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“Commonwealth of Puerto Rico Room Occupancy Rate Tax Act”

Act No. 272 of September 9, 2003, as amended

(Contains amendments incorporated by:

[Act No. 29 of March 30, 2007](#)

[Act No. 23 of March 12, 2008](#)

[Act No. 74 of July 2, 2010](#)

[Act No. 98 of July 1, 2015](#)

Act No. 136 of August 5, 2016

[Act No. 17 of March 30, 2017](#)

[Act No. 46 of July 19, 2017](#)

[Act No. 141 of July 10, 2018](#)

[Act No. 60 of July 1, 2019](#)

[Act No. 53 of October 26, 2021](#))

To transfer the responsibilities and obligations to impose, fix, determine, assess, collect, enforce, distribute, regulate, investigate and sanction the tax on the room occupancy rate from the Department of the Treasury to the Puerto Rico Tourism Company; to establish a new formula for the distribution of the funds collected on account of the room occupancy rate; to eliminate all sections in the Internal Revenue Code referring to the room occupancy rate that are inconsistent with the provisions of this Act; to amend subsection (b) of Section 8 of Act No. 78 of September 10, 1993, as amended; to amend subsections (b) and (c) of Section 9 of Act No. 78 of September 10, 1993, as amended; to amend subsection (b) of Section 3 of Act No. 221 of May 15, 1948, as amended; to add a subsection (q) to Section 5 of Act No. 10 of June 18, 1970, as amended.

STATEMENT OF MOTIVES

Act No. 120 of October 31, 1994, as amended, known as the “Puerto Rico Internal Revenue Code of 1994” (the “Code”), provides for all matters concerning the tax on the room occupancy rate (the “Tax”) imposed on hotels, condohotels, apartment hotels, all inclusive hotels, hostelries, guesthouses, inns, short-term rentals and motels (collectively, the “Lodgings”). Over the past years, the Tax has proven to be a stable and secure source of revenues. Notwithstanding the foregoing and considering the significant increase in available rooms, the revenues derived under this scheme have not significantly increased in these past years. It should be noted that in these past years, the revenues generated in the collection of the Tax has fluctuated as follows:

1996-97 \$30.8 Million

1997-98 39.1 Million

1998-99 40.7 Million

1999-00 38.4 Million

2000-01 46.5 Million

2001-02 38.4 Million

The Puerto Rico Tourism Company (the “Company”) has taken upon itself the task to review the compliance by the Lodgings with the payment of the Tax. The scope of the review conducted by the Company has included a review of the compliance of the thirty-eight (38) largest hotels of Puerto Rico, as well as some inns, motels and small hostels. The objective of these reviews was to examine the Tax payments made by the Lodgings during the past five (5) years. The Company also verified that the Department of the Treasury (the “Department”) had recognized the Lodgings’ Tax payments and included it in the transfers of the funds the Department is obligated to make for the Company’s benefit.

The Tax payment review revealed that over the past years, there has been a confusion regarding the imposition, enforcement and collection of the Tax, specifically in the processing of the codes that identify the type of tax the hotelier was charged, in the data entry performed at collection centers, in the transmittal and transfer of funds in favor of the Company and with respect to tax evasion by some Lodgings. It has likewise become evident that the supervision of the Tax does not constitute a priority within the Department’s wide range of responsibilities and ministerial duties.

In order to continue with the development of the tourism industry in our Island, it is essential that the Company exercise a more prominent role in the collection and supervision of what represents one of its principal sources of revenue, so that it may continue with its ministerial role to promote Puerto Rico as the premier tourism destination in the Caribbean. It is incontrovertible that the room occupancy rate is the best way to achieve the reinvestment of revenues generated by the tourism industry in the development of this important sector of our economy.

It is well known that the tourism industry plays a significant role in the economic development of Puerto Rico. The Commonwealth of Puerto Rico recognizes the need to continue strengthening this sector so that it may provide new revenue alternatives for our Island. The Puerto Rico Convention Center District Authority (the “Authority”) was created because the government anticipated the need to articulate a strategy that would permit the development of a district composed of a convention center, hotels, office space, restaurants, retail commercial establishments and other commercial developments. One of the principal attractions of this District (the “District”) would be the inauguration of a convention center that would accommodate conventions, exhibitions, fairs and conferences which would represent thousands of additional visitors participating in such events that, in turn, would result in a new boost to the Puerto Rican economy. However, the lack of adequate facilities suitable for this purpose had been a factor that for years limited the ability of the government and the Convention Bureau to materialize initiatives such as the District that were geared to identify new revenue sources from the tourism sector of our economy. To the extent that the Commonwealth of Puerto Rico stimulates the development of new markets, it will increase the feasibility of opening doors for new investors and promote the expansion of new employment sources that will, in turn, result in the betterment of our people’s welfare.

[Act No. 299 of September 1, 2000](#), introduced an amendment to the Code with the purpose of modifying the formula established for the distribution of the revenues obtained from Tax

payments. The new formula was established in order to facilitate the distribution of a portion of the revenues received from the tourism industry on account of the Tax payments to the Authority in order to cover the construction and development costs of the Puerto Rico Convention Center and its infrastructure. However, the projected costs to finance the construction of the Convention Center demonstrate that the current distribution of the revenues collected from room occupancy rates is insufficient to cover the debt associated with its construction. Therefore, it is imperative to define a new formula for the distribution of the revenues collected on account of the Tax.

In addition to the stated above, another of the objectives of [Act No. 299](#) was to protect the tourism industry by expressly defining and establishing what would be deemed rate subject to the room occupancy tax. This was done to prevent uncertainty among hoteliers as to when the obligation arises to charge their guests the tax on room occupancy rate; specifically, in those cases where the room occupancy rate is not paid in cash, but in any other form of payment including, without limitation, the rendering of services of any kind or nature by the room occupants. This legislation recognizes and maintains such objective.

The Commonwealth of Puerto Rico recognizes that the Company, as the public instrumentality responsible for tourism development in Puerto Rico, is the entity that can more efficiently assign the moneys generated by the Tax. In an effort to complement the principal objective of [Act No. 299](#), to strengthen tourism development in Puerto Rico, maximize the economic benefit that Puerto Rico receives from every tourist who visits the Island each year and generate new employment sources for Puerto Ricans, this measure proposes the transfer, from the Department to the Company, of the responsibilities and obligations to impose, fix, determine, assess, collect, enforce, distribute, regulate, investigate and sanction the Tax and the definition of a new formula for the distribution of the revenues collected on account of the Tax.

Be it enacted by the Legislature of Puerto Rico:

Section 1. — Title (13 L.P.R.A. § 2271 note)

This Act shall be known as the “Commonwealth of Puerto Rico Room Occupancy Rate Tax Act” (the “Act”).

Section 2. — Definitions (13 L.P.R.A. § 2271)

For purposes of this Act, the following terms shall be defined as follows:

(1) Entry — Means the Taxpayer Deficiency or Debt as determined by the Tourism Office once it has been registered in the Tourism Office’s accounting system.

(2) Short-term Rentals — Means every facility, building or part of a building leased for a period of less than ninety (90) days, devoted to the lodging of people for pay, which facility, building or part thereof is not a hotel, condohotel, allinclusive hotel, motel, Parador, inn, guesthouse, and/or apartment hotel. Said term shall include, without limitation, any type of proposed alternative lodging such as houses, apartments, cottages, villas, mobile homes, floating homes, boats, among other types of rentals, for a period of less than ninety (90) days.

(3) Compulsory Procedure — Means the procedure that the Tourism Office may use to compel payment of the Tax or the fulfillment of any other obligation including, but not limited to, the filing of a civil action, a writ of attachment, and/or the sale of the debtor Taxpayer’s property.

(4) Audit — Means the procedure whereby the Tourism Office shall be empowered to inspect the accounting books and the procedures of a Lodging through a trained accountant, as defined in subsection (22) of this Section, in order to verify the accuracy and integrity of the same.

(5) Authority — means the Puerto Rico Convention Center District Authority, a public corporation of the Commonwealth of Puerto Rico created by [Act No. 351 of September 2, 2000, as amended, known as the “Puerto Rico Convention Center District Act.”](#)

(6) Bank — means the Government Development Bank for Puerto Rico, a public corporation of the Commonwealth of Puerto Rico created by [Act No. 17 of September 23, 1948, as amended.](#)

(7) Guesthouse — means every furnished building or part of a building, devoted to the lodging of persons for a fee, with or without meals, which building or part of a building is not a hotel, condohotel, motel or apartment hotel. The term guesthouse shall include, without limitation, a residential club, a furnished guesthouse, a boarding house or a private club.

