

(H. B. 599)

(No. 1-2013)

(Approved January 10, 2013)

AN ACT

To create the “Jobs Now Act” in order to allow for the creation of fifty thousand (50,000) new jobs within a term of eighteen (18) months; establish an incentives program geared toward ensuring the permanence, stability, and continuity of existing businesses; foster economic opportunities to encourage the creation of small- and medium-sized businesses by giving them preferential treatment in the incentives program; grant an energy credit to participating businesses as a strategy to incentivize job creation and counteract the high operating expenses related to electric power consumption; create an alternate process to streamline the granting of permits without undermining environmental protection or the safety of our constituents; stimulate capital investment and economic development; revert the deterioration in economic indicators of both labor force participation and unemployment rates; set forth a wage subsidy for any business that hires employees who were laid off as a result of the application of Act No. 7-2009, as amended; establish the minimum content of the Special Job Creation Agreement so that businesses may benefit from the provisions of this Act.

STATEMENT OF MOTIVES

The present circumstances of Puerto Rico’s economy are clearly negative. More than 150,000 jobs were lost in the past four years. The economy’s participation rate decreased to alarming and preposterous levels. Thousands of Puerto Ricans had to leave the Island looking for work.

Changing this reality requires a comprehensive economic plan that includes short-, medium-, and long-term measures. The success of an economic plan is determined by its capacity to create more and better jobs. Puerto Rico’s economic power must lie in its people, who deserve opportunities to develop and put their

abilities to good use. It is imperative to give our economy a much-needed boost in a short-term basis as we implement strategies whose performance and results we shall see in a medium- and long-term basis. The Jobs Now Act is an essential part of our effort to reactivate Puerto Rico's economy in a short-term basis.

We hereby propose a stimulus program to create jobs that can immediately address and reduce delays and overcome hurdles in the process of establishing or expanding a business in Puerto Rico, to wit: the burdensome permit process, the limited financing offers, the high operating expenses, and a lack of the necessary incentives.

Therefore, a legislation is hereby introduced to create a streamlined process that shall integrate and facilitate the application for permits, broaden access to financing, and offer subsidies, tax exemptions, and other benefits to projects that are specifically committed to create a number of jobs within an eighteen (18)-month period. It is also necessary to include measures to do justice to public employees who were laid off as a result of the approval of Act No. 7-2009 by the previous Legislative Assembly.

There is a real need to invest in our people, in our entrepreneurs, to create job opportunities that allow the participation of Puerto Ricans in the labor market to be broadened. One of the purposes of this series of incentives is to make it more attractive for small- and medium-sized businesses to be established and expanded so as to offer new and better jobs that can reactivate the economy during the first eighteen (18) months. Such incentives shall include preferential benefits for small- and medium-sized businesses.

As to the permit granting process, it must be noted that, through the years, countless measures have been developed in order to modify it. The most recent attempt was through the approval of Act No. 161-2009, which was an initiative to reform the permit process by unifying it under one government entity so that

uniform regulatory procedures could be identified. The consensus among constituents that have used this new permit structure is that, far from expediting the process, it increased bureaucracy to the extent of making it too complex and inefficient.

Such reality calls for refocusing the historic vision of Government agencies that handle such matters, particularly to clarify that a thick file is not the only proper way to ensure that the design, construction, and environmental protection standards are met. Therefore, the main purpose of this Act is to establish an alternate permit process for eligible businesses that is truly swift and which allows new businesses to be established and existing ones to expand as fast as possible, thus significantly reducing the waiting period for permits to be granted.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

CHAPTER I

PRELIMINARY PROVISIONS

Section 1.1. – Title.-

This Act shall be known as the “Jobs Now Act.”

Section 1.2. – Statement of Public Policy.-

It shall be the public policy of the Commonwealth of Puerto Rico to protect the best interests of the People and foster the appropriate and necessary mechanisms to maximize the People’s general wellbeing.

In exercising its rulemaking authority and in fulfilling its obligation to ensure the People’s wellbeing, health, and safety, the Legislative Assembly of the Commonwealth of Puerto Rico hereby sets forth as public policy to incentivize the creation and expansion of businesses that operate in our jurisdiction in order to create jobs on a short-term basis and thus alleviate the economic crisis undergone by the Island. Small- and medium-sized businesses shall enjoy preferential treatment. It shall also be the public policy of the Commonwealth to expedite and

facilitate the granting of permits and incentives without undermining constitutional and legal protections with the main goal of creating good jobs.

Section 1.3. – Definitions.-

For purposes of this Act, the following terms, phrases, and words shall have the meaning and scope stated below:

(a) Special Job Creation Agreement – An Agreement between an Eligible Business and the Government whereby the Eligible Business commits to the creation of jobs and to other conditions, as applicable, in return for the applicable benefits provided in this Act, which shall be specifically listed in such Agreement. The Agreements shall establish their effective term and shall expire when the benefits granted thereunder cease, pursuant to the provisions of this Act and the Agreements themselves.

(b) Eligible Business – Any natural or juridical person, including corporations, partnerships, limited liability companies, or any other entity or organization doing, or seeking to do business in Puerto Rico, regardless of its place of organization, whose main operations are not covered under any other Incentives law, as defined in this Act. Furthermore, such Eligible Businesses shall have a local capital investment of at least fifteen percent (15%), or shall deposit and keep one percent (1%), of its monthly gross sales generated in Puerto Rico every month in local banks or cooperative banks for a period of at least three (3) years. The term Eligible Business includes New Businesses, Expansions of Existing Businesses, and Developing Businesses.

(c) New Business – An Eligible Business that has not begun its main business operations (even if it has already been organized) at the time the Special Job Creation Agreement is signed. An Eligible Business operating through affiliates, or resulting from a business reorganization, as defined in the Internal Revenue Code of 2011, shall not be deemed to be a New Business.

(d) Expansion of an Existing Business – An Eligible Business that has been operating as of December 31, 2012 and that: (i) made a capital investment equal to at least 25% of the book value of its assets to that date; (ii) increased its number of full-time (forty (40) hours per week) employees, or seeks to increase such number by at least 25% between January 1, 2013 and June 30, 2014; or (iii) made changes to its operation (such as adding products or a line of business) which, at the discretion of the Executive Director, constitutes an expansion of such Existing Business that shall benefit the economy of the community in which it operates without undermining the competitiveness of other Existing Businesses.

