

(H. B. 2398)

(No. 248-2015)

(Approved December 29, 2015)

## AN ACT

To amend Sections 11 and 13 of Act No. 62-2014, better known as the “Micro, Small-, and Medium-sized Business Promotion Act,” add a new Section 12 (a) in order to clarify its language and expedite its implementation; amend Sections 2, 6 and subsections (3) and (5) of Section 7 of Act No. 129-2005, as amended, better known as the “Government of the Commonwealth of Puerto Rico Procurement Reserves Act,” in order to increase the Commonwealth of Puerto Rico’s procurement set-asides for micro, small- and medium-sized businesses to thirty percent (30%) for 2016, and every year thereafter until it reaches forty percent (40%) in 2020, and clarify the process to be followed when applying the penalty for noncompliance under said Act; amend Sections 2.16, 8.15, and 8.16 of Act No. 161-2009, as amended, better known as the “Puerto Rico Permit Process Reform Act”; and add a new subsection (31) to Section 11 of Act No. 75 of June 24, 1975, as amended, better known as the “Puerto Rico Planning Board Organic Act,” to adjust it to the provisions of Act No. 62-2014, *supra*; and for other related purposes.

## STATEMENT OF MOTIVES

Act No. 62-2014, known as the “Micro, Small-, and Medium-sized Business Promotion Act,” was created for the purpose of strengthening the micro, small- and medium-sized businesses sector and promoting the establishment of more businesses. It incorporates into our code of laws as the public policy of the Commonwealth of Puerto Rico that micro, small- and medium-sized businesses of the Island shall be given priority in the granting of job-creation incentives as well as the assistance available for business development and maintenance.

Its Statement of Motives provides:

...[t]his sector is constantly facing the challenges posed by high operating costs, lack of access to lending and new technologies, and its

inability to innovate. Moreover, excessive regulations or administrative procedures, some of which have been imposed by law, are yet another challenge faced by this sector.

Therefore, it is critical to amend our legislation in order to restore their trust and encourage them to assume risks thus contributing to economic growth.

Act No. 62-2014, *supra*, established as the public policy of the Commonwealth of Puerto Rico that “micro, small-, and medium-sized businesses are the backbone of Puerto Rico’s economy.” It also amended important aspects of different laws, which are critical for strengthening this economic sector. Of this new statute, the following should be stressed:

- It established clear definitions for the terms “microbusiness,” “small-sized businesses,” and “medium-sized businesses.” Thus, microbusinesses are those whose annual gross income is less than five hundred thousand dollars (\$500,000) and have seven (7) employees or less. Small-sized Businesses are those whose annual gross income is less than three million dollars (\$3,000,000) and have twenty-five (25) employees or less. Medium-sized Businesses are enterprises whose annual gross income is less than ten million dollars (\$10,000,000) and have fifty (50) employees or less.
- It amended Act No. 161-2009, as amended, better known as the “Puerto Rico Permit Process Reform Act,” in order to expedite the permitting process. In this manner, micro, small- and medium-sized business owners are able to obtain the necessary permits to begin operations within one day, and complete the document production process within the next six (6) months.
- It provided for the filing of a regional economic impact analysis in certain cases. This is a financial planning tool that allows us to know

the costs that the establishment of this type of business would entail to the community in terms of traffic, security, and the environment, among other urban and economic planning aspects.

- It increased to twenty percent (20%) the government's procurement set-asides to be awarded to small-, and medium-sized businesses established in Act No. 129-2005, as amended, known as the "Government of the Commonwealth of Puerto Rico Procurement Reserves Act."
- It established a penalty for noncompliance with procurement. The Department of the Treasury shall withhold one percent (1%) of the general budget of any government instrumentality that fails to comply with the established procurement set-aside percentage.
- It established a preferential rent program that affords businesspersons an opportunity to obtain a minimum rent in facilities owned by the government.
- It modified Act No. 74 of June 21, 1956, as amended, better known as the "Puerto Rico Employment Security Act," in order to provide that when the resources of the Employment and Training Opportunities Development Fund are used to benefit the private sector, a set-aside equal to sixty percent (60%) shall be reserved for proposals submitted by micro, small-, and medium-sized businesses.
- It created the "Puerto Rico Micro, Small-, and Medium-sized Business Promotion Board" composed of the Director of the Puerto Rico Trade and Export Company, who currently chairs the Board, the Secretary of the Department of Labor and Human Resources, the Chair of the Planning Board, the Director of the Permit Management Office, one

