

(H. B. 1888)
(Reconsidered)

(No. 254)

(Approved November 30, 2006)

AN ACT

To set forth the public policy to develop and foster sustainable tourism in Puerto Rico; to establish mechanisms to develop and strengthen this important sector; to provide for all matters relative to the administration thereof by the Puerto Rico Tourism Company; to create the Office for the Development of Sustainable Tourism in Puerto Rico, to be attached to the Puerto Rico Tourism Company; to repeal Act No. 340 of December 31, 1998, as amended; and to appropriate funds.

STATEMENT OF MOTIVES

Act No. 340 of December 31, 1998, as amended, known as the “Puerto Rico Ecotourism Act,” was approved with the purpose of implementing a public policy which allowed for the promotion and development of ecotourism in Puerto Rico. However, this legislative piece is not the best strategy to direct land use in natural areas (both public and private) of a high ecological value or to plan activities for sustainable tourism and its other modalities, such as ecotourism.

Said Act contains conceptual errors which render the same highly conflictive and inoperative. To wit, both the Statement of Motives and the Statement of Public Policy of said legislative piece fail to conform to the precepts set forth in Article VI, Section 19 of the Constitution of the Commonwealth of Puerto Rico, which established that “It shall be the public policy of the Commonwealth to conserve, develop and use its natural resources in the most effective manner possible for the general welfare of

the community; to conserve and maintain buildings and places declared by the Legislative Assembly to be of historic or artistic value [...]” The same also fails to incorporate the principles established in new Act No. 416 of September 22, 2004, known as the “Environmental Public Policy Act of 2004,” in the matter of the conservation of renewable and nonrenewable natural resources and the protection of the environment as the indispensable groundwork for implementing the public policy on ecotourism development; Act No. 267 of September 10, 2004, known as the “Sustainable Development Public Policy Act”; and Act No. 550 of October 3, 2004, as amended, known as the “Land-Use Plan of the Commonwealth of Puerto Rico Act.” Likewise, the Act fails to consider the existence of Act No. 74 of August 29, 1990, known as the “Special Employee-Owned Corporations Act”; Act No. 50 of August 4, 1994, as amended, known as the “General Cooperative Associations Act,” which represent alternatives that promote community participation in the development of sustainable tourism by the creation of community micro businesses that would operate pursuant to self-management and cooperative movement models.

Act No. 340 of December 31, 1998, failed to consider the existence of Act No. 81 of August 30, 1991, as amended, known as the “Autonomous Municipalities Act of the Commonwealth of Puerto Rico of 1991,” by virtue of which municipalities can recommend pieces of land for high ecological value classification, as well as promote the development of ecotourism projects or provide incentives for implementation by the communities and the different sectors of the municipalities. Act No. 137 of August 9, 2002, amends Section 17.001 and adds a Section 17.016 to Act No. 81, *supra*, in order to allow for municipal governments to have participation jointly with the private and the educational sectors of Puerto Rico. The legislation does

not define or regulate the mandatory nature of the sustainable management of ecosystems as a fundamental criterion or as a prerequisite to design strategies for the development of ecotourism. Act No. 183 of December 27, 2001, known as the “Puerto Rico Conservation Easement Act,” creates an economic incentive aimed at generating conservation easement donations to government entities or nonprofit organizations devoted to the conservation of the environment and seeks to attain close collaboration among the private sector, nonprofit organizations and the Government of the Commonwealth of Puerto Rico, so as to make viable the conservation of areas of a natural or cultural value through the establishment of conservation easements.

Section 3(x) of Act No. 340 defines a tourism redistribution concept which is contrary to the definition of ecotourism. Furthermore, said Section is not in agreement with Section 3(c) of the same Act. Likewise, Section 8 of said Act is in conflict with the provisions contained in Act No. 133 of July 1, 1975, as amended, known as the “Puerto Rico Forests Act.”