(e) Developing Business – Any microenterprise, small- or medium-sized business that is an Eligible Business and that, as of December 31, 2012, employs fifteen (15) people or less on a full-time or equivalent basis.

(f) Incentive Law or Laws – Any law that grants economic or fiscal incentives to promote a commercial, industrial or tourist operation in Puerto Rico including, but not limited to the following laws, as amended: the Tax Incentives Act of 1998, Act No. 135-1997; the Economic Incentives Act for the Development of Puerto Rico, Act No. 73-2008; the Puerto Rico Tourism Development Act of 2010, Act No. 74-2010; the Puerto Rico Film Industry Economic Incentives Act, Act No. 27-2011; the Green Energy Incentives Act, Act No. 83-2010; the Act to Promote the Export of Services, Act No. 20-2012; and Act No. 168 of June 30, 1968.

(g) Eligible Incremental Job – The increase in the number of eligible employees after December 31, 2012, as such term is defined in this Section, hired by the Eligible Business between January 1, 2013 and June 30, 2014.

(h) Eligible Job or Employee – A regular, full-time employee (or its equivalent), as defined in this Section. It shall not include employees working under contract who are recruited through employment agencies.

(i) Regular Job or Employee – An individual who is a resident of Puerto Rico and is included in the Eligible Business’ payroll. The number of regular employees shall include the number of individuals who work a full-time shift in the Eligible Business and/or “the number equivalent to full-time employees.” The number equivalent to full-time employees shall be calculated by adding the hours worked by employees who are not hired on a full-time basis and dividing the sum by 520 to determine the quarterly Eligible Incremental Business, and by 162 to determine the monthly Eligible Incremental Business.

(j) Eligible Property – A building or structure whose title deed is in the name of the Industrial Development Company or the Trade and Export Company, according to the list of eligible buildings previously identified by these public corporations. It shall not include land plots or lots with no structures thereon.

(k) Definitions of other terms

(1) Government – the Government of the Commonwealth of Puerto Rico and all its municipalities, instrumentalities, political subdivisions, agencies, and public or quasi-public corporations.

(2) Code – Act No. 1-2011, as amended, known as the “Internal Revenue Code of 2011,” or any subsequent law that supersedes it.

(3) Company – the Puerto Rico Trade and Export Company.

(4) Authority – the Electric Power Authority.

(5) Secretary of Development – the Secretary of the Department of Economic Development and Commerce.

(6) Executive Director – the Executive Director of the Puerto Rico Trade and Export Company.

(7) Secretary of the Treasury – The Secretary of the Treasury of Puerto Rico.

(8) Act – the “Jobs Now Act.”

CHAPTER II

ALTERNATE PERMIT EVALUATION AND GRANTING PROCESS

Section 2.1. – Introduction.-

The purpose of this Chapter is to facilitate and incentivize the process to establish new businesses and extend existing ones by rendering our Permit System swifter, more efficient, and reliable. This shall allow both the private Sector and the Government to attain their job-creation goals, without overlooking the constitutional duty to oversee the protection of our valuable natural resources. Likewise, the provisions of this Chapter ensure the protection of the public interest by promoting the construction of structures that meet the strictest, most rigorous, and innovative design and construction standards.

Section 2.2. – Requirements of the Alternate Permit Granting Method.-

The new permit process provided in this Chapter shall apply to every Eligible Business that meets the following conditions with regards to their location:

- (a) The proposed use is consistent with the qualified area and does not require a site consultation.
- (b) The water, electric power, and access roads infrastructure existing in the area has the capacity to satisfy all the needs of the proposed use.
- (c) The proposed use shall not be located in a flood zone (except for uses in existing structures that do not require any construction) coastal zone or areas adjacent thereto, or zones that are prone to landslides or heavy seas.
- (d) The proposed use shall not be located or impact ecologically sensitive or protected zones, areas that constitute mineral deposits, archeological sites, or areas of cultural value.
- (e) The total cost of the work does not exceed fifteen million dollars (\$15,000,000).

Furthermore, in order for an eligible business to apply for the alternate permit granting method, it must submit a certification issued by the Trade and Export Company, which certifies it as such. This shall not impair the applicant from applying and obtaining a permit under the regular process established in Act No. 161-2009.

Section 2.3. – Administrative Structure for Evaluating and Granting Permits.-

The Permit Management Office shall be the only agency authorized to grant such permits and responsible for implementing the new permit process provided in this Chapter, by adopting and issuing the corresponding regulations and administrative orders. To achieve such purposes, the aforementioned Office shall enter into an interagency agreement to carry out the alternate permit granting process with the Trade and Export Company and the Industrial Development Company to ensure the swiftness necessary to attain the purposes of this Act. This new process shall take effect within a term of fifteen (15) days after the approval of this Act, which term shall not be extended.

For purposes of this Act, this new permit process shall apply to Autonomous Municipalities with I to V granted hierarchy that have their own Permit Offices and the required hierarchy to grant the permits contemplated in this streamlined process, unless such Autonomous Municipalities issue a written communication to the Permit Management Office within five (5) business days after the approval of this Act, stating their intent to opt out of the streamlined process. Its applicability shall be based on the hierarchy and authority delegated to such Autonomous Municipality. The authorities and permits that have not been delegated to the Autonomous Municipalities shall be retained by the Permit Management Office under the regular General Permit Process. Any Autonomous Municipality opting out of the streamlined process shall adjust its permit process to comply with the

provisions of this Chapter within five (5) days after having exercised such option. In addition, any Autonomous Municipality that fails to submit the written communication to the Permit Management Office as provided in this Section, waives the right to require additional municipal permits to Eligible Businesses opting for the streamlined permit process under this Act, during the effective date thereof, with respect to subsequent renewals of the permits issued in accordance with the provisions set forth herein.

Eligible Business opting for the streamlined permit process under this Chapter shall fill out the form provided by the Trade and Export Company for statistical purposes.

In the administrative context, the Permit Management Office shall use the electronic information system available in the Office. However, it shall create a new website to be known as the “Permits under the Jobs Now Act,” to expedite the permit evaluation and granting process, in accordance with the provisions of this Act.

