

(H. B. 2250)

(No. 118-2010)

(Approved August 1, 2010)

AN ACT

To create the “Municipal Economic and Tourist Development Incentives Act,” in order to foster the economic development of municipalities.

STATEMENT OF MOTIVES

Puerto Rico’s rich nature and culture gives it an advantage over other jurisdictions around the world. Due to its privileged geographical location in the Caribbean Sea, throughout the years, Puerto Rico has become a favorite destination for tourists. In fact, in the past few decades, the tourist industry has played a key role in our economy, from which all sectors in Puerto Rico benefit either directly or indirectly. Puerto Rico should lay the new groundwork for tourist development in the 21st century, and strengthen our economy by creating jobs and opportunities to economically strengthen the central and municipal governments, particularly in areas with a potential for tourism in Puerto Rico.

At present, the tourist industry employs over sixty thousand (60,000) people in Puerto Rico, and over five (5) million people visit the Island each year, which generates nearly two billion dollars (\$2,000,000,000) for our economy. If we are not dynamic and aggressive in the development of our tourism in the 21st century, we risk losing ground in this sector to other competing destinations in the region, such as the Dominican Republic, Cuba, and Cancun (Mexico). We could risk losing thousands of Puerto Rican jobs. In recent years, the government of the Dominican Republic has executed an aggressive strategy to broaden its tourist offers, thus creating jobs for its working and underprivileged classes.

Unfortunately, the past government administration allowed Puerto Rico in 2008 to lose its privileged position, which had traditionally placed the Island above the Dominican Republic, given that estimates show that said country attracted twenty percent (20%) of the total number of tourists of the Caribbean region, while Puerto Rico only attracted nineteen percent (19%).

It is therefore necessary to react and create the necessary conditions to take advantage of new opportunities to broaden our horizons in terms of the local tourist market. To create more jobs in this sector, strengthen our economy, and be successful against our competitors, we must be able to increase the number of visitors a year by creating new attractions, particularly in pristine locations in Puerto Rico.

The economic recession has affected tourism worldwide, including Puerto Rico, and has affected many of our municipalities disproportionately. We must facilitate the development of new hotel facilities in areas with tourist potential, particularly in municipalities where the need is greatest. We must ensure that there are optimal conditions for a substantial capital investment in this sector of our economy.

This Act shall be a key tool for the economic development of tourism and emphasizes the development of tourist projects in municipalities where the need is greatest and in locations that offer new opportunities for the development of economic activity. We must recognize that economic growth has been uneven throughout Puerto Rico, and that the economies of some municipalities have been left behind. This Act shall create the optimal conditions that we need to attract a substantial capital investment by establishing modern and superior tourist facilities with new attractions. This Act opens new job opportunities for residents of the

area where hotel developments of a great impact are to be located. Jobs would be mainly created as a result of activities related to their development and the economic dynamism that the operation of these hotel facilities would generate.

Attracting capital investment for ambitious tourist projects, and particularly in highly competitive markets, requires appropriate financial incentives. This Act shall precisely create those incentives. The Act contains a number of tax incentives to foster the establishment of new tourist projects that include hotels, tourist facilities, and new businesses and complementary services that match those of other jurisdictions. Likewise, this Act seeks that the profits obtained from the developments that result from such incentives are used to foster long-term economic development at the various municipalities of Puerto Rico. Therefore, the Act offers a very ambitious gradual tax incentive schedule that is proportional to the sums invested in the municipality for the development of a tourist project, as defined in this Act. To wit, it begins by establishing a preferential tax rate of twenty-five percent (25%) for the net income of tourist and entertainment facilities that are part of a tourist project developed by a grantee that invests five hundred million dollars (\$500,000,000), and a low preferential interest rate of eight percent (8%) for anyone who invests an amount of at least one billion two hundred fifty million dollars (\$1,250,000,000). There are other intermediate tax rates, depending on the amount invested for this development, as per the modern model known as “sliding scale.” On the other hand, clear rules are established for modern games of chance that can be authorized at such facilities. At the same time, this Act guarantees that the government agencies concerned, such as the Commissioner of Financial Institutions and the Tourism Company, may fully comply with their oversight duty.

In order to contribute to the municipal economic development, municipalities where these projects are located and developed shall benefit directly by receiving a percentage of taxes generated at the tourist development facilities to facilitate public works, such as the construction of new schools, hospitals, roads, and infrastructure projects, such as the renewal of urban hubs, existing schools, and recreational parks, among others. Likewise, the economic activity generated shall foster the opening of new business establishments, such as restaurants, shops of various kinds, including the sale of handcrafts, art, services, and businesses engaged in offering services to tourists. In brief, this Act seeks to foster sustainable economic development through the creation of thousands of jobs arising from the establishment of new businesses of various kinds, and small and medium-sized businesses, whether inside hotel facilities or in neighboring areas.

This Act also facilitates the creation of ecotourism initiatives. Most particularly, it creates the Green Triangle, which concept comprises the development of ecotourism facilities in locations such as the island-municipalities of Vieques and Culebra, as well as El Yunque rainforest, for the economic development of the eastern region of Puerto Rico. Likewise, this Act sets aside a portion of revenues to be received by the Government on account of this development for the creation of infrastructure projects that contribute to meet the infrastructure needs of municipalities in Puerto Rico, as well as environmental conservation and sustainable economic development.

Lastly, this Act constitutes an important piece of legislation, for it lays the groundwork to broaden our tourist offer while creating jobs for our People and recapturing the top position that Puerto Rico has traditionally enjoyed as a tourist destination in the Caribbean.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.—**Short Title.**—

This Act shall be known as the “Municipal Economic and Tourist Development Incentives Act.”

Section 2.—**Public Policy.**—

The public policy of the Government of Puerto Rico to strengthen the development and economy of municipalities in Puerto Rico by means of tourism shall be governed by the following principles:

(a) The tourist industry is considered to be fundamental for the economy of Puerto Rico and the general welfare of its residents.

(b) The Government of Puerto Rico may exercise tax controls while promoting local incentives in order to turn Puerto Rico into an attractive destination for the investment of capital.

(c) The Government of Puerto Rico shall adopt an aggressive tax structure that, in the long term, helps to attract both greater financial benefits to Puerto Rico through the creation of jobs and more revenues through the generation of a large-scale commercial activity, including tax incentives and benefits that shall ensure we attract and incentivize the development of tourist projects that help us turn Puerto Rico into a competitive worldwide destination and promote the development of tourism at the local level.

(d) The Government of Puerto Rico shall adopt efficient and strong policies that foster the economic development of all of Puerto Rico, recognizing that the economic challenges faced by each municipality are different and that, at times, some may be more urgent than others.

Section 3.—**Scope.**—

The provisions of this Act shall apply exclusively to Tourist Facilities or Projects as defined in this Act and established by a Grantee at eligible municipalities, as defined in this Act.

Section 4.—**Definitions.**—

For purposes of interpreting and applying this Act, the following terms or phrases shall have the meaning stated below:

(a) “Commissioner”.—Means the Commissioner of Financial Institutions of Puerto Rico.

(b) “Selection Committee”.—Means a Committee composed of the following members: the Secretary of the Department of Economic Development and Commerce, the Secretary of the Treasury, the Executive Director of the Tourism Company, the Commissioner for Municipal Affairs, and one (1) public interest representative, who shall be appointed by the Governor of Puerto Rico with the advice and consent of the Senate. This last member shall not be an employee or contractor of any agency, entity, department, board, office, public corporation, or municipality of the Government of Puerto Rico.

(c) “Grantee”.—Means any Eligible Business to which a Decree has been granted pursuant to the provisions of this Act.

