

[«español»](#)

“Labor Transformation and Flexibility Act”

Act No. 4 of January 26, 2017, as amended

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[Amendments non-incorporated:

[Act No. 41 of June 20, 2022](#) (repealed by *In re: FOMB v Pierluisi Urrutia* [17-BK3283-LTS \(Adv. Proc. 22-00063-LTS\)](#))

To enact the “Labor Transformation and Flexibility Act,” in order to establish the rules applicable to the employment contract; amend Sections 4, 5, 6, 7, and 8; repeal Sections 9 through 12; amend the first paragraph of Section 13 and renumber it as Section 9; amend the second paragraph of Section 14 and renumber it as Section 10; amend Section 15 and renumber it as Section 11; renumber Section 16 as Section 12; amend Section 17 and renumber it as Section 13; amend Section 18 and renumber it as Section 14; amend Section 19 and renumber it as Section 15; and amend Section 20 and renumber it as Section 16 of [Act No. 379 of May 15, 1948, as amended](#); amend Sections 4 and 5 of [Act No. 289 of April 9, 1946, as amended](#), and repeal any provision in a mandatory decree which refers to the payment of working hours or overtime; repeal Act No. 1 of December 1, 1989, as amended; amend Subsection (b) of Section 5; amend subsection (a) of Section 6; add a second paragraph to subsection (d) of Section 6; add a subsection (c) to Section 8; amend Section 12; and repeal Section 17 of [Act No. 180-1998, as amended](#); amend Sections 1, 2, and 7 of [Act No. 148 of June 30, 1969, as amended](#); add a paragraph eleven (11) to Section 1031.01(b); amend Sections 1032.06(d)(3) and 1062.01(a)(1)(G) of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico”; amend Sections 2, 3, and 9 of [Act No. 427-2000, as amended](#); amend the third paragraph of Section 3(b)(1); amend the third paragraph of Section 3(b)(2); add a paragraph (6) to Section 8(b) of Act No. 74 of June 21, 1956, as amended; amend Sections 1, 2, 3, 5, 7, 8, 9, 10, 11, and 12; add a subsection 3-A, renumber Section 14 as Section 15; and add a new Section 14 to [Act No. 80 of May 30, 1976, as amended](#); amend Section 5-A of Act No. 45 of April 18, 1935, as amended; amend Section 3(q) of Act No. 139 of June 26, 1968, as amended; establish standards that shall apply uniformly to all laws related to discrimination and retaliation in the workplace; amend Section 3 of [Act No. 100 of June 30, 1959, as amended](#), in order to create an environment that fosters job creation and retention; provide more certainty for employment contracts and labor relations; allow for more flexibility in the contracting, retention, schedules, and workplace; establish provisions on vacation leave, sick leave, and Christmas Bonus benefits; grant small employers more flexibility under certain laws; increase unemployment benefits; promote the voluntary offering of fringe benefits to workers; grant more rights to nursing mothers; conform our labor laws to analogous federal labor laws; and for other related purposes.

STATEMENT OF MOTIVES

According to data provided by the U.S. Department of the Treasury, Puerto Rico is suffering a 14.6% economic contraction in the Gross State Product (actual GSP) with a forecast of an additional 3% contraction in the next two years. For years, the Government of Puerto Rico has operated with a structural deficit that has been financed with bond issues and loans from the Government Development Bank. The Government has been lacking liquidity for over a year, and the tax refunds, the payments to contractors, pensioners’ funds, and intra-governmental loans have been used as a substitute for sources of liquidity.

Access to the Government’s financial information as well as the making of adequate predictions have been affected by a divided government structure and obsolete government systems. Revenues are constantly overestimated and continue to decrease despite the imposition of many new taxes. The Government Development Bank has failed to meet its obligations to bondholders since May 1, 2016, and is no longer fulfilling its duty to provide liquidity. Puerto Rico’s obligations portfolio amounts to \$66 billion and includes 18 different issuers whose financial situation is precarious. Debt service amounts to an average of \$3.5 billion and uses more than one-fourth of the sources of income. Retirement systems are practically insolvent with a \$50 billion debt. All of the foregoing is worsened by a decrease in population caused by the emigration wave that began in 2006 and that has become one of the challenges to overcome on our path to recovery.

Taking into account this dismal state of affairs, it is time to leave behind the philosophy of “me vale” [I couldn’t care less], roll up our sleeves, and work hard for the wellbeing of Puerto Rico. It is our duty to build a new Puerto Rico and to set in motion an administration that does not improvise on the implementation of public policy nor manages the Island’s finances on a year-to-year basis, but that rather strikes a balance between the Government’s income and expenses with a long-term goal. Our commitment under the “Plan for Puerto Rico” is to address these situations responsibly and restore the Island’s credibility. We must look into the future and anticipate the challenges ahead, rather than simply survive one crisis after another. The leaders and officials of the Government of Puerto Rico should concentrate on balancing income and expenditures, reducing the level of government intervention in Puerto Rico’s economy, and creating a competitive business environment governed by good faith, so that investors as well as local and foreign business people may lead the way towards an economic recovery.

The policies of the past led the United States Congress to adopt the [Puerto Rico Oversight, Management, and Economic Stability Act of 2016, known as “PROMESA.”](#) delegating to a Fiscal Oversight Board (the FOB) the power to work with the Government of Puerto Rico to help Puerto Rico overcome the crisis it is currently facing. Our commitment is to work hand in hand with the FOB to push Puerto Rico forward. Thus, on December 20, 2016, the FOB requested that the priorities of the Government of Puerto Rico include a plan and a commitment to implement significant changes directed to:

- o Restoring economic growth than creating a more competitive economy. In the short term, the labor market and social programs should be liberalized, energy costs should be lowered, taxation should be rationalized and optimized, and the permit process should be improved to promote investment.

- o Restructuring the Government to achieve balanced budgets, while preserving essential services for the People of Puerto Rico.
- o Restructuring the pension systems in accordance with PROMESA and reestablishing access to capital markets.

Taking into consideration the precipice in which we find ourselves, it is imperative that we make decisions that allow the Island to get out of this predicament as soon as possible in order to move towards a future of stability and development. Puerto Rico requires a clear and consistent public policy geared toward becoming an attractive jurisdiction for establishing businesses and creating job opportunities; promoting private sector employment level growth; and providing new job opportunities for unemployed persons.

Some aspects of our current labor laws adversely affect our ability to reach these goals; prevent the creation of job opportunities; or make it difficult for employers and employees to agree on working conditions that benefit them both. According to a report of the Bureau of Labor Statistics of the U.S. Department of Labor on Puerto Rico’s wages and employment, the employment rate for the third quarter of 2015 (September) decreased by -0.7% when compared to that same quarter in 2014, whereas the United States employment rate increased by 1.9%. This difference is also reflected in Puerto Rico’s average weekly wage, which is \$512.00 as opposed to the average weekly wage in the United States, which is \$974.00. This represents a difference of \$462.00¹. In fact, the average weekly wage of all of Puerto Rico’s municipalities is lower than the average weekly wage of the United States.²

In November 2016, Puerto Rico’s labor force was composed of 1,120,132 persons of which 986,633 were employed and 133,499 were unemployed. However, in November 2006, approximately ten years ago, the labor force was composed of 1,420,839 persons, of which 1,275,337 were employed and 145,502 were unemployed.³ This means that, in ten years, the labor force has decreased by 400,000 persons with almost 300,000 less jobs, and the number of unemployed persons has increased by more than 12,000. The greatest concern is that even with a smaller population and workforce, the number of unemployed persons is higher.