Act No. 161-2009, as amended, known as the “Permit Process Reform Act,” shall be applied in a supplementary manner to every matter, insofar as it is consistent with the provisions and spirit of this Act, and to the extent it does not contravene the new procedures and permits established in this Chapter. Among the provisions that would apply are the definition of terms, discretionary permits, and agency recommendations, to name a few. The provisions of Act No. 161-2009 related to Authorized Professionals and Authorized Inspectors shall apply to the permit process established in this Act. The only entity empowered to grant general permits is the Permit Management Office or the Autonomous Municipality which has adopted it and opts out of the streamlined process provided in this Chapter.

Section 2.4. – Applicability of the General Permit.-

As provided in Section 2.2, one of the conditions for the applicability of this new general permit process is whether the premises where the Eligible Business is to be located meets the location-related conditions. Such general permits shall be available whenever a determination of the Permit Management is ministerial and does not entail any discretionary determination. The existing permit process for this kind of permits is ministerial in nature according to Act No. 161-2009; thus, the discretion of the Permit Management Office is not needed to evaluate a permit.

Section 2.5. – New Permit.-

Every Eligible Business may opt to benefit from the new general permit process established herein by applying for the corresponding permit as listed below:

- a) General Construction Permit,
- b) General Use Permit.

These permits shall be granted within one (1) business day.

Section 2.6. – General Construction Permit.-

The General Construction Permit shall be the authorization required for the construction of works or structures in compliance with the applicable building codes as provided by the Joint Permit for Construction and Land Use Regulations (hereinafter the Joint Permit Regulations) adopted pursuant to Act No. 161-2009, or the Land Ordinance Plan of the Autonomous Municipality in question. The General Construction Permit shall include, in its determination, the following individual permits recognized under the Joint Permit Regulations adopted pursuant to Act No. 161-2009 when the construction of the works or structures does not require any variation or exception whatsoever from the applicable requirements of the Joint Permit Regulations for each individual permit:

- (1) Construction Permit;
- (2) Consolidated Construction Permit;
- (3) Authorization for Cutting, Trimming, Transplanting, and Planting Trees; and
- (4) Permit for Activities Incidental to Works and Simple Permits for Moving Earth Crust.

Autonomous Municipalities opting out of the streamlined process provided under this Chapter shall only be empowered to grant the Construction Permit under this General Permit process, since it is the only individual permit mentioned herein whose granting has been delegated thereto in accordance with Act No. 81-1991, as amended, known as the “Autonomous Municipalities Act.” All other individual permits shall be presented before the Permit Management Office through the General Permit process as soon as the General Construction Permit has been obtained from the Autonomous Municipality.

Section 2.7. – General Use Permit.-

The General Use Permit shall be the authorization required to enable the use of lands, buildings, and structures for specific purposes as provided in the Joint Permit Regulations adopted pursuant to Act No. 161-2009. The General Use Permit shall include, in its determination, the following individual permits recognized under the Joint Permit Regulations adopted pursuant to Act No. 161-2009:

- (1) Use Permit;
- (2) Fire Prevention Certification;
- (3) Environmental Health Certificates, when applicable.

Autonomous Municipalities opting out of the streamlined process provided under this Chapter shall only be empowered to grant the Use Permit under this General Permit process, since it is the only individual permit mentioned herein

whose granting has been delegated thereto in accordance with Act No. 81-1991. All other individual permits or certifications shall be presented before the Permit Management Office through the General Permit process as soon as the General Use Permit of the Autonomous Municipality has been obtained.

The applicable sanitary licenses provided in the General Environmental Health Regulations, Regulations No. 7655 of December 29, 2009, as amended, shall be required only to Eligible Businesses engaged in providing services such as food, public health, drinking water and ice, public pools, spas or hot tubs, funeral home, embalming, cremation, and cemetery, animal control facilities, pesticides and commercial poisons, among others, directly related to public health. Sanitary license applications shall be evaluated and issued within fifteen (15) days as of the filing thereof.

Section 2.8. – Environmental Compliance.-

Environmental compliance in accordance with Section 4(B)(3) of Act No. 416-2004, as amended, known as the “Environmental Public Policy Act,” is an informal environmental planning process carried out before the execution of the proposed action; therefore, it must be carried out prior to filing the General Construction Permit. The Permit Management Office shall act as the proponent agency with regard to the environmental planning process in cases where a General Permit is sought, ensuring the evaluation of the proposed use and the applicability of the process. The provisions applicable to the environmental planning process are those established by Act No. 161-2009, specifically in Section 8.5.

The recommendations and comments of agencies such as the Electric Power Authority, the Aqueduct and Sewers Authority, the Highways and Transportation Authority, the Telecommunications Regulatory Board, and the Firefighters Corps, among others, with regard to the proposed use and the Eligible Business, which are necessary as part of the environmental planning process, shall be obtained through

the Permit Management Office. Such recommendations and comments shall be filed along with the General Construction Permit application. These agencies and any other, if applicable or required, shall issue their comments within ten (10) days as of the filing of the environmental document.

Section 2.9. – Permit Filing.-

The General Construction Permit must be obtained before starting construction and the General Use Permit must be obtained before starting the Eligible Business operations. Starting construction and operations without the corresponding permit is hereby prohibited.

A General Permit application shall not be accepted unless the applicant files it duly filled out and certified; furnishes all the required information and documents; and pays in full any and all fixed charges and fees as appropriate.

Section 2.10. – Oversight and Fulfillment of the Permit Conditions.-

The Permit Management Office and the Autonomous Municipalities are hereby designated, in accordance with the powers and authorities conferred thereto, as the public entities authorized to evaluate, inspect, and oversee every application filed under Chapter II of this Act, pursuant to the applicable laws, codes, and regulations in effect. In addition, the Permit Management Office and the Autonomous Municipalities shall ensure that all documents are submitted and all requirements and applicable conditions in connection with the General Permit are met. Such designation shall not prevent the government agencies with expertise in the individual permits that have been incorporated into the General Permit from exercising their jurisdiction over such permits.

Government agencies with jurisdiction shall also conduct an inspection of the Eligible Business after the General Permit has been granted. The purpose or intent of every oversight process is to ensure that the Eligible Business meets the requirements of the applicable laws, codes, and regulations. For such reason, such

business shall have at least one opportunity to satisfy any omitted requirement it has been notified of as a result of the inspection process, provided that such noncompliance does not affect public health or safety.

