

(H. B. 338)  
(Conference)

**(No. 47-2021)**

(Approved September 21, 2021)

## **AN ACT**

To enact the “Puerto Rico Minimum Wage Act,” in order to allow for Puerto Rico’s minimum wage to prevail over the federal minimum wage, provided, that it is higher; create the Minimum Wage Review Commission within the Department of Labor and Human Resources, and establish its powers and composition; provide the employees of local businesses not covered by the Fair Labor Standards Act of 1938 with protections; establish a new state minimum wage rate of ten dollars and fifty cents per hour (\$10.50/hr.), gradually, subject to the provision of this Act; empower the Secretary of Labor and Human Resources to implement this Act; amend Section 1; repeal Sections 2 and 3; amend current Section 4 and renumber it as new Section 2; repeal subsection (d) of Section 5; renumber current Sections 5, 6, and 7 as new Sections 3, 4, and 5; amend current Section 8 and renumber it as new Section 6; renumber current Sections 9, 10, 11, and 12 as new Sections 7, 8, 9, and 10; amend current Section 13 and renumber it as new Section 11; renumber current Sections 14, 15, 16, 17, and 18 as new Sections 12, 13, 14, 15, and 16 of Act No. 180-1998, as amended, in order to eliminate any provision related to minimum wage from said Act; and for other related purposes.

### **STATEMENT OF MOTIVES**

The working class is facing great challenges. Between the Island’s severe economic crisis and the lack of job opportunities, more and more people are being forced to leave Puerto Rico in search of better paying jobs and a much better quality of life. The economic factor is the main reason that influences decision-making in all citizens. For such reason, it is necessary to safeguard the wellbeing and quality of life of workers by compensating them fairly for their work.

## Economic Outlook

At present, Puerto Rico's workers face the challenge of earning a minimum wage of \$7.25 per hour and having limited job opportunities. Furthermore, it is worth noting that the cost of living on the Island has kept increasing and the minimum wage is not enough to cover such costs. To illustrate, the minimum wage in Florida is \$8.10, however, according to data collected by the Council for Community and Economic Research and published by the Puerto Rico Institute of Statistics, the cost of living in San Juan is, on average, 15% higher than in Florida.<sup>1</sup>

The federal minimum wage has lost approximately 9.6% of its purchasing power due to inflation, since the last increase in 2009 to the current \$7.25 per hour. As a result of the decades-old economic crisis, inflation in Puerto Rico has been reduced to the point that it has reached deflation (negative) levels. Despite this, however, it is important to illustrate that, according to the statistical appendices prepared by the Planning Board, consumer price indices show a constant price increase up to 2013.<sup>2</sup> And, even when there was a drop in the price index in 2015 and 2016, in recent years, it has been on the rise again.

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017r	2018r	2019p
<b>Consumer Price Index</b>	100.2	104.7	107.6	109.8	111.8	114.7	115.7	116.8	116.4	116.2	116.9	118.8	119.4
<b>Inflation Rate</b>	4.2	4.5	2.8	2.0	1.8	2.6	0.9	0.9	(0.3)	(0.2)	0.6	1.6	0.5

<sup>1</sup> Living in San Juan is, on average, 15% more expensive than Florida and Texas. Puerto Rico Cost of Living Index, First Quarter (January to March) of 2017, PUERTO RICO INSTITUTE OF STATISTICS. (June, 2017).

<http://www.estadisticas.gobierno.pr/iepr/LinkClick.aspx?fileticket=Xf14AJUpPDA%3D&tabid=384>

<sup>2</sup> STATISTICAL APPENDIX OF THE ECONOMIC REPORT TO THE GOVERNOR, PLANNING BOARD (2019).

<http://jp.pr.gov/Portals/0/Economia/Apendice%20Estadistico/APENDICE%20ESTADISTICO%20IEG2019%20622.pdf?ver=2020-06-22-104336-760>

Citizens have bore witness to the dramatic price increase, during the emergency and reconstruction, despite the existence of the Department of Consumer Affairs (DACO, Spanish acronym). In addition, the Financial Oversight Board included a six (6)-year economic forecast in the Fiscal Plan revised on May 27, 2020, wherein the Board forecasts a 0.3% inflation rate for 2021, and an inflation rate between 1.1% and 1.2% for the following years up to 2025.<sup>3</sup> However, these forecasts do not quantify nor reflect the short-, medium-, and long-term effects of the COVID-19 pandemic on Puerto Rico, and the certified fiscal plan itself does acknowledge it.

Furthermore, Puerto Rico's population statistics show an accelerated population decline during the last 12 years. According to the Planning Board, Puerto Rico had a population of 3,783,000 inhabitants in 2017, but it decreased to 3,194,000 inhabitants by 2019. This represents a decrease of 600,000 inhabitants within a period of twelve (12) years.<sup>4</sup>

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018r	2019p
<b>Population</b>	3783	3761	3740	3722	3679	3634	3593	3535	3474	3411	3366	3259	3194

There are many reasons that could explain the aforementioned alarming numbers, including the economic crisis, migration, and lower birthrates, among others. The effects of hurricanes Irma and María on Puerto Rico have been presented as catalysts for the mass migration of Puerto Ricans. In fact, the Financial Oversight Board's population forecasts are disheartening. The plan specifically mentions a

<sup>3</sup> *CERTIFIED FISCAL PLAN FOR THE COMMONWEALTH OF PUERTO RICO. (May, 2020). Page 26. Available at <https://drive.google.com/file/d/1ayjLxr74cKpFo4B2sAToSj-OeJOYvFO5/view>*

<sup>4</sup> *STATISTICAL APPENDIX OF THE ECONOMIC REPORT TO THE GOVERNOR, PLANNING BOARD (2019). Page A-2.*

forecast of a 9% decrease in population over a period of six (6) years. Likewise, it has been forecasted that the population shall decrease by almost 2% by 2020 alone.<sup>5</sup> In concrete numbers, it is expected that Puerto Rico's population would be 2,813,000 by 2025, which means the population would have declined by one (1) million within a period of eighteen (18) years. The aforementioned entails an unavoidable demographic change and thus a change in our labor market and quality of life.

We must therefore analyze the Puerto Rico's employment and unemployment statistics. According to the data provided by the Planning Board, the labor force has diminished significantly in the last 10 years. The labor force is the sum of those persons who are able to work and are either employed or actively looking for work (but unemployed.)

Likewise, the table prepared by the Planning Board groups two statistics that are very important to understand the labor market, to wit, the labor force participation rate and the unemployment rate. These two data sets are used constantly to present the various realities of our labor market. Regardless of the debate on the origin or interpretation of these statistics, it is evident that Puerto Rico's labor force participation rate is very low. The current labor force participation rate is around forty percent (40%). In other words, only forty percent (40%) of the people who are able to work are part of the labor force (explained above).