micro-business entrepreneur, one small-sized business entrepreneur, and one medium-sized business entrepreneur, appointed by the Speaker of the House of Representatives, the President of the Senate, and the Governor, respectively.

This Board is responsible for filing with the Legislative Assembly and the Governor an annual report analyzing Puerto Rico's SMBs sector, among others. The report shall include, the number businesses benefited from the Act, how businesses have been affected on the Island, the number of businesses that closed down during said period, the economic indicators associated with this sector, and any other information that provides the Governor and the Legislative Assembly with a clear perspective on SMB's contribution to the local economy, among other matters.

With this legislative measure, we intend to make technical amendments to Act No. 62-2014, *supra*, and to adjust the legislation in effect to the statute. Amendments include to clarify the language of Section 11 related to the Preferential Rent Program, as well as to exempt the regulations adopted under this Act from the provisions of Act No. 170 of August 12, 1988, as amended, better known as the "Uniform Administrative Procedures Act," in order to expedite the implementation of various provisions of the Act.

Act No. 129-2005, as amended, known as the "Government of the Commonwealth of Puerto Rico Procurement Reserves Act" provided for an allocation of one percent (1%) from the total procurement budget of the government instrumentalities for small- and medium-sized businesses as an economic development and job creation strategy.

Act No. 62-2014, *supra*, increased from 15% to 20%, the procurement set-aside percentage for micro, small-, and medium-sized businesses and included a penalty for noncompliance. Furthermore, it provided that the Department of the Treasury would withhold one percent (1%) of the general budget of any

instrumentality of the Commonwealth of Puerto Rico that fails to comply with the procurement set-aside directed under the Act.

In May 2015, the “Puerto Rico Micro, Small-, and Medium-sized Business Promotion Board” filed the first report with the Governor and the Legislative Assembly. The report shows the favorable impact that the provisions of Act No. 62-2014 have had on small-business owners. It states that the total SMB establishments in Puerto Rico reached its highest number in the last eight years, with an average of 44,848 establishments, which represents a growth rate of 5.9% in 2014. SMBs in Puerto Rico employ an average of 286,443 individuals, which represents a total contribution of jobs in Puerto Rico of 31%.

In addition, the filed Report shows that in 2014, the General Services Administration (GSA) made purchases amounting to \$157 million from local businesses, in comparison with the previous year 2013, which purchases amounted to \$83 million. Also, for 2014, 146 businesses were certified by the Government’s Procurement Reserves Program, this is of great significance, because there were only 20 businesses certified by the Program in 2013.

It has been shown that our gamble on this sector is bearing fruit. Initiatives to promote and develop such sector as a viable option for boosting the economy must continue. With this Bill, this Legislative Assembly provides for a thirty-percent (30%) increase in the set-aside percentage for Fiscal Year 2016-2017, and for staggered increases until it reaches forty percent (40%) in Fiscal Year 2020-2021, thus giving micro, small-, and medium-sized businesses an opportunity to continue strengthening and keep contributing to the Island’s development. This set-aside percentage increase shall encourage more SMBs to become certified by the Reserves Program, thus promoting greater opportunities for this sector.

Furthermore, we have included provisions to ensure compliance with the set-aside percentage for SMBs, as appropriate, by directing the Director of the Permit Management Office to prescribe budget control mechanisms as are necessary, including to earmark funds and set-asides.

Moreover, Act No. 161-2009, *supra*, is hereby amended to clarify its language and scope of application. In addition, Act No. 75 of June 24, 1975, as amended, known as the “Puerto Rico Planning Board Organic Act,” is hereby adjusted to the provisions of Act No. 62-2014, *supra*.