If any noncompliance is found, whether in the documents submitted or concerning the permit requirements or conditions, or implementation thereof in the field, such noncompliance shall be notified and must be corrected within a term that shall not exceed ten (10) days after notice has been sent. If such deficiency is not corrected, the Permit Management Office or the Autonomous Municipality as well as any agency with jurisdiction, may propose and impose fines and penalties. Any agency with jurisdiction may begin a process to impose fines or penalties, and simultaneously request the Permit Management Office or the Autonomous Municipality to revoke the granted permit provisionally. The Permit Management Office or the Autonomous Municipality shall issue a temporary cease and desist notice, to the person or entity to which the General Permit was granted within five (5) days after receiving a duly grounded notice of an agency with jurisdiction. The notice issued by the Permit Management Office or the Autonomous Municipality shall also state that an adjudicative proceeding shall begin within twenty (20) days to determine whether or not the permit should be revoked permanently.

Regardless of the adjudicative proceeding to permanently revoke a permit, agencies with jurisdiction may impose any applicable fines, as provided in the regulations in effect under their jurisdiction, for any violation of this Act, the General Permit, or the permit requirements or conditions.

Under this evaluation, inspection, and oversight process, the Permit Management Office or the Autonomous Municipality shall be empowered to issue fines of up to fifty thousand dollars (\$50,000) for each violation, and an additional fine of one hundred thousand dollars (\$100,000) in case of contumacy or if the actions constituting a violation of this Act or any other applicable law persist.

Furthermore, the Permit Management Office or the Autonomous Municipality shall be empowered to issue orders to perform, to show cause, to cease and desist as well as orders to revoke permits provisionally and permanently. All other agencies with jurisdiction shall keep the powers conferred to them by the applicable laws and regulations.

Section 2.11. – Compliance Requirements.-

The owner, proponent, operator, its agents, or authorized representatives who submit a duly completed application form and such application is approved, shall thereafter be subject to the terms and conditions of the General Permit and any other substantive requirement as prescribed in the applicable regulations.

The authorization of a General Permit shall not exempt any person from his/her continuous responsibility to comply with the provisions of the permit, the regulations, and any other applicable rules.

Section 2.12. – Contradictory or Compatible Provisions.-

Nothing provided in this Act, or the administrative determinations issued thereunder, shall:

(1) relieve the owner, proponent, operator, or its authorized representative from the obligation to obtain other permits as required by other state or Federal agencies, instrumentalities, or public bodies, including, but not limited to the United States Environmental Protection Agency, the United States Army Corps of Engineers, or any municipality of Puerto Rico, or from meeting other requirements applicable to their activities.

(2) limit the rights of any person that may be affected by the activities developed by the owner or operator to bring administrative and judicial actions and obtain the appropriate legal remedies.

(3) be deemed to authorize or legalize the creation or maintenance of a public nuisance, as defined in the Code of Civil Procedure of Puerto Rico.

(4) be deemed to limit or repeal other prohibitions established in the applicable laws and regulations.

(5) repeal or amend the substantive requirements established by the Joint Permit Regulations and other applicable laws, codes, and regulations.

Section 2.13. – Exaction Impact or Infrastructure Connection Fee.-

Agencies that charge exaction impact fees and service fees for connecting to public infrastructure, such as the aqueduct and sanitary sewage systems, electric power systems, and highways, among others, shall establish a mechanism to postpone the payment of such fees without penalties until the Eligible Business begins operations. Any Eligible Business required to pay exaction impact or infrastructure connection fees shall be allowed to pay such fees in full or through an installment plan plus the applicable interests within ninety (90) days after having obtained the General Use Permit or in any subsequent date fixed by mutual agreement.

CHAPTER III

ENERGY CREDIT FOR JOB CREATION

Section 3.1. – Energy Credit to Incentivize Job Creation.-

(a) Every Eligible Business shall obtain a credit for every Eligible Incremental Job created between January 1, 2013 and June 30, 2014. Such credit shall be use for the payment of the electric bill of the Eligible Business, as provided in this Section. The credit limit established in this Section shall be determined in accordance with the regulations to be adopted by the Electric Power Authority together with the Department of the Treasury pursuant to this Act, taking into account, among others, the following factors: the date on which the Eligible Incremental Job was created, the basic salary to be earned by the Eligible Incremental Employee, and, if it is a full-time job or equivalent to an Eligible

Incremental Job under the formula established in this Section. The maximum credit amount to be generated for every Eligible Incremental Job shall be the following:

1) Up to \$2,000 for every Eligible Incremental Job created between January 1, 2013 and December 31, 2013. Any credit in excess of \$2,000 shall be determined by the Department of the Treasury through regulations by comparing the salary schedule of the employee with his/her tax liability.

2) Up to \$1,000 for every Eligible Incremental Job created between January 1, 2014 and March 31, 2014.

3) Up to \$500 for every Eligible Incremental Job created between April 1, 2014 and June 30, 2014.

(b) The Eligible Incremental Job determination shall be made on a quarterly basis, and the energy credit for an increase in the jobs generated each quarter shall be used to defray the electric power costs of the Eligible Business as shown in the bill payable after the close of the corresponding quarter and subsequent months until it is used in full. The quarterly Eligible Jobs increase shall be determined by comparing the number of Eligible Employees during the quarter ending on March 30, 2013, with the number of Eligible Employees of the Eligible Business as of December 31, 2012. The job increase for the quarters ending on June 30, 2013, September 30, 2013, December 31, 2013, March 30, 2014, and June 30, 2014, shall be determined by comparing the number of Eligible Employees as of the close of that quarter with that at the close of the previous quarter.

(c) Any job created to replace another job within the Eligible Business or any job transferred to another Eligible Business as a result of a transfer of assets or line of business shall not be eligible for the energy credit. In order to be eligible for the energy credit, the person hired for the Eligible Incremental Job must have been unemployed before such hiring.

(d) To claim the energy credit, the Eligible Business shall fill out and file with the Electric Power Authority, along with its electric bill, a sworn form including:

1) Name, address, and employer identification number of the Eligible Business.

2) Quarter for which the energy credit is claimed.

3) Number of employees as of December 31, 2012, and, as applicable, as of March 30, 2013, June 30, 2013, September 30, 2013, December 31, 2013, March 30, 2014, and June 30, 2014.

