

held in the career service in any municipal dependency, if they had been recruited pursuant to the criteria of the merit principle and meet the minimum requirements established for the category of the position they hold.

Employees shall retain ...”.

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

Approved August 11, 1996.

International Banking Center Regulatory Act— Amendments

(H.B. 2280)

[No. 121]

[*Approved August 11, 1996*]

AN ACT

To amend Sections 2, 5, 6, 9, 12, 13, 14, 16, 19, and 25 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act” in order to make it more attractive and competitive.

STATEMENT OF MOTIVES

The International Banking Center Regulatory Act was originally promulgated as Act Number 16 of July 2, 1980, with the main objective of establishing and promoting Puerto Rico as an important international banking center. Neither said act nor the amendments made to it in 1985 produced the results or objectives desired; therefore, it was repealed and substituted by Act Number 52 of August 11, 1989. This Act, although substantially improved, has not produced the desired objective of converting and promoting Puerto Rico as a dynamic and vigorous international banking center.

Taking into consideration that the conditions are still propitious for Puerto Rico to exercise to the utmost its role as

an international banking center, it is necessary and convenient that the law that regulates that economic activity is made even more attractive. To such end, it is necessary to amend the aforementioned Act No. 52 so that international banking entities can conduct the businesses and activities authorized by it in a more competitive and efficient manner.

The amendments proposed significantly extend the scope of the businesses that can be conducted and increase the incentives to make it more attractive and competitive. Likewise, there is greater flexibility in the operate international banking entities they are engaged.

The principal benefits of an international banking center for Puerto Rico are the expansion of the services sector, the direct and indirect creation of jobs and the growth of the economic activity.

Puerto Rico offers many favorable conditions to conduct international banking transactions, such as its political stability, the solidity of its banking system, the close economic relationship with the United States, the high degree of professionalism, bilingualism and technical capacity of its human resources, a unified market and monetary system, its privileged geographical location, and an advanced communications network.

In order to attain the desired objectives, the approval of this legislative piece is necessary.

Be it enacted by the Legislature of Puerto Rico:

Section 1.—Section 2 of Act No. 52 of August 11, 1989 [7 L.P.R.A. § 232], is hereby amended to read as follows:

“Section 2.—Definitions.

For the purposes of this Act, the following terms are defined as set forth below:

(a) ...”.

Section 2.—Section 5 of Act No. 52 of August 11, 1989 [7 L.P.R.A. § 232c], is hereby amended to read as follows:

“(a) ...

(b) The articles of incorporation, the partnership agreement or any other written document establishing an international banking entity shall specify:

(1) ...

(3)(A) in the case of a corporation, the amount of its authorized capital stock, which shall not be less than five million dollars (\$5,000,000) and of which at least two hundred and fifty thousand dollars (\$250,000) shall be fully paid at the time the license is issued in accordance with the provisions of Section 7 of this Act [7 L.P.R.A. § 232e]; Provided, That the Commissioner may authorize a lesser authorized and/or paid-in capital, by request of the interested party, when the type of business or powers that the international banking entity intends to exercise or other circumstances thus merit it, in the criterion of the Commissioner; the number of shares into which it shall be divided and the par value of each share. If the shares are to be issued in series, the date of issue of each series, as well as the manner and term in which payment thereof shall be made

(B) in the case of a person other than an individual or a corporation, the amount of the proposed capital, which shall not be less than five million dollars (\$5,000,000) and of which at least two hundred and fifty thousand dollars (\$250,000) shall have been fully paid at the time the license is issued in accordance to the provisions of Section 7 of this Act [7 L.P.R.A. § 232e]; Provided, That the Commissioner may authorize a lesser proposed and/or paid-in capital, by request of the interested party, when the type of business or powers that the international banking entity intends to exercise or other circumstances thus merit it, in the criterion of the Commissioner; the name and address of its partners and other owners.

(4) ...

(c) An international banking entity that intends to operate as a unit shall provide a certification executed by the person of whom it is a unit, and in the form prescribed by the regulations of the Commissioner, which shall specify:

(1) ...

(3) the amount of the authorized or proposed paid-in capital of the person of whom the international banking entity is to be a unit, whose capital shall not be less than five million dollars (\$5,000,000), of which at least two hundred and fifty thousand dollars (\$250,000) shall have been fully paid at the time the license is issued; Provided, That the Commissioner may authorize a lesser authorized, proposed, and/or paid-in capital, by petition of the interested party, when the type of business or powers that the international banking entity intends to exercise or other circumstances thus merit it, in the criterion of the Commissioner.

(4) ...”.

Section 3.—Section 6 of Act No. 52 of August 11, 1989 [7 L.P.R.A. § 232d], is hereby amended to read as follows:

“Section 6.—Application for permit.