Since the beginning of this administration, this Legislative Assembly has promoted the development of micro, small-, and medium-sized businesses as a viable option for boosting our economy. With this Administration’s assistance, SMBs have adopted innovation strategies to foster the economic development of the Island, thus becoming Puerto Rico’s new economic engine. This set of measures shall further facilitate and streamline the processes established in the Act, bolster the objectives of Act No. 62-2014, *supra*, and provide this economic sector with effective tools to thrive.

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

Section 1.- Section 11 of Act No. 62-2014, better known as the “Micro, Small-, and Medium-sized Business Promotion Act,” is hereby amended to read as follows:

“Section 11.- Preferential Rent Program.

A. New entrepreneurs who wish to establish a micro, small-, or medium-sized business may lease an eligible property from the Puerto Rico Industrial Development Company or the Trade and Export Company, among which vacant properties may qualify, to establish operations and shall pay an annual rent of one dollar (\$1) during the first three (3) years of the lease. The Industrial Development Company and the Trade and Export Company shall establish guidelines for leasing their properties. The lease agreement shall include all the usual terms and conditions

for this type of agreement and shall comply with all the legal provisions applicable to the lease of properties of the Puerto Rico Industrial Development Company or the Trade and Export Company. The applicable rent, once the three (3)-year period ends, shall be the prevailing rent at the time the lease agreement was executed.

B. In order to qualify for this Program, the applicant shall:

i. Be the owner of a micro, small-, or medium-sized business.

ii. Commit himself to create or retain certain jobs.

iii. Have a business plan or proposal approved by the Puerto Rico Industrial Development Company (PRIDCO) or the Trade and Export Company, which instrumentalities shall also receive and approve property rental applications under this Program.

iv. Submit a proposal to PRIDCO or the Trade and Export Company, as appropriate, depending on the property the applicant intends to rent.

a. PRIDCO or the Trade and Export Company, as appropriate, shall issue its determination within ten (10) business days.

b. PRIDCO or the Trade and Export Company, as appropriate, shall promulgate guidelines for the evaluation of the proposals and applications submitted by participants seeking to receive this type of grant.

c. Benefits under the Preferential Rent Program shall take effect upon the expiration of the effective term of Act No. 1-2013, known as the 'Jobs Now Act.'

d. As of the effective date of this Section, PRIDCO and the Trade and Export Company shall submit to the Board quarterly reports on rental applications received and/or approved under the preferential rent program.”

Section 2.- A new Section 12(a) is hereby added to Act No. 62-2014, better known as the “Micro, Small-, and Medium-sized Business Promotion Act,” to read as follows:

“Section 12(a).- For the purposes of this Act, the funds available under the Workforce Investment Act of 1998, or any other law that substitutes the scope thereof, shall be available for employee training. The Labor Development Program of the Department of Economic Development and Commerce shall prescribe by regulation the process for using said funds.”

Section 3.- Section 13 of Act No. 62-2014, better known as the “Micro, Small-, and Medium-sized Business Promotion Act,” is hereby amended to read as follows:

“Section 13.- The Board shall promulgate rules to implement the provisions of this Act. The agencies concerned, to wit, the Trade and Export Company (PRTEC), the Department of Labor and Human Resources (DLHR), the Planning Board (PB), and the Permit Management Office (OGPe) shall adopt and promulgate regulations, as appropriate, without being subject to the provisions of Act No. 170 of August 12, 1988, as amended, better known as the ‘Puerto Rico Uniform Administrative Procedures Act,’ within a period not to exceed forty-five (45) days to implement the provisions of this Act as well as the rules adopted by the Board.”

Section 4.- Section 2.16 of Act No. 161-2009, as amended, better known as the “Puerto Rico Permit Process Reform Act,” is hereby amended to read as follows:

“Section 2.16.- Studies and Research.

(a) In General.

...