(d) “Decree”.—Means the document issued by the Selection Committee pursuant to the provisions of this Act and accepted by the Grantee, which contains contractual obligations with binding force between the Government and the Grantee.

(e) “Executive Director”.—Means the Executive Director of the Puerto Rico Tourism Company.

(f) “Facilities” or “Facility”.—Means entertainment tourist facilities, such as, or which consist of, a room for games of chance or casino operated by a Grantee pursuant to the provisions of the Decree and the game room license granted pursuant to the provisions of this Act. For purposes of this Act, rooms for games of chance or casinos shall be understood to be those defined in Act No. 221.

(g) “New Game” or “New Games”.—Means any new game or new version of an existing game to be introduced in the jurisdiction of Puerto Rico. The Tourism Company must submit for the approval of the Legislative Assembly and the Governor, any new games it may deem necessary to comply with this Act. The Legislative Assembly may introduce new games *motu proprio* in order to comply with this Act.

(h) “Act No. 221”.—Means Act No. 221 of May 15, 1948, as amended, better known as the “Games of Chance Act.”

(i) “Eligible Municipalities”.—Means those municipalities in Puerto Rico that are considered by the Selection Committee to receive the benefits defined in this Act by following the criteria established herein. Eligible Businesses must develop their Project in Eligible Municipalities.

(j) “Eligible Business”.—Means any Person that meets the minimum requirements set forth in this Act.

(k) “Person”.—Means any natural or juridical person.

(l) “Project”.—Means a tourist development project composed of a hotel, its facilities and amenities, as its main elements, and any business and recreational establishments as secondary elements to be developed by an authorized Grantee pursuant to the provisions of this Act and the Decree.

Section 5.—**Selection Committee.**—

A. With the purpose of administering and overseeing the provisions of this Act and compliance by the Grantee with the clauses, conditions, and terms of the Decree, a Selection Committee is created by virtue of this Act.

B. The Committee created under this Section shall have the faculties, authorities, and powers conferred herein as detailed below:

1. It shall prescribe, by regulation, the necessary requirements and criteria for an entity to be considered an “eligible business.”

2. It shall prescribe, by regulation, the necessary requirements and criteria for a municipality to be considered an “eligible municipality.”

3. It shall prescribe, by regulation, the criteria, rules, and protocol or procedure to be followed in processing all original applications and the renewal of Decrees, and determine whether their issuance is appropriate.

4. It shall issue Decrees to eligible businesses that meet all the requirements and criteria prescribed by regulation and shall follow up on the Grantee’s compliance with the same.

5. It shall represent the Government of Puerto Rico in the procedure of consideration, approval, execution, follow-up, and administration of the Decree to be issued. It shall be the representative of the Government of Puerto Rico in the act of executing or signing the document known as Decree.

6. When considering original or renewal applications for Decrees, it shall ensure that there is full compliance with the provisions of this Act.

7. When issuing a Decree, it shall ensure that the same complies with the provisions of this Act and that its clauses protect the best interests of the Government of Puerto Rico.

8. It shall have the authority to revoke a Decree when it is established that the Grantee failed to comply with this Act or the terms of the Decree.

9. Furthermore, it shall have any other authority germane to the preceding and which is necessary to comply with its duties and obligations, without overstepping the authority conferred herein.

C. The Selection Committee shall be presided by the Secretary of Economic Development and Commerce, and in his/her absence, by the Executive Director.

D. All Selection Committee meetings shall be recorded in minutes numbered consecutively and their pages shall follow the same consecutive order.

E. The quorum for Selection Committee meetings shall be constituted by five members present.

F. The decisions of the Selection Committee shall be made by the simple majority of the members present.

G. It shall request the collaboration of any public entity to achieve the objectives set forth in this Act.

H. It shall request the advice of other individuals from both the public and the private sector as deemed necessary or beneficial to serve the best interests of Puerto Rico.

I. The actions of Committee members shall be governed at all times by Act No. 12 of July 24, 1985, as amended, better known as the “Ethics in Government Act of Puerto Rico.”

Section 6.—Decree Applications.—

(a) An Eligible Business may request a Decree under this Act by submitting an initial written application to the Selection Committee. All Decree applications shall be received within the first five (5) years of approval of this Act.

No Decree application shall be processed if submitted to the Selection Committee after such five (5) year term as of the date of approval of this Act has elapsed; provided, however, that all Decrees executed hereunder may be amended even after such five (5) year term has elapsed, insofar as such amendments do not contravene the provisions set forth in this Act.

(b) The Selection Committee shall adopt rules and/or a protocol in order to, among others, govern the process of receiving and considering Decree applications, establish processing fees, and adopt procedures for the analysis of Decree applications and the publication of Decree applications or Decree renewal and other relevant documents, except for any confidential proprietary information, over the Internet or any other communications medium.

(c) The Selection Committee shall consider all Decree applications and shall be authorized to grant a Decree to an Eligible Business.

(d) When determining whether a favorable or unfavorable recommendation should be issued, the Selection Committee shall consider, in addition to any other condition established by the Selection Committee, whether the Eligible Business that applies for a Decree meets the following conditions:

(i) The Decree application meets all the requirements established for such applications by the Selection Committee, including any dues.

(ii) The Eligible Business is authorized to do business in Puerto Rico.

(iii) The Eligible Business has enough shares or corporate capital and access to enough financial resources to develop and operate the Project for the benefit of Puerto Rico.

(iv) The Eligible Business is able to show that it enjoys an excellent reputation and has the managerial, organizational, and technical capabilities, as well as the experience to develop and manage the Project for the benefit of Puerto Rico.

(v) The Eligible Business has certified and shown that the Eligible Business or any of its shareholders and any affiliated Person, and their respective officials, directors, and key employees have not been convicted of crimes involving dishonesty, fraud, corruption, or moral depravity in any foreign or domestic jurisdiction, and that all of them qualify to apply for a game room or casino license pursuant to the provisions of Act No. 221. Provided, that the final determination to grant a license to operate a room for games of chance shall be made by the Office of the Commissioner of Financial Institutions, as provided in this Act and Act No. 221, and after the appropriate investigations have been conducted.

(vi) The Eligible Business shall be willing to develop a Project in an Eligible Municipality whose revenues have diminished in the area of municipal licenses, when the sum of the revenues for fiscal years 2006-07 and 2007-08 are compared with the sum of the revenues for fiscal years 2001-02 and 2002-03, if the Selection Committee so requires.

(vii) The Tourist Project proposed by the Eligible Business shall have and be completed with an investment of private capital only, without any contribution of capital from public funds, and the capital investment shall be for an amount exceeding five hundred million dollars (\$500,000,000), including the cost of land plots and the private infrastructure to develop the project successfully. Furthermore, said Project shall have at least the following three (3) basic components:

(a) A world-class hotel with at least a four-star rating according to the Mobile Four Star Rating system, as recognized by the tourist industry.

(b) Business and recreational establishments.

(c) The necessary elements to comply with the definition of Tourist Facilities, as defined in this Act.

(viii) When issuing a recommendation to grant or deny a Decree to an Eligible Business, the Selection Committee shall take into account, among others, the following factors:

(a) The total amount of investment that the Eligible Business has committed to make;

(b) The total investment proposed for each of the components of the Project established in this Act;

(c) The revenues that the various components of the proposed Project are expected to generate;

(d) The number of jobs that are expected to be created during both the construction stage and subsequently the Project operation stage.

(e) The experience, knowledge, resources, and reputation of the Eligible Business to build and operate a Project of this magnitude;

(f) The general quality of the proposed Project and its competitive level as compared to similar developments in other parts of the world;

(g) The need and convenience of the location of the Tourist Project; and

(h) The costs and benefits for Puerto Rico if a Decree is issued.

(i) For the Decree to be granted, the Selection Committee shall determine if the proposed Project shall significantly benefit the economic development of the municipality where the same shall be constructed and whether it would also benefit neighboring municipalities.

Section 7.—Form of the Decree.—

A Decree shall constitute a binding contract by and between the Grantee and the Government of Puerto Rico. A Decree issued to a Grantee pursuant to this Act shall include at least the following provisions:

(a) The Decree shall provide that, instead of any other tax levied by any other Act applicable to the net income of the operation of games of chance in Tourist Facilities, the Grantee shall pay a previously agreed upon basic tax following the Gradual Tax Rate Schedule, as defined in subsection (b) of this Section, to be computed according to the Net Income of Games of Chance generated at Tourist Facilities to which a license has been granted pursuant to this Act. The “Net Income of Games of Chance” shall be equal to the gross income of games of chance minus any paid-out winning plays, but before the deduction of any other amount, such as, but not limited to salaries, interest, depreciation, and other expenses. The Facility shall be subject to the payment of any other tax not measured by net income, such as, but not limited to, municipal licenses and the Sales and Use Tax (IVU, Spanish acronym); provided, however, that the income from the operation of games of chance at the Facility shall not be subject to any sales tax and that the Facility shall enjoy an exemption of ninety percent (90%) of the preferential tax on real property used for residential and business purposes imposed under Subtitle CC of the Puerto Rico Internal Revenue Code of 1994, as amended. The Grantee shall retain a tax percentage from the nonresident client on account of prizes from slot machines and/or as determined in the Internal Revenue Code, as amended.

(b) Decrees shall be executed pursuant to the following Gradual Tax Rate Schedule, which shall establish the payment of taxes based on the net income of the operation of games of chance at Tourist Facilities, depending on the total amount of private capital investment of the Grantee, as established below:

(i) For an investment of at least five hundred million dollars (\$500,000,000), a fixed tax rate of twenty-five percent (25%) shall be granted;

(ii) For an investment of at least seven hundred fifty million dollars (\$750,000,000), a fixed tax rate of fifteen percent (15%) shall be granted;

(iii) For an investment of at least one billion dollars (\$1,000,000,000), a fixed tax rate of ten percent (10%) shall be granted;

(iv) For an investment of at least one billion two hundred fifty million dollars (\$1,250,000,000), a fixed interest rate of eight percent (8%) shall be granted.

(c) The Decree shall provide that any income earned from games of chance at the Facility during the effective term of the Decree shall be exempt from the provisions on income division contained in Section 5 of Act No. 221 or any other similar law.

(d) The Decree shall establish that any violation of any provision of this Act or the Decree itself shall lead to an increase in the special tax rate imposed on the Net Income from Games of Chance established in subsection (a) of this Section, to be increased up to seventy percent (70%) as of the time and after such violation. The Decree shall establish the process through which the Grantee shall be notified of the violation and the remedies available to him/her. In the event that the application of the seventy percent (70%) tax rate becomes necessary, the distribution of all income generated by the seventy percent (70%) tax rate shall continue pursuant to the provisions of this Act.

(e) The Decree shall establish that if the Grantee fails to have each of the three (3) Project components in operating order, or if he/she fails to completely invest the amount agreed on in the Decree within a term of ten (10) years after the Decree has been issued, shall constitute noncompliance with the Decree, in which case, the preferential tax rate on the Net Income on Games of Chance may be increased up to seventy percent (70%) pursuant to subsection (d) of this Section. However, such ten (10) year term may be extended by the Selection Committee by request of the Grantee if the Selection Committee determines that such extension serves the best economic interest of Puerto Rico and that the additional time is necessary as a consequence of circumstances beyond the control of the Grantee; provided, however, that said extension period may never exceed four (4) years.

(f) The Decree shall establish that if the Grantee fails to comply with the minimum investment timetable established in the Decree pursuant to this Act, the penalties established in this Section shall be imposed; furthermore, the Grantee shall pay to the Secretary of the Treasury the True Recovery Amount described below:

(i) The Grantee shall pay the Secretary of the Treasury the True Recovery Amount within ninety (90) days after the Executive Director certifies to the Grantee the total amount of the True Recovery Amount. The True Recovery Amount shall be distributed by the Secretary of the Treasury pursuant to the provisions of this Act.

(ii) The True Recovery Amount shall be calculated by multiplying the Possible Recovery Amount by the Recovery Percentage.

(iii) The Possible Recovery Amount shall be calculated as follows. Firstly, the Executive Director shall determine the total amount that the Grantee would have had to pay to the Government of Puerto Rico on the Net Income from

Games of Chance earned before the violation described in subsection (d) of this Section took place, if the preferential tax rate would have been of up to seventy percent (70%) instead of another. After determining this amount, the Executive Director shall subtract the amount from taxes actually paid by the Grantee on his/her Net Income from Games of Chance pursuant to the Decree, prior to the determination that the Grantee has failed to comply with the minimum investment requirements set forth in this Act. This net amount shall be the "Possible Recovery Amount."

(iv) The Recovery Percentage for any year shall be equal to the amount obtained when taking the sum of:

(a) Twice (2) the amount of the investment deficit in recreational and/or sales establishments when determining that a violation that entails the imposition of the penalties established in this Section has occurred, and

(b) The amount of any other investment deficit, and dividing the result of said sum by the total investment amount required under the Decree; provided, that if this amount is greater than one (1), the Recovery Percentage shall be equal to one (1).

(g) The Decree shall establish that the penalties set forth in this Section shall be imposed if the Decree is (1) assigned directly or indirectly to any Person or (2) if there is any transfer of interest, whether direct or indirect, or any change in the control of the Grantee, unless previously approved by the Selection Committee.

(h) The Decree shall establish the requirements to be met for renewal, including the definition of that which constitutes a substantial renewal or extension of existing establishments to be used in tourist-related activities.

(i) The Decree shall include any other terms and conditions as recommended by the Selection Committee, insofar as they are not incompatible with the provisions of this Act.

Section 8.—Effectiveness of the Decree.—

A Decree granted pursuant to this Act shall have an initial effectiveness of thirty (30) years as of the date on which the Facility begins operations. If the Grantee undertakes a substantial renewal or extension of the Project, the Decree, at the discretion of the Selection Committee and pursuant to the terms and conditions established in the Decree, may be renewed at any time during the Decree's effective term, for two additional terms of ten (10) years each time.

Section 9.—Government Tax Revenues.—

All revenues obtained by the Government from the preferential tax rate established in this Act and the Decree granted pursuant to this Act shall be exempted from any of the provisions included in Section 5 of Act No. 221, and such revenues shall be deposited in a special account kept by the Secretary of the Treasury, separate from the General Fund, and with the following purposes:

(a) Forty percent (40%) of the tax paid by the Grantee pursuant to the Decree and deposited in said special account kept by the Secretary of the Treasury shall be allotted by the Selection Committee to infrastructure projects to be developed within municipalities neighboring the municipality in which a Project shall be built. Within the first six (6) months after the approval of this Act, the Selection Committee shall adopt the rules establishing the standards and procedures for the use of the funds in the special account set forth in this subsection, but at least one fourth (1/4) of this portion shall be allotted to projects located in Vieques, one fourth (1/4) of this portion shall be allotted to projects in Culebra, and another one fourth (1/4) of this portion shall be used pursuant to subsection (d) of this Section. The last one fourth (1/4) and any amount of surplus or unused funds under this subsection shall be used for developments within municipalities neighboring the municipality in which the Project shall be

constructed. The Selection Committee shall have the discretion of identifying the infrastructure projects (including renewable energy projects) and the amount of funds of said account that it shall allot to each project; provided that such allotments shall be made pursuant to the regulation approved under the terms established herein.

(b) The remaining thirty percent (30%) from the tax paid pursuant to the Decree by the Grantee, which shall be deposited in said special account, shall be divided into three (3) equal parts and distributed by the Secretary of the Treasury as follows:

(i) One third of these funds shall be allotted annually to the Puerto Rico Tourism Company;

(ii) One third of these funds shall be allotted annually to the Authority for the Redevelopment of Land and Facilities of Roosevelt Roads Naval Station, created by virtue of Act No. 508 of September 29, 2004;

(iii) And the remaining one third of these funds shall be allotted annually to the Office of the Commissioner of Municipal Affairs; these funds shall be distributed by said agency, annually, among municipalities with a population under forty thousand (40,000) through competitive proposals of ecotourism development projects;

(c) The remaining thirty percent (30%) of the tax paid pursuant to the Decree by the Grantee and deposited in said special account shall revert each year to the General Fund.

(d) The Green Triangle is hereby created as a new ecotourism destination. The Green Triangle shall be composed of ecotourism projects in the municipalities of Vieques and Culebra and the area within less than a fifteen (15) mile radius of El Yunque rainforest. The Selection Committee shall identify the projects and the

amount of funds to be allotted for the development of these ecotourism projects from the funds appropriated for these purposes, pursuant to subsection (a) of this Section.

(e) Except as otherwise provided in this Act, the amounts to be paid by the Grantee according to the preferential tax rates established in this Act shall be paid in the form and manner established in the Puerto Rico Internal Revenue Code for the payment of income taxes.

Section 10.—**Special Rules.**—

The following special rules shall govern the operation of games of chance at Tourist Facilities as of the date on which such Tourist Facilities begin operations until the expiration date set in the Decree:

(a) The Selection Committee shall establish a specific proportion of slot machines for each authorized player at the Facility.

(b) The number of authorized players per game shall be established by a regulation to be drafted by the Puerto Rico Tourism Company, although it shall never be less than those authorized under Section 3 of Act No. 221.

(c) The Tourism Company must submit for the approval of the Legislative Assembly, any new games as deemed necessary to meet the purposes of this Act. New games shall be established by law only. The Tourism Company shall detail which new game is sought, the rules of such game, a payment schedule, a statistical evaluation of the theoretical percentages of the new game, and any other information as deemed pertinent.

(d) The Facility shall not be subject to the maximum betting limits established in Section 13 of Act No. 221.

(e) The Facility shall be authorized to operate twenty-four (24) hours a day, seven (7) days a week, every day of the year.

(f) The Executive Director shall carry out all oversight functions, investigations, or audits as he/she may deem necessary regarding the current operation of games of chance at the Facility to verify that these comply with the provisions of this Act or any other applicable law or regulation. The Grantee shall be responsible for refunding any costs involved in investigations or audits to the Puerto Rico Tourism Company.

(g) Facility operations shall be subject to all the provisions of Act No. 221 that do not contravene the provisions of this Act. If during the term of effectiveness of the Decree, Act No. 221 is amended or repealed, any new provision that does not contravene this Act or the Decree shall be deemed to apply to the Facility only if any law amending or substituting said Act contains specific wording establishing the applicability of the law to the Facility.

Once the Decree has expired and the special rules of games of chance are, therefore, no longer considered to apply, the Facility shall be subject to all the provisions established in Act No. 221 or any subsequent law that regulates games of chance in Puerto Rico at that time and all the regulations that may be in effect by virtue of said laws.

(h) This Act, or any rule or regulation approved thereunder, does not and shall not authorize the establishment of machines, games, or video lottery systems, or any similar electronic systems. Under no circumstance may such games, machines, or systems be established under this Act, which shall not be interpreted as authorizing such businesses.