(8) Room Occupancy Rate — Means the Rate charged by an Hotelier to an Occupant or Guest for the occupancy of any room of a Lodging, valued in terms of money, whether received in cash or otherwise, including, without limitation, all the income in cash, manager’s check, or credit. The definition of Room Occupancy Rate shall include, without limitation, the money received by the Lodging on account of Paid but Unused Rooms, Room Penalties and any other charge, rate, or additional tax (fees, resort fees, and/or taxes) that a hotelier charges to an Occupant or Guest for a stay in a Lodging. In the event of offers, specials, stay packages, or discount programs, sold or offered by any means including, but not limited to, internet or any application software, any refundable items such as security deposits charged to an occupant or guest as well as any commission on account of the services rendered by the intermediary shall be exempt from the room occupancy rate, provided that said Commissions are disclosed to the Tourism Office at the time of filing the monthly return and are duly evidenced by the Hotelier to the Tourism Office. If the commissions are paid to the intermediary as part of the Rate charged by the Hotelier to the Occupant or Guest, then, such Commission shall be subject to the room occupancy rate. In the event that the amount charged to the Occupant or Guest is different from that received by the Hotelier, it shall be understood that the Room Occupancy Rate shall be the higher of the two amounts.

(9) Rate for Paid but Unused Room — means the rate that shall be charged by a Hotelier when an occupant does not appear to claim his reservation to occupy the room.

(10) Center — means the Puerto Rico Convention Center which shall be developed and operated in the real property owned or leased by the Authority, or by the people or entities designated by the Authority, and which shall be suitable for the following purposes and events: congresses, conventions, conferences, trade shows, exhibitions, meetings and other business, entertainment, public assemblies, social, cultural, historic and scientific events.

(11) Room Cost — means a reasonable estimate of the operating costs of the occupied room.

(12) Commission — Any payment or compensation that the Intermediary receives on account of agreed or rendered services.

(13) Tourism Office — Means the Tourism Office of the Department of Economic Development and Commerce.

(14) National Parks Company – Means the Puerto Rico National Parks Company, a public corporation and instrumentality of the Commonwealth of Puerto Rico, created by virtue of Act No. 114 of June 23, 1961, as amended [Note: Repealed and replaced by [Act No. 107-2014](#)].

(15) Taxpayer — means an Hotelier who is obligated to charge, retain and pay the Tax.

(16) Corporation — Means the Corporation for the Promotion of Puerto Rico as a Destination, Inc. or any other nonprofit corporation hired by the Company by virtue of [Act No. 17-2017 known as the ‘Act to Promote Puerto Rico as a Destination,’](#) and therefore, is principally and officially engaged in the promotion of Puerto Rico as a destination.

(17) Declaration — means the Tax form that shall be completed and filed by the Taxpayer and includes any tax return, declaration, schedule or list, and any amendment or supplement to the same.

(18) Deficiency — means a Debt, minus the amount paid by the Taxpayer.

(19) Debt — means the Room Occupancy Rate multiplied by the percentage rate of the applicable Tax for the period of occupancy plus any fines, penalties, surcharges or interests owed by the Hotelier.

(20) Executive Director — Means the Executive Director of the Tourism Office of the Department of Economic Development and Commerce.

(21) Mathematical or Clerical Error — means:

- i. an error in the addition, subtraction, multiplication or division that appears in the Declaration;
- ii. an entry of an item that is inconsistent with another entry of the same item of a Declaration;
- iii. any omission of information that must be included in the Declaration to evidence an entry in the same;
- iv. an entry in the Declaration of a deduction or credit that exceeds the imposed or authorized statutory limit.

(22) Room — means a room or lodging of any type in any part or section of a Lodging that is offered or is available for use or possession for any purpose.

(23) Hotelier. — Means any natural or juridical person that operates a Lodging in Puerto Rico including, without limitation, the owner, agent, proprietor, operator, lessee, mortgagor sublessee or the holder thereof, providers, Intermediaries, owners, or operators of properties used as Short-term Rentals. For purposes of this Act, the term agent shall include those individuals including, without limitation, real estate brokers that collect the room occupancy rate for Shortterm Rentals for the lodging of guests.

(24) Lodging. — Means any furnished building or facility, commonly used and maintained open for the lodging of guests for a rental rate, which derives revenues from the rental of rooms, and that within its offerings provides rental rates computed daily, weekly, fractionally, or by a global rent on account of an allinclusive concept. The term Lodging shall also include hotels, condohotels, allinclusive hotels, motels, Paradores, bed and breakfast, Short-term Rentals, inns, guesthouses, apartment hotels, and recreational facilities operated by the agencies or instrumentalities of the Government of Puerto Rico.

(25) All-Inclusive Hotel — means every furnished building, commonly used and maintained for the lodging of guests by means of payment of a rental rate, which derives its revenues from the rental of rooms and within its offerings, solely provides a global and grouped rental Rate,

computed daily or weekly, based on the rental of rooms, the complementary services and the food and beverages.

(26) Tax — means the Tax set forth in Section 24 of this Act, unless otherwise provided in this Act.

(27) Intermediary — Means any natural or juridical person that by any means, including the internet and application software, offers or facilitates occupancy between guests and providers, owners, or operators of property used as Short-term Rentals, even when such intermediary does not operate, directly or indirectly, such property used as a Short-term Rental. The term also includes natural or juridical persons who promote or sell offers, specials, stay packages, or discount programs to stay at a Lodging by any means, including, but not limited to, the internet and any application software.

(28) Bureau — means the Puerto Rico Convention Bureau, the principal nonprofit organization in Puerto Rico devoted primarily and officially to the promotion of Puerto Rico as a destination for the holding of meetings, conventions, congresses, commercial fairs, sporting events and every type of group event.

(29) Notification — Means the written communication sent by the Department to the Taxpayer notifying a Deficiency or Debt on account of the Tax.

(30) Taxpayer Identification Number — Means the number the Tourism Office shall assign to the Taxpayer, and that must be used by said Taxpayer in the Declaration, as provided in this Act or the regulations approved thereunder. In the case of Intermediaries between guests and providers, owners, or operators of property used as Short-term Rentals, such Intermediaries shall require said providers, owners, or operators of property used as Short-term Rentals to register with the Tourism Office and obtain a Taxpayer Identification Number prior to doing business with them.

(32) Occupant or Guest — means every person who, by means of payment of a Rate and by virtue of any lease, concession, permit, right of access, license or under any other agreement or otherwise, uses, possesses, has the right to use or possess a room.

(33) Room Penalty — means every Rate per room charged by a Lodging’s Hotelier for the unused rooms in a contract that requires, as a condition to its perfection, the use of a minimum number of rooms.

(34) Review — Means the procedure whereby the Tourism Office shall be empowered to examine the accounting books of a Lodging as defined in subsection (22) of this Section, for the purpose of verifying the accuracy of the information provided by the taxpayer.

(35) Rate — means the rate charged by a Lodging in daily, weekly, fractional or monthly form, on account of the Room Occupancy Rate and/or any other charge on account of the occupancy of a room, based on a nominal amount expressed in dollars or a percentage rate. Said concept shall include the global and grouped rate charged by an All-Inclusive Hotel.

(36) Daily Average Rate — means the daily average of a room, measured during a one (1) month period.

(37) Assessment — Means the procedure whereby the Tourism Office may determine the amount owed by the taxpayer for a Debt or Deficiency.

[Amendments: [Act No. 23-2008](#); [Act No. 17-2017](#); [Act No. 46-2017](#); [Act No. 141-2018](#)]

Section 3. — General Powers of the Tourism Office. (13 L.P.R.A. § 2271a)

For purposes of the application and administration of this Act, and in addition to any other duties and powers established hereunder, the Tourism Office shall be empowered to:

- A.** Determine, assess, impose, collect, enforce, regulate and distribute the Tax.
- B.** The Tourism Office shall be empowered to oversee, regulate, investigate, intervene, and sanction the persons subject to the provisions of this Act.
- C.** The Tourism Office shall be empowered to impose administrative fines and other sanctions under this Act.
- D.** The Tourism Office shall be empowered to conduct investigations and interventions; to require any type of information necessary for the adequate performance of its powers; to direct or petition the courts to order the cessation of activities or acts that are inconsistent with the purposes herein; to impose and direct the payment of costs, expenses and attorney’s fees, as well as the payment of costs and fees for other professional and consulting services incurred in the investigations, hearings, and procedures conducted before the Tourism Office, and to direct that any act be carried out in accordance with the provisions of this Act.
- E.** Examine any records, documents, sites, premises, or any other material related to transactions, business, occupations, or activities subject to the tax including, without limitation, folios, accounting books, bank statements, income tax returns, room revenue reports, and financial statements. Provided, that for the Tourism Office to examine the income tax returns filed by the taxpayers with the Department of the Treasury, the Tourism Office must meet the requirements established by Secretary of the Treasury in the applicable regulations. Every person in charge of any establishment, site, premises, or object subject to examination or investigation shall facilitate any examination the Tourism Office requires. The fact that the owner or person in charge of an establishment, site, premises, or object subject to examination or investigation is not present shall not constitute sufficient cause to prevent said examination from being conducted.
- F.** Require and review the payment and adequacy of the bonds to be provided by the Taxpayers pursuant to the provisions of this Act and the regulations approved thereunder.
- G.** Keep for a period of time as shall be necessary, any documents obtained or provided in accordance with this Act in order to use them in any investigation or procedure that the Tourism Office may conduct, pursuant to the provisions of this Act or the regulations approved thereunder.
- H.** Certify Declarations, tax returns or other documents related to the administration and application of this Act.
- I.** Draft, approve, and adopt any rules and regulations necessary for the administration and application of this Act, pursuant to the provisions of Act No. 38-2017, as amended, known as the ‘Government of Puerto Rico Uniform Administrative Procedure Act.’
- J.** Delegate to any official, officer, or employee of the Tourism Office such authorities and duties deemed necessary and convenient to fulfill any function or exercise any authority conferred thereto by this Act.
- K.** Appoint hearing examiners to conduct administrative hearings, who shall have authority to issue orders and resolutions. The adjudicative functions and procedures applicable to these hearing examiners shall be established by the Tourism Office through regulation approved to such effects.

