

(H. B. 2036)
(Conference)

(No. 202)

(Approved December 14, 2007)

AN ACT

To amend clauses (1), (6), (7), (10), (11) and (12) of subsection (d) of Section 7 of Chapter III of Act No. 213 of September 12, 1996, as amended, known as the “Puerto Rico Telecommunications Act of 1996,” and to renumber clauses (6), (7), (8), (9), (10), (11) and (12) as (2), (3), (4), (5), (6), (7) and (8), respectively; to repeal clauses (2), (3), (4) and (5) of said subsection, in order to provide that the Board shall establish the eligibility criteria following the norms established by the Federal Communications Commission for the Lifeline Service Program; to establish that the subsidy of this program shall be granted to a single wireless telephone or cellular phone or PCS, at the discretion of the user; and to establish that the public agencies that administer federal subsidy programs are responsible for initiating the automatic subscription process when they declare a person eligible therefor; and for other purposes.

STATEMENT OF MOTIVES

Act No. 213 of September 12, 1996, as amended, created the Telecommunications Regulatory Board of Puerto Rico with the powers and prerogatives necessary to ensure the availability of universal telecommunications services at affordable rates for all citizens, oversee the efficiency of telephone and cable television services, as well as other telecommunications services, and ensure the continuity in the rendering of services, such as public telephones, and telephone directories, according to the public need, among others.

The goal of the Universal Service, established in Chapter III, Section 7 of said Act, is to provide comparable quality telecommunications services to all sectors of the population and geographical areas of Puerto Rico. Said Section directs the Telecommunications Regulatory Board to preserve and promote the universal service through specific and sufficient support mechanisms. The referred Act No. 213 provides for the constitution of a fund to defray the expenses of the universal service in Puerto Rico as one of these mechanisms. The fund was created to subsidize, among other services, the local Lifeline service, which provides certain discounts and subsidies of the monthly telephone services rates to qualifying low-income users. The local Lifeline service complements the support mechanisms established in the Federal ambit.

In Puerto Rico, the Legislature, by means of the approval of Act No. 242 of October 9, 2002, amended Act No. 213, which established a procedure to provide for automatic subscription to the Lifeline Service for all telephone service users who participate in the Nutritional Assistance Program (PAN, Spanish acronym) administered by the Department of the Family. The automatic subscription procedure begins when the Department of the Family remits, on a monthly basis, a list to the eligible telecommunications companies an electronic update of the candidates that qualify. The monthly updates shall only include new eligible clients and those that were dropped. Once the list of eligible candidates has been received, the eligible telecommunications companies shall begin the process of automatic subscription of all users identified as beneficiaries of the Nutritional Assistance Program who qualify for the Lifeline Service Program. The eligible telecommunications company shall provide to its subscriber a form, previously approved by the Board, on which said client

may request to be automatically registered in the Lifeline Program, through a self-certification of the eligible client that states, under penalty of permanent ineligibility, that neither he/she, nor any residing member of the family unit owns a second line or a cellular phone or PCS, in addition to the main line of the home.

In Puerto Rico, hundreds of thousands of families receive the Nutritional Assistance Program benefits. According to the report of the Senate Committee on Social Welfare and Special Communities, regarding S. B. 1315, which created the referred Act No. 242, it has been estimated that there are some four hundred fifty thousand (450,000) families in Puerto Rico that qualify for this service, yet only a small percent of the total eligible subscribers benefits from these subsidies. In the public hearing of the Committee on Socioeconomic Development and Planning, held on May 24, 2005, on House Resolution 2047, it was reported that only one hundred thirteen thousand (113,000) beneficiaries of the Nutritional Assistance Program are subscribed to the Lifeline Service Program. This represents approximately only twenty-five percent (25%) of all the beneficiaries of the Nutritional Assistance Program. The public policy is directed to facilitating access to telephone services to the largest amount of persons possible, therefore, this Legislature deems that the process for requesting automatic subscription should be simplified and the Lifeline Service Program should be extended to the beneficiaries of federal subsidy programs that make them eligible for the telephone services subsidy in the federal jurisdiction, so that more eligible families may enjoy this service.

On the other hand, persons who are interested in participating in the Lifeline Service Program cannot have a second telephone line or cellular phone or PCS, according to the text of the Act in effect. In the contemporary

world, the cellular phone or a PCS is a staple commodity that may be purchased at a reasonable price. For which reason, obtaining one of these means of wireless communication does not necessarily imply a change in the financial capacity of the Nutritional Assistance Program beneficiary. Ownership of a cellular phone or PCS by a beneficiary or a residing member of his/her family unit is convenient for reaching them in emergency situations when someone is away from the home. Moreover, federal regulations do not allow discrimination by reason of technology for eligibility for this subsidy. For these reasons, the Legislature deems it convenient for a family that is a beneficiary of any of the federal subsidy programs that make it eligible for the telephone service subsidy to be able to have other telecommunications technologies to be eligible for the Lifeline Service Program.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.— Subsection (d) (1) of Section III-7 of Act No. 213 of September 12, 1996, as amended, is hereby amended to read as follows:

“Section 7.— Universal Service

(a) Universal Service Principles

...

(b) Determination of eligible telecommunications companies

...

(c) Universal service procedures

...

(d) Lifeline Service Automatic Subscription Program

(1) Every telephone service user who is a beneficiary of any of the eligible assistance programs established by the Federal Communications Commission (FCC) shall

be subject to automatic subscription to the Lifeline Service contemplated in the Universal Service Regulations adopted by the Board. The Board shall establish the eligibility criteria following the norms established by the FCC.

...”

Section 2.— Clauses 2, 3, 4 and 5 of subsection (d) of Section 7 of Chapter III of Act No. 213 of September 12, 1996, as amended, are hereby repealed.

