

(H. B. 3626)

**(No. 128-2012)**

(Approved June 29, 2012)

## **AN ACT**

To add a new subsection (c), (g) and (h), and renumber former subsections (c), (d), and (e) of Section 4060.01 of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” in order to add powers to the Department of the Treasury in relation with the Merchants Registry; to repeal Act No. 171-2000, as amended, known as the “Compulsory Registry for Merchants and Businesses for the Industry and the Sale of Goods and Services in Puerto Rico Act;” and for other purposes.

### **STATEMENT OF MOTIVES**

Act No. 171-2000, *supra*, created the Voluntary Registry for Merchants and Businesses Program. Through this Act No. 171-2000, the now extinct Commercial Development Administration was charged with the responsibility of implementing the Voluntary Registry for Merchants and Businesses in Puerto Rico. Said agency was also entrusted with the establishment of the fee to access information in the Registry and the creation of a special account for the operations and services of the program.

The current Compulsory Registry for Merchants and Businesses of the Trade and Export Company is an annual economic census and the information requested is exclusively used to plan the entrepreneurial and economic development of Puerto Rico, as well as to create a statistical data and marketing source that shall enable the government and entrepreneurs to foresee any increase in demand or shortage of goods and services, any saturation points in competition, the distribution among small, medium, and large businesses in the market, as well as any other information needed to formulate an economic policy based on a real, reliable, and accurate database at the time of validating the same.

At present, every person, business, or organization engaged in the sale or production of goods or in service rendering that operates for profit in Puerto Rico is required to register in the Compulsory Registry for Merchants and Businesses. Nonprofit organizations may register their information voluntarily.

In spite of the existence of the Compulsory Registry for Merchants and Businesses of the Trade and Export Company, the Department of the Treasury of Puerto Rico established in 2006, its own Registry for Merchants, as provided in Act No. 117-2006, also known as the Tax Justice Act of 2006. Registration in the Merchants of the Department of the Treasury of Puerto Rico is mandatory for every natural or juridical person that wishes to engage or that is engaged in any type of business in Puerto Rico. Moreover, registration in the Registry for Merchants of the Department of the Treasury of Puerto Rico is also required for all businesses such as itinerant businesses, temporary businesses, permanent businesses, as well as for certain exhibitors. Currently, such Registry is found in Act No. 1-2011, as amended, known as the “Internal Revenue Code for the New Puerto Rico.”

Consistent with the public policy to simplify government processes and eliminate bureaucratic burdens against our businessmen, as evidenced by legislation such as the government reorganization plans and the Permits Reform, among others, this Legislative Assembly finds that, at the time of its approval, Act No. 171-2000 was an effective statistical mechanism and a tool for entrepreneurial development. However, if the information obtained from the Compulsory Registry for Merchants and Businesses created under said Act No. 171, *supra*, is also available in registries existing in other agencies and instrumentalities of the Government, it would be appropriate to consolidate and modify said information. Promoting a cost-effective government and maximizing government operations by fostering favorable operational conditions for the private sector would strengthen

the efforts made to attract investors and promote Puerto Rico as an ideal destination to do business at the Caribbean and the international level.

Through this Act, we shall ensure that the information and empirical data of commercial, entrepreneurial, and industrial operations of Puerto Rico is collected by a specific government information center and that the information thus obtained is reliable and valid.

For all the foregoing, this Legislative Assembly believes that it would be cost-effective and of utmost benefit for entrepreneurial competition on the Island to those responsible for managing the data in the Compulsory Registry of Merchants and Businesses currently administered by the Trade and Export Company share their data with the Registry of Merchants of the Department of the Treasury, delegating on the latter the responsibility to register, authorize, issue the corresponding certification, and overseeing the Registry of Merchants of the Government of Puerto Rico.

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

Section 1.- Section 4060.01 of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” is hereby amended to read as follows:

“Section 4060.01.- Registry for Merchants

(a) Any person who wishes to conduct business in Puerto Rico as a merchant must file with the Secretary of the Department of the Treasury an Application for Certification in the Registry for Merchants for every commercial establishment, stating the names of the persons with an interest in said business, the street address of their residences and of the main office of the business, and of any location where sales or services are carried out, as well as any other information the Secretary may require.

(b) The application described in subsection (a) of this Section must be submitted to the Secretary before the person, business, partnership, or corporation begins to operate a business, as well as those that were operating at the time of the approval of this Act.