This statistical dichotomy between the employment situation in Puerto Rico and the United States also affects the labor force participation rate. In October 2016, Puerto Rico’s labor force participation rate was 39.8%, while the United States’ labor force participation rate was 62.8%.⁴ This reality contrasts dramatically with the reality of the 1950s, when labor force participation rates of Puerto Rico and the United States were at 57.9% and 60%, respectively. See, “Compendio de la Cámara de Comercio de Puerto Rico, Foro Gobierno y Empresa Privada: Socios para el Desarrollo Económico; Mesa Redonda #10: Leyes Laborales y Competitividad, 24 de septiembre

¹ See, https://www.bls.gov/regions/new-york-new-jersey/news-release/pdf/countyemploymentandwages_puertorico.pdf (December 27, 2016). ² See, *id.*

² See. *Id.*

³ See https://data.bls.gov/timeseries/LASST7200000000000003?amp%25253bdatatool=XGtable&output_view=data&include_graphs=true (December 27, 2016).

⁴ See <http://www.tradingeconomics.com/puerto-rico/labor-force-participation-rate> (December 27, 2016); <http://www.tradingeconomics.com/united-states/labor-force-participation-rate> (December 27, 2016).

de 2014, p. 1. See also, Department of Labor and Human Resources, Special Report E-78, “Serie Histórica de Empleo, Desempleo y Grupo Trabajador” (January 1993).

The issue of market and labor force participation was acknowledged by the Federal Reserve Bank of New York when it stated:

Puerto Rico’s labor market is characterized by high unemployment and low labor force participation, particularly among the Island’s young and less educated. Thus, creating jobs and encouraging active participation in the labor market, especially for this highly affected group, is among the most significant challenges facing Puerto Rico and a top priority for policymakers.

Federal Reserve Bank of New York, Report on the Competitiveness of Puerto Rico’s Economy (2012), p. 21.

Puerto Rico was not included in the World Economic Forum’s Global Competitiveness Index due to the lack of diligence of the previous Administration, which failed to provide the necessary data to be considered. Nonetheless, the World Economic Forum’s Global Competitiveness Report 2014-2015 showed that, out of a total of 16 problematic factors taken into consideration, restrictive labor regulations was the second most problematic factor for doing business, according to business owners in Puerto Rico. See, World Economic Forum-Global Competitiveness Report (2014-2015), pp. 314, 378. The following table shows the results of such report by comparing the five most problematic factors for doing business according to business owners in Puerto Rico and the United States.

WORLD ECONOMIC FORUM- GLOBAL COMPETITIVENESS REPORT (2014–15)			
Rank	PUERTO RICO	Rank	UNITED STATES
1.	Inefficient government bureaucracy	1.	Tax regulations
2.	Restrictive labor regulations	2.	Tax rates
3.	Tax Regulations	3.	Inefficient government bureaucracy
4.	Tax Rates	4.	Access to finance
5.	Access to financing	5.	Restrictive labor regulations

See, WEF’s Executive Opinion Survey (2014).

Labor regulations in Puerto have long been considered an obstacle to business development. In 1975, Dr. James Tobin (1981 Nobel Prize in Economics) prepared the Tobin Report which was presented to the then-Governor of Puerto Rico for the purpose of addressing the fiscal situation the Government was undergoing. Said report stated that it was necessary to revise labor laws that had an impact on the private sector since these provided for increases in labor force costs, the Christmas Bonus, the number of paid holidays, vacation and sick leaves, and overtime rates. See, [“Informe al Gobernador de Comité para el Estudio de las Finanzas de Puerto Rico - Informe Tobin \(1975\)”](#) [Report to the Governor by the Committee for the Study of Puerto Rico’s Finances - Tobin Report (1975)] pp. 6, 10, 16, 31, 34. The reason for such revision was that these increases caused the total labor force costs to exceed the increased productivity thereof. Therefore,

it was necessary to improve Puerto Rico’s labor force competitiveness in terms of costs, skills, and productivity. See, *id.*, pp. 7, 31-33.

By 2010, a survey conducted among business owners showed that 74.6% of the participants reported that labor laws had a significant impact on decisions regarding the expansion of operations and the hiring of new personnel. See, “Compendio de la Cámara de Comercio,” [Chamber of Commerce Compendium] *op. cit.*, p. 2; See also, “Estudios Técnicos, Inc., Estudio de la Reforma del Mercado Laboral en Puerto Rico (2010)” [Study of the Labor Market Reform in Puerto Rico (2010)], pp. ix-x, 66-71.

During the previous Administration, former Governor Alejandro García- Padilla issued Executive Order 2015-022 whereby the Working Group for the Fiscal and Economic Recovery of Puerto Rico (hereinafter the Working Group) was created and entrusted with the task of devising a “Puerto Rico Fiscal and Economic Adjustment Plan” [Our translation] to be submitted to the Governor. Said plan had to include the structural changes needed to promote Puerto Rico’s economic growth and competitiveness, with specific proposals for a labor and social welfare reform, among others. See, Executive Order 2015-022, pp. 3, 5. On September 9, 2015, the Working Group published the “Puerto Rico Fiscal and Economic Growth Plan” (FEGP). Section 1.1 of the Plan is aimed at stimulating job creation in the private sector. The Plan also recommended reforming various labor laws applicable to the private sector. See, Puerto Rico Fiscal and Economic Growth Plan (September 9, 2015), pp. 21-23.⁵ Among the proposals included in this plan were: the establishment of a uniform workday and enabling employers to provide flexible weekly work schedules; exemptions from the payment of the Christmas Bonus to employees age twenty-five (25) or younger; extending the probationary period; 8-hour workday based on calendar days, not consecutive 24-hour periods; provide an option to calculate overtime based on hours worked in excess of 40 hours per week, rather than in excess of 8 hours per day; simplify December bonus payment waiver process, etc. *Id.*, p. 21.

Many important local economists who have commented on the negative impact of some of our labor regulations and advised on the need to amend our labor laws have joined this claim for labor reform. For example, Dr. Elías Gutierrez stated that “Puerto Rico’s body of labor laws is inflexible, anachronistic, and costly. It is necessary to provide flexibility in the use of labor in order to provide companies with the ability to react quickly to the demands of the competition. Therefore, it is critical to modernize our labor laws promptly.” [Our translation] See, Report-Estado de Situación Industrial de Puerto Rico, marzo 1994 [The State of Puerto Rico’s Industry, March 1994] (Submitted to the Puerto Rico Manufacturers Association). He also stated that “labor laws require profound changes to eliminate the rigidity from the labor market and to further job positions at a competitive unit labor cost.” [Our translation] See, Ensayos En Torno a Nuestra Compleja Realidad (2009) [Essays on our Complex Reality (2009)], pp. 276-277.

