

(House Substitute for  
S. B. 281)

**(No. 20)**

(Approved January 23, 2006)

**AN ACT**

To amend subsections (i) and (l) and add subsection (n) to Section 4, and to amend Sections 7 and 8 of Act No. 14 of January 8, 2004, as amended, known as the “Puerto Rican Industry Investment Act,” in order to define the services eligible for preferential treatment and the applicable government investment parameters, and for other amendments.

**STATEMENT OF MOTIVES**

The government is an important component of the Puerto Rican economic structure. In addition to being a regulating entity of economic processes, the government sector is a consumer of the goods and services produced by the private sector.

Since the beginnings of the Puerto Rico industrialization project, its products and services have struggled to grow and achieve a prominent place within the local economic structure. The characteristics of the economic model in effect, in which local enterprises compete against corporate capital enterprises have made it difficult for the local industry to place itself in a competitive position.

In view of the new challenges imposed by the global economy on our economy, it is essential for the Government to provide a feasible structure and with effective mechanisms to support the growth of the local industry, even though it is known that our industry has the potential and capacity to

sell products to the public sector of equal or better quality than those imported from abroad, and that thousand of jobs may be generated locally. The same occurs in the services industry. To such effects, this Legislature deems it is necessary to approve legislation geared towards stimulating the growth and strengthening of local producers through a new public policy and new structures that shall enable the above described objectives.

In the purchases and service contracting by the Government of the Commonwealth of Puerto Rico, the participation of small and medium business of local capital is scarce. This approach to the Puerto Rican economic development is fundamental if we intend to promote our economy and support our best resource: the human capital.

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

Section 1.- Subsections (i) and (l) are hereby amended, and subsection (n) is hereby added to Section 4 of Act No. 14 of January 8, 2004, as amended, to read as follows:

“Section 4.- Definitions.-

For the purposes of this Act, the following words and phrases shall have the meaning stated below:

(a) ...

(b) ...

(c) ...

...

(i) “Substantial operations in Puerto Rico” means those operations that are carried out by an enterprise in Puerto Rico which, in the Board’s judgment, and on the basis of its nature, complexity, investment, and number of jobs generated in Puerto Rico, represent a substantial contribution to the economy of the Island. For the

purpose of determining if an enterprise has substantial operations in Puerto Rico, the operations carried out in Puerto Rico by people related to said enterprise, as such term is defined in Section 1231(a)(3) of the “Puerto Rico Internal Revenue Code of 1994,” Act No. 120 of October 30, 1994, as amended, shall be taken into account. In the case of service rendering enterprises, the proportion of their total operations originating from activities performed within the jurisdiction of Puerto Rico shall also be taken into account.

...

(l) “Investment Parameter” is the preference percent granted by the Board to articles distributed, packaged, assembled or manufactured in Puerto Rico, including services rendered in Puerto Rico.

(m) ...

(n) “Services rendered in Puerto Rico” means those services applicable to the acquisition of goods, articles, and non-professional or specialized services that are necessary for the functioning of the regular operations of a government entity for the performance or functioning of a work or service, which do not require a profession or specialty. In determining that the services are rendered in Puerto Rico, the place in which the services are rendered, and also if the enterprise or partnership that renders the service has substantial operations in Puerto Rico as defined in subsection (i) of this Section shall be taken into account.”

Section 2.-Section 7 of Act No. 14 of January 8, 2004, as amended, is hereby amended to read as follows:

“Section 7.-Preferential Policy for Puerto Rico Government Purchases

In every purchase of articles made by the Puerto Rico Government, the referred services or articles extracted, produced, assembled or packaged in Puerto Rico, or distributed by agents established in Puerto Rico, or services rendered in Puerto Rico shall be acquired, provided said articles meet the specifications, terms and conditions established in the bidding notice or purchase order, and that its price, after applying the corresponding investment parameter, is the lowest.

As to the purchases and the contracting of services of all agencies, dependencies, subdivisions, or instrumentalities of the Government of Puerto Rico, it is hereby provided that each one of these shall reserve at least fifteen (15) percent of said purchases and contracting for services rendered in Puerto Rico or articles extracted, produced, assembled or packaged in Puerto Rico by small or medium-size businesses or cooperative based business, as defined by regulations.”

Section 3.- Section 8 of Act No. 14 of January 8, 2004, as amended, is hereby amended to read as follows:

“Section 8.- Classification of Products and Services

The Board shall classify the services rendered in Puerto Rico as well as the articles extracted, produced, assembled or packaged in Puerto Rico, or distributed in Puerto Rico by enterprises with substantial operations in Puerto Rico, or by agents established in Puerto Rico, taking into consideration, when assigning the corresponding investment parameter, whether the article or service is offered by an enterprise with substantial operations in Puerto Rico considering the following factors, the value added in Puerto Rico, the number of jobs, the local payroll, the capital of local

origin, the research and development operations in Puerto Rico, and the country of origin of the materials used. Provided, that the Board shall assign the corresponding investment parameter within the following items:

- (1) Articles distributed by agents established in Puerto Rico, up to two (2) percent.
- (2) Articles packaged in Puerto Rico, up to three (3) percent.
- (3) Articles assembled in Puerto Rico, up to four (4) percent.
- (4) Articles that constitute Products of Puerto Rico, up to ten (10) percent.
- (5) Services offered by small and medium-size business or cooperative-based business established in Puerto Rico, up to two (2) percent

It is further provided that the Board shall have discretion to grant an additional five (5) percent in extraordinary cases of articles and services, and for agricultural products, through parameters established by regulations.

However, with respect to the maximum limits established in the preceding subsection (1) thru (4), in the case of articles produced, assembled or manufactured in the municipalities of Vieques and Culebra, the following maximum limits shall be assigned:

- (a) For articles packaged in Vieques and Culebra, up to nine (9) percent;
- (b) For articles assembled in Vieques and Culebra, up to twelve (12) percent;
- (c) For articles produced or manufactured in Vieques and Culebra, up to thirty (30) percent;

The Board shall maintain a list of said articles, duly classified, consigning their class, origin, trademark, form, dimensions, properties,

samples, catalogs and any other information it deems convenient to expedite their selection in the purchases of the Government.

Provided, that in all Government subdivisions, the purchasing delegate or the purchasing manager shall be bound to furnish on a monthly basis the information concerning bids and purchases made under this Act to the Board.

Section 4.- This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 20 (House Substitute for S. B. 281) of the 3<sup>rd</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend subsections (i) and (l) and add subsection (n) to Section 4, and to amend Sections 7 and 8 of Act No. 14 of January 8, 2004, as amended, known as the “Puerto Rican Industry Investment Act,” in order to define the services eligible for preferential treatment and the applicable government investment parameters, and for other amendments,

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

In San Juan, Puerto Rico, today 13<sup>th</sup> of July of 2006.

Francisco J. Domenech  
Director

