

CONTENTS

PUERTO RICO CAVE PROTECTION STATUTES

Chapter 122. Protection and Preservation of Caves, Caverns and Sinkholes.....Page 3

Chapter 122A. Protection and Preservation of Puerto Rico’s Karst Region.....Page 6

PUERTO RICO ARCHAEOLOGY STATUTES

Chapter 95. Council for Protection of Archaeological Lands Patrimony of Puerto Rico.....Page 10

PUERTO RICO CAVE PROTECTION STATUTES

Title 12 - Conservation, Subtitle 5 - Environment, Chapter 122. Protection and Preservation of Caves, Caverns and Sinkholes

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§ 1143. Short title

This chapter shall be known as “**Act for the Protection and Preservation of the Caves, Caverns or Sinkholes of Puerto Rico**”.

History —July 12, 1985, No. 111, p. 384, § 1.

§ 1143a. Public policy statement

It is hereby declared that it is the public policy of the Commonwealth to protect and preserve the caves, caverns or sinkholes in Puerto Rico. These are a unique natural resource because of their beautiful formations of natural materials; its fauna adapted to the subterranean environment; its archaeological and historical value; for being conductors and receptacles for subterranean water flow, and for providing a propitious environment for recreation and scientific research and investigation. The caves, caverns or sinkholes are, therefore, a legacy of nature that deserves immediate protection to prevent their irreparable damage or destruction.

History —July 12, 1985, No. 111, p. 384, § 2.

§ 1143b. Definitions

For the purposes of this chapter, the following terms and phrases shall have the meaning stated hereinbelow, unless a different meaning is clearly inferred from the text:

- (a) Cave or cavern.— Natural cavity, niche, chamber or a series of chambers and galleries under the surface of the earth, inside a mountain, or formed by the horizontal projections of rocks in a cliff.
- (b) Sinkhole.— Hole which is usually circular in form, found in karstic regions, with a diameter that may vary from several meters to a kilometer. [Its depth may be of several hundred meters.]
- (c) Owner.— Proprietor of the piece of land or farm in which the cave, cavern or sinkhole is located, or in which the access or accesses to one of these is located.
- (d) Natural material.— Every deposit, concretion or mineral formation in a cave, cavern or sinkhole. It includes, without being limited thereto: stalactites, eccentric stalactites, stalagmites, columns, dripstone, hangers, calcyte crystals, fans, dikes, cavern pearls, guano or deposits of living creatures, and others. Provided, That the walls, floors and ceilings of the caves, caverns or sinkholes are considered to be natural material.
- (e) Government body.— Any department, agency, bureau, office, instrumentality, public corporation or political subdivision of the Government of the Commonwealth of Puerto Rico.
- (f) Person.— Any natural or juridical, public or private person and any association thereof.
- (g) Commercial activity.— Any activity carried on in any cave, cavern or sinkhole that generates or intends to generate financial profit.

History —July 12, 1985, No. 111, p. 384, § 3.

§ 1143c. Prohibitions and penalties

(a) Any person who voluntarily performs any of the following acts shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment for a term that shall not exceed six (6) months or by a fine that shall not exceed five hundred dollars (\$500), or both penalties at the discretion of the court:

- (1) Breaks, cracks, chisels, paints, writes, marks, or in any way damages, destroys or defaces any natural material found in any cave, cavern or sinkhole.
- (2) Removes or carries away any natural material found in a cave, cavern or sinkhole.
- (3) Kills, damages, disturbs or removes any animal or plant found in any cave, cavern or sinkhole.
- (4) Alters the natural atmosphere of any cave, cavern or sinkhole in any way, including, but without being limited to, the burning of any material producing smoke or gases that are harmful to the animals and plants; Provided, That the fact of penetrating or remaining in a cave, cavern or sinkhole does not constitute a violation to this section.
- (5) Enters any cave, cavern or sinkhole carrying any kind of aerosol and other type of container having paint, stain or any other coloring material.
- (6) Breaks, forces, removes or damages any lock, gate, door or any structure or construction designed to prevent the entrance to any cave, cavern or sinkhole, regardless of the fact that the person does enter or not.
- (7) Offers for sale, exchange or donation; sells, exchanges or donates; exports, or in any other manner disposes of any natural material or archaeological evidence taken out of any cave, cavern or sinkhole.
- (8) Contaminates, diverts or alters in any way whatsoever the water in any cave, cavern or sinkhole.

