

(H. B. 2331)

(No. 188)

(Approved September 1, 2006)

AN ACT

To amend subsections (3), (8), and (9) of Section 2 of Act No. 2 of November 7, 1975, as amended, known as the “Act for the Certificates of Necessity and Convenience of the Department of Health,” in order to clarify the requirements related to obtaining a certificate of necessity and convenience, and to increase the amounts of money related to capital investments and for the acquisition of the equipment necessary therefor.

STATEMENT OF MOTIVES

Act No. 2 of November 7, 1975, as amended, was approved for the purpose of complying with the provisions of Public Law No. 93-222, known as the ‘National Health Resource Planning and Development Act of 1974, approved by the United States Congress on December 29, 1973. Pursuant to said Federal Law, Act No. 2 supra, requires that in order to establish and operate certain health facilities or offer certain health services in Puerto Rico, it is necessary to previously obtain a certificate of necessity and convenience (CNC) issued prior to proceeding and subject to compliance with the conditions provided by the Secretary of Health of Puerto Rico.

Section 2 of the aforementioned Act lists the activities that require the previous issuance of the CNC, such as the establishment, acquisition, closing or transfer of a health facility, as the term is defined in Section 1 of said Act. However, when said Act was approved, additional items were included to

pay for the acquisition of equipment or capital investments by, or in existing facilities in the belief that such activities would significantly change the conditions under which the original CNC was issued. Pursuant to the foregoing, sums of money were fixed on the basis of the financial realities of the industry at that time.

Since thirty (30) years have elapsed after the approval of Act No. 2, it is necessary to revise and update said amounts of money fixed by said Act. According to the experts in the matter, the increase in costs caused by the continuous development in medical technology, which are above the average increase in the cost of living in general, can be seen particularly in the equipment and machinery necessary for rendering services of excellence. Ironically, the useful life of the necessary equipment has been decreasing, thus increasing its cost. To reestablish the balance which Act No. 2 intended to implement between those activities that require an additional CNC, and incidental activities that do not require the latter, it is essential to recognize these realities and again incorporate them to the established system without **impairing** the revision of other aspects, but also without waiting for this to happen.

The intention of the present amendment is to adjust to the needs of the present market the amounts of money related to the capital investments and the acquisition of the necessary equipment for obtaining a certificate of necessity and convenience. For the aforementioned reasons this Legislature believes that the approval of this measure is necessary and convenient.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Subsection (3) of Section 2 of Act No. 2 of November 7, 1975, as amended, is hereby amended to read as follows:

...

“(3) Capital investment made by or in favor of an existing health facility in the amount of two million (2,000,000) dollars or more, including the costs of any study, plan, specifications and other activities related to the investment, except in the case of health facilities such as pharmacies, blood banks, and clinical laboratories in which a certificate of necessity and convenience shall always be required. This applies to the acquisition of facilities by means of donations, leasing, or any other purchase.”

Section 2.- Subsection (8) of Section 2 of Act No. 2 of November 7, 1975, as amended, is hereby amended to read as follows:

...

“(8) The inclusion of a new health service by or in favor of a health facility entailing operating expenses of eight hundred thousand (800,000) dollars or more, except in the case of health facilities such as pharmacies, blood banks, and clinical laboratories in which a certificate of necessity and convenience shall always be required.”

Section 3.- Subsection (9) of Section 2 of Act No. 2 of November 7, 1975, as amended, is hereby amended to read as follows:

...

(9) The acquisition by any person or health entity of highly specialized medical equipment worth one million (1,000,000) dollars or more, which shall be property of or be located in a health facility. In determining the cost, there shall be included the cost of studies, plans, specifications, excise taxes, and of any other activities essential for the acquisition of the equipment.”

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. 188 (H.B. 2331) of the 4th Session of the 15th Legislature of Puerto Rico:

AN ACT to amend subsections (3), (8), and (9) of Section 2 of Act No. 2 of November 7, 1975, as amended, known as the “Act for the Certificates of Necessity and Convenience of the Department of Health,” in order to clarify the requirements related to obtaining a certificate of necessity and convenience, and to increase the amounts of money related to capital investments and for the acquisition of the equipment necessary therefor,

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

In San Juan, Puerto Rico, today 22nd of January of 2007.

Francisco J. Domenech
Director