[Amendments: [Act No. 141-2018](#)]

Section 4. — Organizational Structure (13 L.P.R.A. § 2271b)

- A.** The Executive Director of the Tourism Office may establish the internal organizational structure related to the Room Occupancy Rate Tax deemed appropriate, and shall have discretion to designate the different work areas for the operational, quasi-legislative, and adjudicative phases.
- B.** The Executive Director of the Tourism Office may appoint officials and employees as deemed necessary to fully comply with the provisions of this Act.
- C.** In order to attain the objectives of this Act, the Tourism Office may outsource the persons or services it deems necessary.

[Amendments: [Act No. 141-2018](#)]

Section 5. — Oversight Authority. [13 L.P.R.A. § 2271 Subsection (a)]

The officials and employees of the Tourism Office are hereby empowered to intervene and/or to summon to appear before the Tourism Office any person who violates any provision of this Act or the regulations approved thereunder.

[Amendments: [Act No. 141-2018](#)]

Section 6. — Authority to Initiate Legal Proceedings [13 L.P.R.A. § 2271 Subsection (b)]

The Tourism Office shall be empowered to initiate any legal proceeding as are necessary for the collection of the Tax.

[Amendments: [Act No. 141-2018](#)]

Section 7. — Rulemaking Authority. [13 L.P.R.A. § 2271 Subsection (c)]

The Tourism Office shall be empowered to adopt the regulations deemed necessary for the implementation of this Act, and such regulations shall have force of law. Said regulations shall become effective upon compliance with the applicable provisions of Act No. 38-2017, as amended, known as the ‘Government of Puerto Rico Uniform Administrative Procedure Act’ or any similar law that substitutes it.

[Amendments: [Act No. 141-2018](#)]

Section 8. — Authority to Require Bonds [13 L.P.R.A. § 2271 Subsection (d)]

The Tourism Office may require Taxpayers to show evidence that they have posted a bond to secure the timely payment of the obligations imposed by this Act. The bond may be required in an amount the Tourism Office deems reasonably necessary to secure the payment of the Tax and any surcharges, interests, penalties, or administrative fines imposed thereon as a result of violations of the provisions of this Act and/or its regulations.

[Amendments: [Act No. 141-2018](#)]

Section 9. — Examination of Accounts, Records, Books, and Sites. [13 L.P.R.A. § 2271 Subsection (e)]

The Tourism Office, through its officials or employees, shall have the right to inspect and review every information, account, record, entry, and document related to the payments to be made by Hoteliers on account of the Tax and the distribution of such funds. The Tourism Office may enter and examine the sites and documents of any Taxpayer. The Tourism Office may also require, access, and/or use any information or document in the possession of any instrumentality of the Government of Puerto Rico or political subdivision thereof.

[Amendments: [Act No. 141-2018](#)]

Section 10. — Auditing. [13 L.P.R.A. § 2271 Subsection (f)]

The Tourism Office shall be empowered to conduct audits to oversee compliance with this Act and the regulations approved thereunder in connection with the payment of the room occupancy rate tax by hoteliers.

[Amendments: [Act No. 141-2018](#)]

Section 11. — Reports [13 L.P.R.A. § 2271 Subsection (g)]

The Tourism Office may require every Taxpayer to file audited financial reports as deemed necessary to fulfill the purposes of this Act.

[Amendments: [Act No. 141-2018](#)]

Section 12. — General Investigative Powers [13 L.P.R.A. § 2271 Subsection (h)]

A. The Tourism Office shall have the power and authority to summon and interview witnesses, administer oaths, take statements, or compel the production of books, papers, and documents as deemed necessary and pertinent, for any proceeding held for the purpose of exercising its powers and discharging its duties.

B. The Tourism Office may direct the Taxpayers to pay for the expenses and fees for professional and consulting services incurred in the investigations, studies, hearings, or any other proceeding held by the Tourism Office under this Act.

C. The Tourism Office may direct any Taxpayer to defray any other expense that, by reason of recklessness, the Tourism Office has had to incur for noncompliance with or a violation of this legislation.

[Amendments: [Act No. 141-2018](#)]

Section 13. — Complaints before the Tourism Office. (13 L.P.R.A. § 2271d)

The Tourism Office, *motu proprio* or at the request of any person, government instrumentality, agency, business, or private enterprise that complains of some action or omission that a Taxpayer carried out or intends to carry out in violation of any provision of this Act, regulation, or order of the Tourism Office, may file a written complaint. The Tourism Office shall establish the procedure for filing complaints through regulations approved to such effect.

[Amendments: [Act No. 141-2018](#)]

Section 14. — Adjudicative Proceedings (13 L.P.R.A. § 2271e)

The Tourism Office may, in the exercise of the duties and powers imposed and conferred thereon by this Act, hold public hearings, summon witnesses, issue orders, resolutions, and decisions, and perform any other quasi-judicial function that may be necessary to implement the provisions of this Act.

The Tourism Office shall have the authority to hold adjudicative hearings to hear complaints filed against any Taxpayer, *motu proprio* or at the request of an interested party as provided in this Act, and may impose sanctions and/or fines in accordance with the regulations promulgated to such effects.

On its own initiative, or in representation of the person who initiated the claim or complaint, the Tourism Office shall be empowered to investigate, issue summons, require the production of documents it deems pertinent, and hear evidence when a Taxpayer has:

- (1) omitted to take an action required by some provision of this Act or of any regulation approved pursuant to the same; or
- (2) performed an action against that established in a provision contained in this Act or in any regulation approved hereunder.

[Amendments: [Act No. 141-2018](#)]

Section 15. — Due Process of Law (13 L.P.R.A. § 2271f)

The Tourism Office shall prescribe through regulations the provisions that shall govern adjudicative proceedings. Due process shall be granted and guaranteed to every Taxpayer by virtue of Act No. 38-2017, as amended, known as the ‘Government of Puerto Rico Uniform Administrative Procedure Act,’ or any similar law that substitutes it, in connection with every petition for administrative or judicial review of the orders and/or decisions of the Tourism Office in the exercise of the powers conferred thereto by this Act.

[Amendments: [Act No. 141-2018](#)]

Section 16. — Contempt; Refusal to Act (13 L.P.R.A. § 2271g)

If any person summoned to appear before the Tourism Office fails to obey such summons, or if upon appearing before the Tourism Office refuses to take an oath, furnish information, testify

or answer any pertinent question, or present any pertinent document when so ordered by the Tourism Office, the Tourism Office may resort to the Court of First Instance to compel the appearance, testimony, and production of documents.

Any person who fails or refuses to appear and testify, disregards any legitimate request, or refuses to produce books, papers, and documents, if it were within their power to do so, in accordance with a duly issued subpoena or summons of the Tourism Office, or any person who conducts himself in a disorderly or disrespectful manner before the Tourism Office or any of its officials or employees presiding over a hearing or an investigation, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a maximum fine of five thousand (5,000) dollars, at the discretion of the court.

[Amendments: [Act No. 141-2018](#)]

Section 17. — Burden of Proof (13 L.P.R.A. § 2271h)

When a hearing is held for a violation of any provision of this Act or any regulation or order of the Tourism Office, the burden of proof shall rest on the Taxpayer.

[Amendments: [Act No. 141-2018](#)]

Section 18. — Authority to Sanction, Impose, and Collect Fines (13 L.P.R.A. § 2271i)

The Tourism Office is hereby empowered to impose sanctions and administrative fines for violations of the provisions of this Act and the regulations approved thereunder, committed by Taxpayers, as well as the penalties contained in Sections 45, 46, 47, and 48 of this Act. The Tourism Office may prescribe by regulations the applicable sanctions which shall be proportionate to the violation in question.

The Tourism Office may, in the event of a violation of this Act, impose the appropriate administrative fine, penalty, surcharge, or sanction, in accordance with the Act or Regulation, or permanently suspend or revoke the promotional and tax benefits granted by the Tourism Office.

A violation of any provision of this Act or the regulations approved thereunder may entail the permanent revocation of such benefits, as the case may be, as well as the subsequent ineligibility of the Taxpayer for the promotional and tax benefits that the Tourism Office grants pursuant to Act No. 74-2010, as amended, known as the ‘Puerto Rico Tourism Development Act of 2010.’

An action against a Taxpayer pursuant to the provisions of this Section shall not preclude the Tourism Office from taking any other additional action authorized by this Act or the regulations approved thereunder.

