to have an "operation of seamless, ubiquitous, reliable wireless telecommunications systems, promote public safety and provide immediate and critical

communications links among members of the public; emergency medical service providers and emergency dispatch providers; public safety, fire service and law enforcement officials; transportation officials, and hospital emergency and trauma care facilities.”¹ This implies that the services provided by 9-1-1 must be transparent, constant and above all reliable.

In 1999, the Wireless Communication and Public Safety Act of 1999, Public Law 106-81-Oct. 26 of 1999, whose purpose is "to encourage and facilitate the rapid deployment throughout the United States of a comprehensive, ubiquitous and reliable end-to-end infrastructure for communications, including wireless communications, to satisfy the Nation's public safety and other needs." of communication.”²

For the year 2004, the Enhance 9-1-1 Act of 2004 was approved, whose purposes are "to coordinate 911 services and E-911 services, at the federal, state, and local levels; and to ensure that the funds raised in telecommunications bills to improve 911 emergency services are used only for the purposes for which they are collected.”³ In addition, this law for the first time, establishes that any federal aid (grants) that receive 9-1-1 State and Territory systems, may be used only for emergency systems and, if used for other purposes, will lose eligibility for such assistance.

The federal government legislated again and in 2008, the "New and Emerging Technologies 9-1-1 Improvement Act of 2008" 4 or "NET 911 Improvement Act of 2008" was approved, which reaffirms that the collections obtained by The concept of 9-1-1 services must be used solely and exclusively for these purposes.

Puerto Rico was in compliance with said federal legislation and regulation until, in 2014, funds were transferred from the 9-1-1 system for the general fund and for other matters not related to the emergency system. This has led to a financial imbalance in the coffers of the emergency system and has put at risk Puerto Rico's access to federal funds and programs to improve telecommunications infrastructure and the 9-1-1 emergency system.

The 9-1-1 system plays an integral role in preserving public safety and national security in Puerto Rico and the United States. The experience of Puerto Rico, after the passage of Hurricane Maria, demonstrated and highlighted the importance and necessity of having a solid and reliable emergency system. For such purposes, it is the public policy of the Government of Puerto Rico to prohibit the use of 9-1-1 funds for unauthorized purposes and permitted by state and federal law.

TO BE ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Subsection (f) of Section 5.05 of Act 20 of April 10, 2017, as amended, known as the "Department of Public Safety Act", is hereby amended to read as follows:

- (a)...
- (b)...

¹ Wireless Communication and Public Safety Act of 1999, 47 USC §§609

² Wireless Communication and Public Safety Act of 1999, 47 USC §§609, Section 2

³ Enhance 9-1-1 Act of 2004, 47 USC §942

(c)...

(d)...

(f) The Telephone Company that provides the service will collect the charges for the 9-1-1 Service from its users and, within a period not greater than thirty (30) days after the payment is made by the subscriber, will deposit them in the account determined by the Department. Provided, that said collections shall be accounted for and deposited in a special account that shall be separated from the rest of the operational funds of the Department and of the *general fund* in such a way as to guarantee the permanence of federal funds and other special funds. *It is expressly forbidden by law to transfer, move, relocate, reassign or deposit any fund or claim for charges for the 9-1-1 Service for any purpose that is not in accordance with federal legislation and regulations.* [...]

Section 2.- Section 5.06 of Act 20 of April 10, 2017, as amended, known as the "Law of the Department of Public Safety", is hereby amended to read as follows:

(a) *The funds collected by the charges billed to the telephone subscribers authorized by this law may only be used for the purposes established by federal legislation and federal regulations. Among these is the payment and training of the personnel assigned directly to work with the Bureau of the 9-1-1 Emergency System, technological improvements, migration for the Next 9-1-1 service and to create reliable communication systems. In addition, the revenues of the Bureau for telephone charges will be used exclusively to defray or reimburse expenses directly attributable to the reception and attention of emergency calls and calls for citizen attention, dispatch and provision of first-aid services in such emergencies and claims for care, or provision of services, and the administration of said emergency or citizen services, unless otherwise provided by the Secretary of Public Safety.*

(b) *Funds collected for charges to subscribers of the telephone service shall be distributed in the manner determined by regulations by the Secretary of Public Security at a percentage in accordance with the applicable federal legislation and regulations.*

(c) *Ten percent (10%) of collections will be guaranteed for contingency reserve, ten percent (10%) for expansion of services and replacement of equipment and systems, fifty-five percent (55%) for regular operations of the Bureau of 9-1-1 and twenty-five percent (25%) for the individual expenses of those negotiated in direct assistance of emergency calls. The distribution will be in proportion to the calls served by each Bureau. At his discretion, the Commissioner, with the approval of the Secretary of Public Safety, may reimburse the percentage that he / she determines justified from the direct salaries of personnel assigned by public safety agencies for direct assistance not less than forty percent (40%) of 9-1-1 users, as well as the operation and maintenance costs of equipment and systems that the Negotiated require to provide service.*