(c) No merchant may sell, assign, transfer, or otherwise convey to another any Certificate of Registration for Merchants according to the provisions of this Subtitle unless such transfer is duly authorized by the Secretary after meeting the requirements established in this Subtitle and the rules or regulations adopted for the administration and implementation thereof.

(d) The Secretary, after approving the application for the certificate of registration for merchants, shall grant the applicant a merchant's registry certificate in which the requirement of the merchant as a withholding agent is established.

(e) Every merchant shall be required to notify the Secretary about any change or amendment to the information required in the application for the registry of merchants, the theft of the merchant's registry certificate, or the total or partial cease of operations, not later than thirty (30) days after the change or the event.

(f) The Secretary of the Treasury shall be empowered to prescribe by regulations or official communication, any requirement deemed necessary for the Puerto Rico Registry of Merchants administered by the Department of the Treasury, as well as for establishing the necessary coordination to carry out the allowed data transfer to the Puerto Rico Trade and Export Company and for the purposes set forth in subsection (g) of this Section.

(g) The Department of the Treasury shall share and transfer, free of charge, and through the electronic means available, certain data from the Registry for Merchants to the Trade and Export Company of the Government of Puerto Rico. The form and manner in which said statistical data shall be shared shall be prescribed by Regulations or Circular Letter issued by the Department of the

Treasury in conjunction with the Trade and Export Company, without impairing the rights of the taxpayers that are registered in the Registry for Merchants administered by the Department of the Treasury. The Regulations to be adopted under this Act or any other future law regarding the Registry for Merchants for purposes of sharing and transferring the statistical data that by mutual agreement and in coordination is transferred from the Department of the Treasury to the Trade and Export Company shall include all those safeguards that provide for the protection of the rights set forth in the Bill of Rights of Taxpayers and in all those laws and regulations in effect that govern the confidentiality of the taxpayer's information. The data to be shared between the aforementioned departments shall be treated as strictly confidential, and both agencies shall determine the general information that does not statistically identify a particular taxpayer, but rather a general business or entrepreneurial sector of our economy. The information gathered and to be shared shall be exclusively used for the creation of a statistical data and marketing source for the planning of the economic and entrepreneurial development of Puerto Rico that allows for the formulation of a public policy based on real and reliable data, that is consistent with the actual realities of the commercial or entrepreneurial sectors of the Island.”

Section 2.- Act No. 171-2000, as amended, known as the “Compulsory Registry for Merchants and Businesses for the Industry, and the Sale of Goods and Services in Puerto Rico Act,” is hereby repealed.

Section 3.- To achieve the purposes of this Act, the Department of the Treasury, in coordination with the Puerto Rico Trade and Export Company, shall earmark funds from any unencumbered funds of the Puerto Rico Trade and Export Company.

#### Section 4.- Rulemaking Authority

The Department of the Treasury in close collaboration with the Puerto Rico Trade and Export Company shall have ninety (90) days to draft the Regulations of the Puerto Rico Registry for Merchants. Said Regulations shall include, but shall not be limited to, clearly and briefly, the data to be required from companies, merchants, or any person interested in doing business in Puerto Rico, as well as the manner and form in which said information shall be shared and transferred to the Puerto Rico Trade and Export Company, without impairing the rights of taxpayers.

#### Section 5.- Information Sharing

Within one hundred eighty (180) days after the approval of this Act, the Department of the Treasury shall transfer the updated information of the Registry for Merchants to the Puerto Rico Trade and Export Company. As of the date agreed on by both agencies, the Department of the Treasury shall transfer data from the Registry for Merchants in digital format, at least every thirty (30) days to the Puerto Rico Trade and Export Company, including the data prescribed by Regulations.

#### Section 6.- Severability Clause

If any section or provision of this Act were held to be null or unconstitutional by any court with competence and jurisdiction, said holding shall not affect nor invalidate the remaining provisions of this Act, and the effect thereof shall be limited to the paragraph, section, part, or provision held to be null or unconstitutional.

#### Section 7.- Effectiveness

This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 128-2012 (H. B. 3626)** of the **7<sup>th</sup> Regular Session** of the **16<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to add a new subsection (c), (g) and (h), and renumber former subsections (c), (d), and (e) of Section 4060.01 of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” in order to add powers to the Department of the Treasury in relation with the Merchants Registry; to repeal Act No. 171-2000, as amended, known as the “Compulsory Registry for Merchants and Businesses for the Industry and the Sale of Goods and Services in Puerto Rico Act;” 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 17<sup>th</sup> day of November, 2015.

Juan Luis Martínez Martínez  
Director