(A) Regional Economic Impact Analysis

(1) The Permit Management Office shall require every proponent of projects to establish or develop retail and/or wholesale establishments of sixty-five thousand (65,000) square feet or more of sales area and storage space to conduct a regional economic impact analysis. Such analysis shall also be required from establishments devoted, or to be devoted, to the retail sale of mixed



merchandise of fifteen thousand (15,000) square feet or more of sales area and storage space that request authorizations for expansions.

...

Likewise, the regional economic impact analysis required under this Section shall apply to every proponent of new projects or those who have already started a process to establish or develop establishments devoted to the retail sale of mixed merchandise of fifteen thousand (15,000) square feet or more of sales area and storage space. However, the regional economic impact analysis shall not be required for projects with such square footage or more that already have obtained a duly approved site consultation and/or land development and/or use permit in accordance with the regulations or legislation in effect prior to the effective date of this Act.

The regional economic impact analysis shall evaluate, among other things, the following:

1. ...
9. ...

Regional economic impact analyses submitted to OGPe, the Planning Board, or the Municipalities with I to V granted Hierarchy, shall be reviewed by the PRTEC, for the latter to issue recommendations with respect thereto, which shall be notified by PRTEC to the parties to the proceeding in question, subject to the provisions set forth herein.

Based on PRTEC's recommendations, the competent body may also require the project's proponent to mitigate any adverse impact identified in the analysis. The competent body may require the project's proponent the following mitigation measures, among others:

1. Impact fees, in the event that the proposed project's projected impact on the treasury exceeds the projected municipal and/or central government's

revenues; the PB shall determine whether the payment shall be remitted to the Central Government or the Municipality, as well as the amount and frequency thereof; and

2. Measures aimed at delimiting the maximum square footage and/or other aspects of the original proposed project, including some of the proposed business activities, may cause an excess supply of goods or services in the market of the area under analysis.

OGPe, the Planning Board, or the Municipalities with I to V granted Hierarchy shall be empowered to approve requests and to issue or deny permits or authorizations as requested or to condition the same in order to achieve the purposes of this Act. Thus, it shall take into account the recommendations made by the PRTEC, any mitigation effort undertaken by the projects proponent as provided herein, and all other requirements applicable by law and regulations to permit applications filed with it.

The Legislative Assembly shall appropriate every year, as part of the budget request, special funds to the PB and OGPe for enforcing the provisions of this Act with regard to regional economic impact analyses.”

Section 5.- Sections 8.15 and 8.16 of Act No. 161-2009, as amended, better known as the “Puerto Rico Permit Process Reform Act,” are hereby amended to read as follows:

“Section 8.15.- Use Permit to Individuals or Small- and Medium-Sized Businesses for the Establishment, Expansion, and Operation of Certain Businesses or Uses Compatible with the Qualification (zoning) of the Site.-

The Permit Management Office (OGPe), the Autonomous Municipalities with I to V granted Hierarchy, and Authorized Professionals shall issue use permits to individuals or small- and medium-sized businesses for the establishment of a new self-employed business or the expansion of an existing business.

...

Provided, further, that every individual who files in his name or on behalf of a corporation of individuals an application for a use permit, shall receive a use permit that shall allow him to begin operations immediately and be granted a six (6)-month period after the issue thereof to meet any requirement that he was unable to meet at the time of filing the application. In addition to Architects or Professional Engineers, Authorized Inspectors may certify to OGPe that fire prevention and environmental health requirements have been met at the time of applying for a Use Permit, except for retail sales stores, business offices, professional offices, medical offices, retail stores, barbershops, beauty salons, and small sales and service shops that do not involve the preparation and/or sale of food, may submit the Fire Prevention and Environmental Health certifications within a period of one hundred eighty (180) days after the issue of said immediate or temporary use permit. Said use permit shall be issued within one (1) business day.

...

The fact that an individual or entity applying for a permit has an outstanding debt with any agency of the State shall not be grounds for refusing to issue immediate and temporary use permits. In such cases, the individual shall be required to satisfy the debt in question or show proof of having availed himself of a payment plan, and to meet any other requirement under this Act during the extension period.”

Section 8.16.- Criteria for the Issuance of Immediate or Temporary Use Permits.