[Amendments: [Act No. 141-2018](#)]

Section 19. — Criminal Penalties for Infractions (13 L.P.R.A. § 2271j)

Any taxpayer who violates any provision of this Act or its Regulation, omits, neglects, or refuses to obey, observe, or comply with any order, resolution, rule, or decision of the Tourism

Office, fails to comply with a judgement of any court, abets, aids in the violation, omits, neglects, or fails to comply with the provisions of this Act, shall be guilty of a misdemeanor, punishable by a maximum fine of up to five thousand (5,000) dollars at the discretion of the court.

An action against a Taxpayer pursuant to the provisions of this Section shall not preclude the Tourism Office from taking any other additional action authorized by this Act or the regulations approved thereunder.

[Amendments: [Act No. 141-2018](#)]

Section 20. — Criminal Penalty for Nonpayment of the Tax (13 L.P.R.A. § 2271k)

In those cases in which any person collects the Tax but fails to remit a payment on account thereof to the Tourism Office within the period provided by this Act or the regulations approved thereunder, thus misappropriating public property or funds belonging to the Government of Puerto Rico or its public corporations, such person shall be guilty of aggravated misappropriation, punishable by imprisonment for a fixed term of ten (10) years.

An action against a Taxpayer pursuant to the provisions of this Section shall not preclude the Tourism Office from taking any other additional action authorized by this Act or the regulations approved thereunder.

[Amendments: [Act No. 141-2018](#)]

Section 21. — Additional Penalty for Violation of Orders (13 L.P.R.A. § 2271l)

Every violation of any provision of this Act, or a rule, an order, or a decision of the Tourism Office, or a judgement of the court shall constitute a separate and different offense.

[Amendments: [Act No. 141-2018](#)]

Section 22. — Judicial Action (13 L.P.R.A. § 2271m)

The Tourism Office shall refer to and petition the Secretary of the Department of Justice to initiate, on behalf of the Commonwealth of Puerto Rico, those criminal proceedings that may be necessary to punish acts committed in violation of the provisions of this Act.

[Amendments: [Act No. 141-2018](#)]

Section 23. — No Limitation of Powers (13 L.P.R.A. § 2271n)

The enumeration of the powers conferred on the Tourism Office by virtue of this Act shall not be construed as a limitation on its powers for the effective achievement of the objectives established herein.

[Amendments: [Act No. 141-2018](#)]

Section 24. — Tax (13 L.P.R.A. § 2271o)

A. The Tax shall be a mathematical calculation resulting from the multiplication of the rate provided by subsection B of this Section by the Room Occupancy Rate, and the Period of occupation of the room.

B. The Tourism Office shall impose, charge, and collect a general Tax of nine percent (9%) on the Room Occupancy Rate. In the case of Lodgings authorized by the Commissioner of Financial Institutions to operate gambling halls, the Tax shall be equal to eleven percent (11%). In the case of Lodgings authorized by the Tourism Office to operate as Paradores, or that are part of the program *Posadas de Puerto Rico*, or that have been certified as Bed and Breakfast (B&B), the Tax shall be equal to seven percent (7%). Motels shall pay a nine percent (9%) tax when such rates exceed five (5) dollars daily. In the case of Allinclusive Hotels, as defined in subsection (22) of Section 2, the Tax shall be equal to five percent (5%) of the global and grouped fee charged to guests. In the case of Short-term Rentals, the Tax shall be equal to seven percent (7%). In the case of recreational facilities operated by agencies or instrumentalities of the Government of Puerto Rico, the Tax shall be equal to five percent (5%).

C. Except for the rates charged by an All-inclusive Hotel, when the Room Occupancy Rate is grouped with the cost of meals or other services that are complementary to the room and that, in reality, should not be subject to payment of the Tax, the Tourism Office may use as a basis the total Room Occupancy Rate collected by the Hotelier to determine the Tax to be paid. In case the Hotelier fails to provide a true itemization of the reasonable cost of each and every one of the services thus rendered, the Tourism Office may calculate and apply the Room Occupancy Rate on the basis of the greater of the Average Rate, the Room Cost, or the cost of such services using as a basis the industry experience.

D. The Tax shall be applicable when a Lodging provides a room free of charge to any player and/or any visitor to a gambling hall for the benefit or promotion of such gambling hall, regardless whether or not the Lodging directly bills the proprietor and/or owner of the gambling hall. The Tourism Office may calculate and apply the Room Occupancy Rate on the basis of the greater of the Average Rate, the Room Cost, or the cost of such services using as a basis the industry experience.

E. Any agency or instrumentality of the Commonwealth of Puerto Rico that is a proprietor and operator of any Lodging shall not be exempt from the provisions of this Act.

F. The Tax shall not be applicable to rooms occupied by members of the cast or technical crew of film companies that use the facilities of a Lodging as a result of the production of a film project for distribution in movie theaters, television, or cable television systems. The exemption established herein shall be solely applicable when, at the time of liquidating charges billed on account of room occupancy, the members of the cast or technical crew of film companies submit to the Hotelier a certification duly issued by the Tourism Office.

G. The Tax levied in this Section shall not be applicable to the sums paid for the acquisition of timeshare rights or for the maintenance of properties covered by owners of timeshare or vacation club rights, constituted as a special type of property rights pursuant to Act No. 252 of December 26, 1995, as amended [*Note: Repealed and replaced by Act No. 204-2016*]. For purposes of this subsection, lease contracts registered in the Property Registry shall not be considered a special type of property right.

(H.) [Note: [Act No. 60-2019](#), Sec. 6070.24 repealed this Subsection (H)]

[Amendments: [Act No. 29-2007](#); [Act No. 23-2008](#); Act No. 136-2016; [Act No. 141-2018](#); [Act No. 60-2019](#)]

Section 25. — Obligation of Guest (13 L.P.R.A. § 2271p)

The Tax levied in Section 24 of this Act shall be paid by the Guest at the time of paying the Room Occupancy Rate to the Hotelier.

Section 26. — Tax Identification Number (13 L.P.R.A. § 2271q)

Every Lodging and/or Hotelier subject to the provisions of this Act shall apply for and obtain a Tax Identification Number from the Tourism Office, and for this purpose shall follow the procedures adopted by the Tourism Office through regulations approved to such effect. Any natural or juridical person who is an intermediary between guests and providers, owners, or operators of property used as Short-term Rentals shall require said providers, owners, or operators of property used as Short-term Rentals to register with the Tourism Office as a Taxpayer to obtain a Taxpayer Identification Number prior to doing business with them.

[Amendments: [Act No. 46-2017](#); [Act No. 141-2018](#)]

Section 27. — Responsibility of the Hotelier to Collect and Remit the Tax to the Tourism Office (13 L.P.R.A. § 2271r)

A. Every Hotelier shall be required to collect, withhold, and remit to the Tourism Office the Tax established in Section 24 of this Act. Every Intermediary shall be required to collect, withhold, and remit said Tax to the Tourism Office. In the case of natural or juridical persons that promote or sell offers, specials, stay packages, or discount programs to stay at a Lodging by any means, including, but not limited to, the Internet or any application software, such natural or juridical persons shall be required to collect, withhold, and remit said Tax to the Tourism Office.

B. Every Hotelier shall pay a bond to guarantee timely payment of the Tax and other surcharges, interests, penalties, or administrative fines imposed on it as a result of violations of the provisions of this Act and/or its regulations.

C. The payment bond to be posted shall be in the amount and pursuant to the terms and conditions established by the Tourism Office through regulations approved to such effect. Such bond shall be posted at the Tourism Office by means of a cash deposit, letter of credit, or through a duly authorized bonding company in accordance with the laws of Puerto Rico.

D. The hotelier’s omission or failure to post the bond within the period required by the Tourism Office may entail the imposition of administrative fines, surcharges, penalties, and the suspension or revocation of the promotional or tax benefits granted by the Tourism Office.

E. The Tourism Office may withhold from Lodgings that operate gambling halls, the portion of the slot machines monthly revenues corresponding to the holder of a license to operate gambling halls under the ‘Puerto Rico Games of Chance Act,’ for the sole purpose of settling any accrued and outstanding Tax debt of the licensee.

[Amendments: [Act No. 46-2017](#); [Act No. 141-2018](#)]

Section 28. — Term to Remit the Tax and the Declarations to the Tourism Office (13 L.P.R.A. § 2271s)

A. Term — Every Hotelier that, in accordance with Section 27 of this Act, is required to collect and withhold the Tax shall remit to the Tourism Office every month the total amount of Tax collected during the period between the first and last day of each month. This remittance shall be made not later than the tenth (10th) day of the month following the collection of such Tax.

B. Declaration — Every Hotelier shall be required to declare its revenues on account of the Room Occupancy Rate using the declaration provided by the Tourism Office for such purpose. The Room Occupancy Rate revenues shall be declared every month on or before the tenth (10th) day of the month following the collection of such Tax. The Declaration shall be enclosed with the monthly amount referred to in the previous Section.

