

Act. No. 113 of 2011

(Approved July 4, 2011)

As amended by Act No. 80 of July 24, 2013

AN ACT

Section 1. - Short Title.-

This Act shall be known as the “Puerto Rico Cruise Ship Industry Promotion and Development Act.”

Section 2. – Public Policy.-

The primary objectives the Government of Puerto Rico is pursuing through the adoption of this new Puerto Rico Cruise Ship Industry Promotion and Development Act and the new incentives for the cruise ship industry are as follows: 1) to reaffirm and strengthen the importance of Puerto Rico as a regional and worldwide cruise ship home port; 2) to increase the number of cruise ships arriving in Puerto Rico; 3) to increase the length of stay of cruise ship passengers in lodgings throughout all the regions and municipalities of Puerto Rico, as well as in the islands that comprise its archipelago (Vieques, Culebra, and others); 4) to increase the number of visits and the volume of passengers in the cruise ships which visit Puerto Rico; 5) to increase consumption while on the Island by passengers and crew, including expenses related to the acquisition of supplies and other operating expenses of those cruise ships arriving to the Island; 6) to generate and increase economic activity for the different economic segments of Puerto Rico connected directly or indirectly with the cruise ship industry; 7) to offer incentives on equal terms to all cruise lines and establish partnerships with every cruise line so as to maximize the promotion of Puerto Rico as a tourist destination and improve the relationship with the cruise ship industry in general.

Section 3. – Creation of the Ports Authority Fund.-

A special fund to be known as the “Ports Authority Cruise Ship Industry Incentive Fund” (the “Authority Fund”), is hereby created in the books of the Puerto Rico Ports Authority, to be controlled by the Puerto Rico Ports Authority, and which shall not have a specific fiscal year. The Authority Fund shall be kept separate from other public funds under the custody of the Puerto Rico Ports Authority. The Authority Fund shall be funded by the following appropriations:

- (a) During Fiscal Year 2011-2012, five million dollars (\$5,000,000) from the funds of the Puerto Rico Tourism Company and four million dollars (\$4,000,000) to be identified by the Office of Management and Budget as part of the General Budget, subject to compliance with Section 5 of this Act.

- (b) During Fiscal Year 2012-2013 and 2013-2014, four million dollars (\$4,000,000) annually from the Puerto Rico Tourism Company and five million five hundred thousand dollars (\$5,500,000) annually from funds to be identified by the Office of Management and Budget in the General Budget, subject to compliance with Section 5 of this Act.

At the end of Fiscal Year 2012-2013, the Authority Fund's remaining balance, if any, shall be consolidated and remitted to the Puerto Rico Tourism Company within a period of one (1) month after this Act takes effect or on or before July 31, 2013. These funds shall subsequently be remitted to the Puerto Rico Tourism Company, which shall be responsible for awarding the incentives provided by Section 5 of this Act.

- (c) The appropriation of funds provided in this Act and those to be appropriated in the future by the Legislative Assembly to the special fund herein created.
- (d) Any other funds donated, transferred, or assigned by the Federal or State government, municipalities, or private entities or persons, including the Budgetary Fund created by virtue of Act No. 147 of June 18, 1980, as amended.
- (e) The balance in the Authority Fund at the close of each fiscal year shall remain therein and may be used to attain the purposes of this Act in subsequent fiscal years.

Section 4- Creation of the Tourism Company Fund.-

A special fund to be known as the "Tourism Company Cruise Ship Industry Incentive Fund" (the "Company Fund"), is hereby created in the books of the Puerto Rico Tourism Company, to be controlled by the Puerto Rico Tourism Company, and which shall not have a specific fiscal year. The Company Fund shall be kept separate from other public funds under the custody of the Puerto Rico Tourism Company. The Company Fund shall be funded by the following appropriations:

- (a) During Fiscal Years 2011-2012 and 2012-2013, one million five hundred thousand dollars (\$1,500,000) annually from the funds of the Puerto Rico Tourism Company. During Fiscal Year 2013-2014, five million five hundred thousand dollars (\$5,500,000) from the Puerto Rico Tourism Company and five million five hundred thousand dollars (\$5,500,000) from funds to be identified by the Office of Management and Budget in the General Budget, subject to compliance with Section 5 of this Act. During Fiscal Years 2014-2015, 2015-2016, 2016-2017, and 2017-2018, six million two hundred and fifty thousand dollars (\$6,250,000), from the funds of the Puerto Rico Tourism Company, and six million five hundred thousand dollars (\$6,500,000) from funds to be identified by the Office of Management and Budget in the General Budget, subject to compliance with Section 5 of this Act.