Moreover, the unemployment rate can easily confuse a reader who does not have a statistical or economic background. When reading the table, it would seem that the unemployment has been gradually falling after a dramatic increase in 2010-11 when it reached sixteen percent (16%). The unemployment rate currently sits at eight point five percent (8.5%) according to the data collected as of 2019. The unemployment rate represents the number of unemployed people as a percent of the

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<sup>5</sup> CERTIFIED FISCAL PLAN FOR THE COMMONWEALTH OF PUERTO RICO. (May, 2020). Page 38.

labor force, however, as we previously stated, the labor force has been in a constant decline. Hence, it would seem as if the unemployment rate is reflecting an increase in the number of employed persons, but that is not the case. The unemployment rate has dropped because people have left the labor force (which represents the universe) and this is reflected in the employment and unemployment statistics, respectively. In a nutshell, when people are unable to find a job, they become discouraged and stop searching for a job or leave the Island. <sup>6</sup>

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017r	2018r	2019p
<b>Persons age 16 or older</b>	2906	2908	2910	2915	2911	2895	2879	2859	2829	2600	2763	2710	2658
<b>Labor Force</b>	1415	1355	1326	1285	1245	1208	1177	1154	1123	1125	1109	1082	1078
<b>Employed</b>	1284	1203	1144	1075	1043	1024	1012	988	979	992	982	971	986
<b>Unemployed</b>	150	152	182	209	202	183	165	166	145	133	127	111	92
<b>Labor Force Participation Rate</b>	48.6	46.6	45.5	44.1	42.8	41.7	40.9	40.4	39.7	40.2	40.1	40.1	40.6
<b>Unemployment Rate</b>	10.6	11.2	13.7	16.3	16.2	15.2	14.0	14.4	12.9	11.8	11.5	10.3	8.5

The foregoing notwithstanding, COVID-19 has had a significant impact on Puerto Rico's unemployment. According to the fiscal plan approved by the Board, there were 117,000 unemployed persons in March 2020 and this number increased to 400,000 by June, which constitutes an unemployment rate of approximately thirty-eight percent (38%). Likewise, the Board believes that the high unemployment

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<sup>6</sup>STATISTICAL APPENDIX OF THE ECONOMIC REPORT TO THE GOVERNOR, PLANNING BOARD (2019). Page A-65.

rate shall continue until June 2021 as the economy recovers from the business closures caused by the pandemic.<sup>7</sup> It is also worth noting the effect that the pandemic has had on the income of the people of Puerto Rico, which is also linked to the aforementioned.

For a long time, many individuals and experts have studied Puerto Rico's labor market and its phenomena as well as the low labor participation rate, the unemployment rate, and the labor force variances. Undoubtedly, the data presented shows a complicated picture and economic challenges that compel us to revisit the relationship between employment and wages in Puerto Rico.

According to the Bureau of Labor Statistics, the employment and wages per municipality in Puerto Rico for the third quarter of 2016<sup>8</sup> were as follows:

Area	Employment September 2019	Average weekly wage
<b>Puerto Rico</b>	878,885	528
<b>Adjuntas</b>	1,634	333
<b>Aguada</b>	3,961	373
<b>Aguadilla</b>	17,636	574
<b>Aguas Buenas</b>	1,680	381
<b>Aibonito</b>	5,658	480
<b>Añasco</b>	4,995	501
<b>Arecibo</b>	21,692	486
<b>Arroyo</b>	2,196	555
<b>Barceloneta</b>	10,336	537
<b>Barranquitas</b>	2,909	398

<sup>7</sup> *CERTIFIED FISCAL PLAN FOR THE COMMONWEALTH OF PUERTO RICO. (May, 2020). Page 28.*

<sup>8</sup> *COVERED EMPLOYMENT AND WAGES IN THE UNITED STATES AND ALL COUNTIES IN PUERTO RICO, THIRD QUARTER 2019. BUREAU OF LABOR STATISTICS. [https://www.bls.gov/regions/new-york-new-jersey/news-release/countyemploymentandwages\\_puertorico.htm](https://www.bls.gov/regions/new-york-new-jersey/news-release/countyemploymentandwages_puertorico.htm)*

<b>Area</b>	<b>Employment September 2019</b>	<b>Average weekly wage</b>
<b>Bayamon</b>	52,404	481
<b>Cabo Rojo</b>	6,226	322
<b>Caguas</b>	44,176	497
<b>Camuy</b>	3,703	376
<b>Canóvanas</b>	5,028	457
<b>Carolina</b>	45,590	484
<b>Cataño</b>	10,389	577
<b>Cayey</b>	9,533	501
<b>Ceiba</b>	1,158	416
<b>Ciales</b>	1,608	382
<b>Cidra</b>	5,948	472
<b>Coamo</b>	3,357	389
<b>Comerio</b>	1,673	373
<b>Corozal</b>	3,759	381
<b>Culebra</b>	448	383
<b>Dorado</b>	8,748	501
<b>Fajardo</b>	9,448	474
<b>Florida</b>	1,058	370
<b>Guánica</b>	2,933	335
<b>Guayama</b>	9,564	464
<b>Guayanilla</b>	2,441	391
<b>Guaynabo</b>	53,461	650
<b>Gurabo</b>	7,698	556
<b>Hatillo</b>	8,544	360
<b>Hormigueros</b>	2,466	365

<b>Area</b>	<b>Employment September 2019</b>	<b>Average weekly wage</b>
Humacao	14,207	558
Isabela	6,516	490
Jayuya	2,724	477
Juana Díaz	6,287	481
Juncos	7,182	866
Lajas	3,338	341
Lares	4,135	337
Las Marias	1,135	305
Las Piedras	7,223	536
Loíza	1,526	382
Luquillo	2,068	384
Manatí	13,561	564
Maricao	1,259	455
Maunabo	1,246	607
Mayagüez	29,291	462
Moca	4,299	321
Morovis	2,143	379
Naguabo	2,174	388
Naranjito	3,355	404
Orocovis	3,029	342
Patillas	1,477	433
Peñuelas	2,541	384
Ponce	46,147	453
Quebradillas	2,139	348
Rincón	1,838	372



<b>Area</b>	<b>Employment September 2019</b>	<b>Average weekly wage</b>
<b>Río Grande</b>	5,154	435
<b>Sabana Grande</b>	3,301	349
<b>Salinas</b>	3,584	462
<b>San Germán</b>	7,351	422
<b>San Juan</b>	242,878	637
<b>San Lorenzo</b>	3,488	395
<b>San Sebastián</b>	5,279	337
<b>Santa Isabel</b>	5,405	445
<b>Toa Alta</b>	3,514	402
<b>Toa Baja</b>	12,724	441
<b>Trujillo Alto</b>	10,417	348
<b>Utua</b>	3,596	395
<b>Vega Alta</b>	4,395	442
<b>Vega Baja</b>	7,717	500
<b>Vieques</b>	1,418	422
<b>Villalba</b>	3,209	553
<b>Yabucoa</b>	2,612	384
<b>Yauco</b>	5,830	382

The average weekly wage in Puerto Rico is only \$528. Furthermore, the data shows that the highest average weekly wages are mostly found in the metropolitan area and its surrounding areas. Other geographical areas with higher average weekly wages are those with the highest industrial production such as Juncos and Barceloneta.

This reality raises numerous questions as to how to prevent and mitigate the population's migration in search of jobs and well-paid jobs at that. It also raises questions about how we can achieve the public policy objective of not having any full-time workers under the threshold, but rather having all workers earning enough income to cover their basic needs.

### **Minimum Wage per State**

In order to find the answers to these questions, we must begin to discuss the differences between the wage policies of the various states vis à vis Puerto Rico's wage policy.

As stated before, the federal minimum wage is \$7.25 per hour. However, even though there is a large movement advocating for a raise in the federal minimum wage, the government's inaction has prompted most states to raise their respective minimum wages without being subject to the federal government. In addition to the District of Columbia, twenty-nine (29) states currently have a minimum wage higher than the federal minimum wage. The remaining fourteen (14) states are divided as follows: fourteen (14) states are governed by the federal minimum wage, two (2) states have a permit from the federal government to have a minimum wage lower than the federal minimum wage, and five (5) states have no established minimum wage.<sup>9</sup>

***Consolidated State Minimum Wage Update Table  
(Effective Date: 01/01/2021)***

<i>Greater than federal MW</i>	<i>Equals federal MW of \$7.25</i>	<i>No MW Required</i>
AK - \$10.34	CNMI	AL
AR - \$11.00	GA	LA

<sup>9</sup> *CONSOLIDATED STATE MINIMUM WAGE UPDATE TABLE, UNITED STATES DEPARTMENT OF LABOR (2021).*  
<https://www.dol.gov/agencies/whd/mw-consolidated>

AZ - \$12.15	IA	MS
CA - \$13.00	ID	SC
CO - \$12.32	IN	TN
CT - \$12.00	KS	
DC - \$15.00	KY	
DE - \$9.25	NC	
FL - \$8.65	ND	
HI - \$10.10	NH	
IL - \$11.00	OK	
MA - \$13.50	PA	
MD - \$11.75	TX	
ME - \$12.15	UT	
MI - \$9.65	VA	
MN - \$10.08	WI	
MO - \$10.30	WY	
MT - \$8.75	PR	
NE - \$9.00		
NJ - \$12.00		
NM - \$10.50		
NY - \$12.50		
NV - \$9.00/\$8.00 <i>with health care / without health care</i>		

OH - \$8.80		
OR - \$12.00		
RI - \$11.50		
SD - \$9.45		
VT - \$11.75		
WA - \$13.69		
WV - \$8.75		
VI - \$10.50		
GU - \$8.75		
<b><i>29 States + DC, Guam, Virgin Islands</i></b>	<b><i>16 States + Puerto Rico, Mariana Islands</i></b>	<b><i>5 States</i></b>

### **Minimum Wage in Puerto Rico**

The first minimum wage law in Puerto Rico was Act No. 8 of April 5, 1941. This Act created the first model for a Minimum Wage Board in Puerto Rico. However, Act No. 8, *supra*, was in effect for a very short time, because it was repealed by Act No. 96 of June 26, 1956. This new legislation, however, kept the Minimum Wage Board to determine the minimum wage per profession.

Act No. 96, *supra*, was amended substantially by Act No. 84-1995 and the federal minimum wage was adopted except for activities not covered under the Federal Fair Labor Standards Act. However, the Act granted the Minimum Wage Board the power to fix and review the monthly accrual of vacation leave for the employees of all the institutions covered under said Act.

Act No. 180-1998, as amended, known as the “Puerto Rico Minimum Wage, Vacation and Sick Leave Act,” repealed Act No. 96, *supra*, and eliminated the Minimum Wage Board. Despite this, all of the decrees in effect were kept and all

the powers of the Board were transferred to the Department of Labor. The Bureau of Labor Standards is currently responsible for enforcing over forty (40) mandatory decrees that are still in effect.<sup>10</sup>

Although the adoption of a federal minimum wage was a forward step in the 1990s, it has been over eleven (11) years since it was last raised by the United States Congress. The states have recognized that it is very unlikely that a raise be approved and have thus decided to take proactive action to further their wage justice agendas within their own jurisdictions.

In Puerto Rico, the Legislative Assembly has not adopted legislation to establish a minimum wage higher than the federal minimum wage although various measures have been introduced. This could be due to a variety of factors, but we believe that they include the lack of accurate information and of an ideal mechanism that enables us to raise the minimum wage responsibly without destabilizing the labor market.

For such reason, we deem it prudent to establish, through legislation, a Minimum Wage Review Commission that shall be responsible for fixing the minimum wage in Puerto Rico. The Commission shall have the expertise necessary to establish the ideal minimum wage in consultation and upon conducting studies with the concerned sectors.

### **Our Minimum Wage Proposal**

In Puerto Rico, the possibility of raising the minimum wage to conform it to the cost of living of the working class on the Island has been discussed from time to time. When the matter is brought up and discussed among the public and the various government forums, divergent opinions are expressed and they all have elements that should be considered when the time comes to establish a public policy.

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<sup>10</sup> DECRETOS MANDATORIOS, DEPARTAMENTO DEL TRABAJO Y RECURSOS HUMANOS. [Mandatory Decrees, Department of Labor and Human Resources] [http://www.trabajo.pr.gov/rl\\_decretosmandatorios.asp](http://www.trabajo.pr.gov/rl_decretosmandatorios.asp)

However, to this day, all attempts to raise the minimum wage have been unsuccessful even though several proposals have been submitted.

In order to adjust minimum wage to the cost of living of Puerto Rico's working class, in a staggered manner so as to not greatly affect the business sector, the solution to be presented must be based on two fundamental principles. Firstly, the minimum wage must be established based on objective and measurable elements, in consultation with professionals from economics field, with the participation of all sectors, and without intervention from the political apparatus. Furthermore, our public policy must seek the conscious objective of adopting a minimum wage in the first place. In our judgment, the main objective of adopting a public policy to establish a minimum wage is for no workers to be under the threshold and for all workers to earn enough to cover their basic needs. This should be achieved while taking into account Puerto Rico's businesses, particularly the SMBs. Bearing these factors in mind, we intend to create a tool that shall fix the minimum wage at any given time based on objective standards.

In order to adopt public policy on minimum wage, it is necessary to create an Independent Commission that has the necessary expertise, conducts a comprehensive study on the cost of living of Puerto Rico's working class, and fixes an appropriate minimum wage that covers such costs based on the studies conducted. Moreover, the cost of living of every person changes each year as the cost of living index increases, therefore, this minimum wage should be reviewed annually by the Commission. This annual review shall translate into a fractional increase in the minimum wage every year. Raising the minimum wage gradually seeks to prevent an abrupt raise at any given time and the effect this would have on Puerto Rico's businesses. In doing so, we shall strike a balance between the public policy of establishing a decent minimum wage and protecting Puerto Rico's businesses.

Using as an example the last federal minimum wage increase in 2009, the minimum wage was raised from \$5.15 per hour to \$7.25 per hour. This represented a forty percent (40%) increase approximately. In other words, a business whose workforce earned close to the minimum wage could see its payroll expenses increase by up to forty percent (40%). A change of this magnitude in the cost structure would undoubtedly have an impact on the operations of a business, particularly on those of the SMBs. Furthermore, based on purely economics theory, the new income earned by employees on account of the minimum wage increase translates into more consumption (aggregate demand), and therefore, more revenues for certain industries which would help mitigate the increase in costs and justify the increase in the price of goods based on demand. The issue is that it takes time for this aggregate demand to show. For such reason, frequent incremental increases are much more favorable for businesses, because they are better able to plan for costs and the impact thereon would be lessened as opposed to an abrupt cost structure change. Likewise, they shall continuously and incrementally benefit from the increase in aggregate demand.

A significant number of countries around the world have opted to review their minimum wage annually or biannually including, but not limited to: Canada, the United Kingdom, Chile, Ireland, Spain, France, the Netherlands, and other developed countries. These countries adjust their minimum wages to the inflation rate annually or biannually in order to ensure that the cost of living does not revert employees to a level lower than the fixed minimum wage while protecting businesses from an abrupt change in their cost structure.

Hence, this proposal seeks to delegate to a Minimum Wage Review Commission the power to issue minimum wage decrees. The composition of this Commission shall be strategically designed for it to have the expertise necessary to conduct scientific evaluations aimed at establishing just, but responsible

compensation. Likewise, the composition of the Commission shall ensure that the interests of both employers and employees are equally represented.

In addition, even though this Act repeals Act No. 180-1998, *supra*, all provisions pertaining to vacation and sick leave benefits shall remain intact and be incorporated into this measure without additional alterations.

It is important to recognize that Puerto Rico has to compete for economic resources and productivity with other states and countries. Puerto Rico's working class is highly sought out, therefore, we have to create the appropriate economic conditions to retain such workers on our Island as well as motivate them to formally enter the labor force. We believe that this proposal shall achieve such goals without discouraging investment or altering the labor market in the first place.

In order to address the valid claims made by workers on the need to raise Puerto Rico's Minimum Wage in the short-term, this legislation also promulgates an increase in the minimum wage to eight dollars and fifty cents per hour (\$8.50/hr) as of January 1, 2022. Puerto Rico's Minimum Wage shall be further raised to nine dollars and fifty cents per hour (\$9.50/hr) by July 1, 2023, and then to ten dollars and fifty cents per hour (\$10.50/hr) by July 1, 2024 unless the Minimum Wage Review Commission issues a mandatory decree to change it. These increases shall apply to all workers covered by the Fair Labor Standards Act of June 25, 1938, as amended, save for the few exceptions provided by this Act. However, we believe that there are some industries that should be excluded from the short-term increase due to their specific circumstances, namely, the "Administrators," "Executives," and "Professionals" as such terms are defined in Regulation No. 13 of the Minimum Wage Board. Exempt employees, as they are commonly referred to, are not covered by the Fair Labor Standards Act. Nevertheless, even in such cases, the Commission shall determine the minimum wage applicable to all workers in Puerto Rico after an empirical and reasoned research process has been carried out. It is herein clarified



that such industries shall be subject to this Act and the determinations the Review Commission issues by decree. The aforementioned increase shall not apply either to the employees of the government agencies, instrumentalities, municipalities, the Judicial Branch, and the Legislative Branch of the Commonwealth of Puerto Rico.

In conclusion, this Legislative Assembly believes that creating the Minimum Wage Review Commission through this Act seeks to ensure that the working class is fairly and appropriately compensated for its work; retain workers on the Island; motivate workers to formally enter the labor force; and encourage productivity and competitiveness across Puerto Rico.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

**CHAPTER 1.-GENERAL PROVISIONS**

Section 1.01.- Title.

This Act shall be known as the “Puerto Rico Minimum Wage Act.”

Section 1.02.- Declaration of Public Policy.

It is hereby declared as the public policy of the Commonwealth of Puerto Rico to adjust the minimum wage, through the Minimum Wage Review Commission, to the cost of living of workers based on the principle that no worker shall live under the poverty threshold and that all workers should earn enough income to cover their basic needs, as well as to ensure progress and improve the quality of life. The state minimum wage shall be reviewed periodically and adjusted to the cost of living increases workers experience thereby ensuring progress and improvements to the quality of life. This shall be the objective metric that shall govern the determinations of the Commission with regards to the minimum wage.

Section 1.03.- Definitions.

(a) “Commission”- means the Minimum Wage Review Commission.

(b) “Mandatory Decree”- means a decree approved by the Minimum Wage Review Commission pursuant to the provisions of this Act.

(c) “Special Mandatory Decrees”- means a mandatory decree issued by the Minimum Wage Review Commission which shall specifically and exclusively apply to the following worker classifications: “Administrators,” “Executives,” and “Professionals,” as such terms are defined in Regulation Number 13 of the Minimum Wage Board; agricultural employees, including those excluded from the Fair Labor Standards Act, as amended, approved by the Congress of the United States of America on June 25, 1938; and/or tipped employees, as defined in the Fair Labor Standards Act, as amended, approved by the Congress of the United States of America on June 25, 1938.

(d) “Department”- means the Department of Labor and Human Resources of Puerto Rico.

(e) “Open Data Standards”- shall mean and be construed as data and information of a public nature that is accessible to citizens in order to promote active civic participation in matters of governance, and allows third parties to reuse public data in order to develop all types of analytic tools for the benefit of society. In turn, the public data and information must comply with seven (7) basic principles:

(1) Complete: Open data shall be as complete as possible.

(2) Primary: Open data must be primary source data. Detailed information on the primary source and origin of such data shall be provided.

(3) Timely: Data shall be made available to the public in a quick and timely manner. Priority shall be given to data whose utility is of an urgent nature or time sensitive; however, in all cases, the data shall be released as quickly as possible once it is collected.

(4) Accessible in Physical and Electronic Format: Data shall be released and remain as accessible as practicable both through physical and electronic means so as to prevent and/or minimize the need to request access to public information.

(5) Machine Readable and Processable: Data must be made available in a widely-used electronic file format; and in what pertains to the collection and publication of qualitative and quantitative data for the purpose of analysis, such data shall be made and remain available as a spreadsheet.

(6) Non-discriminatory: Data shall be made available for use to all without the need to submit a request or submit to any other process in order to access the public information.

(7) License-free: The use of data shall not be subject to any regulation that restricts its reuse; however, reasonable privacy and security restrictions may be allowed. In such cases, the data to which such considerations apply shall be redacted and the sanctioned data shall be published. No payment shall be established as a requirement to access or reuse the public data and information

(f) “Laborer,” “employee,” or “worker”- includes any person who, in any industry, works, practices or engages in any art, skill, trade, or labor under the orders or for the benefit of another person, under a services contract, for some type of compensation, or under the explicit or tacit promise to receive it. This definition does not include independent contractors.

(g) “Employer”- includes any natural or juridical person that, whether, for profit or not, employs or allows any number of laborers, workers, or employees to work for any type of compensation.

(h) “Wage”- includes salaries, pay, and any type of compensation, whether in cash, kind, services, facilities, or any combination thereof; but shall only include cash when referring to the minimum wage prescribed under the provisions of this Act, except as otherwise provided or authorized by the Commission.

(i) “Minimum Wage”- means the minimum wage that employers shall pay their laborers for work. The Commission shall be empowered to establish the state’s minimum wage.

(j) “State Minimum Wage”- means the minimum wage established by the Commission pursuant to the provisions of this Act. Puerto Rico’s state minimum wage shall prevail, provided that it is greater than the federal minimum wage.

(k) “Federal Minimum Wage”- means the minimum wage established by the Fair Labor Standards Act, as amended, approved by the Congress of the United States of America on June 25, 1938.

(l) “Secretary”- means the Secretary of the Department of Labor and Human Resources of Puerto Rico.

## CHAPTER 2.- MINIMUM WAGE

### Section 2.01.- Federal Minimum Wage.

The federal minimum wage fixed by the Fair Labor Standards Act, as amended and as may be subsequently amended, approved by the Congress of the United States of America on June 25, 1938, shall automatically apply to those workers in Puerto Rico who are covered by the Federal Act. Puerto Rico’s state minimum wage shall prevail, provided that it is higher than the federal minimum wage.

Upon enforcing the federal minimum wage, the provisions of the federal legislation and regulations on how the minimum wage shall be paid, the meaning of hours worked, which employees and jobs are exempt from the minimum wage, and what constitutes work hours or work time shall be recognized.

### Section 2.02.- State Minimum Wage.

The Minimum Wage Review Commission may establish, through a decree, a minimum wage that is higher than the federal minimum wage established by the Fair Labor Standards Act, as amended, approved by the Congress of the United States of America on June 25, 1938. However, it may never establish a minimum wage lower than the federal minimum wage.

The state minimum wage shall be established in accordance with the provisions of this Chapter.

Upon enforcing the federal minimum wage, the provisions of the federal legislation and regulations on how the minimum wage shall be paid, the meaning of hours worked, which employees and jobs are exempt from the minimum wage, and what constitutes work hours or work time shall be recognized. In the event that the Federal Minimum Wage is higher than the State Minimum Wage, the Federal Minimum Wage shall prevail in Puerto Rico for all those workers covered by the Fair Labor Standards Act of June 25, 1938, as amended or as may be subsequently amended.

Puerto Rico's minimum wage shall be raised to eight dollars and fifty cents per hour (\$8.50/hr) as of January 1, 2022. On July 1, 2023, Puerto Rico's Minimum Wage shall be raised to nine dollars and fifty cents per hour (\$9.50/hr) and it shall further be raised to ten dollars and fifty cents per hour (\$10.50/hr) by July 1, 2024, unless the Minimum Wage Review Commission issues a mandatory decree changing the amount. These increases shall apply to all the workers covered by the Fair Labor Standards Act of June 25, 1938, as amended or as may be subsequently amended, except for agricultural employees, and the employees of the government agencies, instrumentalities, municipalities, the Judicial Branch, and the Legislative Branch of the Commonwealth of Puerto Rico. "Administrators," "Executives," and "Professionals," as such terms are defined in Regulation Number 13 of the Minimum Wage Board shall be excluded from said increases. Tipped employees shall be entitled to the federal minimum wage in effect for such workers, which tips added to the federal minimum wage must, be at least equal the minimum wage established by this Act or the mandatory decree to be approved.

Section 2.03.- Minimum Wage Review Commission.

The Minimum Wage Review Commission is hereby created within the Department of Labor and Human Resources. The Commission shall be composed of seven (7) persons who are renowned for supporting the purposes of this Act: two (2) shall be representatives of the workers' interests of which at least one (1) shall be an economist; two (2) shall be representatives of the employers' interests of which at least one (1) shall be an economist; one (1) shall be an economist recommended by the Department of Economics of the University of Puerto Rico, and the Asociación de Economistas de Puerto Rico [Puerto Rico Economists Association]; one (1) shall be an economist with expertise on labor affairs and recommended by the Labor Relations Institute and the Department of Economics of the University of Puerto Rico; and one (1) shall be a representative of the public interest, which office shall be held by the Secretary of the Department of Labor and Human Resources who shall also chair the Commission.

The two (2) representatives of workers' interests, of which at least one (1) shall be an economist, shall be appointed by the Governor from the various lists of candidates submitted by the various public or private labor organizations duly authorized to represent their memberships in collective bargaining agreements. These representatives shall be appointed by the Governor with the advice and consent of the Senate of Puerto Rico.

The two (2) representatives of the employers' interests, of which at least one (1) shall be an economist, shall be appointed by the Governor from a list of candidates submitted by those duly organized associations and groups with over one hundred (100) members representing the employers' interests of trade and businesses operating in Puerto Rico. These members shall be appointed by the Governor with the advice and consent of the Senate of Puerto Rico.

The economist shall be appointed by the Governor from the various lists of candidates submitted by the Department of Economics of the University of Puerto Rico and the Asociación de Economistas de Puerto Rico [Puerto Rico Economists Association]. Said economist shall be appointed by the Governor with the advice and consent of the Senate of Puerto Rico.

The economist with expertise on labor affairs shall be appointed by the Governor from the various lists of candidates submitted by the Department of Economics and the Labor Relations Institute of the University of Puerto Rico. Said economist shall be appointed by the Governor with the advice and consent of the Senate of Puerto Rico.

Within fifteen (15) days after the effective date of this Act, the Governor shall request the labor organizations duly authorized to represent their memberships in collective bargaining agreements, and the associations or groups representing the employers' interests of trade or businesses operating in Puerto Rico, to submit a list of qualified persons to become members of the Commission. The Governor shall also request the Department of Economics of the University of Puerto Rico, the Asociación de Economistas de Puerto Rico [Puerto Rico Economists Association], and the Labor Relations Institute of the University of Puerto Rico to submit a list of recommended candidates. The Governor shall deliver a copy to the Legislative Assembly of the list of the qualified persons to become members of the Commission as submitted by the labor organizations duly authorized to represent their memberships in collective bargaining agreements, and the associations or groups representing the employers' interests of trade or businesses operating in Puerto Rico. The Governor shall also deliver a copy of the lists of recommended candidates submitted by the Department of Economics of the University of Puerto Rico, the Asociación de Economistas de Puerto Rico [Puerto Rico Economists Association], and the Labor Relations Institute of the University of Puerto Rico.

The Governor may request the aforementioned labor unions and organizations to submit new candidates in the event that, in his judgment, the candidates submitted do not meet the requirements to hold office.

Not later than fifteen (15) days after the minimum number of members necessary to constitute a *quorum* have been appointed during a recess or confirmed by the Senate, the Secretary shall call the first meeting of the Commission.

Section 2.04.- Terms of Appointment and Vacancies.

The members of the Commission, except for the Secretary of the Department of Labor and Human Resources and the economist with expertise in labor affairs, shall serve for fixed terms of three (3) years, up to a maximum of three (3) terms. The economist with expertise in labor affairs shall serve for a fixed term of five (5) years, up to a maximum of three (3) terms. Should any vacancy arise before the term of a member of the Commission expires, it shall be filled for the remainder of the term of the member that caused the vacancy. The members of the Commission shall perform their duties until their successors are appointed and take office. The Governor may dismiss any member of the Commission, upon prior notice and hearing, due to proven negligence in the performance of his duties, or if found guilty of a felony or an offense that constitutes depravation, or for violating the Code of Ethics of the Commission, as provided in Section 2.07.

Section 2.05.- *Quorum*.

Five (5) members of the Commission shall constitute a *quorum* and any Commission action shall be deemed to be approved only with their affirmative vote. Any vacancy or absence of two (2) of its members shall not impair the rights of the remaining members to exercise all of the powers of the Commission. The Chair of the Commission shall be the chief executive and chief administrative official of the Commission and shall discharge all the strictly administrative duties thereof.



Section 2.06.- Ineligibility to be Commission Members.

The following persons are ineligible to be members of the Minimum Wage Review Commission:

a. Any person who holds or has held an elective office in the Commonwealth of Puerto Rico, or who has been a candidate for elective office may not be considered for the Commission.

b. Any person registered as a state lobbyist or employed by a registered state lobbyist may not be appointed to the Commission.

c. Any person who has been convicted in any jurisdiction of a felony or a misdemeanor involving moral depravity or actions constituting fraud, embezzlement, or misappropriation of funds.

Section 2.07.- Prohibitions.

The Commission shall adopt a Code of Ethics which shall include the following prohibitions:

a. No member may, inside or outside of Puerto Rico, participate in political campaigns, be a member of a political party campaign committee or group, hold any position in any internal body of a political party or political action committee, aspire to any elective office, publicly support any candidates for elective office, organize or participate in any fundraising activity sponsored by or for the benefit of any political party.

b. No member of the Commission shall, in any way, directly or indirectly attempt to influence the appointment of any other member of the Commission.

c. Except when necessary for due diligence during the Commission meetings, members shall keep confidential all information and documentation relative to any private person or business.

d. Members shall avoid any type of personal benefit or interest in the discharge of their duties and shall not seek any personal or professional advantage relating to their services rendered or office held in the Commission.

e. No member may accept gifts, donations, invitations, or articles of value from any person, business, or entity related to the work performed by the Commission.

Section 2.08.- Compensation.

The Chair of the Commission shall earn his salary as Secretary of the Department of Labor and Human Resources. The economists shall be compensated for the hours worked in accordance with the market value and such compensation shall be fixed by the Secretary of the Department of Labor and Human Resources. The remaining members shall receive a per diem for each day of regular or special session they attend, and such per diem shall never exceed one hundred and fifty dollars (\$150). Said per diem shall be defrayed by the Department of Labor and Human Resources.

Section 2.09.- Powers and Duties.

(a) The Commission shall be responsible for implementing the public policy of the Commonwealth of Puerto Rico on the minimum wage on the basis that no full-time worker shall live under the poverty threshold, all workers should earn enough income to cover their basic needs, progress shall be ensured, and quality of life shall be improved. Likewise, the Commission shall periodically review the minimum wage and adjust it to the cost of living increases workers experience.

(b) The Commission shall have juridical personality and the powers necessary to achieve the purposes of this Act as well as the legal standing to sue and be sued. It shall also have rulemaking power and shall exercise any other powers as necessary to achieve the purposes of this Act. The Commission shall not be empowered to incur debt or issue other financial instruments.

(c) It shall be the duty of the Commission to prepare or direct the preparation of an Annual Report on the prevailing wages, work schedules, benefits, compensation, and work conditions of the various industries in Puerto Rico. Said Report shall include a comprehensive analysis on the cost of living and inflation in Puerto Rico, as well as specific recommendations on what the minimum wage should be for said calendar year. It shall also take into account the monetary value of public assistance programs vis-à-vis the current and proposed minimum wages as well as its interaction with work benefits or credit programs, including, but not limited to, the Earned Income Tax Credit (EITC) and the Child Tax Credit (CTC) based on their local application. In turn, it shall take into account Puerto Rico's labor market indicators, including, but not limited to, employment rate, unemployment rate, labor force participation rate, and wages. It shall also take into account Puerto Rico's economic development indicators, including, but not limited to, the economic activity index and the productivity index. The report shall further disclose in detail the methodology used to arrive at its conclusion so as to be peer reviewed. The annual report shall be available electronically through the Department of Labor and Human Resources webpage, downloadable in various electronic formats, generally used, and compliant with the open data standards.

(d) The Commission shall have the responsibility to approve mandatory decrees that, in accordance with the aforementioned public policy, fix an appropriate minimum wage to cover workers' cost of living based on the aforementioned Annual Report on Puerto Rico's cost of living and inflation rate, as drafted and published. Mandatory decrees shall be approved at least once (1) every two (2) years, but no more than two (2) decrees changing the minimum wage shall be approved within the same year under any circumstances. An official copy of the mandatory decree in effect and the Annual Report used as the basis for the promulgation of such decree shall be available electronically through the Department of Labor and Human

Resources webpage as well as downloadable in various electronic formats generally used.

(e) Except for the first mandatory decree issued by the Commission to raise the base minimum wage established by this Act, no other minimum wage increase for a specific year may be greater than twenty-five percent (25%) of the previous minimum wage established by the Commission itself or the Federal Government.

(f) All of the departments, agencies, corporations, authorities, offices, and political subdivisions of the Commonwealth of Puerto Rico shall furnish to the Commission, free of any charge, expense, or fee, any official information, copies of books, brochures, or publications, certified copies of documents, statistics, collected data, and records as requested by the Commission for official use.

(g) The Minimum Wage Review Commission shall submit to the Governor and the Legislative Assembly an annual report on the activities carried out during the previous year including information on the approved decrees as well as legislative or administrative data and recommendations, in connection with matters addressed in this Act.

(h) The Commission shall collect, organize, classify, and publish statistics on the approved decrees, wages, work schedules, work conditions, and cost of living. It shall also make said information available to the Department of Labor and Human Resources for the drafting of statistical reports, and economic and social profiles on Puerto Rico's jobs and workers, as well as for other studies that are deemed pertinent or commissioned thereto.

(i) The Commission shall meet at least once (1) per month to fully comply with its duties. The Commission may prescribe by regulations alternative methods to conduct meetings other than in person. The Secretary of the Department of Labor and Human Resources shall make the Department's resources available to the

Commission as are necessary for the Commission to achieve the purposes of this Act, including a space to conduct its meetings.

(j) The Commission may request the Department to detail or transfer existing employees from other departments by virtue of Act No. 8-2017, as amended, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act,” in order to perform the duties imposed by this Act.

(k) The Department of Labor and Human Resources shall allocate a budget that is sufficient for the Minimum Wage Review Commission to conduct the studies necessary for the preparation of the Annual Report as well as its comprehensive analysis on Puerto Rico’s cost of living and the inflation rate.

(l) The Commission shall have the duty to facilitate a study about the potential economic impact of the implementation and application of the provisions of this Act to government and municipal employees, and submit its recommendations to the Government and the Municipalities.

(m) It shall be the duty of the Commission to notify those agencies concerned with disbursing, requesting, and/or overseeing public assistance programs of the approval of any decree within thirty (30) days of its approval. Likewise, said agencies are hereby directed to adjust or request the adjustment of the requirements and the income limits to qualify therefor so as to minimize any potential negative impact on the beneficiaries, and prevent their automatic disqualification.

#### Section 2.10.- Investigatory Power.

In accordance with its duty to conduct investigations and studies, and in the exercise of the powers granted thereto by this Act, the Commission may summon witnesses to appear or produce evidence, data, or information as deemed necessary by the Commission or the Chair to acquire data and information for the statistics, studies, and investigations required by this Act.

The Commission assembled as a whole, or any of its duly authorized members, employees, investigators, or agents may visit and inspect any building, establishment, site, or place where any type of work, art, trade, job, or labor is performed.

Section 2.11.- Mandatory Decrees.

The Commission may issue a mandatory decree fixing the minimum wage to be paid to all workers and employees in Puerto Rico. Said state minimum wage shall only prevail if it is greater than the federal minimum wage.

Likewise, the Commission is hereby authorized to promulgate special mandatory decrees only in the following cases:

1. The Commission is hereby authorized to issue a special mandatory decree for “Administrators,” “Executives,” and “Professionals,” as such terms are defined in Regulation Number 13 of the Minimum Wage Board, and the decree shall remain in effect until it is repealed or amended by the Commission;

2. The Commission is hereby directed to issue a special mandatory decree on or before July 1, 2022, for agricultural employees including those excluded from the Fair Labor Standards Act, as amended, approved by the Congress of the United States of America on June 25, 1938. In turn, the Commission is hereby authorized to issue said special mandatory decree successively in accordance with the parameters of this Act; and

3. The Commission is hereby directed to issue a special mandatory decree for tipped employees, as such term is defined in the Fair Labor Standards Act, as amended, approved by the Congress of the United States of America on June 25, 1938.

Provided, that any special mandatory decree that fixes the state minimum wage for authorized industries shall only prevail if it is greater than the federal minimum wage.

Provided, further, that the Commission shall fix a base minimum wage for tipped employees in order for the tips added to the minimum wage are equal to or greater than the minimum wage established in the mandatory decrees.

Any mandatory decree or special mandatory decree to be proposed by the Commission shall be subject to the procedure provided in Chapter II of Act No. 38-2017, as amended, known as the “Government of Puerto Rico Uniform Administration Procedure Act.”

The decree approved by the Commission shall have force of law. If the decree affects the minimum wage of an industry covered by the Fair Labor Standards Act of 1938, as amended, the Chair of the Commission shall deliver a copy of the decree approved by [sic] the United States Secretary of Labor.

Section 2.12.- Retroactive and Prospective Effect of Decrees.

The effectiveness of any decree seeking to raise the minimum wage established by a previous decree shall be effective retroactively and prospectively. Provided, that any employee hired by an employer prior to the effective date of the decree shall benefit from the minimum wage increase just as those employees hired after the effectiveness date thereof.

It is hereby provided that the Commission may not reduce the minimum wage previously established by a decree under this Act.

The Secretary shall be responsible for enforcing the provisions herein.

Any employer that, in any way, fails to comply with the provisions of this Section shall be liable, as provided in Chapter 3 of this Act. Furthermore, any dismissal proven to be based on any situation prohibited by this Act shall be deemed to be a wrongful termination for the purposes of any claim filed under Act No. 80 of May 30, 1976, as amended.

Section 2.13.- Amending or Rescinding a Mandatory Decree.

Subject to the procedures provided in Act No. 38-2017, *supra*, the Commission may, of its own volition or at the request of workers and employers, rescind, alter, or amend any previous decree, at any time.

Section 2.14.- Transfer and Recognition of the Quasi-legislative Powers of the Commission.

The quasi-legislative powers delegated to the Department by virtue of Act No. 180-1998, *supra*, to administer Puerto Rico's public policy on the minimum wage are hereby transferred to the Commission pursuant to the provisions of this chapter.

### CHAPTER 3.- MISCELLANEOUS PROVISIONS

Section 3.01.- Persons Excluded from this Act.

The provisions of this Act shall not apply to:

- (1) The employees of the Government of the United States of America, and the Commonwealth of Puerto Rico, except for the employees of those agencies or instrumentalities thereof operating as private businesses or enterprises, and;
- (2) Municipal Government employees;
- (3) Employees covered by a collective bargaining agreement executed between a labor union and an employer; provided, that the wage is equal or greater than the wage established under this Act.

Section 3.02.- Violations; Penalties.

Any person who as employer, or administrator, official, agent, employee, or person in charge of a firm, a partnership, or a corporation, or of another person or persons, violates, or refuses to comply, or disregards compliance with any provision of this Act, or with any decree or regulation in effect or to be adopted by the Commission, and which has been validated by the provisions of this Act, or that is subsequently issued by the Legislative Assembly pursuant to the provisions of this



Act, shall be punished by a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), at the discretion of the Court.

In case of a second violation as provided in this Section, a fine of not less than five thousand dollars (\$5,000) nor more than ten thousand dollars (\$10,000) shall be imposed at the discretion of the court.

In addition to the penalties established above, any person who as an employer, administrator, official, agent, employee, or person in charge of a firm, a partnership, or a corporation, or of another person or persons, violates, refuses to comply or disregards compliance with any provision of this Act, or any decree or regulation in effect that has been validated by the provisions of this Act, shall be held liable for civil damages, in an amount equal to twice the amount of the damages that his actions may have caused to the employee. If the person settling the dispute is unable to determine the amount of the damages caused to the employee, such person may, at his discretion, impose a penalty of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000).

#### Section 3.03.- Injunctions and other Procedures.

As the person in charge of the Department's policy and as the Chair of the Commission, the Secretary shall have the duty to enforce this Act directly or through any of his duly authorized employees or agents. To such effects, the Secretary shall file an injunction or any other remedies as are necessary to enforce the terms of this Act whenever he believes that any employer is violating or is going to violate any provision thereof. The Court of First Instance, Superior Part, shall have the authority to hear and decide all of the aforementioned actions.

To such effects, every employer shall:

- (1) Allow the Secretary of Labor and Human Resources or any of his duly authorized employees or agents, free access to all sites and property where or with

which any type of work is performed in order to conduct any investigation on the prevailing working conditions therein;

(2) Allow the Secretary of Labor and Human Resources or any of his duly authorized employees or agents to inspect his accounting books, reports, contracts, payrolls, payment schedules, and all records on the employees' working conditions in order to conduct any investigation on compliance with any provision of this Act.

Any employer that fails to comply with or violates any of the duties or obligations established by this Section shall be punished by a fine not greater than six hundred dollars (\$600), at the discretion of the Court, and in the event of recidivism, shall be punished by a fine of one thousand five hundred dollars (\$1,500).

#### Section 3.04.- Employee Claims.

Any employee or worker who receives compensation for his work, which is less than that prescribed by this Act or a collective bargaining agreement or an individual work contract, shall be entitled to collect through a civil action the difference owed up to the total amount of the corresponding compensation for wages or any other benefit, plus an amount equal to that which has not been paid to him as additional compensation, plus the costs, interest, expenses, and attorney's fees relating to the case, notwithstanding any other agreement to the contrary.

All claims filed by several or all of the workers or employees against a common employer for work performed in the same establishment, business, or site may be joined in a single suit.

The claims may be handled by a regular action or through any procedure for wage claims prescribed by any other law of Puerto Rico.

Regarding compliance with this Act, the Secretary may file a suit *motu proprio* or at the request of one or more workers or employees with an interest in the matter, and on behalf and for the benefit of one or more workers or employees

similarly situated, for the payment of any unpaid amounts for wages, additional compensation, interests, costs, expenses, and attorney's fees.

Any worker with an interest in the matter may become a plaintiff in any action that is thus brought by the Secretary.

The Secretary may become a plaintiff or intervener in any legal action or proceeding filed by any person, in accordance with this Act.

#### Section 3.05.- Statute of Limitations.

An action to claim wages that an employee may have against his employer under this Act, whether approved or to be approved pursuant to the provisions of this Act, or under any contract or law, shall prescribe within a period of five (5) years. The statute of limitations shall be counted from the time said employee ceased to work for the employer. The aforementioned statute of limitations shall be tolled and resume when the employer is served judicial or extrajudicial notice of the wage claim filed by the worker, his representative, or an official of the Department empowered thereto, and upon any action by the employer acknowledging the debt. Wage claims filed before the approval of this Act shall be subject to the statute of limitations previously in effect.

When the employee is working for the employer, the claim shall only include the wages to which the employee was entitled for any reason during the last five (5) years prior to the filing date of the legal action.

In the event the employee has ceased to work for the employer, the claim shall only include the last five (5) years prior to the date the employee ceased working.

Regarding the statute of limitations provided in this Section, a change in the nature of the employee's tasks shall not constitute a novation to the employment contract.

The provisions of this Section shall not affect the actions already filed with the courts.

## CHAPTER 4.- AMENDMENTS TO LEGAL PROVISIONS OF LAW

Section 4.01.- Section 1 of Act No. 180-1998, as amended, known as the “Puerto Rico Minimum Wage, Vacation and Sick Leave Act,” is hereby amended to read as follows:

“Section 1.- Title.

This Act shall be known as the ‘Puerto Rico Vacation and Sick Leave Act.’”

Section 4.02.- Sections 2 and 3 of Act No. 180-1998, as amended, known as the “Puerto Rico Minimum Wage, Vacation, and Sick Leave Act,” are hereby repealed.

Section 4.03.- Current Section 4 of Act No. 180-1998, as amended, known as the “Puerto Rico Minimum Wage, Vacation, and Sick Leave Act,” is hereby amended and renumbered as new Section 2 to read as follows:

“Section 2.- Definitions.

(a) Mandatory Decree.- means a decree approved by the Minimum Wage Board pursuant to the provisions of Act No. 96 of June 26, 1956, as amended, or a decree approved by the Minimum Wage Review Commission pursuant to the ‘Puerto Rico Minimum Wage Act.’

(b) Department.- means the Department of Labor and Human Resources of Puerto Rico.

(c) Employ.- means to provide, allow, or put to work.

(d) Industry.- shall mean any field of economic activity including agriculture, silviculture, fishing, mining, construction, manufacturing, wholesale and retail trade, finance, insurance and real estate business, transportation, communications, and other public, personal (except household services), professional, and commercial services.

(e) Board.- means the Minimum Wage Board, under Act No. 96 of June 26, 1956, as amended, or the Minimum Wage Review Commission under the ‘Puerto Rico Minimum Wage Act.’

(f) Laborer, employee or worker.- includes any person who, in any industry, works, practices or engages in any art, skill, trade, or labor under the orders or for the benefit of another person, under a services contract, for some type of compensation, or under the explicit or tacit promise to receive it. This definition does not include independent contractors.

(g) Employer.- includes any natural or juridical person that, whether, for profit or not, employs or allows any number of laborers, workers, or employees to work for any type of compensation.

(h) Wage.- includes salaries, pay, and any type of compensation, whether in cash, kind, services, facilities, or any combination thereof.

(i) Minimum Wage.- means the minimum wage established pursuant to the ‘Puerto Rico Minimum Wage Act’ for the workers of businesses or activities not covered by the Federal Fair Labor Standards Act.

(j) Federal Minimum Wage.- means the minimum wage established by the Fair Labor Standards Act, as amended, approved by the Congress of the United States of America on June 25, 1938.

(k) Secretary.- refers to the Secretary of the Department of Labor and Human Resources of Puerto Rico.

(l) Elderly Persons.- means any person age sixty (60) or older.

(m) Person with Disabilities.- means any person with a physical, mental, or sensory impairment, which substantially limits one or more major life activities.”

Section 4.04.- Subsection (d) of Section 5 of Act No. 180-1998, as amended, known as the “Puerto Rico Minimum Wage, Vacation and Sick Leave Act,” is hereby repealed.

Section 4.05.- Current Sections 5, 6, and 7 of Act No. 180-1998, as amended, known as the “Puerto Rico Minimum Wage, Vacation and Sick Leave Act,” are hereby renumbered as Sections 3, 4, and 5.

Section 4.06.- Current Section 8 of Act No. 180-1998, as amended, known as the “Puerto Rico Minimum Wage, Vacation and Sick Leave Act,” is hereby amended and renumbered as new Section 6, to read as follows:

“Section 6.- Persons Excluded from this Act.

(a) The provisions of this Act shall not apply to:

(1) The employees of the Government of the United States of America, and the Government of Puerto Rico, except for the employees of those agencies or instrumentalities thereof operating as private businesses or enterprises, and;

(2) Municipal Government employees.

(b) The provisions of this Act shall not apply to ‘Administrators,’ ‘Executives,’ and ‘Professionals’ as such terms are defined in Regulation Number 13 of the Minimum Wage Board.

(c) The provisions of this Act shall not apply to employees covered by a collective bargaining agreement executed between a labor union and an employer; provided, that the wage is equal or greater than the wage established under this Act.”

Section 4.07.- Current Sections 9, 10, 11, and 12 of Act No. 180-1998, as amended, known as the “Puerto Rico Minimum Wage, Vacation and Sick Leave Act,” are hereby renumbered as new Sections 7, 8, 9, and 10.

Section 4.08.- Current Section 13 of Act No. 180-1998, as amended, known as the “Puerto Rico Minimum Wage, Vacation and Sick Leave Act,” is hereby amended and renumbered as new Section 11 to read as follows:

“Section 11.- General Provisions.

(a) The Minimum Wage Board of Puerto Rico, created by virtue of Act No. 96 of June 26, 1956, as amended, is hereby repealed.

(b) The provisions of this Act shall not affect the contractual obligations pending before the effective date of this Act.

(c) The Governor of Puerto Rico is hereby authorized to adopt such transitory measures and make any decisions as necessary for the purposes of this Section.

(d) All vested rights under the personnel laws and regulations, as well as any rights, privileges, obligations, and status regarding any existing pension or retirement system or systems, or savings and loan funds of which the career employees of the Board are participants upon the effectiveness of this Act, are hereby guaranteed.”

Section 4.09.- Current Sections 14, 15, 16, 17, and 18 of Act No. 180-1998, as amended, known as the “Puerto Rico Minimum Wage, Vacation and Sick Leave Act,” are hereby renumbered as new Sections 12, 13, 14, 15, and 16.

#### CHAPTER 5.- TRANSITORY PROVISIONS

Section 5.01.- Those industries that, prior to the effectiveness of this Act, are paying higher wages and are not covered by the federal minimum wage shall continue to pay such wages to their workers. However, those industries covered by federal law that are paying wages higher than the federal minimum wage shall continue to pay such wages to their employees. Likewise, those agricultural employees not covered by the federal minimum wage shall continue to earn the minimum wage established prior to the effective date of this Act until July 1, 2022, on which date the Minimum Wage Review Board shall adopt a special mandatory decree for agricultural employees.

Any employer who violates this Section shall be guilty of a misdemeanor and punished by a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or by imprisonment for not less than one hundred twenty (120) days nor more than one (1) year, or both punishments at the discretion of the Court. The employer shall also be civilly liable for a sum equal to twice the amount of the damages that his actions may have caused to the employee. If the person settling the dispute is unable to determine the amount of the damages caused to the employee, such person may, at his discretion, impose a penalty of not less than five hundred dollars (\$500) and not more than five thousand dollars (\$5,000).

Those industries that as of the effective date of this Act were regulated by mandatory decrees shall continue to be subject to the provisions of such decrees.

#### CHAPTER 6.- FINAL PROVISIONS

##### Section 6.01.- Rulemaking Authority.

The Department of Labor and Human Resources, the Minimum Wage Review Commission, and any other agencies, departments, or instrumentalities of the Government of Puerto Rico are hereby authorized to adopt, amend, or repeal any regulation in effect to achieve the purposes of this Act.

##### Section 6.02.- Severability.

If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be void or unconstitutional, the ruling, holding, or judgment to such effect shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act thus held to be void or unconstitutional. If the application to a person or a circumstance of any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of



this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect or invalidate the application of the remainder of this Act to such persons or circumstances where it may be validly applied. It is the express and unequivocal will of this Legislative Assembly that the courts enforce the provisions and application thereof to the greatest extent possible, even if it renders ineffective, voids, impairs, or holds to be unconstitutional any part thereof, or even if it renders ineffective, voids, impairs, or holds to be unconstitutional the application thereof to any person or circumstance. This Legislative Assembly would have approved this Act regardless of any determination of severability that the Court may make.

Section 6.03.- Effectiveness.

This Act shall take effect upon its approval.