Moreover, economist Gustavo Vélez has noted that Puerto Rico has an excessive number of labor laws which has led to inefficiency in the job market thus discouraging companies from hiring new employees. He believes it necessary to work on a labor market reform that renders the job market more flexible, and he affirms that, in order to improve our competitiveness, the legal

⁵ See also

<http://www.bgfpr.com/documents/PuertoRicoFiscalandEconomicGrowthPlan9.9.15.pdf>

framework that regulates the job market has to be improved as to achieve a more efficient and flexible employee recruitment process. See, “Reinvención Boricua: Propuestas de Reactivación Económica (2011)” [Boricua Reinvention: Proposals for Economic Reactivation 2011], pp. 93, 94, and 130. He states that “the excessive regulation of the job market is resulting in inefficiency that translates into high costs for employers and high unemployment rates for the people who want to work.” [Our translation] See, “Factores que afectan la competitividad de Puerto Rico” [Factors that Affect Puerto Rico’s Competitiveness]- May 19, 2013, in Columnas- economíapr.com. See also, “Compendio de la Cámara de Comercio” [Chamber of Commerce Compendium], op. cit., p. 7. He suggests looking at models that provide the job market with greater flexibility and reduce the costs of hiring employees in Puerto Rico. Id.

Furthermore, the information furnished in the World Economic Forum Global Competitiveness Report and in the World Bank Doing Business Report compares the ranking of Puerto Rico’s economy vis à vis the United States and other countries in terms of productivity, efficiency, and competitiveness. The table below shows the differences of regulatory bodies regarding the flexibility, competitiveness, and business environment of the states of the United States as opposed to Puerto Rico. The lower the ranking the better the business environment in the jurisdiction.

Competitiveness and Business Environment Rank Comparison:

United States vs. Puerto Rico (Private Sector)

World Economic Forum Global Competitiveness Report (2011-12) (2014-15)			World Bank Doing Business (2010)	
General Ranking	USA- 5 3		General Ranking	USA- 4
	PR- 35 32			PR- 35
Labor Market Efficiency	USA- 4 4		Employing Workers Ranking	USA- 0
	PR- 48 46			PR- 22
<i>Rigidity of employment</i>	USA- 1 -		<i>Difficulty of hiring</i>	USA- 1
	PR- 35 -			PR- 22
<i>Hiring & Firing</i>	USA- 8 11		<i>Rigidity of hours</i>	USA- 0
	PR- 104 94			PR- 0
<i>Pay & Productivity</i>	USA- 8 10		<i>Difficulty of redundancy</i>	USA- 0
	PR- 50 22			PR- 20

See, Chamber of Commerce Compendium and the quotes therein, op. cit., pp. 5-7.

As shown in the table, Puerto Rico’s business environment is less competitive and less attractive than business environments in the United States. Due to the fact that federal labor laws apply identically to both the states and Puerto Rico, except for the recently approved PROMESA—which establishes temporary modified standards regarding the minimum requirements for the weekly wage of exempt employees—it can be concluded that the difference in ranking between the United States and Puerto Rico is mainly due to existing differences in our local labor laws. Recently, a group of prominent economists and economic development specialists headed by Anne

Krueger, the former director of the International Monetary Fund (IMF) who also holds a PhD in Economics, submitted a report to the Government of Puerto Rico (hereinafter, the “[Krueger Report](#)”) in which they stress the need to achieve an accelerated economic growth in order to confront the fiscal crisis. See, [Puerto Rico - A Way Forward \(June 29, 2015\)](#), pp. 1, 6. To achieve said growth, the report recommends reforms that render certain aspects of our labor laws more flexible. *Id.* pp. 1, 17. It also states that both labor laws that have a direct impact on labor costs and those that adversely affect the management’s ability to administer a business pose structural obstacles in trying to maintain a company’s competitiveness in a country, and limit the possibility of attracting investments that lead to job creation. *Id.*, pp. 1, 8. Based on the foregoing, the report recommends a local labor law reform that closely resembles to the prevailing labor laws of the states. *Id.*, pp. 1, 6, 16, 18. Among the recommendations made are: changing the accrual rate of vacation leave for new employees and increasing the rate according to service years; rendering the system used to compute daily overtime hours more flexible; authorizing alternative workweek schedules where overtime hours are calculated based on hours worked in excess of 40 hours per week; amending Act No. 80 to limit the application thereof to non-exempt employees; making labor laws more uniform including the statute of limitations, etc. *Id.*, pp. 1, 6, 16, 18. These recommendations have been endorsed by various sectors of Puerto Rico’s economy, such as the Chamber of Commerce. See, “Chamber of Commerce Compendium,” *op. cit.*

On December 20, 2016, the Financial Oversight and Management Board issued a joint letter to former Governor, Alejandro García-Padilla, and then Governor-elect and current Governor, Dr. Ricardo Rosselló-Nevares, where the FOB commented on the connection that exists between excessive labor regulation and Puerto Rico’s economic stagnation. The FOB recognized that Puerto Rico’s economy is in decline and that rendering it more competitive should be a priority. For such reason, the FOB made the following recommendations to the Government, among others: returning Puerto Rico’s economic performance to a level consistent with that of a regional economy of the U.S.; increasing the labor participation rate; transitioning more citizens from welfare programs to self-sufficiency and work; creating a vibrant entrepreneurial sector; increasing middle-class income and reducing poverty; and restoring population growth in Puerto Rico. To achieve this, the FOB deems it necessary to restore economic growth through structural reforms that include liberalizing the labor market in the short term, among other factors.

Specifically, the FOB recommends a labor reform that should focus on: increasing Puerto Rico’s labor force participation rate which stands at 40%, compared with 63% in the United States; lowering Puerto Rico’s unemployment rate which is currently at 13%, compared with 4.5% in the rest of the United States; encouraging businesses to create job opportunities by conducting a comprehensive review of the labor regulations, specifically [Act No. 80 of May 30, 1976](#) (wrongful termination). It stresses that Puerto Rico’s labor regulations related to severance pay, flexible scheduling, employee retention, and mandatory vacation days and pensions are not consistent with those of the U.S. states with whom Puerto Rico competes for investment and talent. Lastly, the FOB urges that Puerto Rico’s fiscal and economic problems need to be addressed promptly, otherwise, the consequences could become irreversible. See, Letter sent by the Board dated December 20, 2016.

In accordance with the foregoing and aware of the great challenges Puerto Rico faces, the “Plan para Puerto Rico” [Plan for Puerto Rico] acknowledges that the Island’s economic development requires the modernization of our labor laws. See, “Plan para Puerto Rico (2017-

2020)” [Plan for Puerto Rico (2017-2020)], pp. 15, 47. Such changes should be aimed at creating an environment suitable for investment; reducing operating costs; and increasing the competitiveness of our companies. *Id.*, pp. 15, 32, 33, 47. To achieve these goals, the Plan proposes the establishment of a flexicurity model for jobs. *Id.*, p. 47.

On January 4, 2017, the Puerto Rico Private Sector Coalition, through its coordinator, Francisco Montalvo-Fiol, requested by means of a letter addressed to the Governor of Puerto Rico and a Press Release that legislation and regulations be introduced and approved in order to establish a labor policy for the private sector that promotes job retention and creation in Puerto Rico and, thus, together with other measures, stimulate our economy. The letter stresses that, for existing employers, the current legal regulatory framework does not incentivize the creation of new jobs or innovation. Many of the rules impose an excessive burden on small- and medium-sized business owners hindering their ability to grow, compete, and contribute to job creation. The letter points out that it is extremely difficult to operate a business and compete at the international level when the government intervenes excessively in the way that the private sector conducts its business. This situation poses significant economic risks. In view of this, he introduces a series of proposals aimed at laying the foundation for a labor reform that shall promote an environment that fosters job creation and retention.

The Coalition proposes, among other things, amending the Internal Revenue Code for a New Puerto Rico in order to allow for the offering of all the fringe benefits included in the so-called “cafeteria plans” to Puerto Rico employees, as well as exempting severance pay from taxation. The purpose of these amendments is to incentivize the offering of more voluntary benefits to workers. In addition, it requests to render work schedules and meal periods more flexible; to provide by law that employees and employers may reach an agreement to authorize alternate and flexible weekly work schedules; to facilitate the use of temporary contracts; to repeal the Business Closing Act; to bring to an end the State Insurance Fund Corporation’s absolute control over the administration of the insurance program for work-related accidents, and to modify the current system to allow private insurers. The Coalition believes that the prevailing system in most of the states of the United States, where there are private insurers, shall be able to provide coverage more efficiently and at a lower cost.

In accordance with the foregoing, the mechanisms to achieve the goal of transforming our labor system in a collaborative, sensible, and responsible manner are provided in this Act. At this juncture in history, we are compelled to seek actual solutions for the crisis in order to transform our economy, recover fiscal stability, and create prosperity for our People. Without a doubt, this shall inure to the benefit of the People of Puerto Rico. A joint effort from all of Puerto Rico’s economic sectors, including the labor sector, is required to start on this path. As evidenced in the letter sent by the FOB, it is necessary to make significant changes to our labor laws in order to render our jurisdiction more competitive.

This historical juncture provides us with a precious opportunity to modify our labor laws and adapt them to the demands of the global markets so that we are able to promote our economic development and become more competitive. This shall attract foreign investment, help local business owners to create jobs, and allow thousands of Puerto Ricans to enter the workforce.

Firstly, a labor reform requires adopting clear rules to create a stable and reliable investment environment, while maintaining the basic protections of our main resource: the human capital. For such purposes, this Act promotes certainty in labor relations by providing clearer

standards for the interpretation of the rights and obligations arising from any employment contract. It also conforms our laws to similar federal laws so that we may have a suitable theoretical framework with a broad source of case law that shall serve us in interpreting the scope and content of our local laws. This, in turn, shall prevent complaints from being initiated in court and allow for the swift and accurate resolution of existing ones.

Provisions relating to more flexible schedules and workplaces are hereby adopted, which shall better adjust to the needs, demands, and realities of the modern working world. This Act empowers employees and employers to agree on regular workdays of up to 10 hours, as well as alternate weekly work schedules. This tool affords both parties the possibility and the freedom to adjust to the needs of each other, if they so wish. An employee who wishes to work 10 hours per day may complete his 40 weekly hours in four days. This shall provide the employee with greater flexibility to tend to his personal or family affairs on his days off. If the employee agrees to work on an alternate workweek schedule, said agreement may be revoked if both parties come to a mutual agreement, or unilaterally by any of the parties after one year has elapsed from the execution thereof. In doing so, the right of both parties to voluntarily enter into and terminate a contract regarding the alternate workweek schedule is recognized and safeguarded.

This Act grants employees the right to request flexible work conditions relating to both their schedule and their workplace, and requires employers to consider such requests and state the basis for their decisions. Moreover, employers must give priority to requests made by heads of family who have the legal or sole custody of their minor children. Furthermore, this Act allows employees who take time off for personal reasons to be able to make up for the work hours lost in the same week. This Act also recognizes the consequences of imposing on small- and medium-sized business owners all the burdens and requirements that apply to larger companies. For such reason, regulations that provide small business owners with more flexibility regarding certain labor laws are hereby adopted. This Legislative Assembly joins in the effort to support small- and medium-sized businesses, which constitute a very important sector of our economy, in accordance with the recommendations made recently by the Congressional Task Force on Economic Growth in Puerto Rico to the United States Congress.

In order to incentivize job creation, lower vacation leave accrual rates than the current rates are hereby provided for new employees. Said accrual rate shall increase progressively with the employee's years of service until it reaches the current rate, which is 15 days per year. However, accrual rates of current employees shall not be affected.

Another measure furthered by this Act to encourage the hiring of employees is a more flexible probationary period and the use of temporary contracts. The reasonable offering of these two employment conditions shall incentivize the hiring of young people with little experience and the hiring of persons to fill positions that require extensive training and evaluation periods.

Aware of the fact that many of the jobs available to Puerto Ricans are on a part-time basis, this Act seeks to incentivize employers to offer more working hours to part-time employees, by increasing their monthly working hours from 115 to 130, which, in turn, shall be the minimum required to accrue sick leave and vacation leave benefits. This change shall further incentivize employers who use part-time employees to assign them more work hours per month, without increasing labor costs. This shall help employees receive higher compensation.

It is hereby provided that the Christmas Bonus required by law shall be a fixed 2% of the total wages earned. However, current caps which are three hundred dollars (\$300) and six hundred

dollars (\$600), depending on the number of workers the company employs, shall be maintained. The application of the 2% shall be prospective for employees who are hired after the effective date of this Act. Therefore, such percentage shall not change for current employees. Moreover, the number of hours that an employee is required to work to be eligible for the Christmas Bonus is increased from 700 to 1,350 hours in order to encourage employers to increase the working hours of part-time employees.

To promote the voluntary offering of fringe benefits to our workers, the “Internal Revenue Code for a New Puerto Rico” is hereby amended to allow Flexible Benefits Plans (Cafeteria Plans) to include all the qualified benefits authorized under the “Internal Revenue Code of the United States of America.” This amendment enables employers to offer employees more fringe benefits voluntarily, without affecting the employee’s tax liability. Among some of these benefits are health and dental plans, savings accounts, dependent care assistance programs, long-term disability benefits, accident insurance, including accidental death and dismemberment, adoption assistance, etc.

The Flexicurity policy is hereby adopted to reduce the risks of labor claims that may arise as a result of layoffs. Moreover, the current regular unemployment benefits shall be increased gradually from a minimum of \$7.00 and a maximum of \$133.00 per week to a minimum of \$60.00 and a maximum of \$240.00 per week. Such increase shall be made feasible by increasing, from \$7,000 to \$10,500, the annual base salary used to calculate employer contributions to the unemployment fund.