C. Receipt — A Hotelier that makes a payment to the Tourism Office on account of the Tax, or any penalties, fines, surcharges, or interests, shall have the right to request the Tourism Office a formal, written, or printed receipt for the amount of the payment.

[Amendments: [Act No. 141-2018](#)]

Section 29. — Tax Payment Method(13 L.P.R.A. § 2271t)

A. The Tax established by this Act shall be paid by means of postal or bank money order, check, manager’s check, cash, electronic transfer, or any other payment method authorized by the Tourism Office.

B. The Tourism Office shall prescribe through regulation, the place and procedures applicable to the payment.

[Amendments: [Act No. 141-2018](#)]

Section 30. — Responsibility of the Hotelier (13 L.P.R.A. § 2271u)

If the Hotelier, in violation of the provisions of this Act, fails to make the required withholding, the Tourism Office shall be empowered to charge the Hotelier the amount that the Hotelier should have collected and withheld, as calculated through the mechanisms provided in this Act.

[Amendments: [Act No. 141-2018](#)]

Section 31. — Disposition of Funds (13 L.P.R.A. § 2271v)

The Tourism Office will distribute the amounts collected on account of the Tax established in Article 24 of this Law, after transferring to the General Fund of the Commonwealth the amounts that were previously transferred to the Authority (as set forth in the Fiscal Plan of the Commonwealth, if any, in effect at that time), in the following order of priority:

(i) two (2) percent of the total Tax collected will be paid monthly to the general funds of the Office of Tourism to cover the operating, management, and distribution of tax collections, or for any other use provided by the Office of Tourism.

(ii) five (5) percent of the total Tax collected will enter monthly to the General Fund of the Department of the Treasury for Fiscal Years 2005-2006 and 2006-2007, to the coffers of the National Parks Company for Years Fiscal 2007-2008 and 2008-2009, and from Fiscal Year 2009-2010 to the coffers of the Office of Tourism. As of the year in which the Authority certifies to the Department of the Treasury and the Office of Tourism, the start of operations of the Convention Center, and during the subsequent ten (10) years, this five percent (5%) will be available to cover any shortfall, if any, arising from the operations of the facilities that operate the Convention Center District Authority, in reserve that will maintain the Office of Tourism. Provided, however, that for each fiscal year and/or each time the Convention Center District Authority proposes to present a budget that exceeds the two million five hundred thousand dollars (\$2,500,000) deficit, the budget of the Convention Center District Authority must be presented to the Board of Directors of the Authority to the Office of Tourism and the Secretary of the Treasury for Fiscal Years 2005-2006 and 2006-2007 and to the Board of Directors of the National Parks Company for Fiscal Years 2007-2008 and 2008-2009 in a specific meeting for these purposes, and the Board of Directors of the Authority and to the Office of Tourism, beginning Fiscal Year 2010-2011 onwards. This five percent (5%) will remain available during each fiscal year in a special reserve account that the Office of Tourism will maintain to cover any deficit in excess of two million five hundred thousand dollars (\$2,500,000), arising from the operation of the facilities of the Convention Center District Authority. For each fiscal year, any surplus, after covering said operational deficit, if any, will be released from the special reserve and will be available for use by the Department of the Treasury for the Fiscal Years 2005-2006 and 2006-2007, of the National Parks Company for the Fiscal Years 2007-2008 and 2008-2009, and from Fiscal Year 2010-2011 for use by the Office of Tourism. As of Fiscal Year 2015-2016, and during the subsequent five (5) years, this five percent (5%) will be transferred through quarterly contributions by the Department to the Authority to cover the costs associated exclusively with the operation of the Puerto Rico Convention Center. Provided, however, that for each fiscal year the Convention Center District Authority will present their audited financial statements, together with a report evidencing the use of the transferred funds as established in subsections (ii) and (iv) of this section to the Board of Directors of the Authority and to the Director of the Office of Tourism, at a specific meeting for that purpose. If at the end of a fiscal year such audited financial statements reflect a net profit, the Convention Center District Authority will return to the Office of Tourism the amount generated as net profit without exceeding the total amount transferred by the Office of Tourism to the Convention Center District Authority in that same fiscal year, pursuant to subsections (ii) and (iv) of this section.

(iii) two million five hundred thousand dollars (\$2,500,000) will be transferred by the Office of Tourism to the Convention Center District Authority in quarterly contributions of six hundred twenty-five thousand dollars (\$625,000.00) to cover the costs associated exclusively with the operation of the Convention Center District. Provided, however, that for each fiscal year and/or each time a modified budget is intended to be presented, the budget of the Convention Center Authority must be presented to the Authority’s Board of Directors and the Executive Director of the Office of Tourism, at a specific meeting to those ends. This amount will be transferred as established in this section from Fiscal Year 2015-2016, and for a period of five (5) years.

(iv) Up to four million dollars (\$4,000,000) will remain available during each fiscal year, in a special reserve account that the Office of Tourism will maintain for operating expenses dedicated to the sector’s specialized matters, its expenses and/or the oversight and implementation by the latter of the Destination Marketing Services Contract contemplated in Article 8 of the [“Law for the Promotion of Puerto Rico as a Destination.”](#)

(v) The remainder resulting after the allocations and reserves provided in the subsections (i), (ii), (iii) and (iv), up to a maximum of twenty-five million dollars (\$25,000,000), will be allocated to the Corporation. The funds allocated to the Corporation will be used by it for the promotion, marketing, development, and strengthening of the tourism industry in Puerto Rico. If the remainder exceeds twenty-five million dollars (\$25,000,000), said surplus will be used by the Office of Tourism for the performance of its functions dedicated to the specialized matters of the sector and its expenses. The Office of Tourism of the Department of Economic Development and Commerce will submit monthly to the Authority and to the Corporation a breakdown of the collections for the concept of tax.

[Amendments: [Act No. 23-2008](#); [Act No. 74-2010](#); [Act No. 98-2015](#); [Act No. 17-2017](#); [Act No. 141-2018](#); [Act No. 53-2021](#)]

Section 32. — Assessment Procedure (13 L.P.R.A. § 2271w)

A. The Tourism Office shall be empowered to initiate a procedure for the assessment of a Taxpayer’s Debt or Deficiency on account of the Tax or any surcharges, administrative fines, and penalties, and which shall be paid to the Tourism Office.

B. The Assessment may be initiated by the Tourism Office, among other instances, when a Taxpayer has failed to make any monthly payment of the Tax, or to comply with its obligation to file the Declaration required by law, when there is a Deficiency in the payment made or when there is a Deficiency attributable to a Mathematical or Clerical Error of the Taxpayer.

C. The Tourism Office may conduct the Assessment by calculating the greater amount of the Average Rate, the Room Rate or the cost of such services on the basis of the industry’s experience multiplied by the percentage of the Tax applicable to a Lodging and the occupancy period.

D. The Tourism Office shall notify a Taxpayer if, due to a Mathematical or Clerical Error evident from the face of the Declaration, such Taxpayer owes a Tax in excess of the amount stated in such Declaration. Any notice under this section shall specify the nature of the alleged error and the basis therefor.

E. No Taxpayer shall have the right to appear before the Tourism Office by reason of a Notice based on a Mathematical or Clerical Error.

[Amendments: [Act No. 141-2018](#)]

Section 33. — Notice (13 L.P.R.A. § 2271x)

A. If a Taxpayer has incurred a Debt or Deficiency with respect to the Tax imposed by this Act, the Tourism Office shall notify the Taxpayer of such Deficiency by certified mail, return receipt requested.

B. The Notification with respect to a Tax will be sufficient for purposes of this Act if mailed by certified mail with return receipt requested to the Taxpayer to its last known address, even when such Taxpayer had died or is legally handicapped, or in the case of a corporation or a partnership, even when they no longer have legal existence.

C. The Tourism Office shall have the right to make an Entry, to initiate a Compulsory Procedure, and/or to initiate an action to enforce a bond claim posted by the Taxpayer, if the Deficiency is not paid by the Taxpayer within the period allowed in the Notice to make a payment or appear before the Tourism Office.

D. If, once the Tourism Office has initiated an action to enforce a bond claim, the amount of the bond posted by the Taxpayer is insufficient to pay the entire Debt or Deficiency, any unpaid amount shall be paid by the Taxpayer on the Tourism Office’s demand. The Taxpayer shall also pay the interest associated with such Deficiency, computed at an annual rate of ten percent (10%) from the date of the Entry to the date of full payment thereof.”

[Amendments: [Act No. 141-2018](#)]

Section 34. — Taxpayer’s Rights Upon Notice(13 L.P.R.A. § 2271y)

A. Any Taxpayer who disagrees, in whole or in part, with the notified Deficiency, except for those Taxpayers who are notified of a deficiency based on a Mathematical or Clerical Error, may request an administrative hearing in accordance with the adjudicative procedures established by the Tourism Office through regulations approved to such effect. Provided, however, that the Taxpayer shall pay the portion of the Deficiency with which he agrees.

B. Any Taxpayer who disagrees with an Order or final Resolution of the Tourism Office, may request the review thereof, pursuant to the provisions of Act No. 38-2017, as amended, known as the ‘Government of Puerto Rico Uniform Administrative Procedure Act,’ and Act No. 201-2003, as amended, known as the ‘Judiciary Act of 2003.’