- (b) The appropriation of funds provided in this Act and those to be appropriated in the future by the Legislative Assembly to the special fund herein created.
- (c) Any other funds donated, transferred, or assigned by the Federal State government, municipalities, or private entities or persons, including the Budgetary Fund created by virtue of Act No. 147 of June 18, 1980, as amended.
- (d) The balance in the Authority Fund at the close of each fiscal year shall remain therein and may be used to attain the purposes of this Act in subsequent fiscal years.
- (e) The Authority Fund's consolidated balance, if any, as provided by Section 3 (b) of this Act.

Section 5.- Establishment of Incentives for Cruise Ship Companies or Operators.-

- (a) Cruise ship companies or operators which visit any port in the jurisdiction of Puerto Rico may be eligible for the following benefits:

1. Cruise Ship Company Incentive:

- i. For cruise ships that dock in a port in the jurisdiction of Puerto Rico up until June 30, 2018, the amount of four dollars and ninety five cents (\$4.95) shall be deducted from the thirteen dollars and twenty-five cents (\$13.25) per passenger tax imposed by the administrative authorities of the ports of Puerto Rico. This incentive shall apply to the first one hundred and forty thousand (140,000) passengers arriving at any port in Puerto Rico in cruise ships of the company within the twelve (12) month period of the fiscal year, beginning in Fiscal Year 2011-2012. Furthermore, the sum of seven dollars and forty-five cents (\$7.45) per passenger shall be deducted, when the company has exceeded such number of passengers. If the per passenger tax in a certain port is less than thirteen dollars and twenty-five cents (\$13.25), then the sum of four dollars and ninety five cents (\$4.95) shall be deducted from the applicable tax of such port. If the official per passenger tax is reduced, the incentive provided herein shall be reduced proportionately.
- ii. The funds required to grant the incentives herein provided shall come from the Authority Fund and shall be administered by the Ports Authority until Fiscal Year 2012-2013. Commencing on Fiscal Year 2013-2014, and in subsequent fiscal years, the Office of Management and Budget shall transfer the funds established in Section 4 (a) within the first sixty (60) days of each

Fiscal Year. These incentives shall be administered by the Puerto Rico Tourism Company, as provided by Section 3 of this Act.

2. Home Port Frequent Visit Incentive:

i. The following amounts shall be contributed:

1. One dollar (\$1.00) per passenger to cruise ship companies or operators who use any port in the jurisdiction of Puerto Rico as home port.
2. Two dollars (\$2.00) per passenger commencing with the twenty first (21st) visit of the cruise ship company within a fiscal year period. Commencing with the fifty third (53rd) visit within a fiscal year, the cruise ship company shall receive a contribution of three dollars (\$3.00) per passenger.
3. There shall be an additional contribution of fifty cents (\$0.50) per passenger over the above described incentives for cruise ship companies or operators who use any port in the jurisdiction of Puerto Rico as home port Mondays through Fridays.
4. In addition to the aforementioned incentives, every cruise ship who uses any port in the jurisdiction of Puerto Rico as home port and also visits one or more ports in the jurisdiction of Puerto Rico on the same week, shall receive an additional fifty cents (\$0.50) per passenger in addition to any other incentive provided in this sub-section.
5. Every cruise ship who uses any port in the jurisdiction of Puerto Rico as home port and sails twice in the same week from the same port shall receive fifty cents (\$0.50) per passenger in addition to the incentives provided herein.
6. Every home port cruise ship which sails from the Port of San Juan before 4:00 PM shall receive an incentive of one dollar and fifty cents (\$1.50) per passenger.
7. The total incentives provided by this Act shall not exceed thirteen dollars and twenty-five cents (\$13.25) per passenger under any circumstances. Any balance in excess of that number shall not be paid. If

this tax is lowered or increased, the maximum contribution shall be adjusted proportionately.

- ii. The funds for the incentives to be provided under this Subsection shall come from the Authority Fund and will be administered by the Ports Authority until Fiscal Year 2012-2013.
- iii. Beginning on Fiscal Year 2013-2014, and in subsequent fiscal years, the Office of Management and Budget shall transfer the funds established in Section 4 (a) hereof within the first sixty (60) days of each Fiscal Year. These incentives shall be administered by the Puerto Rico Tourism Company, pursuant to Section 3 of this Act.

3. Cruise Ship Home Port Bilateral Marketing Program:

- i. A Bilateral Marketing Program between the Puerto Rico Tourism Company and the eligible cruise ship company (hereinafter “the Marketing Program”) shall be created for the purpose of positioning Puerto Rico as the base port of the Caribbean and incentivize its worldwide demand. The sum of one dollar (\$1.00) per passenger shall be contributed for cruise ships departing from any port of the jurisdiction of Puerto Rico during the fiscal-year period beginning in Fiscal Year 2011-2012, provided, that to qualify for such incentive, the cruise ship company shall contribute to its Marketing Program a percentage of the amount of the incentive claimed, as determined by regulation to be issued by the Tourism Company pursuant to this Act.
- ii. The funds required to grant the incentives herein shall come from the Company Fund, and the Marketing Program shall be administered by the Puerto Rico Tourism Company.