4) Number of full-time employees (and equivalent) created during the quarter claimed in the sworn form (incremental job).

5) Number of hours worked by every eligible incremental employee during the quarter claimed in the sworn form.

6) Amount of the credit claimed for the quarter and for each previous quarter, if applicable.

7) Certification issued by the Company stating that it qualifies as an Eligible Business.

8) A certification attesting to the fact that the Eligible Business meets all the applicable requirements of this Act and that it is not generating a credit on account of job creation for such period, to be used against the electric bill or otherwise, under the provisions of Incentives laws.

9) Any other information required by the Electric Power Authority through regulations, provided that the absence of regulations shall not be an impediment to claim the credit; provided further that the information required under this Section is submitted under oath to the Electric Power Authority.

e) The Eligible Business shall keep an average of Eligible Jobs during the first four (4) calendar years starting on June 30, 2014, equal to or greater than the number of Eligible Jobs it had as of December 31, 2013, plus the number of Eligible Incremental Jobs for which credit has been claimed under this Chapter.

f) The Executive Director of the Electric Power Authority shall prescribe, through the regulations provided in subsection (a) of this Section, the applicable collection mechanism, if failure to maintain the required number of jobs provided in the preceding subsection is proven. The amount to be collected shall be prorated between the credit claimed before the Electric Power Authority under this Chapter and the amount of required jobs is not maintained.

g) The energy credit shall not be sold, transferred, or assigned. The use of the energy credit shall not generate taxable income or volume of business for the Eligible Business.

h) Except for the benefits provided under this Act, the Eligible Business shall not combine this energy credit with other grants, decrees, benefits, or any other kind of incentives for the same purposes. However, only for purposes of this Chapter, the term Eligible Business shall include businesses operating under Incentive Laws, provided that such businesses are not generating credits or other tax or economic incentives for job creation under said Incentive Laws. It shall not be necessary to have entered into an Agreement under Chapter 4 of this Act to generate and use the credit established in this Section.

i) The amounts claimed under the energy credit shall be reimbursed to the Electric Power Authority by the Department of the Treasury. The Department of the Treasury and the Electric Power Authority shall establish the energy credit reimbursement mechanism by regulations. Every credit shall be paid with the contributions made by each Eligible Incremental Employee on account of income taxes and others. If the income generated by the Eligible Employee is not subject to

income tax withholding, the reimbursement to the Authority shall be computed on the basis of the estimated Sales and Use Tax consumption and contribution generated by such Eligible Employee to the General Fund and the contribution to the treasury arising from the economic activity generated by such Eligible Incremental Jobs to the economy of the Island. The energy credit generated by Eligible Incremental Employees shall be \$750 and shall be granted as follows: seventy-five percent (75%) twelve months after being hired and twenty-five percent (25%) after the remaining six months have elapsed.

j) Eligible Businesses opting for the Energy Credit process under this Chapter shall fill out the form to be provided by the Trade and Export Company for statistical purposes.

k) The Department of the Treasury and the Electric Power Authority shall be exempt from complying with the provisions of the Uniform Administrative Procedures Act when implementing this Chapter.

CHAPTER IV

JOB CREATION INCENTIVES

Section 4.1. – Authorization to Enter into Special Job Creation Agreements.-

The Executive Director shall sign Special Job Creation Agreements, in representation of the Government, with Eligible Businesses that meet the criteria and comply with the procedures established in this Act.

Section 4.2. – Term to Enter into Special Job Creation Agreements.-

The Company shall issue a notice to the public stating the procedure to enter into Special Job Creation Agreements within thirty (30) days after the approval of this Act. Eligible Businesses shall have nine (9) months after the date of the notice to execute the Special Agreement with the Company.

However, Agreements signed within such nine (9) month term shall continue in effect as provided in this Act and such Agreements.

Section 4.3. – Special Job Creation Agreements.-

An Eligible Business shall sign a Special Job Creation Agreement with the Government whereby they shall commit to increase the number of jobs in their business operations to obtain any benefit, loan, aid, incentive, subsidy, tax exemption, or combination thereof, provided in this Chapter IV of this Act. The Special Job Creation Agreement shall establish the following:

(a) whether the Eligible Business is a New Business or a Developing Business, as such terms are defined in this Act;

(b) the number of Eligible Incremental Jobs that the Eligible Business is committed to create in exchange for receiving the benefits provided under Chapter IV of this Act;

(c) the specific incentives to be enjoyed by the Eligible Business, as provided in this Act; and

(d) other terms and conditions that the Company may deem necessary to attain the objectives of this Act.

Section 4.4. – Incentives Applicable to Every Eligible Business that is a New, Expanding, or Developing Business and Enters into an Agreement.-

An Eligible Business that is a New, Expanding, or Developing Business and has entered into a Special Job Creation Agreement shall enjoy the benefits listed below, provided that it meets the requirements of such Agreement and this Act, which have been established generally with respect to a specific incentive:

(a) Property Tax Exemption.-

1) Real Property Tax Exemption.- Full real property tax exemption on real property to be used by the Eligible Business that was unused prior to its acquisition by the Eligible Business and where the operations thereof

shall be established. This exemption shall apply to taxes applicable for the next two (2) fiscal years of the Government following the acquisition date of the property, regardless of the date of acquisition and of the signing of the Agreement. The Agreement shall specify the property's cadastral number, as well as the fiscal years to which such exemption shall apply.

2) The Executive Director shall submit a copy of the Agreement to the Municipal Revenues Collection Center. This shall constitute the only transaction necessary for the real property tax exemption to take effect, as applicable.

(b) Partial Salary Reimbursement. - If an Eligible Business, in seeking to fully or partially fulfill the incremental job commitment set forth in the Agreement, hires persons who were laid off by virtue of Act No. 7-2009, and were unemployed as of December 31, 2012, it shall receive a reimbursement of twenty percent (20%) of the basic wage paid to such persons for a regular work shift (excluding overtime.) Such reimbursement shall apply to wages paid during the first eighteen (18) months of effectiveness of the Agreement with respect to Eligible Employees hired after December 31, 2012, regardless of the date on which the Agreement was signed, provided, it is established, to the satisfaction of the Executive Director, that the jobs for which the reimbursement has been granted constitute Eligible Incremental Jobs for the Eligible Business. Such incentives shall be obtained through the Job Promotion Bureau of the Department of Labor and Human Resources as provided in Act No. 52-1991, as amended. In addition, funds shall also be available for employee training under the Workforce Investment Act of 1998. In the case of a Developing Business, the wage reimbursement percentage set forth in subsections (c) and (d) of Section 4.6 of this Act shall also apply.

