

(H. B. 3566)

**(No. 421)**

(Approved October 17, 2000)

**AN ACT**

To add a new subsection (v) and redesignated subsections (v) thru (x) as subsections (w) thru (y) of Section 7 of Act No. 44 of June 21, 1988, as amended to empower the Puerto Rico Infrastructure Financing Authority to propose to the Legislature the creation of subsidiary, affiliated or associated companies, partnerships, or corporations; and to extend the benefits in income tax and other tax items, granted by Act No. 135 of December 2, 1997, as amended, known as the Tax Incentives Act of 1998, in order to foster the development of transshipment facilities and business that sustain the operations of said facilities, or that are otherwise related to the same in any location of the Island of Puerto Rico.

**STATEMENT OF MOTIVES**

Act No. 44 of June 21, 1988, as amended, which created the Puerto Rico Infrastructure Financing Authority established the public policy of the Government of Puerto Rico to construct, rehabilitate, acquire, repair, preserve, and replace the infrastructure of the government to improve the general well being of the People of Puerto Rico. Therefore, the Puerto Rico Infrastructure Financing Authority is authorized to grant financial assistance to the municipalities, public corporations, political subdivisions, and instrumentalities of the Government of Puerto Rico. The Legislature of Puerto Rico has been advised on the desirability to amend said Act to empower the Authority to propose to the Legislature the creation of

subsidiary corporations as a means to provide greater flexibility to said Authority to perform such important duty.

It has also been determined and declared that the Island of Puerto Rico has a particular location in the maritime trade routes and that it would serve the best interests of the People of Puerto Rico if the private sector develops and operates modern transshipment facilities, to consist of piers and additional storage facilities, tow trucks, and other necessary equipment, among others. Likewise, it is essential to have a natural deep water port, protected from the heavy strikes of ocean currents in order for the facilities to fully meet their functions. Such port already exists in the Harbor of Guayanilla.

Furthermore, it has been determined and established that it is the public policy of Puerto Rico to promote the development of said transshipment facilities and businesses that provide support services to or that are otherwise related to the operations of said facilities at any location in the Island of Puerto Rico, whether they be shipping companies that move cargo and other freight through said facilities, stevedore companies that provide support services to ships that dock in said facilities, bond companies and other types of insurance and financing that provide the financial guarantee to insure and expedite the movement of merchandise through said facilities and other ancillary business needed to support the proper functioning of said facilities.

Pursuant to the above, we clarify that all eligible activities, the evaluation and development of industrial areas of added value within areas and industrial parks shall be assessed and approved by the Executive Director of the Industrial Development Company (PRIDCO, Spanish acronym) in all that pertains to industrial activities and incentives as provided by this Act.

In view of said goals, the Legislature of Puerto Rico has determined to empower the Secretary of State to extend income tax and other tax benefits to said businesses pursuant to Act No. 135 of December 2, 1997, as amended, known as the “Tax Incentives Act of 1998,” to encourage these businesses to establish or extend their operations within and in adjacent areas of said facilities in order to promote the general economic welfare of Puerto Rico and achieve these purposes through the mutual cooperation at all levels between Puerto Rico, the local government and the business community.

**BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:**

Section 1.- A new subsection (v) is hereby added and subsections (v) thru (x) are hereby redesignated as subsections (w) thru (y) of Section 7 of Act No. 44 of June 21, 1988, as amended, to read as follows:

“(v) Propose to the Legislature the creation of companies, partnerships or subsidiary, affiliated or associated corporations, and acquire, hold, dispose of securities and shares, contracts, bonds, or other interests in other companies, entities or corporations and exercise each and every one of the powers and rights that such interest grants it, provided that in the judgment of the Board of Directors, said measure is necessary, proper or convenient to attain the purposes of the Authority or to exercise its powers, and sell, lease, cede, or otherwise transfer any property of the Authority, or to delegate or transfer any of its rights, powers, functions, or duties, except the power of eminent domain to any company, entity or corporation that may be under its entire or partial control; provided, that the powers granted herein do not extend to the sale, lease, cession, or other form of transfer of the affiliates or subsidiaries to be created by this subsection but rather exclusively extend to the assets thereof. The affiliated or subsidiary corporations herein created

shall render an annual report to the Legislature no later than February 28 of each year.

However, the Industrial Development Company and its Executive Director shall be responsible for evaluating, acquiring with title deed, selecting and developing the Transshipment Port Industrial Park and the added value industries and activities to be established in said area.

(w) ...

(x) ...

(y) ...”

Section 2.- All provisions of Act No. 135 of December 2, 1997, as amended, known as the “Tax Incentives Act of 1998” are hereby extended to any eligible business related to port or maritime development or operations and to enterprises or business of added value to be established therein to provide support to the transshipment port.

Section 3.- Provisional Provisions.-

Requirements to be included in counseling and advisory contracts:

- (1) Any work, counseling or advisory contract for the development of the facilities of the Transshipment Port and of any companies, partnerships or subsidiaries, affiliated or associated corporations, intervening in the development thereof, shall contain a clause expressly providing that any natural or juridical person who has intervened in the evaluation process of the Transshipment Port or this legislation, by advising any agency, instrumentality or public corporation of the Government of Puerto Rico, may not, within the four years following approval of this Act, hold a position or have a pecuniary interest in the natural or juridical persons created or selected to develop,

operate or otherwise participate in the Transshipment Port project established under this Act. Failure to comply with this contractual clause shall result in the restitution of all fees received from the execution of said contract.

- (2) Any invitation made through bidding or proposal process for the development of the transshipment port as well as for the development of its facilities, shall be notified in the media outside Puerto Rico, specifically the Internet, and any natural or juridical person who gives Puerto Rico a treatment different than that usually granted to the states of the United States shall be disqualified from participating in said process.
- (3) In order to provide more access roads to the Transshipment Port, the Secretary of Transportation and Public Works shall include in the five-year Development Plan the construction of the PR-10 expressway, between the municipalities of Utuado and Adjuntas, as well as the conversion into expressway of the stretch between Ponce to Aguadilla of PR-2, within a period not greater than one (1) year as of the approval of this Act.

Section 4.- Effectiveness.-

This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 421 (H.B. 3566) of the 7<sup>th</sup> Special Session of the 13<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to add a new subsection (v) and redesignated subsection (v) thru (x) as subsection (w) thru (y) of Section 7 of Act No. 44 of June 21, 1988, as amended to empower the Puerto Rico Infrastructure Financing Authority to propose to the Legislature the creation of subsidiary, affiliated or associated companies, partnerships, or corporations; and to extend the benefits in income tax and other taxes items, granted by Act No. 135 of December 2, 1997, as amended, known as the Tax Incentives Act of 1998, etc.,

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

In San Juan, Puerto Rico, today 1<sup>st</sup> of March of 2005.

Luis Fusté-Lacourt  
Director