Section 3.- Section 2.01 of Law 26 of April 29, 2017, known as the "Law of Compliance with the Fiscal Plan", is hereby amended to read as follows:

All the provisions contained in this Act shall be applicable to the Entities of the Executive Branch of the Government of Puerto Rico, except when a particular provision expressly excludes an entity. For the purposes of this Act, it shall be understood that the term "Executive Branch Entity" includes all its agencies, as well as the instrumentalities and public corporations of the Government of Puerto Rico, irrespective of the degree of fiscal or budgetary autonomy that otherwise exists. it conferred its organic law or other applicable legislation. The University of Puerto Rico and *the Bureau of the 9-1-1 Emergency System* shall be exempt from the application of this Law.

Section 4.- Section 16 of Act No. 3 of January 23, 2017, as amended, known as the "Act to Address the Economic, Fiscal and Budgetary Crisis to Guarantee the Operation of the Government of Puerto Rico" is hereby amended.

The savings generated by public corporations related to the promotion of economic development, and some other corporations designated in this Article, obtained through the application of this Law, will be contributed to a fund to address the fiscal crisis of the General Fund. For purposes of this Article, the following instrumentalities shall be considered as public corporations related to the promotion of economic development: the Land Administration, the Land Authority of Puerto Rico, the Puerto Rico Convention Center District Authority, the Puerto Rico Infrastructure Financing Authority, the Housing Financing Authority, the Economic Development Bank for Puerto Rico, the Government Development Bank for Puerto Rico , the Development and Export Company, the Industrial Development Company, the Tourism Company, the Agricultural Insurance Corporation, and the Public Corporation for the Supervision and Insurance of Cooperatives of Puerto Rico. In addition, ~~the Governing Board of the 9-1-1 Service~~ and the Corporation of the Cardiovascular Center of Puerto Rico and the Caribbean will contribute to this fund.

Section 5.- Validity.

This Act will take effect immediately after its approval.

Explanation of Proposed 9-1-1 Protection Funds Bill for Puerto Rico

LAW

To amend Act 20 of April 10, 2017, as amended, known as the "Law of the Department of Public Safety," amend Act 26 of April 29, 2017, known as the "Law of Compliance with the Fiscal Plan," and amend the no. 3 of January 23, 2017 law, as amended, known as the "Act to Address the Economic Crisis, Fiscal and Budget to ensure the functioning of the Government of Puerto Rico," in order to ensure that the use of funds received by the 9-1-1 Emergency System are used in accordance with current federal regulations, guarantee their fiscal independence and prohibit the use of such funds for purposes contrary to federal legislation and regulation.

Explanation: We want to make sure that the laws that currently affect 9-1-1 funds and use are updated to follow Congress intent and specific delegation, that the funds will be use for such services and nothing more. This will comply with the following federal laws: Wireless Communication and Public Safety Act of 1999, 47 USC §§609; Wireless Communication and Public Safety Act of 1999, 47 USC §§609, Section 2 and Enhance 9-1-1 Act of 2004, 47 USC §942. Note that we are not including State Law 66-2014, since that law was not extended by the current administration and his validity expired on June 30th, 2017.

TO BE ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Subsection (f) of Section 5.05 of Act 20 of April 10, 2017, as amended, known as the "Department of Public Safety Act", is hereby amended to read as follows:

(a)...

(b)...

(c)...

(d)...

(f) The Telephone Company that provides the service will collect the charges for the 9-1-1 Service from its users and, within a period not greater than thirty (30) days after the payment is made by the subscriber, will deposit them in the account determined by the Department. Provided, that said collections shall be accounted for and deposited in a special account that shall be separated from the rest of the operational funds of the Department and of the *general fund* in such a way as to guarantee the permanence of federal funds and other special funds. *It is expressly forbidden by law to transfer, move, relocate, reassign or deposit any fund or claim for charges for the 9-1-1 Service for any purpose that is not in accordance with federal legislation and regulations.* [...]

Explanation: This section will expressly prohibit the use of 9-1-1 funds to other uses not currently allowed by federal law and regulations. We believe this language will meet Governor's Ricardo Rosselló's commitment not to divert funds for other purposes not allowed by Federal Law and will put the 9-1-1 Bureau in the correct direction.

Section 2.- Section 5.06 of Act 20 of April 10, 2017, as amended, known as the "Law of the Department of Public Safety", is hereby amended to read as follows:

(a) The funds collected by the charges billed to the telephone subscribers authorized by this law may only be used for the purposes established by federal legislation and federal regulations. Among these is the payment and training of the personnel assigned directly to work with the Bureau of the 9-1-1 Emergency System, technological improvements, migration for the Next 9-1-1 service and to create reliable communication systems. In addition, the revenues of the Bureau for telephone charges will be used exclusively to defray or reimburse expenses directly attributable to the reception and attention of emergency calls and calls for citizen attention, dispatch and provision of first-aid services in such emergencies and claims for care or provision of services, and the administration of said emergency or citizen services, unless otherwise provided by the Secretary of Public Safety.