In order to obtain an immediate or temporary use permit, individuals shall complete the application for Conventional Use Permit of the Permit Management Office as provided in the Joint Permit Regulation for Construction Works and Evaluation and Issuance of Land Development and Use Permits and show proof of holding Fire Prevention and Environmental Health Certifications, which may be

certified by a Professional Engineer or Architect in accordance with the “Plan Certification Act,” Act No. 135 of June 15, 1967, or issued by an authorized professional or inspector in accordance with Section 8.15 of this Act.

...”

Section 6.- Section 2 of Act No. 129-2005, as amended, known as the “Government of the Commonwealth of Puerto Rico Procurement Reserves Act,” is hereby amended to read as follows:

“Section 2.- Declaration of Public Policy.

It shall be the public policy of the Commonwealth of Puerto Rico to establish a Reserve Program, which shall require the Government of the Commonwealth of Puerto Rico and its instrumentalities to set aside twenty percent (20%) of their total procurement budget for micro, small- and medium-sized businesses.

Provided, that to continue strengthening the micro, small- and medium-sized business sector, the set-aside percentage for such purposes shall continue to increase gradually, as follows:

1. Thirty percent (30%) for fiscal year 2016-2017;
2. Thirty-two percent (32%) for fiscal year 2017-2018;
3. Thirty-five percent (35%) for fiscal year 2018-2019;
4. Thirty-eight percent (38%) for fiscal year 2019-2020;
5. Forty percent (40%) for fiscal year 2020-2021;

Provided, further, that the Secretary of the Treasury shall be required to set aside at least three percent (3%) of the cash flow received for the payment of material procurement to micro, small- and medium-sized businesses whose invoices have been properly processed by the departments, agencies, instrumentalities, entities, municipalities, and public corporations of the Commonwealth to which this Act applies.”

Section 7.- Section 6 of Act No. 129-2005, *supra*, is hereby amended to read as follows:

“Section 6.- Set-aside Program.

1. A new item of expenditure shall be created to set aside twenty percent (20%) of the procurement budget of each agency. Provided, that the item of expenditure of the procurement budget of each agency shall increase to thirty percent (30%) for fiscal year 2016-2017; thirty-two percent (32%) for fiscal year 2017-2018; thirty-five percent (35%) for fiscal year 2018-2019; thirty-eight percent (38%) for fiscal year 2019-2020; and forty percent (40%) for fiscal year 2020-2021. The OMB shall prescribe by regulations the requirements for complying with said set-aside percentage.
2. Every agency shall set aside at least twenty percent (20%) of their total procurement budget for micro, small-, and medium-sized businesses. For subsequent years, beginning fiscal year 2016-2017, each agency shall establish the minimum set-aside percentage according to the gradual increase as provided in subsection (1) above of this Section.
3. ...
4. ...
5. ...
6. ...
7. ...
8. The Secretary of the Treasury shall be required to set aside at least three (3) percent of the budget item for material procurement of each institution in order to make payments to eligible small-, and medium-sized businesses.

9. The agencies, government entities, and municipalities subject to this Act shall remit the payment or contract sum to eligible small-, and medium-sized businesses within a period not to exceed thirty (30) calendar days.”

Section 8.- Subsections (3) and (5) of Section 7 of Act No. 129-2005, as amended, better known as the “Government of the Commonwealth of Puerto Rico Procurement Reserves Act,” are hereby amended to read as follows:

“Section 7.- Planning, Reporting, and Review.

1. ...

3. The Director of the Office of Management and Budget (OMB) is hereby directed to establish the necessary budget control mechanisms, including allocating funds and set-asides to ensure compliance with the provisions of this Act, relating to setting aside the appropriate percentage as provided in subsection (1) of Section 6 of this Act from the procurement budget for the acquisition of goods produced or marketed by micro, small-, and medium-sized businesses by departments, agencies, instrumentalities, and public corporations whose operating expenditures are defrayed in whole or in part from the General Fund. Furthermore, in the month following the end of the fiscal year, the General Services Administration shall prepare and file with the Office of the Secretary of the Senate and the Clerk of the House of Representatives and the OMB a detailed report on the procurement made by the agencies concerned, and the measures taken to ensure that the public funds allocated are used in accordance with the provisions of this Act.

