

(H. B. 2753)
(Conference)

(No. 72-2010)

(Approved July 2, 2010)

AN ACT

To amend Section 5 of Act No. 221 of May 15, 1948, as amended, known as the “Games of Chance Act,” in order to establish the manner in which additional resources generated by slot machines shall be distributed; and for other related purposes; and for other purposes.

STATEMENT OF MOTIVES

The Government of Puerto Rico is undergoing a precarious fiscal situation caused by the bad policies of past administrations. To responsibly deal with and solve the economic problem faced by Puerto Rico, this Legislative Assembly and the Government have adopted various alternatives that have reduced a structural deficit of over \$3.2 billion dollars. However, we must find other revenue-producing mechanisms to prevent additional payroll deduction plans or increases in the income taxes of individuals.

The purpose of Act No. 221 of May 15, 1948, as amended, was to help fostering tourism by authorizing certain games of chance and provide the Secretary of the Treasury with an additional source of income. The revenues generated by virtue of said Act are distributed among the Government of Puerto Rico, the Tourism Company, the University of Puerto Rico, and the casinos where such games are played. Such income has remained stable over the past few years despite the proliferation of illegal entertainment machines.

According to a study commissioned by the Tourism Company and used by the Hotel and Restaurant Association, the income generated on this account would increase with the elimination of illegal machines. For such reason, the Government, through the Secretary of the Treasury, has redoubled its efforts to address this problem by imposing greater penalties on those persons or entities that own or are engaged in the operation of this kind of machines. The study shows that casinos in Puerto Rico would earn up to an additional \$171.7 million as a result of the oversight efforts of the Department of the Treasury to eliminate illegal entertainment machines.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.—Section 5 of Act No. 221 of May 15, 1948, as amended, is hereby amended to read as follows:

“Section 5.—Games of Chance in Licensed Gambling Rooms, Authorized—
Payment and Collection of License Fees; Investigation of Revenues.—

(A) ...

(B) ...

(C) ...

(1) ...

...

(4) Thirty-four percent (34%) of the annual net income shall be remitted monthly to licensees or, if the provisions of Section 3 of this Act apply, regarding the licensee tax debts already assessed and to be collected, to the Secretary of the Treasury. The thirty-four percent (34%) net annual income shall be distributed in the same proportion that the slot machines located in each casino have generated revenues with respect to the total proceeds of all slot machines in all of the casinos.

(5) ...

(D) ...

...

(E) ...

(1) ...

(i) (a) ...

...

(ii) (a) ...

(aa) Ninety percent (90%) of such excess shall be quarterly transferred to the General Fund of the Commonwealth Treasury, pursuant to the provisions of this Act until the annual amount received by the General Fund of the Commonwealth Treasury under the preceding paragraph (i) and this paragraph (ii)(a) reaches thirty million dollars (\$30,000,000) annually; and

...

(2) For Fiscal Years 2000-01 to 2009-2010:

(i) ...

...

(3) For Fiscal Year 2010-2011:

(i) The first three hundred and fifteen million (315,000,000) dollars annual net income shall be distributed as follows:

(a) Thirty-four percent (34%) of the base period income, as defined in subsection (F)(1) of this Section, shall be distributed to Group A, as defined in subsection (F)(2)(i) of this Section, and sixty-six percent (66%) of the base period income shall be distributed to Group B, as defined in subsection (F)(2)(ii) of this Section.

(b) Any annual net income in excess of the base period income shall be distributed as follows: sixty percent (60%) to Group A and forty percent (40%) to Group B.

(ii) The next forty-five million (45,000,000) dollar annual net income shall be distributed as follows:

(a) Nine percent (9%) to Group A, as defined in subsection (F)(2)(i) of this Section;

(b) Nine percent (9%) to the Puerto Rico Tourism Company;

(c) Twenty percent (20%) to the General Fund of the University of Puerto Rico; and

(d) Sixty-two percent (62%) to the General Fund of the Commonwealth Treasury.

(iii) Any annual net income in excess of three hundred sixty million (360,000,000) shall be distributed as follows:

(a) Eighty percent (80%) to Group A, as defined in subsection (F)(2)(i) of this Section; and

(b) Twenty percent (20%) to Group B, as defined in subsection (F)(2)(ii) of this Section.

(4) For fiscal year 2011-2012 and subsequent fiscal years:

(i) The first three hundred fifteen million dollar (\$315,000,000) annual net income shall be distributed as follows:

(a) Thirty-four percent (34%) of the base period income, as defined in subsection (F)(1) of this Section, shall be distributed to Group A, as defined in subsection (F)(2)(i) of this Section, and sixty-six percent (66%) of the base period income shall be distributed to Group B, as defined in subsection (F)(2)(ii) of this Section.

(b) Any annual net income in excess of the base period income shall be distributed as follows: sixty percent (60%) to Group A and forty percent (40%) to Group B.

(ii) Any annual net income in excess of three hundred fifteen million dollars (\$315,000,000) shall be distributed as follows:

(a) Eighty percent (80%) to Group A, as defined in subsection (F)(2)(i) of this Section; and

(b) Twenty percent (20%) to Group B, as defined in subsection (F)(2)(ii) of this Section.

(F) ...

...

(G) For Fiscal Year 1997-98 and subsequent fiscal years, the annual net income to be distributed to Group A shall be distributed among licensees as follows:

(1) ...

