

(H. B. 4508)

**(No. 241)**

(Approved August 9, 2008)

## **AN ACT**

To amend subsections (k) and (p) of Section 2 of Act No. 78 of September 10, 1993, as amended, known as the “Puerto Rico Tourist Development Act of 1993,” for the purpose of granting a new credit for tourist investment that facilitates the acquisition and installation by the tourist hostels of equipment capable of producing electric power through renewable energy sources such as wind, water, and solar energy; and for other purposes.

### **STATEMENT OF MOTIVES**

In the past few years, energy costs have soared rapidly. This has caused a substantial rise in the operating costs of businesses, particularly those of tourist hostels, which are bound to operate 24 hours a day, seven (7) days a week. In the past, the Legislature recognized this fact and promoted the approval of Act No. 101 of July 9, 1985, as amended. The same was aimed at reducing the operating costs of hostels by granting an eleven (11%) percent credit in the power consumption bill for hotels, condohotels, small hostels, Puerto Rican paradores, and guest houses endorsed by the Puerto Rico Tourism Company.

The aforementioned credit is not a subsidy, since it requires that hostels requesting such credit be current in their payments and implement aggressive energy conservation measures in their facilities, among other considerations. However, in spite of the credit and the conservation measures implemented, the cost of energy in hostels continues to rise, thus

affecting their competitive capacity. All this suggests that the increasing trend shall continue, and it is imperative to take action so as to prevent the closing of tourist hostels and the loss of jobs.

Act No. 114 of August 16, 2007, was recently approved. This legislation authorized the PREPA to implement a net metering program, so as to allow the interconnection in its electric transmissions and distribution system as well as electric feedback to customers who have installed a solar power equipment, a windmill or any other renewable energy source equipment capable of producing electric power using a meter that measures two-way flow of electricity.

Although not perfect, the approval of this legislation gives way to promote the installation of renewable energy sources in tourist hostel facilities that allow them to reduce their operating expenses, specifically those related to energy. Insofar as hostels do not depend on energy produced by the PREPA, the former shall stop receiving the credit granted by virtue of Act No. 101, *supra*, which shall be beneficial for the coffers of such entity. However, the credit shall be maintained until the hostel is able to provide all energy needs by itself.

The transition to renewable energy sources shall also give a competitive advantage to hostels that implement them, since it may enable such hostels to be recognized as “green hotels.” This is an important distinction, inasmuch as every day there are more travelers in search for destinations where progressive policies are promoted in terms of natural resource protection. Likewise, the public policy to strengthen sustainable tourism practices as these were compiled in the design guidelines for eco-tourism and sustainable tourism facilities drafted by the Puerto Rico Tourism Company shall be also promoted.

On the other hand, tourist development, and more specifically, the increase in the tourist accommodations in the Island, has been closely linked to the incentives provided by “Act No. 78 of September 10, 1993,” as amended, known as the “Puerto Rico Tourist Development Act of 1993.” The approval of such legislation arises from the recognition that the Puerto Rican archipelago has the necessary characteristics to become a world-class destination. Likewise, the “Puerto Rico Tourist Development Act of 1993” also recognized the difficulty faced by investors in order to advance tourist projects. A framework was then adopted whereby the Government shall serve as facilitator of tourist development by granting tax credits and promoting an increase in the local and foreign capital which serves as a means of financing for such developments. The success of this legislation is evident, and today, Puerto Rico has internationally-renowned hotel chains and a strong presence of local capital that has been invested in tourist projects, thus creating thousands of excellent jobs for Puerto Ricans.

In order to continue fostering the growth of this sector and to help overcome the new challenges that limit the growth thereof, the Tourist Development Act may be tempered with a new reality and boost other areas that facilitate the operation of tourist facilities. A new credit for tourist investment is then proposed, which facilitates the acquisition and installation by the tourist hostels of equipment capable of producing electric power through renewable energy sources such as wind, water, and solar energy, among others.

Through this legislation, it is sought to facilitate the transition of hostels endorsed by the Puerto Rico Tourism Company to renewable energy sources through the dramatic reduction of the costs for the acquisition and installation of such equipment, while promoting greater competitiveness for the sector, in order for our Island to be avant-garde in terms of tourist progress worldwide.

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

Section 1.- Subsections (k) and (p) of Section 2 of Act No. 78 of September 10, 1993, as amended, known as the “Puerto Rico Tourist Development Act of 1993,” are hereby amended to read as follows:

“Section 2.- Definitions.-

For the purposes of this Act, the following terms and phrases shall have the meaning stated hereinbelow:

(a) ...

(b) ...

(c) ...

(k) ‘Property devoted to a tourist-related activity’ means:

(1) ...

(2) any set of machinery, furniture, fixed personal property, and equipment that is necessary or convenient for an exempt business in the operation of a tourist-related activity, including equipment to generate electric power through alternate energy sources such as wind, solar light, and water, among others;

(l) ...

(p) 'Eligible investment' means:

(1) ...

(2) ...

(3) ...

(4) Only those investments whose funds are totally used solely and exclusively for the construction of the facilities of a new business or for the renewal or substantial expansion of the facilities of an existing business as defined by this Act, including the investment necessary for the acquisition and installation of equipment capable of producing electric power through alternate energy sources, shall be deemed as eligible investments. Any other investment whose funds are not used directly and totally for the acquisition, construction, renovation or substantial expansion of the facilities of an eligible business, shall be excluded from the definition of an eligible investment of this Act. Furthermore, except in those cases that, at the discretion of the Director, the best interests of Puerto Rico require otherwise, eligible investments shall be deemed to be only those investments made after a pre-application conference is held with the designated officials of the Tourism Company to discuss the merits of the proposed tourist project.”

Section 2.- Subsection (c) of Section 5 of Act No. 78 of September 10, 1993, as amended, known as the “Puerto Rico Tourist Development Act of 1993,” is hereby amended to read as follows:

“Section 5.- Credit for Tourist Industry Investment

(a) ...

(b) ...

(c) Maximum amount of credit.- The maximum amount of credit for tourist-related investment for each tourist-related project that shall be available to investors and to participants, shall not exceed ten (10%) percent of the total cost of the tourist-related project, as determined by the Director; or fifty (50%) percent of the cash contributed by the investors and participants (through the fund) to the exempted business in exchange for stock or shares of the tax exempted business, whichever is less. In the case of investments necessary for the acquisition and installation of equipment capable of producing electric power through alternate energy sources, the credit shall be equal to sixty (60%) percent of the total of the investment. The credit for investment for the acquisition and installation of equipment capable of producing electric power through alternate energy sources shall only be granted when such equipment meets the specifications on minimum requirements of efficiency established by the Administration of Energy Affairs or other newly-created government entity designated.

...”

Section 3.- The provisions of this Act shall take effect on July 1<sup>st</sup>, 2008.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 241 (H. B. 4508)** of the **7<sup>th</sup> Session of the 15<sup>th</sup> Legislature** of Puerto Rico:

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

In San Juan, Puerto Rico, on the 15<sup>th</sup> day of March of 2010.

Solange I. De Lahongrais, Esq.  
Director