...

5. Penalty for Noncompliance with this Act.- The Office of Management and Budget (OMB) shall notify the Secretary of the Treasury that one percent (1%) of the budget appropriations, or remittance or payment for public services, from the General Fund shall be withheld from any department, agency, instrumentality, entity, municipality, and public corporation of the Commonwealth of Puerto Rico

that fails to comply with the provisions of this Act. Noncompliance with this Act shall be certified by the OMB. Such certification shall be issued by December 31<sup>st</sup> of each year. An amount equal to fifty (50) percent of the one (1) percent withheld shall be transferred to the Trade and Export Company. With this added budget, the Trade and Export Company shall hire additional human capital and acquire the tools needed to ensure compliance with this Act. Moreover, the Trade and Export Company shall use such resources for funding any grants, incentives, training workshops, and any other activities as are necessary to strengthen and oversee the economic development of micro, small-, and medium-sized local businesses. The remaining fifty (50) percent of the one (1) percent withheld shall be deposited in an account created by the Secretary of the Treasury to be used to issue payments to micro, small-, and medium-sized businesses, as provided in subsection (8) of Section 6 of this Act.”

Section 9.- A new subsection (31) is hereby added to Section 11 of Act No. 75 of June 24, 1975, as amended, better known as the “Puerto Rico Planning Board Organic Act,” to add a new subsection (31) [sic] to read as follows:

“Section 11.- General Functions and Powers of the Board.

The Board shall have the following functions and powers:

(1) To adopt standards and regulations for its general operation.

...

(31) To require every proponent of a project to establish or develop retail and/or wholesale establishments of sixty-five thousand (65,000) square feet or more of storage space to conduct a regional economic impact analysis. Such analysis shall also be required from establishments devoted, or to be devoted, to the retail sale of mixed merchandise, of fifteen thousand (15,000) square feet or more of sales area and storage space that request authorizations for expansions.

The regional economic impact analysis requirement shall also apply to every project under the jurisdiction of municipalities with competence to grant the appropriate permits.

The regional economic impact analysis required under this Section shall apply to every proponent of new projects or those who have already started the process before the Permit Management Office for the purpose of establishing or developing retail and/or wholesale commercial establishments of sixty-five thousand (65,000) square feet or more of sales area and storage space. However, the regional economic impact analysis shall not be required for projects with such square footage or more that already have obtained a duly approved site consultation and/or land development and/or use permit in accordance with the regulations or legislation in effect prior to the effective date of this Act.

Likewise, the regional economic impact analysis required under this Section shall apply to every proponent of new projects or those who have already started a process to establish or develop establishments devoted to the retail sale of mixed merchandise of fifteen thousand (15,000) square feet or more of sales area and storage space. However, the regional economic impact analysis shall not be required for projects with such square footage or more that already have obtained a duly approved site consultation and/or land development and/or use permit in accordance with the regulations or legislation in effect prior to the effective date of this Act.

The regional economic impact analysis shall evaluate, among other things, the following:

1. The economic effects of the proposed project on existing business establishments in the region, and the economic effect of projects similar to those proposed on existing business establishments in other areas or regions.



2. Number and location of business establishments where there is an overlap with respect to the type of goods and services object of the project.

3. Supply and demand of available space for business establishments at the regional level. Potential use of unoccupied spaces or facilities.

4. Information about jobs in the region, including the projected net job creation and loss, as well as information about earned salaries and benefits.

5. Volume of sales and revenues of the business establishments existing in the region.

6. Municipal or State revenues to be generated by the proposed project, as well as the construction and operating costs (State and municipal) that it shall entail to the government, including those related to the cost of highways, police, firefighters, rescue, water and sewage services, or other public services such as power lines or solid waste disposal.

