

(H. B. 398)  
(Conference)  
(Reconsidered)

**(No. 35)**

(Approved July 29, 2005)

**AN ACT**

To amend Section 3 of Act No. 97 of June 19, 1968, as amended, to amend the last sentence of the sixth paragraph of Section 1 of Act 81 of June 10, 1998 as amended, to levy a ten (10) percent tax at source to the per diems paid to the members of the Legislature for attendance to sessions and/or committees, that such withholding shall be remitted on a monthly basis to the Curable Catastrophic Illnesses Services Fund created by virtue of Act No. 150 of August 19, 1996, as amended, and to repeal obsolete text.

**STATEMENT OF MOTIVES**

For many years, all that pertains to the per diems paid to the members of the Legislature has been extensively discussed. In particular, much discussion has been given to the fact that the sum they receive as per diem for their attendance to sessions and/or committees during a calendar year has been always exempted from the payment of taxes.

Even though these per diems have been given a very particular treatment since the same have been considered as a reimbursement of the expenses incurred by the legislators while performing their daily tasks, the claim of the people of Puerto Rico has been increasing to put a stop to certain privileges they deem to be appalling. For such reason, the members of the House of Representatives made a commitment to the people regarding the levying of taxes on the legislative per diems.

To these ends, this Legislature deems it pertinent to levy a ten (10) percent tax at source on the per diems paid to the legislators for attending to sessions and/or committees, and that such withholding be remitted on a monthly basis to the Curable Catastrophic Illnesses Services Fund. Lastly, it is necessary to clarify that the determination to levy a ten (10) percent tax was made because it has a higher tax impact due to the fact that deductions against said amount are not allowed.

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

Section 1.- Section 3 of Act No. 97 of June 19, 1968, as amended, is hereby amended to read as follows:

“The members of the Legislature shall receive per diems for each day they attend a meeting of the legislative body to which they belong. For the purpose of fixing the amount of said per diems, the Planning Board of Puerto Rico shall certify the variations in the general consumer price index as of the date of the last revision of per diems carried on May 30, 1974, to the respective presiding officials of each House, not later than June 1 of the first year of the legislative quadrennium. Per diems shall be determined taking as a base the average between the lowest and the highest per diems effective as of May 20, 1974 and applying the index certified by the Planning Board, then subtracting the average between the highest and the lowest per diem from the product. The present basic per diem as of the date of approval of this Act shall then be added to said balance, adjusting it to the immediately lower multiple of a dollar.

For the purposes of this Section, attendance at a committee which is at work by permission of the proper Legislative Body while that Body is in session shall be considered as attendance to any legislative session. The Secretary shall not certify attendance to a session of a Legislative Body of

any legislator who is absent during the roll call before the session adjourns. In the case a legislator is present as a session, but, for just cause is compelled to leave before it adjourns, he/she shall be deemed to be present for the purposes of this provision, provided, that he/she has obtained authorization from the Presiding Officer, who shall report it to the Legislative Body.

A ten (10) percent tax shall be levied at source on all per diems to be paid to the members of the Legislature for attending to sessions and/or committees. This withholding shall be remitted on a monthly basis to the Curable Catastrophic Illnesses Services Fund, created by virtue of Act No. 150 of August 19, 1996, as amended.”

Section 2.- This Act shall become effective retroactive to January 10, 2005, and any administrative withholdings on this account shall be accredited pursuant to the obligations of this Act.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 35 (H.B. 398) (Conference) (Reconsidered) of the 1<sup>st</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend Section 3 of Act No. 97 of June 19, 1968, as amended, to amend the last sentence of the sixth paragraph of Section 1 of Act 81 of June 10, 1998 as amended, to levy a ten (10) percent tax at source to the per diems paid to the members of the Legislature for attendance to sessions and/or committees, that such withholding shall be remitted on a monthly basis to the Curable Catastrophic Illnesses Services Fund created by virtue of Act No. 150 of August 19, 1996, as amended, and to repeal obsolete text,

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

In San Juan, Puerto Rico, today 16<sup>th</sup> of December of 2005.

Francisco J. Domenech  
Director