Section 11.—Certification.—

Not later than June 30 of each year, the Grantee must submit to the Commissioner a certification attesting that the Grantee has substantially complied with the provisions and obligations detailed in the Decree and that he/she holds a valid games of chance license in effect pursuant to Section 13 of this Act. The Commissioner may conduct investigations or audits as he/she may deem necessary to verify that the Grantee has substantially complied with the parameters established in the Decree. The Grantee shall cooperate with any reasonable request for information or inspection by the Commissioner regarding such investigations or audits. The Grantee shall be responsible for refunding the costs involved in such investigations or audits to the Office of the Commissioner of Financial Institutions.

Section 12.—Limitation on Preferential Tax Treatment.—

The provisions on preferential tax treatment contained in the Decree pursuant to Section 6 of this Act shall apply solely and exclusively to income from games of chance earned by the Grantee at the Facility and shall not impair the Grantee from applying for and obtaining tax benefits or grants for any other Project component by virtue of any other applicable law.

Section 13.—License.—

Once a Decree has been granted, the Commissioner shall be empowered to issue a license so that the Grantee may operate the Facility if such Grantee: (a) complies, to the satisfaction of the Commissioner, with the conditions established in Section 3(a)(2) and Section 3(a)(3) of Act No. 221; (b) has submitted a dully sworn application to the Commissioner attesting that he/she complies with such conditions; (c) has paid the application fees required and any other amount required by the Commissioner to defray the expenses of any investigation conducted or to be conducted by the Commissioner to determine if the Grantee complies with the requirements for a games of chance license. The

Facility may not begin operations until the Grantee has obtained the games of chance license pursuant to this Section. Once the initial games of chance license has been issued, the Grantee shall be responsible for the annual payment for the games of chance license pursuant to Section 7 of Act No. 221 or any other successor law.

Section 14.—Savings Clause.—

No existing tourist project or which is effectively under construction in Puerto Rico as of the date of approval of this Act may apply for a Decree or for the benefits granted under this Act.

Section 15.—Violations.—

In addition to, and without limitation from any other consequence that may arise under Act No. 221, any violation by the Grantee, his/her agents, or employees of any provision of this Act or the regulations established thereunder, or of the Decree, shall be deemed as failure to comply with the Decree and shall also be grounds for the possible suspension or revocation of the games of chance license and/or the imposition of penalties established in Section 7 of this Act. Acceptance of the Decree and the games of chance license constitutes an agreement by the Grantee to bind him/herself to all existing regulations or those which could be amended or promulgated in the future pursuant to this Act or under Act No. 221. The Grantee shall be responsible for keeping him/herself informed as to the contents of all regulations, as well as of any amendments.

Section 16.—Settlement of Disputes.—

The Parties to the Decree expressly submit themselves to the jurisdiction and competence of the General Court of Justice of Puerto Rico to settle any dispute that may arise on the grounds of or in relation to the Decree. However, they may agree to settle their dispute by means of an alternate conflict resolution process to be held in Puerto Rico.

Section 17.—**Regulations.**—

The Commissioner and the Executive Director, according to their competencies and authorities under this Act, and in their respective areas of competence, shall adopt, modify, or revoke any such regulations as they may deem necessary or convenient to accomplish the purposes of this Act, in compliance with Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedures Act.”

Section 18.—**Severability.**—

In the event that one or various provisions of this Act or that its application to any Person or circumstance is found to be invalid, null, unconstitutional, or unenforceable in any aspect, the validity, legality, and enforceability of all remaining provisions or any other application of this Act shall not be affected by such finding, and this Act shall be interpreted as if such invalid, illegal, or unenforceable provision was never a part of this Act. To such ends, the provisions of this Act are severable.

Section 19.—**Effectiveness.**—

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 118-2010 (H. B. 2250)** of the **3rd Session of the 16th Legislature** of Puerto Rico:

AN ACT to create the “Municipal Economic and Tourist Development Incentives Act,” in order to foster the economic development of municipalities.

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

In San Juan, Puerto Rico, on the 3rd day of October, 2012.

María del Mar Ortiz Rivera