C. The Tourism Office shall not make an Entry, nor commence or conduct a Compulsory Procedure, nor initiate an action to enforce a bond posted by the Taxpayer until the period granted to the Taxpayer to appear before the Tourism Office expires or, if the Taxpayer appeared before the Tourism Office, until any Resolution and Order issued by the Tourism Office or by any court with jurisdiction becomes final and binding.

[Amendments: [Act No. 141-2018](#)]

Section 35. — Jurisdiction and Authority of Hearing Examiners and the General Court of Justice (13 L.P.R.A. § 2271z)

The Hearing Examiner or the General Court of Justice shall have authority to redetermine the correct amount of a Debt or Deficiency, even if the amount so redetermined is higher than the original amount of the Deficiency notified by the Tourism Office, and to determine the payment of any additional complementary amount such as interests, provided, that the Tourism Office establishes a claim to such effect at any time before issuing a Resolution or an Order.

When considering a Debt or Deficiency with respect to any taxable year, the Examining Official or the General Court of Justice may consider such facts related to the Tax for other taxable

years as may be necessary to correctly determine the amount of such Debt or Deficiency. However, in doing so, they shall not have the power to determine if a Tax for any other taxable year has been overpaid or underpaid.

[Amendments: [Act No. 141-2018](#)]

Section 36. — Entry, Collection, or Bond by Reason of Tax in Jeopardy (13 L.P.R.A. § 2272)

A. If the Tourism Office deems that the collection of a Debt or Deficiency is in jeopardy, the Tourism Office may, without prior notice to the Taxpayer, immediately proceed to make the Entry, initiate a Compulsory Procedure, or file an action to enforce a bond claim posted by the Taxpayer, notwithstanding the provisions of Section 32 of this Act.

B. If the Tourism Office takes action under subsection (A) of this Section, without prior notice to the Taxpayer, the Tourism Office shall, within twenty (20) days from the date of such action, notify the Taxpayer of the Debt or Deficiency in accordance with, and subject to, the provisions of Section 33 of this Act.

C. If, once the Tourism Office has initiated an action to enforce a bond claim, the amount of the bond posted by the Taxpayer is insufficient to pay the entire Debt or Deficiency, any unpaid amount shall be paid by the Taxpayer on the Tourism Office’s demand. The Taxpayer shall also pay the interest associated with such Deficiency, computed an annual rate of ten percent (10%) from the date of the Entry to the date of full payment thereof.

D. If under subsection (A) of this Section, the Tourism Office notifies a Taxpayer after having initiated an action in accordance with subsection (A) of this Section, the rights of the Taxpayer set forth in Section 33 of this Act shall not be affected.

[Amendments: [Act No. 141-2018](#)]

Section 37. — Bankruptcy and Receivership (13 L.P.R.A. § 2272a)

A. Immediate Assessment — The adjudication of bankruptcy of any Taxpayer in any such proceeding, or the appointment of a receiver in a court proceeding shall entail the immediate assessment of any Deficiency of the Tax (and any amount related thereto) determined by the Tourism Office for such Taxpayer, the provisions of Sections 32 and 33 of this Act notwithstanding. In such cases, the receiver shall notify the Tourism Office in writing of the adjudication of the bankruptcy or receivership. The period of limitations on the assessment shall be suspended from the date of the adjudication of the bankruptcy, or the date the receivership begins, and up to thirty (30) days following the date the receiver’s notice is received by the Tourism Office. Claims for Deficiencies of the Tax of (and any amount related thereto) may be filed with the bankruptcy or receivership court.

B. Unpaid Claims — Any portion of a claim allowed in a bankruptcy or receivership proceeding that remains unpaid after the termination of such proceeding shall be paid by the Taxpayer, upon notice and demand for payment by the Tourism Office. Such unpaid portion may be collected by a Compulsory Procedure within a period of ten (10) years after the termination of the bankruptcy or receivership proceeding.

[Amendments: [Act No. 141-2018](#)]

Section 38. — Period of Limitations for Assessment (13 L.P.R.A. § 2272b)

Considering that the Hotelier becomes a collection agent for the Commonwealth of Puerto Rico, the Company shall not be subject to any statute of limitations to conduct an Assessment of a particular Debt or Deficiency.

[Amendments: [Act No. 141-2018](#)]

Section 39. — Period of Limitations for Collection (13 L.P.R.A. § 2272c)

A. If the Tourism Office has conducted an Assessment which reflects that a Taxpayer has a Deficiency or Debt, the Tax may be collected through a Compulsory Procedure, provided, that it is commenced: (a) within a period of ten (10) years after the date of Assessment; or (b) before the expiration of any period in excess of the ten (10) years agreed upon in writing by the Tourism Office and the Taxpayer. The period thus agreed may be extended through subsequent written agreements entered into before the expiration of the previously agreed upon period.

B. The provisions of Act No. 230 of July 23, 1974, as amended, known as the ‘Puerto Rico Government Accounting Act,’ notwithstanding, the Tourism Office shall remove from the Taxpayers’ records and be prevented from collecting such debts imposed by this Act or prior acts ten (10) years after the date of the Assessment or after the expiration of the agreement entered into between the Tourism Office and the Taxpayer. Provided, that any suspension of said period shall be taken into consideration, for the purposes of determining the period of limitations.

[Amendments: [Act No. 141-2018](#)]

Section 40. — Suspension of the Period of Limitations (13 L.P.R.A. § 2272d)

The period of limitations provided in Section 39 of this Act on any Debt or Deficiency shall be suspended for the period during which the Tourism Office is precluded from commencing a Compulsory Procedure and, in any case, if a petition is filed with any Court of Puerto Rico, until the decision of the Court becomes final and binding, and for the following sixty (60) days.

[Amendments: [Act No. 141-2018](#)]

Section 41. — Credits for Overpayment of Tax (13 L.P.R.A. § 2272e)

A. *Credits* — Every Taxpayer who believes that he has wrongly paid or has been wrongly charged a Debt or Deficiency with respect to the Tax, shall be able to apply in writing to the Tourism Office that any overpayment be carried over as a credit applicable to future payments on account of the Tax. With respect to any overpayment, the Tourism Office shall certify said overpayment to the Taxpayer as a credit for the following month’s payment.

B. The Taxpayer shall request such credit within the period and in accordance with the procedures established by the Tourism Office through regulation approved to such effect.

C. The Tourism Office *motu proprio* may determine that the Taxpayer has made a Tax overpayment, and grant such Taxpayer a credit in any amount that, in its judgment, was paid wrongly or in excess of the amount due. With respect to any overpayment, the Tourism Office shall certify said overpayment to the Taxpayer as a credit for the following month’s payment.

D. When the Tourism Office approves an application for credit, or when the Tourism Office *motu proprio* determines that the Taxpayer has made an overpayment, it shall investigate if the Taxpayer has any enforceable Debt or Deficiency pursuant to this Act, in which case the Tourism Office shall apply as a credit to such debt the amount corresponding to the Taxpayer with respect to overpayments.

E. If an application for credit filed by a Taxpayer were denied in whole or in part by the Tourism Office, the Tourism Office shall notify the Taxpayer of its decision by certified mail return receipt requested. The Taxpayer may appeal such denial following the adjudicative procedure approved by the Tourism Office.

F. When the Tourism Office adjudicates or grants credits that are not appropriate, the Tourism Office may reconsider the case and reinstate the Tax rejecting the credit and notifying the Taxpayer of a Debt or Deficiency in the manner and pursuant to the procedure established in Section 32 of this Act.

G. The Tourism Office may adopt such regulations it deems necessary and convenient to comply with the procedures provided in this Section.

[Amendments: [Act No. 141-2018](#)]

Section 42. —Limitation on Credit (13 L.P.R.A. § 2272f)

A Taxpayer shall not be entitled to apply for nor obtain a credit unless the Taxpayer files an application for credit with the Tourism Office within a period of four (4) years from the date on which the Taxpayer filed a Declaration along with the appropriate payment or within a period of three (3) years from the date on which the Tax was paid, if a Declaration has not been filed. If the Taxpayer files a Declaration prior to making the appropriate payment, said three (3) year-period shall begin to run from the date on which payment was made.

[Amendments: [Act No. 141-2018](#)]

Section 43. — Overpayment Determined by an Hearing Examiner or a Court with Jurisdiction (13 L.P.R.A. § 2272g)

If a Hearing Examiner or a Court with jurisdiction determines that there is no Debt or Deficiency in connection with the payment made by the Taxpayer; that a Taxpayer has overpaid Tax for the taxable year in which the Tourism Office made a determination of Deficiency and/or that a Deficiency exists but the Taxpayer overpaid Tax for said taxable year, the Hearing Examiner or the Court shall have authority to determine the sum of the Tax overpayment, which shall be credited to the Taxpayer when the Court’s decision becomes final and binding. Credit shall be denied unless the Hearing Examiner or the Court with Jurisdiction expressly determines in their decision that the Taxpayer filed an application for credit with the Tourism Office:

1. within the term of four (4) years from the date in which the Taxpayer presented a Declaration along with the corresponding payment; or
2. within the term of three (3) years from the date in which the Tax was paid, if a Declaration was not filed;
3. in case the Taxpayer presents a Declaration prior to making a corresponding payment, said term of three (3) years shall begin on the date on which payment was made.