7. Environmental impact of the proposed project.

8. Growth impact, which shall include an evaluation of the population growth experienced in the region in order to determine whether or not the proposed project shall affect the government's (current and potential) financial capacity to accommodate the total growth and the growth rate resulting from the project if approved. For such purposes, foreseen government costs in connection with public health, safety, and welfare shall be taken into account in order to evaluate the region's capacity to accommodate the growth resulting from such project.

9. Market concentration analysis using the Herfindahl-Hirschman Index (HHI) parameters.

The required analysis shall apply notwithstanding the sixty-five thousand (65,000) square feet or more are comprised within one or more buildings; provided that they are located in the same site. Likewise, the required analysis shall

apply to any expansion or renovation of an existing business or new establishment to be devoted to the retail sale of mixed merchandise. Such requirement shall also apply to projects of fifteen thousand (15,000) square feet or more.

The regional economic impact analysis shall be defrayed in its entirety by the proponent. The PB, in coordination with the Permit Management Office (OGPe) and the Puerto Rico Trade and Export Company (PRTEC), shall be in charge of prescribing through regulations the parameters and provisions to be included in the analysis. The recommendations and conclusions of the analysis shall be taken into account when issuing the corresponding permits to the proposed project, subject to the provisions of this Section.

Regional economic impact analyses submitted to the PB, OGPe, or the municipalities with I-V granted hierarchy shall be reviewed by the PRTEC, for the latter to issue recommendations with respect thereto, which shall be notified by PRTEC to the parties to the proceeding in question, subject to the provisions set forth herein and the regulations adopted by the PB on the matter.

Based on PRTEC's recommendations, the competent body may also require the project's proponent to mitigate any adverse impact identified in the analysis.

The competent body may require the project's proponent the following mitigation measures, among others:

1. Impact fees, in the event that the proposed project's projected impact on the treasury exceeds the projected municipal and/or central government's revenues; the PB shall determine whether the payment shall be remitted to the Central Government or the Municipality, as well as the amount and frequency thereof; and

2. Measures aimed at delimiting the maximum square footage and/or other aspects of the original proposed project, including some of the proposed business activities, may cause an excess supply of goods or services in the market of the area under analysis.

OGPe, the Planning Board, or the Municipalities with I to V granted Hierarchy shall be empowered to approve requests and to issue or deny permits or authorizations as requested or to condition the same in order to achieve the purposes of this Act. Thus, it shall take into account the recommendations made by the PRTEC, any mitigation effort undertaken by the projects' proponent as provided herein, and all other legal and regulatory requirements applicable to applications for authorizations or permits filed with it.

The Legislative Assembly shall annually appropriate to the PB and OGPe, as part of the budget request, special funds to enforce the provisions of this Act with regard to regional economic impact analyses.”

Section 10.- Effectiveness.

This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 248-2015 (H. B. 2398)** of the **6<sup>th</sup> Regular Session** of the **17<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** amend Sections 11 and 13 of Act No. 62-2014, better known as the “Micro, Small-, and Medium-sized Business Promotion Act,” add a new Section 12 (a), in order to clarify its language and expedite its implementation; amend Sections 2, 6 and subsections (3) and (5) of Section 7 of Act No. 129-2005, as amended, better known as the “Government of the Commonwealth of Puerto Rico Procurement Reserves Act,” in order to increase the Commonwealth of Puerto Rico’s procurement set-asides for micro, small- and medium-sized businesses to thirty percent (30%) for 2016, and every year thereafter until it reaches forty percent (40%) in 2020, and clarify the process to be followed when applying the penalty for noncompliance under said Act; amend Sections 2.16, 8.15, and 8.16 of Act No. 161-2009, as amended, better known as the “Puerto Rico Permit Process Reform Act”; and add a new subsection (31) to Section 11 of Act No. 75 of June 24, 1975, as amended, better known as the “Puerto Rico Planning Board Organic Act,” to adjust it to the provisions of Act No. 62-2014, supra; and for other related purposes.

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

In San Juan, Puerto Rico, on this 28<sup>th</sup> day of January, 2022.

Mónica Freire-Florit, Esq.  
Director