

(H. B. 1056)
(Conference)

(No. 136-2014)

(Approved August 8, 2014)

AN ACT

To add a new subsection (i) to, and renumber current subsections (i), (j), (k), (l), (m), (n), (ñ), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), and (z) as subsections (j), (k), (l), (m), (n), (ñ), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), and (aa), respectively, in Section 1.2 of Chapter 1; add a new Section 3.10 to Chapter 3 of Act No. 136-2010, known as the “Money Service Business Regulatory Act,” so that every Money Transmitting Business shall impose a special two percent (2%) charge on every money transmission processed or completed electronically or by check, money order, fax, air transportation, or other means, from the jurisdiction of Puerto Rico, including any of the municipalities thereof, to any foreign entity, person, or business, including the United States jurisdiction; to cover the funds collected on account of this charge into the Special Fund under the custody of the Housing Finance Authority by virtue of Section 16 of Act No. 124-1993, as amended, to defray and provide closing costs and down payment assistance for the acquisition of housing units by low- or moderate-income families; into the Fund for the Housing Rental and Improvement Subsidy Program for Low-Income Elderly Persons created by virtue of Act No. 173 of August 31, 1996, as amended; and into the General Fund; and for other purposes.

STATEMENT OF MOTIVES

This Legislative Assembly deems it necessary to establish recurring sources of income by imposing special charges on certain transactions carried out inside and outside of the jurisdiction of Puerto Rico, to cover the funds needed to continue providing assistance to families or individuals who wish to acquire a home and prove their need therefor.

The selected mechanism of imposing charges on money transactions originated in the jurisdiction of Puerto Rico and delivered to a foreign jurisdiction, including the United States, is backed by the taxing power of the Commonwealth. Furthermore, it is in the public interest to impose charges on transactions originated in the local jurisdiction involving assets that will no longer circulate in the local economy, and allocate the proceeds thereof for social activities or purposes promoted by this Legislative Assembly.

This measure seeks to ensure the continuity of the “My Own Home” Subsidy Program and the Housing Rental and Improvement Subsidy Program for Low-Income Elderly Persons, which require that recurring revenues be covered into the Special Fund under the custody of the Housing Finance Authority by virtue of Section 16 of Act No. 124-1993, as amended, to defray and provide closing costs and down payment assistance for the acquisition of housing units, to families and individuals that may prove the actual need for such assistance; as well as to the Special Fund under the custody of the Department of Housing created by virtue of Act No. 173-1996, as amended, whose purpose is to facilitate and provide the elderly population with additional mechanisms to acquire a home that meets their needs within their limited financial capability by authorizing the imposition of a special charge on money transmissions from Puerto Rico to foreign locations and the United States.

Both programs have a lofty purpose, for our families, youth, and the elderly, they represent an investment in economic development, since they both have proven to be useful tools for the promotion of real property inventory and the construction of affordable and elderly housing, very much needed in Puerto Rico.

It is well-known that our population is aging and that this will be the trend for the next years. Therefore, the Government must facilitate the construction of housing intended for this population. On the other hand, the Federal Government

grants what is known as “Federal Tax Credits” and the Housing Rental and Improvement Subsidy Program for Low-Income Elderly Persons complements said Federal tax credits with other financing mechanisms, thus making the development of elderly housing financially feasible.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- A new subsection (i) is hereby added and the following subsections of Section 1.2 of Chapter 1 of Act No. 136-2010 are hereby renumbered, to read as follows:

“Section 1.2.- Definitions.-

For purposes of this Act, the following definitions are hereby adopted:

- (a) ...
- (b) ...
- (c) ...
- (d) ...
- (e) ...
- (f) ...
- (g) ...
- (h) ...

(i) Special Charge.- means the rate or fee to be collected and paid by the Money Transmitting Business for every money transmission processed or completed electronically or by check, money order, fax, air transportation, or other means, from the jurisdiction of Puerto Rico, including any of the municipalities thereof, to any foreign entity, person, or business, including the United States jurisdiction.

- (j) Service Charge.- ...
- (k) Check.- ...

- (l) Post-dated Check.- ...
- (m) Commissioner.- ...
- (n) Licensee.- ...
- (ñ) Financial Statement.- ...
- (o) FINCEN.- ...
- (p) Check Cashing Business.- ...
- (q) Money Transmitting Business.- ...
- (r) OCFI.- ...
- (s) OFAC.- ...
- (t) Office.- ...
- (u) Net Worth or Capital.- ...
- (v) Person.- ...
- (w) Average Annual Outstanding Money Transmission.- ...
- (x) Money Services.- ...
- (y) Money Transmissions.- ...
- (z) Mobile Location.- ...
- (aa) U.S.A. Patriot Act.- ...”

Section 2.- A new Section 3.10 is hereby added to Chapter 3 of Act No. 136-2010, to read as follows:

“Section 3.10.- Special Charge.-

(a) A two percent (2%) charge is hereby established to be collected and paid by every Money Transmitting Business, for every money transmission processed or completed electronically or by check, money order, fax, air transportation, or other means, from the jurisdiction of Puerto Rico, including any of the municipalities thereof, to any foreign entity, person, or business, including the United States jurisdiction

(b) The amount corresponding to the special charge thus imposed shall be remitted to the Department of the Treasury in the form and manner prescribed by said Department through regulations or administrative order.

(c) Every transmission or remittance of revenues generated from this provision shall be sent to the Department of the Treasury on or before the first ten (10) calendar days following the close of each month, as an attachment prepared by the Department, as part of the Sales and Use Tax (IVU, Spanish acronym) Return or as a separate form prepared by the Department, in the event such Return is not used. In said attachment or form, the entity or establishment concerned shall include an itemization per municipality of the total eligible transactions for each month, an itemization of the deposits of the collected special charge imposed under this Act, and any other information required by the Department.

(d) The entities required to pay the charge shall include in their receipts, invoices, tickets, or other proof of transaction, evidence of compliance with the provisions of this Act. To meet such responsibility, the establishment shall individually and clearly itemize the special charge, separate from any other charge. The applicable entity shall not mix or include the special charge in any other commission or levy.

(e) The Department of the Treasury shall prepare a model notice explaining in a simple manner, in Spanish and English, the special charge authorized under this Act, which every entity or establishment concerned shall conspicuously post in their place of business and in every promotion for services included as eligible transactions.

(f) The special charge established in this Act constitutes evidence of debt of the purchaser of the transaction and, as such, may be collected as authorized under the law.

(g) The Department of the Treasury shall transfer the revenues received by virtue of this provision as follows:

a. One third (1/3) of the annual receipts shall remain in the Department of the Treasury for use in the General Fund.

b. One third (1/3) of the annual receipts shall be allocated to the Housing Finance Authority to be covered into the Fund created to defray and provide closing cost and down payment assistance for the acquisition of housing units by low- or moderate-income families.

c. One third (1/3) of the annual receipts shall be allocated to the Housing Rental and Improvement Subsidy Program for Low-Income Elderly Persons created by virtue of Act No. 173 of August 31, 1996, as amended.

(h) The Housing Finance Authority and the Department of Housing shall provide the Department of the Treasury with the necessary assistance to facilitate and enforce compliance with and oversight the mandate of this Act.

(i) Every Money Transmitting Business shall strictly comply with the provisions of this Act and be responsible for the payment of the special charge in the event it refuses to collect such charge whenever it is applicable. Any noncompliance shall be sanctioned by a fine in accordance with the regulations of the Department of the Treasury.”

Section 3.- The Department of the Treasury, the Puerto Rico Housing Finance Authority, and the Department of Housing shall adjust any regulations in effect to the provisions of this Act within ninety (90) days after the approval thereof.

Section 4.- This Act shall take effect on September 1st, 2014.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 136-2014 (H. B. 1056 (Conference))** of the **3rd Regular Session** of the **17th Legislative Assembly of Puerto Rico**:

AN ACT to add a new subsection (i) to, and renumber current subsections (i), (j), (k), (l), (m), (n), (ñ), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), and (z) as subsections (j), (k), (l), (m), (n), (ñ), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), and (aa), respectively, in Section 1.2 of Chapter 1; add a new Section 3.10 to Chapter 3 of Act No. 136-2010, known as the “Money Service Business Regulatory Act,” so that every Money Transmitting Business shall impose a special two percent (2%) charge on every money transmission processed or completed electronically or by check, money order, fax, air transportation, or other means, etc.

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

In San Juan, Puerto Rico, on this 28th day of August, 2014.

Juan Luis Martínez Martínez
Acting Director