(a) Any person may apply to the Commissioner for a permit to organize an international banking entity. The application shall be in writing, in the form specified by the regulations of the Commissioner and shall be accompanied by:

(1) ...

(2) a nonrefundable application fee of five thousand dollars (US\$5,000); and

(b) ...

(d) The expenses incurred by the Commissioner for the above indicated investigation shall be defrayed by the applicants. The Commissioner shall claim said investigation expenses from the applicants.

(e) Should the Commissioner determine that the results of his investigation are favorable, he may, at his sole and exclusive discretion, and after payment of the investigation expenses as established in subsection (d) of this Section, issue to the applicants a permit to organize an international banking entity, subject to such conditions as the Commissioner may establish.

(f) When the Commissioner issues a permit pursuant to the provisions of this Section, ...”.

Section 4.—Section 9 of Act No. 52 of August 11, 1989 [7 L.P.R.A. § 232g], is hereby amended to read as follows:

“Section 9.—Unencumbered Assets; Capital; Shares of Capital Stock.

(a) Every international banking entity shall possess not less than three hundred thousand dollars (\$300,000) of unencumbered assets or acceptable financial securities, or that lesser sum that, by request of the interested party, the Commissioner authorizes, when the type of business or powers that the international banking entity intends to exercise or other circumstances thus merit it, in the criterion of the Commissioner. The unencumbered assets shall be physically located in Puerto Rico and subject to the requirements regarding the same provided by the regulations of the Commissioner.

(b) The capital of, or assigned to an international banking entity may not be reduced without the prior written approval of the Commissioner.

(c) Without the prior written approval of the Commissioner, no international banking entity may issue:

...”

Section 5.—Section 12 of Act No. 52 of August 11, 1989 [7 L.P.R.A. § 232j], is hereby amended to read as follows:

“Section 12.—Permitted Transactions; Prohibited Transactions.

(a) Upon receipt of a license to operate an international banking entity in accordance with Section 7 of this Act [7 L.P.R.A. § 232e], an international banking entity may:

(1) accept deposits from foreign persons in checking accounts as well as demand or fixed term deposits and interbank deposit of funds, or otherwise borrow money from international banking entities and from any foreign person pursuant to the regulations adopted by the Commissioner.

(2) ...

(3) make or place deposits in, and otherwise give money as a loan to, the Government Development Bank for Puerto Rico, the Economic Development Bank for Puerto Rico, any international banking entity, or any bank, including banks

organized under the laws of Puerto Rico and to branches in Puerto Rico of banks that are foreign persons;

(4) make, procure, place, guarantee, or service loans; Provided, That none of such loans may be granted to a domestic person, except as provided in clause (a) of subsection (3) of this Section and in the cases of financial securities for debt issue transactions in Puerto Rico.

(5)(a) issue, confirm, give notice, negotiate, or refinance letters of credit, provided that the client and beneficiary requesting the letter of credit is not a domestic person; or

(b) issue, confirm, give notice, negotiate, or refinance letters of credit in transactions for the financing of exports, even if the beneficiary is a domestic person.

(6) ...

(7) invest in securities, stocks, notes and bonds of the Caribbean Basin Projects Financing Authority, in securities of the Government of Puerto Rico, its public agencies and instrumentalities, its municipalities, and its political subdivisions, or in other local securities, if there should exist any, exempted from the payment of taxes in Puerto Rico.

(8) ...

(20) participate in the granting and securing of loans that originate and/or are secured by the Government Development Bank for Puerto Rico and the Economic Development Bank for Puerto Rico;

(21)(a) finance, through loans or financial securities, projects in those areas of priority for the Government of Puerto Rico in those cases designated as extraordinary by the Secretary of the Treasury and the Commissioner.

(b) The Commissioner shall adopt the pertinent regulations to implement this provision. However, said regulations shall require, in all cases, the prior authorization of such loans by the Secretary of the Treasury and the Commissioner.

(22)(a) establish, with the Commissioner's authorization, branches outside of Puerto Rico, in the United States mainland and its possessions, or in other foreign countries. The Commissioner of Financial Institutions is hereby empowered to provide, through regulations, the procedure to obtain said

authorization, and the amount payable for application investigation expenses and annual quota fees for each one of said branches.

(b) The Commissioner is hereby empowered to authorize an international banking entity to establish a service unit or office in Puerto Rico, in which only specific operations related to the services of the international banking entity shall be conducted, in the manner and form provided through regulations, but by no means shall said service unit or office constitute a branch.

(23) with the prior authorization of the Commissioner, provide to other international banking entities or to foreign persons or entities outside of Puerto Rico, those services of financial nature, as these are defined and generally accepted in the banking industry of the United States and Puerto Rico and which are not listed in this Section.

(b) The international banking entity may not:

(1) ...