(2) The gross income attributable to each licensee shall be determined pursuant to the rules provided in this clause. The gross income of Group A shall be determined by multiplying the gross income of all slot machines by a fraction whose numerator shall be equal to the annual net income distributed to Group A, as determined under subsection (E) of this Section, and the denominator shall be equal to the total annual net income distributed to Group A, Group B, and the General Fund of the Commonwealth Treasury and the General Fund of the University of Puerto Rico and the Tourism Company, in those fiscal years in which they shall receive direct allocations from these funds pursuant to this Act. The gross income attributable to each licensee shall be determined by multiplying the gross income of Group A by a fraction whose numerator shall be the gross income generated by slot machines placed in the gambling room of said licensee, and the denominator shall be the gross income generated by all slot machines in all gambling rooms.

(3) In the case of slot machines owned or possessed by licensees, the cost of machines attributable to the licensee shall be determined according to the following rules:

(i) ...

...

(ii) The cost of slot machines attributable to licensees shall be equal to the gross cost of machines located in his/her gambling room multiplied by a fraction whose numerator shall be the annual income distributed to Group A, as determined under Section 5(E) of this Act, and the denominator shall be the annual net income distributed to Group A, Group B, and the General Fund of the Commonwealth Treasury and the General Fund of the University of Puerto Rico and the Tourism Company, in those fiscal years in which they shall receive direct allotments from these funds pursuant to this Act.

(4) In the case of slot machines owned or possessed by the Tourism Company, the cost of machines attributable to licensees shall be determined pursuant to the following rules:

(i) ...

(ii) The cost of the slot machines of the Tourism Company attributable to the licensee shall be equal to the gross cost of the machines of the Tourism Company located in their gambling rooms, multiplied by a fraction whose numerator shall be the annual income distributed to Group A, as determined under Section 5(E) of this Act, and the denominator shall be the annual net income distributed to Group A, Group B, and the General Fund of the Commonwealth Treasury and the General Fund of the University of Puerto Rico and the Tourism Company, in those fiscal years in which they shall receive direct allocations from these funds pursuant to this Act.

(5) ...

...

(H) (1) The proportion corresponding to each group and the General Fund of the Commonwealth Treasury shall be paid to these according to the provisions of this Section, based on an estimate of the annual net income calculated by the Tourism Company. Every month, the Tourism Company shall tentatively allocate to Group A, Group B, and the General Fund of the Commonwealth Treasury and the General Fund of the University of Puerto Rico and the Tourism Company, one twelfth (1/12) of the amounts to be distributed among these, pursuant to Section 5(E) of this Act, in those fiscal years in which they shall receive direct allocations from these funds.

(2) Every monthly allocation can be modified by the Tourism Company, at its discretion, to adjust any payments made in previous months that was in excess of or below the correct amount, to any group, including the General Fund of the Commonwealth Treasury and the General Fund of the University of Puerto Rico and the Tourism Company, in those fiscal years in which they shall receive direct allocations from these funds pursuant to this Act. After adjusting the monthly assignments, the Tourism Company shall proceed to make the monthly payments required in this Act. Every three (3) months, the Tourism Company shall make the required payments to the General Fund of the Commonwealth Treasury and the General Fund of the University of Puerto Rico, and the Tourism Company, in those fiscal years in which they shall receive direct allocations from these funds pursuant to this Act. At the close of every fiscal year, the Tourism Company shall make those payments required under this Act. Payments made pursuant to the provisions of this subsection are estimates; therefore, the Tourism Company may withhold, during the last three (3) months of the year, all or part of those payments that must be made monthly or quarterly, so as to ensure that the total amount of the

payments made to each entity shows the final payment required by paragraph (5) of this subsection.

(3) Within ninety (90) days after June 30 of each year, the Tourism Company shall conduct a final liquidation of the funds distributed to Group A, Group B, and the General Fund of the Commonwealth Treasury, and to the General Fund of the University of Puerto Rico, and the Tourism Company, in those fiscal years in which they shall receive direct allocations from these funds pursuant to this Act. Should there be an excess in the funds collected during the fiscal year, the Tourism Company shall transfer to each group and the General Fund of the Commonwealth Treasury and the General Fund of the University of Puerto Rico and the Tourism Company, in those fiscal years in which they shall receive direct allocations from these funds pursuant to this Act, any corresponding amount from such excess. If during the fiscal year, amounts have been transferred that were in excess of those corresponding to any of the groups or the General Fund of the Commonwealth Treasury, or for Fiscal Year 2010-2011 and subsequent fiscal years, to the General Fund of the University of Puerto Rico, pursuant to such final liquidation, the Tourism Company shall withhold from such amounts to be transferred in the following fiscal year, the amounts necessary to recover such excess, regardless of whether the payments in excess were made by the Tourism Company.

(i) None of the members of Group A, Group B, or the General Fund of the Commonwealth Treasury, or for Fiscal Year 2010-2011 and subsequent fiscal years, the General Fund of the University of Puerto Rico, may claim deficiencies or errors in the computation of the amounts that they have received during any specific fiscal year unless they file a claim with the Tourism Company to that effect within one hundred eighty (180) days after the close of such fiscal year.

...”

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. 72-2010 (H. B. 2753) (Conference)** of the **3rd Session of the 16th Legislature** of Puerto Rico:

AN ACT to amend Section 5 of Act No. 221 of May 15, 1948, as amended, known as the "Games of Chance Act," in order to establish the manner in which additional resources generated by slot machines shall be distributed; and for other related purposes; and for other purposes.

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

In San Juan, Puerto Rico, on this 6th day of June, 2013.

Juan Luis Martínez-Martínez
Acting Director