4. Port of Call Incentive:

- i. The sum of one dollar and fifty cents (\$1.50) per passenger shall be contributed to cruise ships which dock at any port in the jurisdiction of Puerto Rico as a port of call for at least eight (8) hours and pay the applicable per passenger tax to said port during a fiscal-year period. This incentive shall require the cruise ship to dock before 11:00 AM. The sum of one dollar (\$1.00) per passenger shall be contributed if the cruise ship docks after 11:00 AM, provided it stays at least eight (8) hours in port.

- ii. The funds for the incentives to be provided under this Subsection shall come from the Authority Fund and will be administered by the Ports Authority until Fiscal Year 2012-2013.
- iii. Beginning in Fiscal Year 2013-2014, and in subsequent fiscal years, the Office of Management and Budget shall transfer the funds referred to in Section 4 (a) within the first sixty (60) days of each Fiscal Year. These incentives shall be administered by the Tourism Company, pursuant to Section 3 of this Act.

5. Supplies and Services Incentive:

- i. Every cruise ship that docks in any port within the jurisdiction of Puerto Rico shall be eligible to receive an incentive equal to ten percent (10%) of the expenses incurred in the purchase of supplies and/or contracting for maintenance or repair services while the cruise ship is in Puerto Rico, excluding materials, goods, or equipment installed in the cruise ship as a result of such service, as specified by the regulation adopted by the Tourism Company. An additional five percent (5%) shall be offered for the acquisition of goods manufactured in Puerto Rico as certified by the Puerto Rico Industrial Development Company, or Puerto Rico agricultural products as certified by the Department of Agriculture.
- ii. The services contemplated in this Section shall exclude docking services required by the cruise ships in each port of call.
- iii. Cruise ship owners or operators who comply with the above provisions shall receive these benefits after providing evidence, to the satisfaction of the aforementioned agencies, that the purchases were made from companies in which fifty percent (50%) or more of their shareholders or owners reside in Puerto Rico or fifty percent (50%) or more of the sold goods are manufactured locally. In the case of companies engaged in the rendering of services, as defined in the regulation of the Puerto Rico Trade and Export Company, the employees rendering such services shall reside in Puerto Rico. Transshipment or transfer of goods directly to cruise ships from ports where ships carrying food or beverages dock shall not constitute and activity incentivized or eligible for this incentive. Vendors and service providers must also be certified by the Puerto Rico Trade and Export Company and comply with all the applicable circular letters, administrative orders and regulations.

- iv. The funds required to grant the incentives provided herein shall come from the Company Fund.
- (b) To ensure its fiscal soundness and reliability, the incentives program shall be effective until Fiscal Year 2017-2018.
- (c) It is hereby expressly provided that the incentives listed herein shall apply exclusively to eligible cruise ships that use any port within the jurisdiction of Puerto Rico.
- (d) The incentives herein provided shall be granted by the Puerto Rico Tourism Company or the Puerto Rico Ports Authority, as the case may be, to the corresponding cruise ship company, operator or agent within a term that shall not exceed thirty (30) days after submitting the invoices, according to the corresponding regulation, claiming the incentives listed herein; provided, that should the Puerto Rico Tourism Company or the Puerto Rico Ports Authority be in disagreement with regard to any invoice item, such disagreement shall not prevent the payment of any other item in the invoice that has not been objected. Furthermore, the Puerto Rico Tourism Company or the Puerto Rico Ports Authority shall be responsible for notifying the entity that submitted the invoice within said thirty (30) day period about any objection to any invoice item stating the reasons that support the objection.

Section 6.- Establishment of Incentives for Organizations Authorized by the Tourism Company to Offer Tourist Transportation from Cruise Ship Piers.-

- (a) Any tour company duly authorized by the Puerto Rico Tourism Company to offer tours or tourist transportation from the piers in Puerto Rico, where it picks up and drops off passengers, shall be entitled to provide its services and contract directly with cruise ship companies and may receive a one dollar (\$1.00) basic contribution per cruise ship passenger who purchases a tour in the cruise ship where he/she travels. The tour companies may receive a special contribution of four dollars (\$4.00) per cruise ship passenger who purchases a tour in the cruise ship where he/she travels, provided this tour includes a visit to Vieques and/or Culebra. The special contribution for tours to Vieques and Culebra shall be additional to the basic contribution. The Puerto Rico Tourism Company may vary the contribution per passenger, depending on the need to promote the purchase of these tours and market conditions. The incentives described in this Section shall be effective until Fiscal Year 2017-2018.
- (b) Any tour company duly authorized by the Puerto Rico Tourism Company to offer tourist transportation in the area of the piers shall be eligible to receive the benefits of this

section as long as it complies with the provisions of this Act and the regulations approved thereunder.