Section 3.— Clause 6 is hereby amended and renumbered as clause (2) of subsection (d) of Section 7 of Chapter III of Act No. 213 of September 12, 1996, as amended, to read as follows:

“Section 7.— Universal Service

(a) ...

(b) ...

(c) ...

(d) Lifeline Service Automatic Subscription Program

1. ...

2. The public agencies that administer assistance or subsidy programs shall provide to the eligible telecommunications companies, on a monthly basis, electronic updates of the candidates that qualify in their respective programs. The monthly updates shall only include new eligible clients and those that were dropped. The term ‘dropped’ refers to the person or persons that ceased to be eligible or stopped receiving

benefits under the public assistance or subsidy programs administered by them.

...”

Section 4.– Clause 7 is hereby amended and renumbered as clause 3 of subsection (d) of Section 7 of Chapter III of Act No. 213 of September 12, 1996, as amended, to read as follows:

“Section 7.– Universal Service

...

(d) Lifeline Service Automatic Subscription Program

3. The Board shall prepare forms for requesting automatic subscription and shall remit them to the public agencies that administer assistance or subsidy programs that make the clients eligible for the Lifeline Service Program. The pertinent agency shall provide to the eligible client the application prepared by the Board on which said client may request to be automatically registered in the Lifeline Program, through a self-certification of the eligible client that states, under penalty of prejudice and permanent ineligibility, that neither he/she, nor any residing member of the family unit have been receiving the benefit of the subsidy provided by said program and for which they are filing this application. The subsidy shall only be granted for a single wireless telephone line or to a single wireless service for the family unit, at the discretion of the client. The form provided shall also provide the client

the option of being excluded from the automatic registration.

...”

Section 5.– Clauses 8 and 9 of subsection (d) of Section 7 of Chapter III of Act No. 213 of September 12, 1996, as amended, are hereby renumbered as clauses 4 and 5, respectively.

Section 6.– Clause 10 is hereby amended and renumbered as clause 6 of subsection (d) of Section 7 of Chapter III of Act No. 213 of September 12, 1996, as amended, to read as follows:

“Section 7.– Universal Service

...

(d) Lifeline Service Automatic Subscription Program

...

6. It shall be the obligation of the eligible telecommunications companies to establish a confidentiality agreement with the public agencies prior to receiving the register of clients eligible to the assistance or subsidy programs administered by said agencies. Said agreement shall establish that the client information furnished by the public agencies to the eligible telecommunications companies shall be for the sole purpose of providing the subsidies of the ‘Lifeline’ and ‘Link-Up’ Service programs, and disclosure of the information shall be limited to those persons related to the implementation of said Program.

...”

Section 7.— Clauses (11) and (12) are hereby amended and renumbered as clauses (7) and (8) of subsection (d) of Section 7 of Chapter III of Act No. 213 of September 12, 1996, as amended, to read as follows:

“Section 7.— Universal Service

...

(d) Lifeline Service Automatic Subscription Program

...

7. Upon receipt of a notice from the public agencies that administer the assistance or subsidy programs that render their subscribers eligible for the subsidy programs of the Fund of the Universal Service of Puerto Rico and the Federal Universal Service Fund stating that a user is no longer eligible for said programs, the eligible telecommunications company shall notify the user, by mail, that his/her subsidy for the Lifeline Service Program, and the ‘Lifeline’ and ‘Link-Up’ programs shall be discontinued fifteen (15) days from the date of the notice, unless the user notifies the eligible telecommunications company that a mistake has been made. If the user notifies the eligible telecommunications company that a mistake has been made, the subscription to the Lifeline Service shall continue for thirty (30) days to allow the user sufficient time to correct the records and to obtain a confirmation of eligibility from the public agency. If the user has not obtained a confirmation of eligibility from the corresponding public agency at the end of the thirty

(30)-day period, the Lifeline Service may be discontinued and the billing shall continue at the applicable rates.

8. The Telecommunications Regulatory Board shall amend the regulations in effect one hundred and eighty (180) days from the approval of this Act, in order to implement its provisions. These regulations shall contain, among other things, the penalties to be established in those cases in which the citizens make an attempt to receive benefits to which they are not entitled, through false certifications and similar fraud schemes. Said regulations shall also fix penalties for the irresponsible conduct of the eligible telecommunications companies that include subscribers that are not eligible in the Program and that continually incur fraud patterns that entail up to the partial or permanent suspension of the operations in Puerto Rico. Furthermore, the public agencies are hereby empowered to draft regulations or to amend any existing regulations within the following one hundred and eighty (180) days as of the approval of this Act, to the effect of establishing a procedure through which the information requested is furnished without breaching the confidentiality of the participants.”

Section 8.– Separability Clause

If any section, provision, paragraph, subsection or part of this Act were declared unconstitutional by any competent court, it shall be understood that the remaining provisions shall remain valid and in effect.

Section 9.– This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 202 (H.B. 2036) (Conference) of the 6th Session of the 15th Legislature of Puerto Rico:

AN ACT to amend clauses (1), (6), (7), (10), (11) and (12) of subsection (d) of Section 7 of Chapter III of Act No. 213 of September 12, 1996, as amended, known as the “Puerto Rico Telecommunications Act of 1996,” and to renumber clauses (6), (7), (8), (9), (10), (11) and (12) as (2), (3), (4), (5), (6), (7) and (8), respectively; to repeal clauses (2), (3), (4) and (5) of said subsection, in order to provide that the Board shall establish the eligibility criteria following the norms established by the Federal Communications Commission for the Lifeline Service Program; etc,

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

In San Juan, Puerto Rico, today 15th of April of 2008.

Francisco J. Domenech
Director