(2) make, procure, place, secure, or service loans, unless all loan proceeds are to be used outside of Puerto Rico; with the exception of the cases permitted in clauses (20) and (21) of subsection (a) of this Section;

(3) issue, confirm, or give notice of letters of credit, unless all proceeds of the letter of credit are to be used outside of Puerto Rico, and that both the issuer and the beneficiary are foreign persons; with the exception of export financing transactions in which the beneficiary is a domestic person."

Section 6.—Section 13 of Act No. 52 of August 11, 1989 [7 L.P.R.A. § 232k], is hereby amended to read as follows:

"Section 13.—Personnel

(a) The international banking entity shall employ on a full-time basis a minimum of four (4) persons at its business office or offices in Puerto Rico.

Provided, That the Commissioner may authorize a lesser number of employees upon request of the interested party, for which authorization the Commissioner shall evaluate factors such as the powers conferred by the license granted under this Act, the nature and complexity of its operations in Puerto Rico,

and those other criteria established in the regulations of the Commissioner."

Section 7.—Section 14 of Act No. 52 of August 11, 1989 [7 L.P.R.A. § 232l], is hereby amended to read as follows:

"Section 14.—Accounts and Registers

(a) ...

(c) The originals of the account books and registers of an international banking entity shall be deemed as belonging to such international banking entity regardless of whether such international banking entity is a person or constitutes a unit of another person, and a duplicate thereof may be kept and maintained in its country of origin."

Section 8.—Section 16 of Act No. 52 of August 11, 1989 [7 L.P.R.A. § 232n], is hereby amended to read as follows:

"Section 16.—Revocation, suspension or surrender.

(a) The license issued under Section 7 of this Act shall be subject to revocation or suspension by the Commissioner, upon previous notice and hearing pursuant to the regulations provided in Section 21 of this Act if:

(1) ...;

(2) ...;

(3) the Commissioner finds that the business or affairs of an international banking entity are conducted in a manner that is not consistent with the public interest.

...".

Section 9.—Section 19 of Act No. 52 of August 11, 1989 [7 L.P.R.A. § 232q], is hereby amended to read as follows:

"Section 19.—Confidentiality

(a) The information that the international banking entity provides to the Commissioner under the provisions of this Act and the regulations adopted by the Commissioner pursuant to the same, shall be kept confidential, except (i) when disclosure of such information is required by law or judicial order or (ii) through a formal petition of a domestic or foreign government agency in the course of the exercise of its supervisory function, when the Commissioner has grounds to believe that it is in the

best public interest. In such case, the information shall be delivered under a binding agreement with the concerned government entity of maintaining the confidential nature of said information. Provided, That the exception under the preceding clause (ii) shall under no circumstances be extended to information regarding clients of the international banking entity."

Section 10.—Section 25 of Act No. 52 of August 11, 1989 [7 L.P.R.A. § 232w], is hereby amended to read as follows:

"Section 25.—Income Tax Exemption

(a) The income derived by international banking entities duly authorized by this Act from those activities described in subsection (a) of Section 12 of this Act [7 L.P.R.A. § 232j] shall not be included in the gross income of said entities and shall be exempt from the tax levied by Act No. 120 of October 31, 1994, known as the "Puerto Rico Internal Revenue Code of 1994," as amended, or its predecessor.

(b) The interest, financing charges, dividends or shares in partnership profits received by international banking entities duly authorized by this Act, shall not be deemed gross income from a source in Puerto Rico, for the purposes of Section 1123(a)(1) and (2) of Act No. 120 of October 31, 1994, known as the "Puerto Rico Internal Revenue Code of 1994," as amended [13 L.P.R.A. § 3110(a)(1), (2)], or its predecessor, Section 119(a)(1) and (2) of Act No. 91 of June 29, 1954, as amended.

(c) The provisions of Section 1147 of Act No. 120 of October 31, 1994, known as the "Puerto Rico Internal Revenue Code of 1994," as amended [13 L.P.R.A. § 8547], or its predecessor, Section 143 of Act No. 91 of June 29, 1954, as amended [13 L.P.R.A. § 3143], which impose the obligation to withhold income taxes at source in the case of payments made to nonresident individuals, shall not apply to interest, financing charges, dividends or shares in partnership profits received from international banking entities duly authorized by this Act.

(d) The provisions of Section 1150 of Act No. 120 of October 31, 1994, known as the "Puerto Rico Internal Revenue Code of 1994," as amended [13 L.P.R.A. § 8550], or its predecessor,

Section 144 of Act No. 91 of June 29, 1954, as amended [13 L.P.R.A. § 3144], which impose an obligation to withhold income taxes at source in the case of payments made to nonresident foreign corporations and partnerships which have not received income actually connected with a trade or business in Puerto Rico, shall not apply to interest, financing charges, dividends or shares in partnership profits received from international banking entities duly authorized by this Act.