A new formula is hereby provided to compute the severance pay under Act No. 80, supra, and a maximum severance pay equal to nine (9) months of salary is established. Any payment made to an employee on account of severance pay shall be exempt from income taxes up to an amount equal to the severance payment in [Act No. 80 of May 30, 1976, as amended](#). In doing so, any employee who is dismissed from work and receives payment from his employer for such a reason shall have more money in his pocket. In order to facilitate the resolution of complaints filed under Act No. 80, supra, and to prevent them from reaching the courts, a swifter process is hereby established. Such process shall include a court hearing to be held not later than sixty (60) days after the complaint has been answered, to assess the possibility of a settlement or to schedule the proceedings.

Thus, we recognize that complaints on discharges may be settled after said discharge, which shall save the parties much time, money, and effort, because they shall be able to reach settlement agreements freely, if they so wish. Likewise, this Act reasserts that the right to severance pay under Act No. 80, supra, cannot be relinquished prospectively.

However, federal regulations pertaining to the caps on punitive damages arising from discrimination or retaliation complaints are hereby adopted; that is, employees shall be paid twice the amount of back pay for unearned wages and benefits. However, indemnity for emotional distress or compensatory damages shall be subject to the caps currently provided in [Title VII of the “Civil Rights Act of 1964.”](#)

This Legislative Assembly recognizes Puerto Rico’s new socioeconomic reality and believes that businesses and consumers should decide when to carry out their different activities. For such purpose, this Act facilitates business operations by eliminating the business hours and schedule restrictions that limited the economic activity, without impairing the right of the employee to participate in, or attend any religious service of their preference. In this manner, we

shall contribute to improving the economic situation of the Island which shall set us on a path to collective progress.

To honor the commitment made in the Plan for Puerto Rico, [Act No. 427-2000, as amended, known as the “Act to Regulate the Period to Breastfeed or to Express Breast Milk,”](#) is hereby amended for the purpose of extending the right to have a period to breastfeed or to express breast milk to mothers working on a part-time basis; to clarify the remedies available to tipped nursing mothers; to provide an alternative for statutory damages compensation; and to conform the law to the case law pertaining to the guarantee of the privacy, security, and hygiene of nursing mothers at the place devoted to breastfeeding or expressing breast milk.

Breastfeeding is the natural and normal way of feeding babies and infants, and breast milk is a food that has an adequate balance of nutrients that even helps protect the infant from some common illnesses and infections. We recognize the importance of breast milk as the primary and preferable feeding method for babies and infants.

Although the local law is more comprehensive in terms of the rights granted to nursing mothers at a federal level under the [Fair Labor Standards Act \(FLSA\)](#), similar legislation has been approved in various countries as well as states of the United States. In most of these places, the right in question is granted to both full-time and part-time employees. Some jurisdictions are more specific than others regarding the time allotted, as are the cases of Oregon and New York. Likewise, this right is recognized by most developed countries with European countries being the most proactive.

At present, in Puerto Rico, part-time working mothers do not enjoy all the benefits granted by Act No. 427, supra, even though they are protected under the FLSA. This situation should be noted since many of the jobs currently available are part-time, contrary to how it used to be. We shall bear in mind that expressing milk is a biological process that is difficult for a mother to control. Spending many hours without expressing milk can cause the mother pain and affect breast milk production.

According to data provided in the Save the Children State of the World’s Mothers 2012 report, the percentage of nursing mothers at any given moment sits above 90% in countries such as Germany, Denmark, Sweden, Canada, Finland, Austria, and Norway. Moreover, breastfeeding is the only feeding method used for infants during the first three months in over 50% of cases. Only 72% of infants are breastfed at any given moment in Puerto Rico, according to the Department of Health. This percentage is even lower than the United States’ average (75%).

Cells, hormones, and antibodies found in breast milk reduce the risk of suffering from asthma, child obesity, ear and respiratory infections, SIDS (crib death), and type 2 diabetes, among other conditions. Benefits for mothers include a reduced risk of suffering ovarian cancer, certain types of breast cancer, and type 2 diabetes. Also, breastfeeding has a social impact, because it has been shown that the healthcare costs for infants who have been exclusively breastfed are lower than for those who have not. These costs include doctor’s visits, prescriptions, and hospitalizations. In addition, mothers of breastfed children shall miss fewer days from work due to their babies or infants being sick. Lastly, this situation also entails an environmental impact, because less trash and plastic waste is produced from containers and bottles used when children are breastfed.

In regards to the hygiene, safety, and privacy conditions required for the designated nursing area, this Act adjusts Act No. 427 to the case law of the Honorable Supreme Court of Puerto Rico on this issue. Recently, in [Siaca v. Bahía Beach Resort](#), 2016 T.S.P.R. 11, our Supreme Court held

that even though Act No. 427-2000 did not specifically list the conditions and characteristics of the place the employer is required to set up for the process of expressing breast milk, when conducting a comparative analysis of similar laws subsequently enacted with more specific language, one can only arrive at the conclusion that when Section 3 of Act No. 427-2000, supra, referred to “the place provided” it meant a place that was, at the very least: private, safe, and hygienic. Likewise, the Women’s Advocate Office, on many occasions, has reasserted this standard in administrative cases brought against different employers. With these amendments, it is made clear to all employers that the designated place is required to have these characteristics.

These amendments provide a minimum compensation for nursing mothers whose rights were violated. For example, at present, in the event of a violation of this right for a five (5) working-day period, a woman working on minimum wage, upon damage calculation under this Act shall receive approximately eight hundred dollars (\$800). We believe that, because of the importance of this public policy and the sacrifices that employees have to make in order to bring their complaints to the pertinent forums, the compensation paid to employees cannot convey the message that these violations have little importance.

It is necessary to point out that, during the previous Administration, a measure with provisions on nursing similar to those herein was introduced in the Senate by all the women who were members of said Body at the time, after the Women’s Advocate voiced concerns regarding the nursing issue and the lack of protection some employees still suffered. In fact, said measure was introduced before our Honorable Supreme Court issued its judgment in *Siaca v. Bahía Beach Resort*, supra. However, without offering any explanation, and despite the fact that the measure received a positive report from the Senate committee that evaluated it, the previous Legislative Assembly never voted on the measure to grant these rights which are essential and beneficial to both Puerto Rican women and their babies.

Notwithstanding, this Legislative Assembly, as opposed to the previous one, believes that extending the right to breastfeed or express breast milk to part-time working mothers is necessary, and can no longer be ignored if we are to continue encouraging breastfeeding in Puerto Rico, which would result in healthier citizens.

These amendments also rectify the situation for tipped employees who earn wages that are much lower than the established minimum wage due to a legal exception. Currently, tipped employees, as defined in the [Fair Labor Standards Act](#), may have a lower hourly wage because it is supplemented with tips. Because fines are based on the amount of salary, yet the salaries of these employees consist mostly of tips, the amount awarded as redress is substantially affected when computed based on the salary of the employee to the detriment of the nursing mother.