(c) Lease of Property Belonging to the Puerto Rico Industrial Development Company and Regional Warehouses of the Trade and Export Company. - An Eligible Business may lease Eligible Property belonging to the Puerto Rico Industrial Development Company as well as regional warehouses of the Trade and Export Company to establish or relocate its operations and pay one dollar (\$1) annually on account of rent during the first two (2) years of the lease. Developing Businesses shall pay one dollar (\$1) annually on account of rent during the first three (3) years of the lease. The Puerto Rico Industrial Development Company and the Trade and Export Company shall establish guidelines for leasing their properties, which must be followed by the Eligible Business in order to execute the leasing contract. The Leasing Contract shall include the standard terms and conditions for this kind of contract and comply with all the provisions of law, related to leasing, of the Puerto Rico Industrial Development Company and the Trade and Export Company. Once the two (2) year period concludes, the applicable rent shall be the prevailing rental rate at the time the contract was executed with the Puerto Rico Industrial Development Company or the Trade and Export Company, as the case may be. The size and number of eligible properties that the Eligible Business may lease from the Puerto Rico Industrial Development Company or the Trade and Export Company shall depend on factors such as the total number of Eligible Jobs created, the nature of the Eligible Business, and the availability of the requested property and the uses and location of the requested space, among others. Such determination shall be at the discretion of the Executive Directors of the Puerto Rico Industrial Development Company or the Trade and Export Company, or by the persons designated by them, as the case may be. However, it shall not be necessary for an Eligible Business under this Act to engage in, or consider engaging in, an eligible business within the meaning of the

Incentives laws to lease this kind of property, provided that such Eligible Business has executed a Special Job Creation Agreement.

(d) Special Deduction for Expenses Incurred in Properties leased from the Puerto Rico Industrial Development Company and Regional Warehouses of the Trade and Export Company. - In addition to any other deduction granted by law, a special deduction equal to the sum of the capital expenses incurred in the construction of improvements, renovations, or repair of the leased eligible property or warehouse, as well as in the acquisition of machinery and equipment to be permanently or temporarily installed in the eligible property or warehouse shall be granted to every Eligible Business that leases any building of the Puerto Rico Industrial Development Company or warehouse of the Trade and Export Company; provided that such improvements, remodeling, repairs, machinery, or equipment are to be used in connection with the operations of the Eligible Business, that were agreed upon in the leasing contract. Such improvements, renovations, repairs, machinery, and equipment cannot have been previously used or depreciated.

The amount of the eligible investment for the special deduction provided in this subsection in excess of the net income of the Eligible Business for the year in which the expense was incurred may be claimed as a deduction in succeeding taxable years until such excess is claimed in full. No deduction shall be allowed under this subsection with regard to the expense or investment portion for which the Eligible Business has received economic incentives from the Puerto Rico Industrial Development Company or any other Government agency, instrumentality or municipality of the Commonwealth of Puerto Rico. This special deduction shall neither apply if the investment has generated other special deductions or tax credits.

(e) A wage subsidy of up to twenty-five percent (25%) for eighteen (18) months as of the effective date of the Agreement shall be granted to Businesses covered under this Act for hiring women over 56 years of age. Funds available under Act No. 52-1991 shall be reallocated to such purposes. The wage reimbursement established in Section 4.6(d) of this Act for hiring women over 56 years of age shall also apply to Developing Businesses.

Section 4.5. – Additional Incentives Applicable to New Businesses.-

If an Eligible Business that has executed a Special Job Creation Agreement is a New Business as such term is defined in this Act, such Eligible Business shall enjoy, in addition to the incentives provided in Section 4.4 of this Act that apply thereto, the following incentives:

(a) Income Taxes.- The net income of the New Business subject to regular taxation during the first year of operations, in accordance with an Agreement shall be subject to a ten percent (10%) fixed income tax rate, or the lowest applicable rate under the Code at the option of the taxpayer. This tax shall apply retroactively to the first day of the taxable year in which the Agreement is signed. The applicable tax rate during the taxable year following that in which the Agreement is signed shall be fifteen percent (15%), or the lowest applicable rate under the Code, at the option of the taxpayer.

(b) Net Operating Loss Deduction.- A New Business operating under an Agreement may deduct any net operating losses incurred during the first two (2) years of effectiveness of the Agreement to reduce the income derived from the operations covered under the Agreement during a period of ten (10) years.

(c) Provisional Municipal License Tax Exemption.- A New Business operating under an Agreement shall be exempt from the payment of municipal license taxes during the two (2) fiscal years following the signing of the Agreement. The Agreement shall specify the fiscal years to which this exemption

shall apply. The Eligible Business shall attach a copy of the Agreement to the municipal license tax return of the years in which such exemption applies.

(d) Personal Property Exemption.- The Eligible Business shall enjoy a full property tax exemption on personal property during the two (2) fiscal years following the signing of the Agreement. The Agreement shall specify the fiscal years to which this exemption shall apply. The Eligible Business shall attach a copy of the Agreement to the personal property tax return of the years in which such exemption applies.

(e) Wage Reimbursement to Certain New Businesses.- Fifty percent (50%) of the Federal minimum wage paid to Eligible Employees covered under the Agreement shall be reimbursed to New Businesses organized under Act No. 239-2004, known as the “General Cooperative Associations Act,” and organized by public housing project residents. This reimbursement shall also be extended to New Businesses in general with respect to wages paid to low-income persons who, at the time of hiring, were twenty-five years old or younger, provided that it is a Eligible Incremental Job covered under the Agreement. This reimbursement shall be obtained through the Job Promotion Bureau of the Department of Labor and Human Resources as provided under Act No. 52-1991, as amended. In addition, funds shall also be available for employee training under the Workforce Investment Act of 1998.