[Amendments: [Act No. 141-2018](#)]

Section 44. — Statute of Limitations for Requesting Credits on the Taxes Paid for Exempt Room Occupancy Rates (13 L.P.R.A. § 2272h)

Any Taxpayer interested in receiving a credit for a Tax paid under any room occupancy rate exemption authorized by the provisions of this Act, shall submit a petition of credit supplemented by the appropriate documents within one hundred eighty (180) days following the date the Taxpayer paid the Tax.

Section 45. — Penalties in general (13 L.P.R.A. § 2272i)

Any person obligated under this Act to retain and pay the Tax, submit a Declaration, preserve any evidence or document, or supply any information for the purpose of calculation, assessment or collection of any Tax, and voluntarily or involuntarily fails to comply with said obligation shall be subject to the penalties, charges, or fines as indicated in Sections 46, 47, 48, and 49 of this Act.

Section 46. — Additional Charges (13 L.P.R.A. § 2272j)

- A. Interest** — When the Taxpayer fails to pay the Tax imposed by this Act, on or before its due date, the Tourism Office, as part of the Tax, shall collect interest on the unpaid amount at a ten (10) percent annual rate, from the payment due date until the date of the full payment.
- B. Surcharges** — In every case to which the imposition of interest applies pursuant to subsection A of this Section, the Tourism Office may also collect the following surcharges:
- i. For a payment delay of thirty (30) days or less, the Taxpayer may be imposed a charge equivalent to five (5) percent of the principal;
 - ii. For a payment delay in excess of thirty (30) days, the Taxpayer may be levy a charge equivalent to ten (10) percent of the principal in addition to the allowed five (5) percent of subsection B(i).

[Amendments: [Act No. 141-2018](#)]

Section 47. — Failure to submit the Declaration (13 L.P.R.A. § 2272k)

If any person fails to submit the Declaration required by this Act during the prescribed term, an additional fine in the amount of five hundred (500) dollars, for each infraction may be imposed on the Taxpayer, which shall be paid as part of the Tax, in addition to any other penalties,

charges or interests that are levied pursuant to this Act. It shall be understood that every day the infraction endures shall be considered a separate violation up to a maximum of twenty five thousand (25,000) dollars.

Section 48. — Administrative Fine for Filing False Documents (13 L.P.R.A. § 2272l)

Any Taxpayer who files documents with the Tourism Office, which are not authentic or include amounts that are inaccurate or false regarding the Room Occupancy Rate collected may be subject to an administrative fine in the amount of five hundred (500) dollars for each violation, in addition to the Tax and applicable surcharges and interest. The Tourism Office may also suspend or revoke the promotional and tax benefits granted by the Tourism Office. It shall be understood that every day the violation persists shall be considered a separate violation up to a maximum of twenty five thousand (25,000) dollars.

In the event that a Taxpayer shows contempt in the commission of, or continues to commit the acts for which an administrative fine was imposed, or contempt for noncompliance with any order or resolution entered by the Tourism Office, at its discretion, the Tourism Office may impose administrative fines of up to a maximum of one thousand (1,000) dollars for each violation. The Tourism Office may also suspend or revoke the promotional and tax benefits granted by the Department. It shall be understood that every day the violation persists shall be considered a separate violation up to a maximum of fifty thousand (50,000) dollars, for any of the actions mentioned herein.

[Amendments: [Act No. 141-2018](#)]

Section 49. — Revocation of Tax Benefits(13 L.P.R.A. § 2272m)

A. When a Taxpayer fails to meet its obligation to pay the Tax, a Debt, a Deficiency, or any interest, fine, surcharge, or penalty imposed by the Tourism Office on three or more occasions (not necessarily consecutive) in the same fiscal year, the Tourism Office may suspend and/or revoke the Taxpayer’s tax benefits granted under Act No. 74-2010, as amended, known as the ‘Puerto Rico Tourism Development Act of 2010.’ The Tourism Office may also suspend or revoke any other tax and/or promotional benefit granted thereby.

B. Those Taxpayers to whom subsection A of this Section is applicable shall be granted and guaranteed due process pursuant to the provisions of this Act.

C. Once the Debt has been satisfied, the Taxpayer to whom the tax benefits were revoked may initiate the process provided in Act No. 74-2010, as amended, known as the ‘Puerto Rico Tourism Development Act of 2010,’ to apply for and enjoy tax benefits. The application shall be processed pursuant to the procedures established in Act No. 74-2010, supra, for the processing of new applications. The Tourism Office shall have full discretion in the evaluation of said application.

D. When the tax benefits have been suspended for lack of payment of the Tax, the ten (10)-year period renewable for an additional ten (10)-year period provided by Act No. 74-2010, as amended, known as the ‘Puerto Rico Tourism Development Act of 2010,’ shall be understood to continue running during the suspension period. The Tourism Office shall prescribe through regulation approved to such effect, the provisions that shall govern the revocation or suspension of the tax benefits.

[Amendments: [Act No. 141-2018](#)]

Section 50. — Penalties Classified as Crimes (13 L.P.R.A. § 2272n)

In relation to any act under this Act involving actions classified in the Puerto Rico Penal Code including, but not limited to, crimes against public administration, the treasury, and public trust, the Tourism Office shall be responsible for referring said action to the Secretary of the Department of Justice to bring, in the name of the People of Puerto Rico, such criminal proceedings as may be necessary to punish the actions committed.

[Amendments: [Act No. 141-2018](#)]

Section 51. — Installment Agreement (13 L.P.R.A. § 2272o)

(a) The Executive Director of the Tourism Office is hereby empowered to enter into written installment agreements with Taxpayers whereby the Executive Director pledges to waive any Tax due including, but not limited to, civil or criminal penalties, interests, fines, or surcharges applicable to a case in connection with any Tax before referring the case to the Department of Justice to file charges.

1. *General Requirements* — Any installment agreement entered into pursuant to the provisions of this subsection shall be authorized by the Executive Director of the Tourism Office, or his authorized representative, who shall state the grounds for the granting of said installment agreement as well as the following information:

- (a) amount of Tax due;
- (b) amount of interest, charges, fines, or additional penalties pursuant to the Tax due;
- (c) amount to be actually paid, pursuant to terms of the payment commitment;
- (d) financial analysis of the Taxpayer’s situation that demonstrates that the Taxpayer has the payment capacity with respect to the present payment that shall be paid pursuant to the payment commitment; and
- (e) any other document or evidence as required by the Executive Director of the Tourism Office, pursuant to any rule or regulation approved by the Executive Director.

2. *Lack of Resources* — If the Taxpayer does not possess and/or presents sufficient resources for the payment of the Tax and the applicable fines, surcharges, interests, or penalties, the Executive Director of the Tourism Office, or his authorized representative, shall evaluate and determine whether an installment agreement is an appropriate method for the collection of the Debt or Deficiency, when there is a lack of resources to secure the collection thereof.

[Amendments: [Act No. 141-2018](#)]

Section 52. — Confidentiality of the Declaration and other documents (13 L.P.R.A. § 2272p)

A. The Declaration filed pursuant to the provisions of this Act constitutes a public document. However, and except as provided in this Section, it may only be inspected by a third party pursuant to the rules and regulations adopted by the Tourism Office. As a minimum requirement for inspection, the Tourism Office may require that the petitioner be an interested party.

B. No Tourism Office official or employee shall disclose or provide under any circumstances, except as provided in this Act, the information furnished in the Declaration, books, records, or other documents filed by the Taxpayer, nor shall allow for the examination or inspection thereof by a person other than those legally authorized.

[Amendments: [Act No. 141-2018](#)]

Section 53. — Requirement to Keep and Furnish Documents (13 L.P.R.A. § 2272q)

A. The Tourism Office shall establish through regulation the rules for Hoteliers to keep their reports, registers, records, declarations, statistics, or any other document related to the Tax.

B. Any report, docket, record, declaration, statistic or any other document related to the Tax fixed pursuant to this Act or to the Room Occupancy Rate shall be preserved by the Hotelier for a term not less than ten (10) years beginning from the date of the Tax Assessment.

C. When such documents are being reviewed, audited, inspected, or examined by the Tourism Office upon the expiration of the ten (10)-year period, the Taxpayer shall ensure to keep them for any additional time as necessary for the Tourism Office to complete the review, audit, examination, or inspection.

[Amendments: [Act No. 141-2018](#)]

Section 54. —Collection of the Tax (13 L.P.R.A. § 2272r)

Within a period not to exceed the date on which the transfer is carried out as provided in this Act, the Secretary of the Treasury shall review the records of the Department of the Treasury related to Lodgings subject to the Tax, and shall apply or credit the deposits pending registration. Likewise, the Secretary of the Treasury shall adjust said records taking into account any error identified while processing or conducting a transaction related to the collection of the Tax that has not been accounted for. Once the foregoing has been completed, the Secretary of the Treasury shall transfer to the Tourism Office the Tax records of all the Lodgings, the records of all account receivables and the full records of all pending transactions, which, once they are processed, could affect the accounts receivables. The Tourism Office shall make all efforts necessary to complete the accounts receivable collection process.