In light of the foregoing, it is clear that our main objective with this legislation is to transform Puerto Rico into a more competitive jurisdiction without impairing the essential rights of workers. This Act strikes a fair balance between the needs of the business sector and those of the employees, thus showing our deference to Puerto Rico’s labor sector. This shall undoubtedly result in a healthy, stable, and productive working environment. The challenge we face requires implementing a labor reform to promote a regulatory environment that improves our competitiveness while maintaining policies that are consistent with the necessary protection of our workers. This Legislative Assembly rises to the challenge and reformulates some aspects of our laws for the purpose of striking a balance between the interests of the employees and the employers and guaranteeing the wellbeing of both.

Be it enacted by the Legislature of Puerto Rico:

Chapter I

Title and Prospective Application of this Act

Section 1.1. — (29 L.P.R.A. § 121)

This Act shall be known as the “Labor Transformation and Flexibility Act.”

Section 1.2. — (29 L.P.R.A. § 121a)

Employees hired before the effective date of this Act shall continue to enjoy the same rights and benefits they enjoyed before, as expressly provided in the Sections thereof.

Chapter II

Employment Contract

Section 2.1. — Employment Contract. (29 L.P.R.A. § 122)

The employment contract is a contract by which a juridical or natural person, that is called the “employer,” hires a natural person who is called the “employee” to render services voluntarily for the benefit of the employer or a third person in exchange for compensation for the services rendered, when the services are rendered for account of another, and within the scope of an organization and under the direct management of the employer. The term “employer,” when used in a contract or in a law, includes any person that represents the employer or exercises authority on its behalf, but only for the purpose of identifying the person whose decision, action, or omission shall be attributable to the employer, except as otherwise expressly provided.

Section 2.2. — Exclusions. (29 L.P.R.A. § 122a)

Independent contractor relationships; franchise relationships; government employees or public officials; mandatory services rendered in a penal or correctional institution; work performed voluntarily and free of charge, due to a mere friendship or benevolence for public service, religious, or humanitarian institutions; and work performed by an immediate family member, unless it is shown, in this last case, that the intent of the parties and the manner in which such relationship is to be maintained is that of an employer-employee, shall be excluded from employment relationships and from the definition of “employee,” except as otherwise expressly provided in a

special law. Persons who cohabit with the employer, spouses, parents, and children (including adopted children) shall be considered immediate family members.

Section 2.3. — Presumptions: Independent Contractor. (29 L.P.R.A. § 122b))

There shall be an irrefutable presumption that a person is an independent contractor if:

- (a) he possesses or has requested an employer identification number or employer social security number;
- (b) he has filed income tax returns claiming sole proprietorship;
- (c) the relationship has been established through a written contract;
- (d) he has been contractually obligated to hold licenses or permits required by the government to operate his business, as well as any license or authorization required by law to render the services agreed on; and
- (e) he meets three (3) or more of the following criteria:
 - (1) He has control and discretion as to the manner in which the agreed on work shall be performed, except for the principal’s exercise of necessary control to ensure compliance with any legal or contractual obligation.
 - (2) He has control over the moment in which the agreed upon work shall be performed, unless there is an agreement with the principal on the completion times of the agreed on work, the parameters for the schedule to perform the works, and, in the case of training, the moment in which the training shall be provided.
 - (3) He is not required to work exclusively for the principal, unless there is a law that prohibits him from rendering services to more than one principal, or the exclusivity agreement is for a limited time;
 - (4) He is free to hire employees to assist him in the rendering of the agreed on services;
 - (5) He has made an investment in his business to render the agreed on services including, among others:
 - (i) purchasing or leasing tools, equipment, or materials;
 - (i) obtaining a license or permit from the principal to gain access to the principal’s workplace to perform the agreed on work; and
 - (iii) leasing a work space or equipment from the principal in order to perform the agreed-on work.

If the presumption established in the preceding paragraphs of this Section does not apply, the common law test shall be used to determine whether a person is an employee or an independent contractor, recognizing the importance of maintaining certainty as to the relationship established based on what the parties state in the contract, and the extent of direct control exerted over how the work shall be done, except as otherwise provided in a special law. For the purpose of maintaining certainty regarding the nature of the relationship, and to promote performance and the entrepreneurial spirit, the economic reality test shall not be used, except in relationships where a law of Puerto Rico or an act of the United States Congress applicable to Puerto Rico, which governs the same issue, expressly requires the use of the economic reality test, or another test.

Section 2.4. — (29 L.P.R.A. § 122c)

Employment contracts can be executed through a verbal or written agreement, except as otherwise provided in a special law.

Section 2.5. — Contract Language. (29 L.P.R.A. § 122d)

Employment contracts may be executed in any language as long as the language used can be understood by the employee. It shall be presumed that an employment contract or document signed by an employee was signed having knowledge of the language used and the content thereof.

Section 2.6. — Electronic Documents and Signatures. (29 L.P.R.A. § 122e)

Electronic acknowledgements of receipt, acceptances, or signatures in any employment contract or document shall have the same legal effect as those made in writing. Likewise, if a law requires the use of a written employment document or written notices, the use of an electronic version shall have the same legal effect. In the case of notifications or notices required by law, the electronic notification or disclosure shall be made in a manner that is effectively communicated to the employees.

Section 2.7. — Capacity to Contract. (29 L.P.R.A. § 122f)

Any person older than eighteen (18) years of age, or who is authorized to operate a business or work in the United States of America, may contract as an employer or employee.

Section 2.8. — Intent of the Parties to the Contract. (29 L.P.R.A. § 122g)

The parties to an employment contract may make the agreements and establish the clauses and conditions which they deem advisable, provided that they are not contrary to the law, morality, or public order. An express provision of law, or a mandate relating to morality or public order generally accepted in the business sector and labor regulations, shall be necessary to invalidate an agreement on these grounds.

Section 2.9. — Settlements: Void Contracts. (29 L.P.R.A. § 122h)

If a contract, in which an employee waives a right granted by law beforehand, is declared void, such declaration shall not prevent any complaint from being settled subsequently; provided that all elements of a valid settlement agreement are present as well as any other requirement established by law.

Section 2.10. — Consent. (29 L.P.R.A. § 122i)

The employment contract shall be perfected by mere consent, and shall thereafter be binding, not only with regards to the fulfilment of what has been expressly stipulated, but also with

regards to all the consequences which, according to its character, are in accordance with the laws, good faith, and general practices and customs of the business sector, except as otherwise provided in a special law.

Section 2.11. — Law for the Parties. (29 L.P.R.A. § 122j)

Obligations arising from a contract shall be legally binding for the contracting parties, and must be fulfilled in accordance with the stipulations thereof.

Section 2.12. — Interpretation: Ambiguous Provisions. (29 L.P.R.A. § 122k)

If any provision of an employment contract is ambiguous, the interpretation should be based on what the parties have agreed upon, the purpose of the relationship, productivity, the nature of the work relationship, good faith, and the general practices and customs of the business sector.

The foregoing shall also apply when interpreting the policies or rules established by the employer. However, if the employer reserves the right to interpret such policies or rules, such a reservation shall be recognized, unless the interpretation is arbitrary or capricious, or as otherwise provided in a special law.

Section 2.13. — Rules of Interpretation. (29 L.P.R.A. § 122l)

Any law or regulation of Puerto Rico that regulates employer-employee relationships and that refers to an issue that is similar to an issue regulated by an act of the United States Congress, or regulations issued thereunder, shall be interpreted consistently with said federal regulations, unless the Puerto Rico law expressly requires a different interpretation.

Section 2.14. — Employee Rights. (29 L.P.R.A. § 122m)

An employee shall have the following rights:

- (a) To be free from discrimination with regard to the terms and conditions of employment, and from retaliation by reason of criteria prohibited by law.
- (b) To have protection against risks to his health or person.
- (c) To have his privacy protected, subject to the legitimate interests of the employer to protect his business, property, and workplace; or as provided by law.
- (d) To have his dignity respected, which includes protection against abusive attacks on his honor and reputation.
- (e) The prompt payment of the agreed upon or legally required compensation pursuant to the time periods established.
- (f) The individual or collective exercise of the actions arising out of the employment contract.
- (g) All rights that originate from the employment contract.

Section 2.15. — Duties of the Employee. (29 L.P.R.A. § 122n)

The employee shall have the following basic duties:

- (a) To fulfill the responsibilities and obligations of his position pursuant to the rules of the employer, good faith and diligence.
- (b) To follow the safety and hygiene measures established by the employer.
- (c) To refrain from engaging in improper, disorderly, criminal, or immoral conduct that could reasonably impair the best interests of the employer.
- (d) To comply with the orders and instructions of the employer during the regular exercise of his managerial duties.
- (e) To refrain from competing with the business activity of the employer, except as otherwise provided by law or an employment contract.
- (f) To contribute to improving the productivity and competitiveness of the employers’ business.
- (g) Any duties arising out of the employment contract or the rules and regulations established by the employer that are not contrary to the law, morality, or public order.

Section 2.16. — Termination of an Employment Contract. (29 L.P.R.A. § 122o)

The employment contract, except as otherwise provided in a special law, shall be terminated:

- (a) by a mutual agreement of the parties;
- (b) on the grounds set forth in the contract;
- (c) the expiration of the agreed on period or the completion of the work or services object of the contract;
- (d) the employee’s resignation or abandonment of the job;
- (e) employee’s death or disability beyond the job holding period established in a special law;
- (f) employee’s retirement;
- (g) a change of employer, unless there is an agreement between the parties or a law that provides to the contrary;
- (h) the employee’s discharge, or;
- (i) noncompliance with the rules of conduct.

Section 2.17. — Applicable Law; Employees from Another Jurisdiction. (29 L.P.R.A. § 122p)

In the event that an employee from another jurisdiction is assigned to work in Puerto Rico for the benefit of another employer, but maintains his employment relationship with the employer located in the other jurisdiction and the performance of his duties in Puerto Rico does not exceed three (3) consecutive years, the contractual and legal rights and obligations shall be interpreted pursuant to the terms of the employment contract. In these cases, the employee shall be subject to the provisions of the laws of Puerto Rico relating to income tax, discrimination in the workplace, and work-related accidents or injuries. If the parties fail to choose the applicable law in the contract, it shall be subject to Puerto Rico’s regulations.

Section 2.18. — Statute of Limitations. (29 L.P.R.A. § 122q)

Actions arising from an employment contract or the benefits thereunder shall prescribe within one year as of the time action may be taken, except as otherwise expressly provided in a special law or in the employment contract. However, causes for action arising prior to the effective date of this Act shall have the limitation period established under the previously applicable code of laws.

Section 2.19. — Right to Participate in a Religious Service. (29 L.P.R.A. § 122r)

After a potential employee notifies the employer, in writing, of his need for religious accommodation, the employer shall have the obligation to reasonably accommodate the religious practices of the individual. The denial of any reasonable accommodation shall only be justified when an employer can prove that, of all the alternative reasonable accommodation methods, the one chosen by the employee would result in undue hardship. The mere presumption that many more persons with the same religious practices as the person being reasonably accommodated, could also need reasonable accommodation, is not proof of undue hardship.

No employer may penalize or otherwise refuse to allow an employee to participate in or attend to any religious service. Any violation of the provisions of this Section shall entail an administrative fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000). The Secretary of the Department of Labor and Human Resources shall prescribe by regulations all that pertains to compliance with the provisions of this Section within ninety (90) days after the effective date of this Act.

Section 2.20. — Mediation and Arbitration. (29 L.P.R.A. § 122s)

The public policy in favor of alternative dispute resolution procedures related to controversies that arise out of the application of this Act, such as the mediation and arbitration provided by the Department of Labor and Human Resources, including the Office of Mediation and Arbitration, is hereby ratified.

Section 2.21. — Periodic Reports to the Legislative Assembly. (29 L.P.R.A. § 122t)

The Secretary of the Department of Labor and Human Resources is hereby required to submit periodic reports on the application of this Act every twelve (12) months to the offices of the Secretary and the Clerk of the two Houses of the Legislative Assembly.

Chapter III

Workplace and Flexible Benefits

Section 3.1. — Omitted. [Section 4 of [Act No. 379 of May 15, 1948, as amended](#), is hereby amended]

Section 3.2. — Omitted. [Section 5 of [Act No. 379 of May 15, 1948, as amended](#), is hereby amended]

Section 3.3. — Omitted. [Section 6 of [Act No. 379 of May 15, 1948, as amended](#), is hereby amended]

Section 3.4. — Omitted. [Section 7 of [Act No. 379 of May 15, 1948, as amended](#), is hereby amended]

Section 3.5. — Omitted. [Section 8 of [Act No. 379 of May 15, 1948, as amended](#) is hereby amended]

Section 3.6. — Sections 9 through 12 of [Act No. 379 of May, 15, 1948, as amended](#), are hereby repealed.

Section 3.7. — Omitted. [The first paragraph of Section 13 is hereby amended, and said Section is hereby renumbered as Section 9 of [Act No. 379 of May 15, 1948, as amended](#)]

Section 3.8. — Omitted. [The second paragraph of Section 14 is hereby amended, and said Section is hereby renumbered as Section 10 of [Act No. 379 of May 15, 1948, as amended](#)]

Section 3.9. — Omitted. [Section 15 is hereby amended and renumbered as Section 11 of [Act No. 379 of May 15, 1948, as amended](#)]

Section 3.10. — Section 16 is hereby renumbered as Section 12 of [Act No. 379 of May 15, 1948, as amended](#).

Section 3.11. — Omitted. [Section 17 is hereby amended and renumbered as Section 13 in [Act No. 379 of May 15, 1948, as amended](#)]

Section 3.12. — Omitted. [Section 18 is hereby amended and renumbered as Section 14 of [Act No. 379 of May 15, 1948, as amended](#)]

Section 3.13. — Section 19 is hereby renumbered as Section 15 of [Act No. 379 of May 15, 1948, as amended](#).