(f) Christmas Bonus Staggered Payment.- A New Business operating under an Agreement shall not be subject to the Christmas Bonus minimum payment, as provided in Act No. 148 of June 30, 1969, as amended. In lieu thereof, any employer that employs sixteen (16) employees or more shall pay a minimum applicable Christmas Bonus of two hundred dollars (\$200), in the first year of operations; four hundred dollars (\$400), in the second year of operations; and six hundred dollars (\$600), in the third year of operations. Any employer that employs

fifteen (15) employees or less shall pay a minimum applicable Christmas Bonus of one hundred seventy-five dollars (\$175), in the first year of operations; two hundred and twenty-five dollars (\$225), in the second year of operations; and two hundred seventy-five dollars (\$275), in the third year of operations. Any other exemptions and terms provided under Act No. 148, *supra*, shall apply to these New Businesses, provided that they are not contrary to the minimum fixed in this subsection. A New Business benefiting from these incentives may not file with the Secretary of Labor a Christmas Bonus payment exemption as provided in Act No. 148, *supra*, while enjoying the benefits of this Act.

Section 4.6. – Additional Incentives Applicable to Developing Businesses.-

(a) State Insurance Fund Corporation Premium Discount.- An Eligible Business that has executed a Job Creation Agreement and is a Developing Business, as defined in this Act, may also enjoy an additional a fifty percent (50%) discount in the premiums payable to the State Insurance Fund Corporation in connection with eligible incremental jobs pledged under the Agreement during its first year of operations as of the signing date of the Special Agreement. This benefit shall not be an impairment to also receive the energy credit benefit for job creation.

(b) Reimbursement of the Costs of Exporting Products Manufactured in Puerto Rico.- If an Eligible Business intends to export products manufactured in Puerto Rico, the Agreement shall grant a twenty-five percent (25%) reimbursement of the shipping costs incurred in the export of such products during the first eighteen (18) months of effectiveness of the Agreement. If the Eligible Business incurs in combined shipping costs to export products manufactured and products not manufactured in Puerto Rico it shall agree upon a reasonable formula with the Executive Director, which shall be defined in the Agreement, to determine the shipping costs corresponding to the export of products manufactured in

Puerto Rico. The Eligible Business shall provide the Company with evidence of the shipping costs to be reimbursed prior to receiving a reimbursement under this subsection. Up to one hundred percent (100%) of the shipping costs incurred in exporting agricultural products of Puerto Rico may be reimbursed. The reimbursements provided herein shall be paid after the first year of the date of compliance of the second year, from special funds appropriated to the Company for the administration of this Act.

(c) Partial Reimbursement of Wages.- If a Developing Business, in seeking to fully or partially meet the incremental job commitment set forth in the Agreement, hires persons who were laid off by virtue of Act No. 7-2009, and were unemployed as of December 31, 2012, it shall receive a reimbursement of forty percent (40%) of the basic wage paid to such persons for a regular work shift (excluding overtime). Such reimbursement shall apply to wages paid during the first eighteen (18) months of effectiveness of the Agreement with respect to Eligible Employees hired after December 31, 2012, regardless of the date on which the Agreement was signed, provided, it is established, to the satisfaction of the Executive Director, that the jobs for which the reimbursement has been granted constitute Eligible Incremental Jobs for the Eligible Business. Such incentives shall be obtained through the Job Promotion Bureau of the Department of Labor and Human Resources as provided under Act No. 52-1991, as amended. In addition, funds shall also be available for employee training under the Workforce Investment Act of 1998. The Department of Labor and Human Resources shall prescribe through regulations the process to certify that an employee was laid off under Act No. 7-2009.

(d) A wage subsidy of up to forty percent (40%) shall be granted to the Businesses covered under this Act for eighteen (18) months after the effective date of the Agreement for hiring women over 56 years of age. Funds available under Act No. 52-1991 shall be reallocated to such purposes.

Section 4.7. – Financing by the Economic Development Bank. –

Subject to the eligibility criteria provided by the Economic Development Bank for Puerto Rico, such entity is hereby directed to give priority to the financing applications filed by Eligible Businesses covered under this Act and to process such applications promptly. To achieve this, such institution may create new financing programs or use existing ones. It may also enter into agreements with other financial institutions to offer financing, either by providing guarantees and/or shares. Furthermore, it may institute attractive programs to provide short-, medium-, or long-term financing, including, but not limited to lines of credit, insofar as they facilitate the immediate establishment of Eligible Businesses that can create jobs rapidly.

Section 4.8. – Procedure for Granting Special Job Creation Agreements.-

(a) An Eligible Business that wishes to enjoy the benefits of Chapter IV of this Act shall file a sworn application with the Company that includes the following:

(1) A description of the activity in which the Eligible Business is engaged in, or intends to engage in.

(2) The address where operations are or shall be conducted.

(3) The name and address of the shareholders or owners of the Eligible Business, as well as of any affiliate entities operating in Puerto Rico.

(4) The number of employees working at the Eligible Business as of December 31, 2012.

- (5) A description of the Substantial Expansion, if applicable.
- (6) The Incremental Job projection.
- (7) The benefits of this Act for which the applicant Eligible Business qualifies.
- (8) Evidence of its organization and of having its tax and employer obligations up to date.
- (9) Any other reasonable information the Company may require.

(b) The Company shall have thirty (30) calendar days as of the date it receives the application to enter into an Agreement and shall not require endorsement from any other agency to enter into such Agreement. The Company shall remit a copy of the Agreement to the Department of the Treasury, the Municipal Revenue Collection Center, the Industrial Development Company, and the municipality where the Eligible Business operates.

(c) Rejection of Applications – The Executive Director may reject an application when he/she deems that some of the requirements provided in this Act have not been met or that it does not serve the best economic and social interests of Puerto Rico after taking into consideration the nature of the physical facilities, the number of jobs to be created, the investment to be made, or other factors that, in his/her judgment, warrant such determination.

After being notified of the rejection, the petitioner shall have sixty (60) days to request the Executive Director to reconsider his/her application by stating any facts and arguments regarding the application that the petitioner may deem pertinent, including offering any consideration to the benefit of Puerto Rico that, in his/her judgment, may warrant a reconsideration.

Section 4.9. – Permissive and Mandatory Revocation Procedure.-

(a) Permissive Revocation –

(1) When an Eligible Business fails to meet any of the obligations imposed thereon by this Chapter, the regulations adopted thereunder or by the terms of the Special Job Creation Agreement.

(2) When the Eligible Business fails to comply with the creation of Eligible Incremental Jobs as established for those purposes in the Agreement.