- (c) The funds and appropriations necessary for the establishment of the incentive program for tour companies shall originate from the Company Fund and shall not exceed five hundred thousand dollars (\$500,000) per year. This program shall be administered by the Tourism Company.

Section 7.- Beneficiaries-

Only cruise ship owners and operators, entities engaged in the sale of travel packages established in Puerto Rico or abroad, and entities authorized by the Puerto Rico Tourism Company to pick up passengers at cruise ship piers, as the case may be, shall be entitled to apply for the incentives provided in this Act; provided that the agencies or agents thereof in Puerto Rico shall have the authority to apply for, transact, and receive such benefits as part of the business relationship with those they represent.

Section 8.- Funds' Administration-

- (a) The Puerto Rico Ports Authority and the Puerto Rico Tourism Company shall prescribe by regulations to such effect, all that pertains to the manner and form in which the incentives provided herein shall be applied for and granted, in order to ensure a sound administration of public funds.

- (b) The Puerto Rico Ports Authority shall have the obligation to oversee that the funds appropriated to the Authority Fund are used as provided by the regulations adopted by the Authority to that effect. The Puerto Rico Tourism Company shall have the obligation to oversee that the funds appropriated to the Company Fund are used as provided by the regulations adopted by the Company to that effect.

- (c) On or before ninety (90) days from the close of every fiscal year, the Puerto Rico Ports Authority and the Puerto Rico Tourism Company shall submit a report to the Governor and the Legislative Assembly of Puerto Rico on their compliance and administration of this Act.

Section 9.- Academic Internship Program.-

It is the public policy of the Government of Puerto Rico to develop the abilities of those students who are enrolled in academic programs related to the tourism industry. To that effect, an Academic Internship Program is hereby created to be regulated by the Puerto Rico Tourism Company to enable university students in Puerto Rico to serve internships required as part of their curricula in the cruise ships covered under this Act. The Puerto Rico Tourism Company

shall have a term of one (1) year from the date of approval of this Act to establish said Program in coordination with cruise lines and universities in the Island.

Section 10.- Regulations in Effect.-

During the period commencing on the effective date of this Act until the effective date of any regulation to be promulgated hereunder, the incentives provided under this Act shall be subject to all the provisions of Regulation 7103 of March 10, 2006, known as the “Cruise Ship Incentive Regulation”, Regulation 7816 of December 14, 2009, known as the “First Amendment to the Cruise Ship Incentive Regulation”, as well as any administrative determination, circular letter, or other official communication from the Executive Director of the Puerto Rico Tourism Company pursuant to Act No. 76 of August 25, 2005, or Act No. 99 of June 12, 2008, in all matters not inconsistent with the provisions of this Act. Furthermore, the regulations in effect at other government agencies, including the Puerto Rico Trade and Export Company, pursuant to Act. No. 76 of August 25, 2005, as amended, shall continue in effect with respect to all those matters that are not inconsistent with the provisions of this Act.

Section 11.- Appropriation of Funds.-

During Fiscal Years 2011-2012 to 2017-2018, the Office of Management and Budget shall include in the Joint Resolution of the Budget of the Commonwealth of Puerto Rico the amount appropriated under this Act to the Funds herein created. The Office of Management and Budget shall transfer, during the first thirty (30) days of every fiscal year, the total amount corresponding to the Fund created by this legislation.

Section 12.- Puerto Rico Cruise Ship Incentive Special Fund under Act No. 76 of August 25, 2005, as amended.-

It is hereby expressly provided that, as of the effective date of this Act, no new applications for benefits under Act No. 76 of August 25, 2005, as amended, shall be accepted. Furthermore, as of the effective date of this Act, no appropriation of funds shall be made to the Puerto Rico Cruise Ship Incentive Special Fund created under Act No. 76 of August 25, 2005, as amended. Any surplus or balance remaining in said fund shall be transferred to the Puerto Rico Tourism Company, without prejudice to any application for benefits already filed under the provisions of Act No. 76 of August 25, 2005, as amended, or under consideration as of the date of approval of this Act.

Section 13.- Severability.-

If any provision, section, subsection, paragraph, subparagraph, chapter, clause, phrase or part of this Act was to be ruled invalid, null, or unconstitutional by any court of competent jurisdiction, such ruling shall not affect, impair or invalidate the remaining provisions of this

Act, thus limiting the effect of such ruling to the section, subsection, paragraph, subparagraph, chapter, clause, phrase or part thus ruled invalid, null, or unconstitutional.

Section 14.- Effectiveness.-

This Act shall take effect immediately after its approval.