(b) Any person who voluntarily alters, removes, carries away or in any way damages any evidence or archaeological features found in any cave, cavern or sinkhole, including but without being limited to petroglyphs, pictographs, ceramics, bones or tools, shall be punished by imprisonment for a minimum term of six (6) months and a maximum of five (5) years, or a minimum fine of one hundred dollars (\$100) and a maximum of two thousand, five hundred dollars (\$2,500).

(c) Any person who voluntarily deposits or leaves in any cave, cavern or sinkhole, any food, containers, ropes, electric batteries, carbide, papers, wrappings, garbage, rubble or any waste, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than five dollars (\$5) nor more than fifty dollars (\$50), or imprisonment for one (1) day for each dollar not paid.

(d) The development of dwellings, industries, structures and other buildings with foundations on the caves, caverns or sinkholes and subterranean rivers that may be a hazard to the health or safety of the community, the preservation of the caves, caverns or sinkholes, and would contaminate these bodies of water, without the prior authorization of the Secretary of Natural and Environmental Resources, is hereby forbidden.

(e) The use of the caves, caverns or sinkholes for the construction of septic tanks, for the discharge of domestic or industrial waste and for the breeding of animals that could affect these ecosystems is hereby forbidden.

History —July 12, 1985, No. 111, p. 384, § 4.

§ 1143d. Responsibility and authority to regulate

The Secretary of Natural and Environmental Resources is charged with the responsibility of implementing the provisions of this chapter, and is empowered to adopt the rules and regulations he/she deems necessary to comply with this responsibility, pursuant to §§ 2101 et seq. of Title 3, known as the “Commonwealth of Puerto Rico Uniform Administrative Procedures Act”. The Secretary of Natural and Environmental Resources shall draft and approve regulations directed to the protection and preservation of caves, caverns and sinkholes no later than the first (1st) of January of 2009.

History —July 12, 1985, No. 111, p. 384, § 5; Dec. 14, 2007, No. 200, § 1.

§ 1143e. Secretary’s orders and administrative fines

The Secretary of Natural and Environmental Resources is hereby empowered to issue orders to do or not to do, to cease and desist, and after the holding of hearings, impose penalties or administrative fines up to a maximum of ten thousand dollars (\$10,000) for violations of this chapter, its regulations or the orders issued pursuant thereto.

History —July 12, 1985, No. 111, p. 384, § 6.

§ 1143f. Activities allowed

The following activities may be carried out in the caves, caverns or sinkholes, with the prior written consent of the Secretary of Natural and Environmental Resources and of the owner of the lot or land on which the access or accesses to be used to enter them is located; it being understood that even the owner must have the written consent of the Secretary:

- (a) To perform scientific studies and take samples of waters, air, fauna, flora and natural materials.
- (b) To remove or protect any animal or plant organism because of disease or contamination thereof and to prevent the spreading of diseases.
- (c) To carry out studies and archaeological excavations and to remove for scientific and teaching purposes any archaeological evidence or feature. The prior written authorization of the Institute of Puerto Rican Culture shall be necessary for this activity.
- (d) Use and make good use of the waters and the deposits of live organisms or guano.
- (e) Construct, develop, install, use and administer physical facilities with scientific, public, tourist or commercial purposes. Provided, that to authorize this activity it must be proven that it is more useful to the community than maintaining the cave, cavern or sinkhole in its natural state.
- (f) To perform work to adequately preserve this natural resource. In case the owner of the land or farm where one or more accesses for entry to said natural resources opposes such work, the Natural and Environmental Resources Department shall apply to the court with jurisdiction in these matters to obtain an order to allow the activities leading to said cleaning.

History —July 12, 1985, No. 111, p. 384, § 7; Sept. 2, 2000, No. 366, § 1.

§ 1143g. Protection of vested rights

The vested rights or interests of the persons who upon the approval of this act are conducting commercial activities, with the exception of animal breeding in caves, caverns or sinkholes, shall be respected. The Secretary of Natural and Environmental Resources or the person he designates may initiate discussions so that by mutual agreement they may seek a way to harmonize their activities or physical installations with

the purposes of this chapter, it being understood that any improvement or extension of the commercial activities or physical installations to be made after the approval of this act shall be in harmony therewith.

History —July 12, 1985, No. 111, p. 384, § 8.

§ 1143h. Environmental impact statement

Every natural or juridical person, including the agencies of the Commonwealth of Puerto Rico, public and private corporations, municipal corporations and associations, whose determinations and actions may affect any cave, cavern or sinkhole, shall meet the procedures established under Act No. 9 of June 18, 1970, known as the “Environmental Public Policy Act”, in what is related to the environmental impact statements.

History —July 12, 1985, No. 111, p. 384, § 9.

Title 12 - Conservation, Subtitle 5 - Environment, Chapter 122A. Protection and Preservation of Puerto Rico’s Karst Region

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§ 1151. Definitions

For the purposes of this chapter, the following terms shall have the meaning stated below:

- (a) Karst region.— Stretches of land located to the north, as a continuous strip; to the south, as a broken strip; the islands of Mona, Monito, and parts of Caja de Muertos; and isolated outcrops in other parts of the island. This region is characterized by a geology composed of chalky sedimentary rocks, mainly of limestone. It is greatly susceptible to being dissolved by the flow of surface and underground waters, to form a special negative (depressions), positive (superficial), and underground geography.
- (b) Karst formations.— Limestone hills or mountains of conical configuration with slopes that vary from slight to abrupt, sometimes hollowed by caves, and that rise in alluvial plains.
- (c) Doline.— A depression in the terrain formed by the dissolving action of underground water when it percolates through fractures in the limestone rock. It generally has the shape of a plate, a funnel, or a pot.
- (d) Sinkhole.— Natural duct or canal in the terrain, through which the waters drain.
- (e) Cave or cavern.— Natural cavity, niche, chamber, or series of chambers and galleries under the earth’s surface, inside a mountain, or formed by the horizontal projection of rocks in a cliff.
- (f) Secretary.— The Secretary of the Department of Natural and Environmental Resources of the Commonwealth of Puerto Rico.
- (g) Owner.— Title holder of a portion of land that is part of the karst region.
- (h) Natural material.— Any geological material that is a morphological part of the karst system and its related ideological region; or any biological component that inhabits the karst ecosystem.
- (i) Areas of natural value.— Lands or bodies of water that have ecological importance and specific geological and hydrological characteristics, where there are one or more ecosystems with a high, precise, and self-sustainable biodiversity, with vital functions for the survival of that biodiversity which result in the survival, well-being or the quality of life of human beings. The areas inhabited by species that are endemic, threatened, or in danger of extinction, shall also be considered as areas of high natural value.

(j) Conservation easement.— A lien on real property with the purpose of guaranteeing the protection of an area of natural value.

History —Aug. 21, 1999, No. 292, § 3.

§ 1152. Prohibitions and penalties

Besides the administrative fine, any natural or juridical person that carries out any of the following acts without the corresponding permits of the Secretary, shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment for a term not to exceed six (6) months, or a fine which shall not exceed the sum of five hundred dollars (\$500), or both penalties, at the discretion of the court:

- (a) The extraction, excavation, and removal of limestone rock for commercial purposes or for the leveling of terrain without the Secretary's authorization, pursuant to §§ 206 et seq. of Title 28, known as the "Sand, Gravel and Stone Act," as amended, and its respective regulations. No simple permits or exemptions shall be granted in the zone for these purposes.
- (b) The creation of dumps for domestic waste, hazardous waste, or special or industrial nonhazardous waste in the karst region.
- (c) Agricultural activity that leads to the total extermination of the area's vegetation, or which implies a substantial reduction, be it within one of the same species, among species, or an ecosystem; the use of pesticides, herbicides, or any biocide that is not degradable by biological, chemical, or folic action, that may seep through to aquifers.
- (d) The construction of roads, highways, or other means of access without the Secretary's authorization, as provided by this chapter.
- (e) The construction of infrastructure for the enjoyment of scenic areas without the Secretary's authorization, as provided by this chapter.
- (f) The fragmentation of ecosystems of natural value. The term fragmentation shall include the division, separation, or isolation of any ecosystems that are intact, or that when this act is approved, has a high natural value, even though they have been fragmented in the past. The separation, isolation, and division may be caused by roads, or paths that cross them, or by remaining portions of the ecosystems to destine them for uses other than the preservation of natural systems.
- (g) Deforestation, selective or total, removal of native and endemic vegetation for commercial landscape design activities, and removal of live ligneous material for the generation of charcoal without due evaluation and authorization, under the provisions of this chapter, and by the provisions included in other applicable laws and regulations.
- (h) Removal, hunting, capture, or extermination of wildlife whose habitat is the karst region, without the proper authorization of the Secretary, as provided by this chapter.
- (i) The construction and installation of towers and antennas for electrical transmission lines, or antennas for communication, without due authorization by the Secretary, as provided by this chapter.
- (j) The creation of ecological tourism projects in the karst regions without the proper authorization of the Secretary, as provided by this chapter.