(3) If the Eligible Business fails to comply with its tax liability under the Code and other tax laws of Puerto Rico.

(b) Mandatory Revocation –

(1) The Executive Director shall revoke any Special Job Creation Agreement granted under this Chapter when the same has been obtained by fraud or misrepresentation as to the nature of the Eligible Business or the Eligible Incremental Job generated, or any other facts or circumstances that, wholly or partially, led to granting the Agreement.

(2) In the case of this revocation, the taxpayer shall be deemed to have filed a false or fraudulent return with the intent to evade taxes and, consequently, be subject to the penal provisions of the Code. Taxes owed, which were until then exempt and unpaid, shall become due and payable from the date they would have been due and payable were it not for the Special Job Creation Agreement, and shall be charged and collected by the Government official with authority to do so.

(c) Procedure – In case of revocation of an Agreement entered into as provided in this Chapter, the Eligible Business shall be able to appear before and be heard by the Executive Director or any other person the latter designates for such purpose. Said designee shall notify the Executive Director of his/her conclusions and recommendations.

Section 4.10. – Incentive Collection Procedure.-

If the Special Job Creation Agreement is revoked pursuant to Section 4.9 of this Act, the amounts equivalent to the benefits granted thereunder shall be deemed to be amounts owed for the taxable year in which the revocation takes place, and shall be paid by the affected Eligible Business. The Executive Director shall hand over the file of the Eligible Business to the Secretary of the Treasury as it appears in the records of the Company within ten (10) days of the revocation of the Agreement. The Eligible Business shall file a report with the Secretary of the Treasury itemizing the benefits obtained under Sections 4.4, 4.5, and 4.6 of this Act, along with the payment of such benefits, within ninety (90) days as of the revocation. The Secretary of the Treasury shall notify the Eligible Business of any deficiency in connection with the benefit report within one (1) year after such report is filed.

Section 4.11. – Periodic Reports.-

The Company shall be responsible for requiring reports, as it deems appropriate, and to ensure that the terms and conditions set forth in the Agreements are fully met.

Section 4.12. – Nature of the Agreements.-

(a) A Special Job Creation Agreement issued by virtue of this Act shall be deemed to be a contract between the Government and the Eligible Business, its shareholders, members, investors, partners, and/or owners. Such contract shall have force of law between the parties. It shall also be construed liberally, according to the purposes of this Act, in order to foster the public policy set forth herein. It shall be at the discretion of the Executive Director, on behalf and in representation of the Government, to include any terms and conditions, grants, and exemptions that are consistent with the purpose of this Act, which seeks to foster employment through the socioeconomic development of Puerto Rico, taking into consideration

the nature of the petition or requested action, as well as the facts and circumstances that may apply in each particular case.

(b) The Special Agreement shall not be granted if the Executive Director deems that granting the benefits of the Special Agreement would adversely affect competition in the market.

Section 4.13. – Forms and Regulations under this Act.-

The Trade and Export Company shall prepare a form, for statistical purposes, which every Eligible Business shall submit at the time of applying for the incentives and benefits provided herein.

The Company shall promulgate regulations as necessary to enforce the provisions and purposes of this Act and, in doing so, it may consult the Secretary of the Treasury, the Executive Director, and other relevant agencies. In the case of Industrial Development Company buildings, the bylaws or pertinent regulations shall be drafted by said public corporation. Such regulations shall also be subject to the provisions of Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedures Act for the Commonwealth of Puerto Rico.” The absence of any regulations as proposed in this Act shall not impair the application thereof.

CHAPTER V

FINAL PROVISIONS

Section 5.1. – Severability.-

If any clause, paragraph, subparagraph, section, provision, or part of this Act were nullified or ruled unconstitutional, the ruling to such effect shall not affect, impair, or invalidate the remainder thereof. The effect of such ruling shall be limited to such clause, paragraph, subparagraph, section, provision, or part of this Act thus nullified or ruled unconstitutional.

Section 5.2. – Measurement of Results.-

(a) To measure the results of the public policy herein established, the Trade and Export Company is hereby authorized to enter into data sharing agreements with the Department of Labor and Human Resources, the Permit Management Office, and the Electric Power Authority that allow for the development of statistics about the jobs pledged and the jobs created under the Jobs Now Act, ensuring widest coverage possible for this measuring instrument and preventing duplication when calculating the jobs created under different sections of this Act. The Puerto Rico Institute of Statistics shall have direct, updated, and continuous access to the Trade and Export Company databases regarding government entities and the databases it develops using information gathered from eligible businesses under this Act.

(b) Benefits granted under this Act may be revoked at any time if an Eligible Business fails to furnish any information required by the Trade and Export Company or the corresponding agency.

(c) Employment statistics related to the Jobs Now Act shall be based on a full shift (equivalent to full-time job, as defined in Chapter 3 of this Act).

(d) The Trade and Export Company shall disclose on the Internet quarterly statistics about jobs pledged and created, within ninety (90) days of the close of the quarter in question. More specifically, the Company shall disclose the statistics regarding jobs pledged and jobs created as of March 31, 2013, June 30, 2013, September 30, 2013, and December 31, 2013, March 31, 2014, and June 30, 2014 on or before June 30, 2013, September 30, 2013, December 31, 2013, March 31, 2014, June 30, 2014, and September 30, 2014, respectively.

(e) The Executive Director shall file a biannual report with the Clerk of the House of Representatives and the Secretary of the Senate of the Commonwealth of Puerto Rico, stating in detail the achievements, performance, operation, job creation, and results obtained by this Act.

Section 5.3. – Effectiveness.-

This Act shall become effective immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 1-2013 (H. B. 599)** of the **1st Session of the 17th Legislature** of Puerto Rico:

AN ACT to create the “Jobs Now Act” in order to allow for the creation of fifty thousand (50,000) new jobs within a term of eighteen (18) months; establish an incentives program geared toward ensuring the permanence, stability, and continuity of existing businesses; foster economic opportunities to encourage the creation of small- and medium-sized businesses by giving them preferential treatment in the incentives program; grant an energy credit to participating businesses as a strategy to incentivize job creation and counteract the high operating expenses related to electric power consumption; create an alternate process to streamline the granting of permits without undermining environmental protection or the safety of our constituents; etc.

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

In San Juan, Puerto Rico, on the 15th day of March, 2013.

Juan Luis Martínez Martínez
Director Interino