Section 3.14. — Omitted. [Section 20 is hereby amended and renumbered as Section 16 of [Act No. 379 of May 15, 1948, as amended](#)]

Section 3.15. — Omitted. [Section 4 of [Act No. 289 of April 9, 1946, as amended](#), is hereby amended]

Section 3.16. — Omitted. [Section 5 of [Act No. 289 of April 9, 1946, as amended](#), is hereby amended]

Section 3.17. — Act No. 1 of December 1, 1989, as amended, is hereby repealed.

Section 3.17a. — Business establishments that, before the effective date of this Act, were required to remain closed on Good Friday and on Easter Sunday, shall be required to remain closed.

Section 3.18. — Omitted. [Subsection (b) of Section 5 of [Act No. 180-1998, as amended](#) , is hereby amended]

Section 3.19. — Omitted. [Subsection (a) is hereby amended and a second paragraph is hereby added to subsection (d) of Section 6 of [Act No. 180-1998, as amended](#)]

Section 3.20. — Omitted. [Subsection (c) is hereby added to Section 8 of [Act No. 180- 1998, as amended](#)]

Section 3.21. — Omitted. [Section 12 of [Act No. 180-1998, as amended](#), is hereby amended]

Section 3.22. — Omitted. [Section 17 of [Act No. 180-1998, as amended](#), is hereby repealed.

Section 3.23. — Omitted. [Section 1 of [Act No. 148 of June 30, 1969, as amended](#)]

Section 3.24. — Omitted. [Section 2 of [Act No. 148 of June 30, 1969, as amended](#)]

Section 3.25. — Omitted. [Section 7 of [Act No. 148 of June 30, 1969, as amended](#), is hereby amended]

Section 3.26. — Omitted. [A paragraph (11) is hereby added to subsection (b) of Section 1031.01 of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico”]

Section 3.27. — Omitted. [Paragraph (3) of subsection (d) of Section 1032.06 of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” is hereby amended]

Section 3.28. — Omitted. [Section 1062.01 (a)(1)(G) of Act No. 1-2011, as amended, is hereby amended]

Section 3.29. — Omitted. [Section 2 of [Act No. 427-2000, as amended](#), is hereby amended to read as follows:

Section 3.30. — Omitted. [Section 3 of [Act No. 427-2000, as amended](#), is hereby amended]

Section 3.31. — Omitted. [Section 9 of [Act No. 427-2000, as amended](#), is hereby amended]

Chapter IV.

Flexicurity

Section 4.1. — Omitted. [The third paragraph of subsection (b)(1) and the third paragraph of subsection (b)(2) of Section 3 of Act No. 74 of June 21, 1956, as amended, is hereby amended]

Section 4.2. — Omitted. [A paragraph (6) is hereby added to subsection (b) of Section 8 of Act No. 74 of June 21, 1956, as amended]

Section 4.3. — Omitted. [Section 1 of [Act No. 80 of May 30, 1976, as amended](#), is hereby amended]

Section 4.4. — Omitted. [Section 2 of [Act No. 80 of May 30, 1976, as amended](#), is hereby amended]

Section 4.5. — Omitted. [Section 3 of [Act No. 80 of May 30, 1976, as amended](#), is hereby amended]

Section 4.6. — Omitted. [Section 3-A is hereby added to [Act No. 80 of May 30, 1976, as amended](#)]

Section 4.7. — Omitted. [Section 5 of [Act No. 80 of May 30, 1976, as amended](#), is hereby amended]

Section 4.8. — Omitted. [Section 7 of [Act No. 80 of May 30, 1976, as amended](#), is hereby amended]

Section 4.9. — Omitted. [Section 8 of [Act No. 80 of May 30, 1976, as amended](#), is hereby amended]

Section 4.10. — Omitted. [Section 9 of [Act No. 80 of May 30, 1976, as amended](#), is hereby amended]

Section 4.11. — Omitted. [Section 10 of [Act No. 80 of May 30, 1976, as amended](#), is hereby amended]

Section 4.12. — Omitted. [Section 11 of [Act No. 80 of May 30, 1976, as amended](#), is hereby amended]

Section 4.13. — Omitted. [Section 12 of [Act No. 80 of May 30, 1976, as amended](#), is hereby amended]

Section 4.14. — Omitted. [A new Section 14 is hereby added to [Act No. 80 of May 30, 1976, as amended](#)]

Section 4.15. — Omitted. [Section 14 is hereby renumbered as Section 15 of [Act No. 80 of May 30, 1976, as amended](#)]

Chapter V

Rules on Holding a Position Open by Reason of a Disability

Section 5.1. — Omitted. [Section 5-A of Act No 45 of April 18, 1935, as amended, is hereby amended]

Section 5.2. — Omitted. [Subsection (q) of Section 3 of Act No. 139 of June 26, 1968, as amended]

Chapter VI

Discrimination in the Workplace

Section 6.1. — (29 L.P.R.A. § 123)

In all cases involving discrimination or retaliation in the workplace, should an employee prevail, said employee shall be entitled to receive compensation for the total unearned wages and benefits, and when appropriate, future wages and benefits. Any provision of law regarding unlawful discrimination or retaliation in the workplace requiring that an employee be awarded twice the damages suffered, shall remain in effect. Notwithstanding the provisions of any law regarding unlawful discrimination or retaliation in the workplace, the amount of recoverable damages for mental anguish or suffering, other compensatory damages, and punitive damages, if awarded, shall be subject to the following monetary limits, based on the number of employees of the employer:

Less than 101 employees:	\$50,000
101 to 200 employees:	\$100,000
201 to 500 employees:	\$200,000
501 or more employees:	\$300,000

Section 6.2. — (29 L.P.R.A. § 123a)

When applying the provisions of any discrimination or retaliation in the workplace law, the provisions of federal legislation and regulations as well as the judicial interpretations thereof of courts with jurisdiction in Puerto Rico shall be recognized, in order to ensure consistency in interpretations regarding similar terms or provisions, unless the provisions of the local legislation require a different interpretation.

Section 6.3. — **Omitted.** [Section 3 of [Act No. 100 of June 30, 1959](#), is hereby amended]

Chapter VII

Final Provisions

Section 7.1. — **Savings Clause.** — (29 L.P.R.A. § 124)

The right to reinstatement provided for in Act No. 45 of April 18, 1935, as amended, and Act No. 139 of June 26, 1968, as amended, due to a disability or incapacity for work that began prior to the effective date of this Act, shall be governed by the rules on holding a position open that apply after the effective date of the ‘Labor Transformation and Flexibility Act.’

Section 7.2. — **Severability.** —

If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act thus held to be null or unconstitutional. If the application to a person or a circumstance of any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect or invalidate the application of the remainder of this Act to such persons or circumstances where it may be validly applied. It is the express and unequivocal will of this Legislative Assembly that the courts enforce the provisions and application thereof to the greatest extent possible, even if it renders ineffective, nullifies, invalidates, impairs, or holds to be unconstitutional any part thereof, or even if it renders ineffective, invalidates, or holds to be unconstitutional the application

thereof to any person or circumstance. This Legislative Assembly would have approved this Act regardless of any determination of severability that the Court may make.

Section 7.3. — Effectiveness. —

This Act shall take effect immediately after its approval.

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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.