History —Aug. 21, 1999, No. 292, § 4.

§ 1153. Responsibilities and duties

The Secretary of the Department of Natural and Environmental Resources is hereby conferred the responsibility of instituting the provisions of this chapter, and is invested with the power to adopt the rules and regulations that may derive therefrom, and any others that he/she may deem necessary to

comply with this responsibility, pursuant to §§ 2101 et seq. of Title 3, “Uniform Administrative Procedure Act of the Commonwealth of Puerto Rico”.

The Secretary of the Department of Natural and Environmental Resources has the responsibility of informing the provisions of this chapter to all the agencies of the Commonwealth of Puerto Rico that are responsible for approving or endorsing projects and permits, such as, but not limited to the Planning Board, the Electric Power Authority, the Environmental Quality Board, the Department of Agriculture and all its [agencies], the Land Authority, the Land Administration, the Department of Transportation and Public Works, the Highways and Transportation Authority, the Department of Economic and Commercial Development and all its [agencies], the municipalities, and the Institute of Puerto Rican Culture. It shall also report to the following federal government agencies: The United States Army Corps of Engineers, the Federal Environmental Protection Agency, the Fish and Wildlife Service, the United States Department of Agriculture, and the National Park Service.

The Secretary of the Department of Natural and Environmental Resources shall direct the Geologic, Water Resources, Coastal Zone Program, Natural Heritage, and the Fish and Wildlife Service Bureaus to carry out a study to define the areas that, due to their geological, hydrological, and ecological system significance and function, cannot be used under any circumstance for the extraction of materials from the earth’s crust for commercial purposes, or for commercial exploitation. Said study will offer alternatives so that the aforementioned activities can be carried out under appropriate conditions in other areas of the karst region. The recommendations of this study shall be incorporated to the Regulations for the Extraction of Materials from the Earth’s Crust, and in the regulations of the Planning Board to zone those areas of the karst region that should be conserved. The Secretary may form an interdisciplinary committee with personnel from the agency, from state and federal agencies, and representatives of civic groups to offer support for the task assigned herein, as well as to identify the land, natural communities, and habitats that should be conserved. An inventory with this information shall be prepared and, should it be necessary, a plan for the protection or acquisition of lands for their preservation. The study shall be completed in a period of not more than two (2) years from the date of approval of this act.

History —Aug. 21, 1999, No. 292, § 5.

§ 1154. Directives of the Secretary and administrative fines

The Secretary of the Department of Natural and Environmental Resources is empowered to issue orders to do or not to do, to cease and desist, and to show cause; to hold investigative and adjudicative hearings; and to impose administrative fines up to a maximum of twenty-five thousand dollars (\$25,000) for infraction of this chapter, its regulations, or the orders issued thereunder. Any administrative decision of the Secretary may be reviewed by the Circuit Court of Appeals.

History —Aug. 21, 1999, No. 292, § 6.

§ 1155. Activities allowed

All activities which are not prohibited by this chapter shall be allowed without prior authorization of the Secretary, provided they comply with all the permits, endorsements, and franchises required by the applicable federal and state laws.

History —Aug. 21, 1999, No. 292, § 8.

§ 1156. Protection of vested rights

This chapter shall not impair all the vested rights in the karst region for the duration of the activities or uses that produce profits to the natural or juridical persons with said rights. However, the Secretary of the Department of Natural and Environmental Resources shall be responsible to harmonize said activities with the purposes of this chapter.

Any future improvements or extensions of the physical installations or profitable activities in this zone, shall be in harmony with this chapter.

History —Aug. 21, 1999, No. 292, § 9.

§ 1156. Protection of vested rights

This chapter shall not impair all the vested rights in the karst region for the duration of the activities or uses that produce profits to the natural or juridical persons with said rights. However, the Secretary of the Department of Natural and Environmental Resources shall be responsible to harmonize said activities with the purposes of this chapter.

Any future improvements or extensions of the physical installations or profitable activities in this zone, shall be in harmony with this chapter.

History —Aug. 21, 1999, No. 292, § 9.

§ 1157. Compliance with the concerned laws

Every natural or juridical person, including the agencies of the Commonwealth of Puerto Rico, public and private corporations, municipal corporations, and associations, whose determinations and actions could affect any knoll, doline, sinkhole, cave, underground river, spring, aquifer, or wetland in the karst regions, shall comply with the procedures established under the provisions of Act No. 9 of June 18, 1970, as amended, known as the “Environmental Public Policy Act” and its regulations, and §§ 1143 et seq. of this title, known as the “Act for the Protection and Preservation of Caves, Caverns, and Sinkholes of Puerto Rico”.

History —Aug. 21, 1999, No. 292, § 10.

§ 1158. Incentives

An exemption from payment of property taxes will be granted to properties in the karst region of five (5) cuerdas or more, which are destined exclusively for auxiliary forests created under §§ 191 et seq. of this title, as amended, known as the “Puerto Rico Forest Act”, and which have a “conservation easement” registered in the Property Registry for a period of fifty (50) years or more, which guarantees the protection of the area and complies with a management plan approved by the Natural Patrimony Program of the Department of Natural and Environmental Resources. The Department of Natural and Environmental Resources shall certify to the Municipal Revenues Collection Center, the registration of the “conservation easement” and shall notify the owner’s compliance with the aforementioned management plan every five (5) years.

History —Aug. 21, 1999, No. 292, § 11.

PUERTO RICO ARCHAEOLOGY STATUTES

Title 18 – Education, Part III – Educational Activities Generally Chapter 95. Council for Protection of Archaeological Lands Patrimony of Puerto Rico

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§ 1551. Declaration of public use

Every archaeological site, object, deposit, artifact, document or material that is a relic of man’s past, whether a product of nature or built by man, that exists or is found on or under the surface of the earth in the jurisdiction of the Commonwealth of Puerto Rico, is hereby declared of public use and patrimony of the People of Puerto Rico.

History —July 20, 1988, No. 112, p. 459, § 1.

§ 1552. Council—Creation

In order to insure faithful compliance with the objectives and provisions of this chapter, the Council for the Protection of Archaeological Lands Patrimony of Puerto Rico is hereby created, attached to the Institute of Puerto Rican Culture, hereinafter denominated the “Council”. This shall be the government body responsible for protecting and keeping these archaeological resources while promoting a scientific inventory and the study of these archaeological values in harmony with the public policy of the Commonwealth of Puerto Rico.

History —July 20, 1988, No. 112, p. 459, § 2.

§ 1554. Council—Powers

In addition to the duties and prerogatives conferred by this chapter regarding the resources of land archaeological interest, the Council shall have the following powers:

- (a) To hold a regular session each month and any special sessions that the Council deems necessary. Complete minutes of all the proceedings shall be written up and shall be available to the public for inspection and examination.
- (b) To consider and decide on matters referred to it by government agencies, private institutions or individuals.
- (c) To submit to the Governor of Puerto Rico and the Legislature through the Executive Director of the Institute of Puerto Rican Culture and no later than January 30 of each year, a detailed report of all its activities, resolutions and operations during the year to which said report corresponds.
- (d) To safeguard and protect the Land Archaeological Patrimony of Puerto Rico pursuant to the provisions of this chapter and exercise all actions needed to achieve the effective compliance of the purposes of this chapter.
- (e) To keep an inventory and maintain an updated permanent record of all land archaeological materials, structures and sites that have been found on the effective date of this act and that are discovered thereafter, including those found in collections and museums within and without Puerto Rico.

The registration and inventory of pieces in collections referred to in this subsection shall be completed within two (2) years following the effective date of this act. The Council shall carry out every necessary measure to ensure that the register and inventory of pieces in archaeological collections, materials, structures and sites shall be kept available to those scientists, historians, researchers and persons interested in the knowledge and disclosure of these matters.

(f) To promote scientific archaeological, historical and cultural research by means of archaeological examinations and excavations and the subsequent disclosure of the studies carried out and the knowledge obtained thereby.

(g) To encourage the diffusion and teaching of topics concerning archaeological research at all levels of the population through the communications media, exhibitions, and by the public education system and private educational institutions.

(h) To achieve the necessary coordination among the various government agencies and private entities that share responsibilities and purposes that are similar to those of this chapter and seek their cooperation in order to facilitate the performance of the assigned duties and the objectives of this chapter.

(i) To approve, after conducting public hearings, the resolutions and norms that shall be used to designate the archaeological land sites materials, structures and which will govern the land archaeological studies, excavations and investigations to be carried out in the future, and supervise compliance with the resolutions and norms thus adopted.

(j) To sue and be sued.

(k) To exercise all incidental and necessary powers to properly carry out the responsibilities and duties assigned by law.

History —July 20, 1988, No. 112, p. 459, § 4.

§ 1555. Property of archaeological interest—Notification

Within ninety (90) days following the effective date of this act, all natural or juridical persons and all agencies and Government instrumentalities, including its public corporations and municipalities, shall be bound to notify the Council, in writing, about all those materials, structures or sites under their control, possession or custody which could be of Puerto Rican land archaeological interest, as provided in § 1551 of this title. It shall also be an obligation to notify the Council of any archaeological discovery located on the surface which might be susceptible to being declared of public utility as stated in § 1551 of this title, within thirty (30) days from the date it occurs. The violation of the provisions of this section shall constitute a misdemeanor punishable with a fine of not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisonment for a term of not less than ten (10) days nor more than six (6) months, or both penalties, at the discretion of the court. Noncompliance with this obligation shall also convey the nullity of any transaction carried out with relation to such property or things.

History —July 20, 1988, No. 112, p. 459, § 5.

§ 1556. Property of archaeological interest—Protection of property rights

The natural or juridical persons and government agencies, including public corporations and municipalities, that have discovered or acquired archaeological property prior to the effective date of this act shall conserve rights of ownership of such property or things without any limitations other than those established by this chapter and subject to the notification required by § 1555 of this title.

History —July 20, 1988, No. 112, p. 459, § 6.

§ 1557. Property of archaeological interest—Acquisition by the Government

The Secretary of Justice is hereby authorized and directed to acquire in any legal manner and through purchase or condemnation under right of eminent domain, on behalf of the Commonwealth of Puerto Rico, any property or object that constitutes part of the Puerto Rican land archaeological heritage which, in the Council's judgment, is merited, as well as the use, usufruct, lease or any other right thereon, on his own or upon request of the Council. In cases of eminent domain, the Secretary of Justice shall be empowered to represent the Commonwealth of Puerto Rico in the proceedings, and the prior statement of public utility provided in the General Public Domain Act, §§ 2901 et seq. of Title 32, shall not be necessary.

History —July 20, 1988, No. 112, p. 459, § 7.

§ 1558. Property of archaeological interest—Restoration, conservation and maintenance

The Executive Director of the Institute of Puerto Rican Culture is hereby directed to restore, conserve and attend to the maintenance of any property or land archaeological object belonging to the Commonwealth of Puerto Rico, upon request of and in consultation with the Council. The Director of the Institute of Puerto Rican Culture may request from any department, agency, administration, corporation, municipality or dependency of the Government of the Commonwealth of Puerto Rico, and they may lend or provide it with the resources, personnel and facilities they deem necessary to carry out the restoration and conservation works needed to preserve and give maintenance to any land archaeological property. Any public official or employee temporarily transferred to the Council by virtue of the provisions of this section shall retain the rights, benefits, classification and position held in the original department, agency, administration, corporation, municipality or public dependency.

History —July 20, 1988, No. 112, p. 459, § 8.

§ 1559. Property of archaeological interest—Permit; application

Upon the effective date of this act, no natural or juridical person, government agency, public corporation or municipality may sell or barter, transfer, alter, take possession of, convey or remove from the territory of the Commonwealth of Puerto Rico, any property or object that constitutes part of the Puerto Rican land archaeological heritage pursuant to the provisions of § 1551 of this title without notifying the Council of it and without first having obtained their authorization to carry out the corresponding procedure. Any natural or juridical, public or private person who wishes to remove or transfer archaeological objects, property or materials out of Puerto Rico on his own or through other persons must request and obtain a written permit to those effects from the Council. This request must include, along with any other information the Council deems necessary, a description accompanied with illustrations or true and exact photographs of the archaeological objects, property or materials in question; the destination outside of Puerto Rico to which they are to be transferred and the purpose or reason for the transfer; the means of transportation and packing system of the properties or objects; the guarantees offered of their return to Puerto Rico, and the time they shall be outside Puerto Rico.

Archaeological objects or property owned by or under the custody of the Commonwealth of Puerto Rico or any of its agencies, instrumentalities, dependencies or municipalities, may only be removed or transferred outside of Puerto Rico for exhibition, laboratory analysis or restoration purposes and, in any event, shall be subject to the norms determined by the Council for custody, conservation and protection, and with enough guarantees to ensure their return to Puerto Rico. After prior investigation to such effect, the Council shall have a thirty (30)-day term to authorize or refuse the notice and request for authorization which have been received. Provided, that if no answer is received within that term, it shall be understood as an implied authorization on the part of the Council. The thirty (30)-day term may be extended when the

Council shows just cause as to why a longer term should be granted to carry out the indicated investigation.

History —July 20, 1988, No. 112, p. 459, § 9.

§ 1560. Excavations—Authorization required

As of the date of approval of this act, no construction or reconstruction work, nor excavation, extraction or earth-moving works may be initiated or continued at any site whatsoever for which there is prior documentation or reliable indications of the presence of archaeological material, unless the Council's authorization is obtained. The Permit Management Office shall not grant a construction permit, nor shall the Department of Natural and Environmental Resources grant an excavation, extraction or earth moving permit in those sites unless the contractor or owner of the works presents evidence to it of the Council's authorization required by this section.

When the construction or reconstruction, extraction, excavation or earth-moving work is at a site about which there is no previous documentation or reliable indications of the presence of archaeological material, and after it is initiated archaeological material is discovered, the contractor or owner of the work, as the case may be, shall suspend the same and notify the Council within twenty-four (24) hours following said find, in order to obtain the corresponding authorization to continue the work or tasks in question.

The Council shall determine if the contractor or owner of the work shall be required to present a Declaration of Archaeological Impact no later than three (3) days after the date of notice of the find. In order to comply with the provisions of this section, the Council shall establish, through regulations, the various forms and criteria for the archaeological impact evaluation. The arbitrary destruction of any material, structure or a site of land archaeological interest or the voluntary failure to notify the initiation of a construction, earth-moving or excavation project, as provided in this chapter, shall be deemed a felony and, upon conviction thereof, the person shall be punished with a fine of not less than one thousand dollars (\$1,000) nor more than twenty-five thousand dollars (\$25,000), or imprisonment for a term of not less than one (1) year nor more than three (3) years, or both penalties at the discretion of the court, in addition to the indefinite stoppage of the project until all the requirements of this chapter are met.

History —July 20, 1988, No. 112, p. 459, § 10.

§ 1561. Excavations—[Stoppage] or suspension by Court of First Instance

When construction, excavation, extraction or earth-moving work is carried out without the authorization required in § 1560 of this title or when the conditions imposed in the authorization granted are violated, the Council may resort to the Court of First Instance to issue a resolution directing the stopping or suspension of the works in question until the requirements of this chapter are met. The court may order the demolition of what has been constructed and the restoration or reconstruction of the material, structure or site if the work carried out modifies or destroys the authenticity or value of the archaeological content. If the damage is irreparable, the person liable therefor shall compensate the People of Puerto Rico for the damages caused.

In the abovementioned cases, the owner of the work and the contractor shall be jointly liable for the obligations to be imposed.

History —July 20, 1988, No. 112, p. 459, § 11.

§ 1562. Reconsideration of administrative decisions

Any party affected adversely by a resolution, order or decision of the Council may request a reconsideration before the same within a term of thirty (30) days after receiving notice of said resolution, order or decision.

The filing of the request for reconsideration shall not exempt any person from complying nor obeying any resolution, order or decision of the Council. The request for reconsideration shall not operate in any way to suspend or postpone the effectiveness of the resolution, order or decision unless there is a special order from the Council, upon petition of the party. In the request for reconsideration, the grounds therefor shall be specifically stated. The Council, after due hearing, may grant or reject the reconsideration or suspend, amend or revoke the resolution, order or decision in question. The Council shall issue its grounded decision on the request for reconsideration within a term of thirty (30) days, counting from the date of filing of the request for reconsideration. The filing of a request for reconsideration shall suspend the term for filing an appeal for review before the Court of First Instance, and the term shall again be counted when the final decision of the Council regarding the request for reconsideration is notified.

The resolution or decision issued by the court shall be firm and final, unless the party affected adversely requests a review before the Court of First Instance of Puerto Rico within thirty (30) days following the date of notice. The petitioner shall notify the Council by sending a copy of the appeal for review on the same date it is filed.

The filing of an appeal for review of any resolution, order or decision of the Council shall not suspend the effects of such resolution, order or decision, unless the court so orders upon petition of the interested party, after a hearing and determination that the party against which the resolution, order or decision has been rendered will suffer serious or irreparable damages by the failure to decree said suspension. The resolution issued to such effects by the court shall indicate those provisional remedies deemed reasonable to respond for the damages that could be caused by the suspension of the execution of the resolution, order or decision of the Council.

The revision shall be carried out on the grounds of the duly certified administrative record of the procedures before the Council. The determinations of the Council with respect to the facts shall be conclusive if upheld by substantial evidence. The resolution thus rendered shall become final after thirty (30) days of its notice and may only be reviewed through certiorari before the Supreme Court of Puerto Rico, which shall issue its order at its discretion.

History —July 20, 1988, No. 112, p. 459, § 12.

§ 1563. Penalties

Any person who, on his/her own or through his/her agents, representatives or employees destroys, mutilates, plunders, steals, sells, exchanges, exports or otherwise seizes any land archaeological property, document, object, artifact, material deposit or site or who violates any provision of this chapter or of the regulations adopted pursuant to the same, or fails to comply with any resolution, order or decision issued by the Council, shall incur in a felony and upon conviction thereof, shall be punished with a fine of five thousand dollars (\$5000) or imprisonment for a period of three (3) years, if aggravating circumstances arise, the established penalty can be increased up to a maximum of five (5) years; if extenuating circumstances arise, said penalty could be reduced to a minimum of one (1) year. The court may impose the penalty of restitution in addition to the penalty of prison or fine established, or both.

In addition to, and aside from the previously imposed penalty, in those cases where it is applicable, the court shall order the person convicted to return the land archaeological objects in his possession.

The Council may resort to the Court of First Instance to recover the total value of the land archaeological objects that have not been recovered or the value of those mutilated or damaged. Furthermore, it may

request that any land archaeological object that is in the possession of any person accused of possessing it illegally be placed in the custody of the court.

The Council is hereby empowered to impose administrative fines for violations of this chapter or of the regulations adopted pursuant to the same, on any natural or juridical person that fails to comply with any resolution, order or decision issued by the Council. The administrative fines shall not exceed ten thousand dollars (\$10,000) for each violation, it being understood, however, that each day that the violation persists shall be considered an independent violation.

In case the Council determines that there has been contumacy in committing or continuing the actions in violation of this chapter or of the regulations adopted thereunder, or contumacy in failing to comply with any resolution, order or decision issued by the Council, it shall, in the exercise of its discretion, impose an additional administrative fine of up to a maximum of fifty thousand dollars (\$50,000) for any of the acts indicated herein.

The power to impose administrative fines granted to the Council shall not substitute nor impair the power to initiate any applicable judicial proceedings, whether civil or criminal.

Any person who, knowingly, makes any false representation, certification or statement under this chapter or the regulations adopted thereunder or makes any false representation in any report or document required by the Council pursuant to this chapter or its regulations, shall be guilty of a felony and upon conviction thereof, shall be punished with a fine of five thousand dollars (\$5,000) or imprisonment for a fixed term of three (3) years; if aggravating circumstances arise, the penalty established can be increased up to a maximum of five (5) years; if extenuating circumstances arise it could be reduced to a term of one (1) year. The court may impose the penalty of restitution in addition to the penalty of prison or fine established, or both.

Any person convicted for a second or subsequent violation to subsections (a) and (g) of this section shall incur a felony and upon conviction thereof shall be punished with a fine of ten thousand dollars (\$10,000) or imprisonment for the fixed term of ten (10) years, if aggravating circumstances arise, the established penalty can be increased up to a maximum of twelve (12) years; if extenuating circumstances arise, it could be reduced to a minimum of six (6) years. The court may impose the penalty of restitution in addition to the established penalty of imprisonment or fine or both.

When a corporation or entity violates any of the provisions of this chapter, the directors, officials, trustees, administrators or agents of said corporation or entity who have authorized, ordered or committed the acts that constitute such violation, shall also be subject, in their personal capacity, to the penalties specified in this chapter for such violation. The corporation that incurs a violation shall be subject to cancellation of its certificate of incorporation.

Any person that has personal knowledge of a violation of this chapter or any other applicable statute or of its regulations may bring forth the pertinent action before the corresponding bodies.

History —July 20, 1988, No. 112, p. 459, § 13; Aug. 29, 2002, No. 222, § 1.