(e) Income derived by a nonresident alien individual consisting of interest, financing charges, dividends or shares in partnership profits received from international banking entities duly authorized by this Act, shall not be subject to the tax levied by Section 1221(a)(1) of Act No. 120 of October 31, 1994, known as the "Puerto Rico Internal Revenue Code of 1994," as amended [13 L.P.R.A. § 8605(a)(1)], or its predecessor, Section 211(a)(1) of Act No. 91 of June 29, 1954, as amended [13 L.P.R.A. § 3211(a)(1)].

(f) Income derived by a foreign corporation or partnership consisting of interest, financing charges, dividends or shares in partnership profits received from international banking entities duly authorized by this Act, shall not be subject to the tax levied by Section 1231(a)(1)(A) of Act No. 120 of October 31, 1994, known as the "Puerto Rico Internal Revenue Code of 1994," as amended [13 L.P.R.A. § 8615(a)(1)(A)], or its predecessor, Section 231(a)(1)(A) of Act No. 91 of June 29, 1954, as amended [13 L.P.R.A. § 3231(a)(1)(A)].

(g) The provisions of Section 231A of Act No. 91 of June 29, 1954, as amended [13 L.P.R.A. § 3231A], or Section 1232 of Act No. 120 of October 31, 1994, as amended [13 L.P.R.A. § 8616], known as the 'Puerto Rico Internal Revenue Code of 1994' shall not be applicable to international banking entities duly authorized by this Act.

(h) The interest and other income derived from financing granted to projects in areas of priority for the Government of Puerto Rico, that have been designated as extraordinary by the Secretary of the Treasury and the Commissioner pursuant to Section 12 of this Act, shall be treated as unexempted for the exclusive purpose of assigning deductions to income exempt under Sections 1018, 1023 and 1024 of Act No. 120 of October

31, 1994, as amended [13 L.P.R.A. § 8418, 8423 and 8424], known as the "Puerto Rico Internal Revenue Code of 1994." Furthermore, the obligations resulting from said financing shall not be considered exempted obligations for the purposes of the above indicated Sections of the Puerto Rico Internal Revenue Code of 1994.

(i) None of the provisions of this Section shall be construed as a limitation to the power of the Secretary of the Treasury to apply, to the international banking entity or to any other person, the provisions of Section 1047 of Act No. 120 of October 31, 1994, as amended [13 L.P.R.A. § 8447], known as the "Puerto Rico Internal Revenue Code of 1994," or its predecessor, Section 45 of Act No. 91 of June 29, 1954, as amended [13 L.P.R.A. § 3045], known as the "Income Tax Act of 1954."

Section 11.—This Act shall take effect immediately after its approval.

Approved August 11, 1996.

Public Education—Teaching Personnel; Salary Increase

(H.B. 2330)

[No. 122]

[*Approved August 11, 1996*]

AN ACT

To raise the salary of classroom teachers and other teaching personnel of the Puerto Rico Public Education System by one hundred and twenty-five (125) dollars per month, from July, 1996; and to amend Section 1 of Act No. 142 of August 9, 1995, as amended, in order to adjust the salary schedules of teachers and other teaching personnel of the Department of Education.

STATEMENT OF MOTIVES

We are committed to an Educational Reform process whose success depends, among other factors, on the joint efforts of all those who are linked to the educational process. Teachers have been recognized as a basic resource in the learning process and the development of our children. However, their working conditions have not kept pace with the preeminent role they are recognized to have.

The policy of the Government of Puerto Rico with regard to compensation of teachers of the Public Education System, is to improve the working conditions and remuneration of these public employees. To this end, a commitment was made to raise the basic salary of teachers by \$500 a month which was put into effect as of fiscal year 1993-94, through a four-stage plan. The intention of this legislation is to bring this plan into completion, thus fulfilling the commitment to the teaching class of the public education system.

Be it enacted by The Legislature Of Puerto Rico:

Section 1.—The monthly salary schedules for classroom teachers and other teaching, administrative, technical and supervisory personnel of the Department of Education, shall be raised by one hundred and twenty-five (125) dollars a month, as of July 1, 1996.

Section 2.—Pursuant to the provisions of this Act, the monthly raise of one hundred and twenty-five (125) dollars shall be effective July 1, 1996, for the teachers who receive their salaries on a calendar month-basis, and on the first day of the school month of July for those teachers whose salary is based on the school month.

Section 3.—The cost of the raises for teaching personnel and of the implementation of the salary schedules established in Section 1 of this Act shall be consigned in the General Budget Joint Resolution for fiscal year 1996-97.

Section 4.—Section 1 of Act No. 142 of August 9, 1995, as amended, is hereby amended to read as follows: