

(H.B. 3177)

(No. 29)

(Approved March 30, 2007)

## **AN ACT**

To amend subsection (H) of Section 24 of Act No. 272 of September 9, 2003, better known as the “Commonwealth of Puerto Rico Room Occupancy Rate Tax Act,” so that the prohibition of combining the taxes and charges of the lodgings in the guest bills covers their promotions and any of their offers.

### **STATEMENT OF MOTIVES**

Act No. 299 of September 1, 2000 prohibited hoteliers from imposing to or collecting from their guests charges denominated as “contributions”, “rights” and “taxes” as if these had been established by the Commonwealth of Puerto Rico when the charges had not been imposed or collected by the Commonwealth. It also authorized the Secretary of the Treasury to impose on any hotelier who violated the provisions of the Act, any sanction he/she understood to be necessary, including, but not limited to, an administrative fine or the revocation of the tax exemption decree.

Subsequently, after an investigation conducted by the House of Representatives by virtue of House Resolution No. 1047, and after House Bill No. 1480 was introduced and discussed, Act No. 88 of March 22, 2003, an amendment to the “Internal Revenue Code of 1994,” was approved. The purpose of this Act was to establish that all billing on lodgings was bound to detail in a separate line the charges for services or the charges known as resort fees and exclusively in another line the government taxes. At the same time, it prohibited combining under a single tax item any expense incurred

during their stay by the guests of hotels, apartment hotels, guesthouses and motels, with the taxes imposed by the Commonwealth of Puerto Rico. This prohibition to combine all expenses also applied to the promotions published in the Internet by the lodgings. The public end was based on the fact that to combine all expenses, including the material published in the Internet, gave the destination a poor image in the eyes of our visitors, since it gave the impression that all charges were imposed by the Government.

Act No. 272 of September 9, 2003, better known as the “Commonwealth of Puerto Rico Room Occupancy Rate Tax Act,” was approved that same year. By means of this statute, the responsibility and obligation to impose, fix, determine, assess, collect, oversee, distribute, regulate, investigate and sanction the room occupancy rate tax was transferred from the Department of the Treasury to the Puerto Rico Tourism Company. Section 62 of Act 272 of 2003 provided for the elimination of Section 2051 of Act No. 120 of October 31, 1994, as amended, which had been amended previously by Act 88 of 2003.

Even though Act 272 of the year 2003 set forth in its Section 24 the legislative intention contained in the aforementioned Act 299 and Act 88, the promotional offers made by the lodgings were left uncovered. For this reason, it is necessary to amend the aforementioned Act 272 in order to validate that the public policy related to the manner in which hotel guests are informed of the taxes and charges to be paid over the room rate in our lodgings sets forth that the prohibition of combining all expenses shall also apply to the publications, promotions and any offers of the lodgings regardless of the method used.

Our citizens and our visitors are the driving force behind our tourist industry. This measure gives high priority to the protection of our tourist

industry so as to make it more attractive and competitive before a globalized industry.

***BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:***

Section 1.-Subsection (H) of Section 24 of Act No. 272 of September 9, 2003, better known as the “Commonwealth of Puerto Rico Room Occupancy Rate Tax Act,” is hereby amended to read as follows:

“Section 24.-Tax

A. ...

H. With the exception of Section 3 of this Act, no Hotelier may levy or charge its guests charges denominated as a “contribution,” “right,” “tax,” or “rate” that would otherwise indicate or lead to the belief that such charge is established by the Commonwealth of Puerto Rico when the charge has not been levied nor will be charged by the Commonwealth of Puerto Rico. The Hotelier shall be responsible for breaking down such charges in paragraphs in the bills, separate and independent from the charge with respect to the Tax. This prohibition of combining the various charges shall also apply to the publications, promotions and any offers of the lodgings regardless of the method used. The Company may impose such sanction it deems necessary including, without limitation, the imposition of penalties, administrative fines, the permanent suspension or revocation of the promotional benefits granted by the Company, or the suspension or revocation of the tax exemption decree granted by the Company in accordance with Act No. 78 of September, 10, 1993, as amended, to any Hotelier who violates the provisions of this Section. If deemed proper, the Company may charge the Tax over these charges.”

Section 2.-This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 29 (H.B. 3177) of the 5<sup>th</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend subsection (H) of Section 24 of Act No. 272 of September 9, 2003, better known as the “Commonwealth of Puerto Rico Room Occupancy Rate Tax Act,” so that the prohibition of combining the taxes and charges of the lodgings in the guest bills covers their promotions and any of their offers,

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

In San Juan, Puerto Rico, today 16<sup>th</sup> of August of 2007.

Francisco J. Domenech  
Director