(b) Funds collected for charges to subscribers of the telephone service shall be distributed in the manner determined by regulations by the Secretary of Public Security at a percentage in accordance with the applicable federal legislation and regulations.

(c) Ten percent (10%) of collections will be guaranteed for contingency reserve, ten percent (10%) for expansion of services and replacement of equipment and systems, fifty-five percent (55%) for regular operations of the Bureau of 9-1-1 and twenty-five percent (25%) for the individual expenses of those negotiated in direct assistance of emergency calls. The distribution will be in proportion to the calls served by each Bureau. At his discretion, the Commissioner, with the approval of the Secretary of Public Safety, may reimburse the percentage that he / she determines justified from the direct salaries of personnel assigned by public safety agencies for direct assistance not less than forty percent (40%) of 9-1-1 users, as well as the operation and maintenance costs of equipment and systems that the Negotiated require to provide service.

Explanation:

Subsection (a) provides the basic principles for the use of 9-1-1 funds. We believe there should be a guideline that complies with current expectations on the use of 9-1-1 funds and that there should not be any discretion for the Secretary of Public Safety to use the funds for other purposes that are not allowed in Federal Law. The phrase, “unless otherwise provided by the Secretary of Public Safety” creates a loophole that will allow without any control and with no guideline, the use of 9-1-1 funds for other purposes. This needs to be corrected since Law 20-2017 was approved by the current administration and is currently in place.

Subsection (b) also eliminates any discretion from the use of 9-1-1 funds since is clear the purpose and the correct use of them. This also allowed for diversion of funds.

Subsection (c), brings back the 9-1-1 funds distributions that was in place since 1994, with a modification of the percentages. This will allow for the correct and appropriate distribution of funds.

Section 3.- Section 2.01 of Law 26 of April 29, 2017, known as the "Law of Compliance with the Fiscal Plan", is hereby amended to read as follows:

All the provisions contained in this Act shall be applicable to the Entities of the Executive Branch of the Government of Puerto Rico, except when a particular provision expressly excludes an entity. For the purposes of this Act, it shall be understood that the term "Executive Branch Entity" includes all its agencies, as well as the instrumentalities and public corporations of the Government of Puerto Rico, irrespective of the degree of fiscal or budgetary autonomy that otherwise exists. it conferred its organic law or other applicable legislation. The University of Puerto Rico and *the Bureau of the 9-1-1 Emergency System* shall be exempt from the application of this Law.

Explanation: Currently, the 9-1-1 Bureau is part of the Fiscal Plan and the Fiscal measures to ensure that the General Fund is operating correctly. This improper legislation of the 9-1-1, allows for funds to be used for other purposes not currently allowed by federal law and regulations. It also limits the ability of the 9-1-1 to properly use its funds for the federal intended purposes. By clearly excluding the 9-1-1 from 26-2017, we are allowing the 9-1-1 to operate properly, in order to prepare not only for NG9-1-1 services, but to be able and ready to attend any emergency in Puerto Rico in a timely and fiscally responsible manner.

Section 4.- Section 16 of Act No. 3 of January 23, 2017, as amended, known as the "Act to Address the Economic, Fiscal and Budgetary Crisis to Guarantee the Operation of the Government of Puerto Rico" is hereby amended.

The savings generated by public corporations related to the promotion of economic development, and some other corporations designated in this Article, obtained through the application of this Law, will be contributed to a fund to address the fiscal crisis of the General Fund. For purposes of this Article, the following instrumentalities shall be considered as public corporations related to the promotion of economic development: the Land Administration, the Land Authority of Puerto Rico, the Puerto Rico Convention Center District Authority, the Puerto Rico Infrastructure Financing Authority, the Housing Financing Authority, the Economic Development Bank for Puerto Rico, the Government Development Bank for Puerto Rico , the Development and Export Company, the Industrial Development Company, the Tourism Company, the Agricultural Insurance Corporation, and the Public Corporation for the Supervision and Insurance of Cooperatives of Puerto Rico. In addition, ~~the Governing Board of the 9-1-1 Service~~ and the Corporation of the Cardiovascular Center of Puerto Rico and the Caribbean will contribute to this fund.

Explanation: Law 3-2017, approved by the current administration, like with Law 66-2014, currently requires that any "savings" from personnel or administrative costs, be sent to the General Fund. Even when the current administration has clearly said that they have not diverted funds since 2016, the mere fact that a law requires for such diversion should not be allowed. By eliminating the 9-1-1 service, we are making sure that the funds stay where they are supposed to stay and to be used for their intended purposes.