[Amendments: [Act No. 141-2018](#)]

Section 55. — Transfer (13 L.P.R.A. § 2271 note)

All the powers, duties, and obligations conferred to the Department of the Treasury by law or regulation, in relation to the responsibility to impose, fix, sanction, determine, assess, collect, oversee, distribute, regulate, and investigate the Tax are hereby transferred to the Tourism Office.

Similarly, the Department of the Treasury shall transfer to the Tourism Office all programs, funds, files, records, and any others in connection with the duty to assess, determine, impose, levy, collect, investigate, oversee, and distribute the Tax as necessary to achieve the purposes of this Act.

[Amendments: [Act No. 141-2018](#)]

Section 56. — Administrative Determinations, Final Agreements, and Agreements currently in effect pursuant to the Internal Revenue Code (13 L.P.R.A. § 2271 note)

No provision in this Act shall be interpreted as altering, modifying or invalidating any agreement, claim or contract granted by the Department of the Treasury under the Internal Revenue Code, in relation to any tax event occurring prior to this Act’s effective date.

Section 57. — Administrative Determinations effective under the Internal Revenue Code (13 L.P.R.A. § 2272s)

The administrative determinations issued by the Secretary of the Treasury prior to the effectiveness of this Act related to the Tax shall not be applicable to future tax events that occur after this Act’s effective date. Notwithstanding the above, the administrative determinations issued by the Secretary of the Treasury prior to this Act’s effective date, and in relation with tax events that occurred prior to this Act’s effective date, shall be final and firm even for periods, if any, after this new Act becomes effective.

Section 58. - Final Agreements entered into under the Internal Revenue Code (13 L.P.R.A. § 2272t)

The final agreements entered into by and between a Taxpayer and the Secretary of the Treasury prior to the effectiveness of this Act, and under the provisions of the Internal Revenue Code, shall not apply to future tax events occurring after this Act’s effective date. Notwithstanding the above, the final agreements entered into by the Secretary of the Treasury prior to the effective date of this Act, and with regard to taxable events that occurred prior to this Act’s effective date, shall be final and binding, even if they cover periods, if any, after this new Act becomes effective.

Section 59. — Actions pending final resolution (13 L.P.R.A. § 2271 nota)

Any action, proceeding, litigation or claim related to the imposition, assessment, levying, collection, enforcement, regulation, investigation, sanction, and distribution of the Tax pending before the Department of the Treasury or any court on this Act’s effective date, shall continue to be processed by the Department of the Treasury until its final and firm determination under the

applicable laws and regulations effective when said procedures, actions, litigations or claims were filed.

Section 60. — Interpretations of the Law (13 L.P.R.A. § 2272u)

A. The Department may issue administrative determinations to clarify and interpret the provisions of this Act and the regulations approved thereunder, in accordance with its purposes and objectives as established herein, and with the public policy of the Commonwealth of Puerto Rico.

B. None of the provisions of this Act shall be interpreted as a restriction or limitation to the general or inherent powers of the Department.

[Amendments: [Act No. 141-2018](#)]

Section 61. — Personnel in Charge of Enforcing this Act (13 L.P.R.A. § 2272v)

The Department, its officials, and employees shall ensure compliance with the provisions of this Act.

[Amendments: [Act No. 141-2018](#)]

Section 62. — By this Act, Section 2051 of Act No. 120 of October 31, 1994, as amended, is hereby eliminated.

Section 63. — Paragraph (6) is hereby eliminated and paragraphs (7), (8), (9), and (11) are respectively renumbered to (6), (7), (8), and (9) of Section 2084 of Act No. 120 of October 31, 1994, as amended.

Section 64. — Subsection (b) of Section 8 of Act No. 78 of September 10, 1993, as amended, is hereby amended to read as follows:

“Section 8. - Denial, revocation and limitation of benefits pursuant to this Act

(a)...

(b) Basis and Procedures for Revocation. — The Director may impose fines, suspend and/or revoke the tax benefits granted ... The amounts to be paid in those cases in which a fine is imposed in lieu of a suspension or revocation ... The Director may determine that the suspension, revocation and/or fine in question shall be effective from the date the exempted business is found guilty of the violation upon which the determination is based, in the following cases:

(1)...

(5) When the exempt business has failed to comply with the Tax payment related to the Room Occupancy Rate as provided by the ‘Commonwealth of Puerto Rico Room Occupancy Rate Tax Act,’ in three or more occurrences (not necessarily consecutive) during a fiscal year, in compliance the provisions of said Act.”

Section 65. — Subsections (b) and (c) of Section 9 of Act No. 78 of September 10, 1993, as amended, are hereby amended to read as follows:

“Section 9. - Administration; Granting of benefits; penalties

(a) ...

(b) During the effectiveness of this Act, all other fiscal laws, including, but without being limited to, the Puerto Rico Industrial Incentive Acts, Puerto Rico Tourist Incentive Act of 1983, Excise Tax Act of Puerto Rico, Income Tax Act, Puerto Rico Internal Revenue Code of 1994, as amended, Municipal License Act, and the laws regarding taxes on real and personal property, shall continue in effect with regard to exempted businesses (except when it is manifestly incompatible with this Act), including, but without being limited to, the obligation to file returns, submit reports, pay taxes, pay the Tax on the Room Occupancy Rate and the procedures related to assessment, levying and collection of levies and taxes.

...

(c) Any person, who has established or intends to establish an eligible business in Puerto Rico, may request the Director for a concession hereunder through the due filing of a petition. The approval of a concession under this chapter shall be conditioned to the presentation to the Director, by the eligible business of negative-debt certificates from the Departments of the Treasury and of Labor and Human Resources, the State Insurance Fund and the Municipal Revenues Collection Center (Spanish Acronym: C.R.I.M.). In addition, the petitioner shall prove that it has no balance due in relation to the Tax on the Room Occupancy Rate. The eligible business shall submit to the Director any additional document and/or permit that the Director may require by regulations. The exempted businesses described in Section 6(a) of this Act, shall also file the accrediting certificate mentioned in Section 6(a)(3) of this Act.

...”

Section 66. — Subsection (b) of Section 3 of Act No. 221 of May 15, 1948, as amended, is hereby amended to read as follows:

“Section 3. - Games of chance in licensed gambling rooms, authorized - Qualifications for licenses

(a) ...

(b) It is hereby provided that the slot machines authorized in Section 2 of this Act shall be located and operated by the Tourism Company or by a holder of a game of chance license authorized by law to operate in Puerto Rico. The holder of a games of chance license under this Section may install and operate, or allow the Tourism Company to operate machines in their gambling halls, in exchange for a share of the profits of the operator, as provided in Section 5 of this Act, and subject to the payment of the license fees established in Section 7 of this Act. The share of the profits corresponding to the holder of a license to operate a gambling hall shall be sent by the Tourism Company to the Secretary of the Treasury during

the term that may be necessary to pay off any tax debt already assessed and due for collection at the internal revenue offices, which the holder of a license to operate a gambling hall may have pending. In addition, the share of the profits from the slot machines corresponding to the holder of a license to operate a gambling hall may be withheld by the Company to pay any debt that the operator has accumulated, and pending payment, in regard to the Tax on the Room Occupancy Rates.
...”

Section 67. — Subsection (q) of Section 5 of Act No. 10 of June 18, 1970, as amended, is hereby added to read as follows:

“Section 5. - Rights, powers and duties

The Company shall have and exercise the rights, duties, and powers, which may be necessary or convenient to promote, develop, and improve the tourist industry, including, but without limiting, the following:

(a) . . .

(q) Impose, determine, fix, assess, collect, enforce, distribute, regulate, investigate, intervene, and sanction the Tax on the Room Occupancy Rate.”

Section 68. — **Severability of provisions** (13 L.P.R.A. § 2271 nota)

Should any paragraph, subsection, Section or part of this Act is found to be unconstitutional by a competent court, a judgment thus pronounced shall not affect, prejudice, nor invalidate the remainder of this Act. The effect of said judgment shall be limited to the paragraph, subsection, section or part thereof that was thus declared to be unconstitutional.

Section 69. — **Effectiveness** (13 L.P.R.A. § 2271 nota)

This Act shall take effect one hundred and eighty (180) days after its approval, except for the provisions of Section 31, which shall become effective as of July 1, 2003.

Note. This compilation was prepared by the [Puerto Rico Office of Management and Budget](#) staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text and the collection of Laws of Puerto Rico Annotated LPRA. The state links acts are property of [Legislative Services Office](#) of Puerto Rico. The federal links acts are property of [US Government Publishing Office GPO](#). Compiled by the Office of Management and Budget Library.

See also the [Original version Act](#), as approved by the Legislature of Puerto Rico.