Lastly, Act No. 340 of December 31, 1998, does not establish a new approach for handling tourism in Puerto Rico which conforms traditional tourism to sustainable tourism. The World Tourism Organization (UNWTO) defines sustainable tourism as “tourism activity that meets the needs of both tourists and host communities, while protecting and improving future opportunities. The same entails the management of all resources so as to meet economic, social and aesthetic needs while maintaining cultural integrity, essential ecological processes, biodiversity, and life-supporting systems.” The UNWTO also published the conceptual definition and guidelines therefor on the Sustainable Development of Tourism Bulletin for August 2004:

“Sustainable tourism development guidelines and management practices are applicable to all forms of tourism in all types of destinations, including mass tourism and the various niche tourism segments. Sustainability principles refer to the environmental, economic and socio-cultural aspects of tourism development, and a suitable balance must be established between these three dimensions to guarantee its long-term sustainability.

Thus, sustainable tourism should:

- 1) Make optimal use of environmental resources that constitute a key element in tourism development, maintaining essential ecological processes and helping to conserve natural heritage and biodiversity.
- 2) Respect the socio-cultural authenticity of host communities, conserve their built and living cultural heritage and traditional values, and contribute to inter-cultural understanding and tolerance (through education).
- 3) Ensure viable, long-term economic operations, providing socio-economic benefits to all stakeholders that are fairly distributed, including stable employment and income-earning opportunities and social services to host communities, and contributing to poverty alleviation.
- 4) Sustainable tourism development requires the informed participation of all relevant stakeholders, as well as strong political leadership to ensure wide participation and consensus building.

Achieving sustainable tourism is a continuous process and it requires constant monitoring of impacts, introducing the necessary preventive or

corrective measures whenever necessary. Sustainable tourism should also maintain a high level of tourist satisfaction and ensure a meaningful experience to the tourists, raising their awareness about sustainability issues and promoting sustainable tourism practices amongst them.”

Ecotourism, according to Ceballos Lascurain, is that modality of tourism which is environmentally responsible and consists of traveling to or visiting natural areas without disturbing the same, with the purpose of enjoying, appreciating and studying the natural assets (landscape and wild fauna and flora) of said areas, as well as any cultural manifestation (past or present) they may encounter, through a process which promotes conservation and has a low impact both environmentally and culturally; and which propitiates an active socio-economic involvement beneficial to local communities” [our translation] (Ceballos Lascurain, “Naturaleza y Desarrollo Sostenible” [lit.: Nature and Sustainable Development], Editorial Diana, Mexico, 1998). Likewise, the Declaration of the World Ecotourism Summit held in Montreal, Canada, in 2002, recognized that “Ecotourism embraces the principles of sustainable tourism, concerning the economic, social and environmental impacts of tourism. It also embraces the following specific principles which distinguish it from the wider concept of sustainable tourism: Contributes actively to the conservation of natural and cultural heritage; includes local communities in its planning, development and operation, and contributing to their well-being; interprets the natural and cultural heritage of the destination to visitors; and lends itself better to independent travelers, as well as to organized tours for small size groups.”

Ecotourism is in harmony with the implementation of a new economic model based on sustainable development, in view of the fact that this modality—when well planned and properly managed—does not propitiate

the deterioration of the physical and biological quality of public and private natural areas with high ecological value. Tourism which aims at appreciating nature ranges between forty percent and sixty percent of international tourism. Ecotourism represents one of the most important options in plans for sustainable development of a country, among other modalities.

In view of the preceding and in seeking to surmount the fundamental deficiencies of the legislation in effect, it is necessary to create a law that establishes mechanisms for the development and strengthening of not only the ecotourism modality, but also of sustainable tourism practices, in order to provide the solid foundation necessary for tourism activities.

Destinations which adopt practices for the sustainable development of tourism are to maintain certain quality standards and observe a minimum of sustainability criteria and values. This will lead to a better quality of life for citizens while creating a significant impact on the economic development, which in turn generates an increase in income and job opportunities and provides further incentive for tourism-based communities to become integrated into the decision-making processes affecting them.

Managing tourism in a sustainable manner has a multiplier effect in tourism on the Gross Domestic Product (GDP) of the Island and promotes a better distribution of revenues, which equals to a significant improvement in the economy of the various communities. According to the Model and Projection Office of the Planning Board, the direct and indirect effects of each dollar spent by tourists in Puerto Rico on the GDP is 1.07; the GDP represents the value of the gross production of all goods and services produced within a country minus the value of intermediate goods, which are those used to produce goods and services. According to Wharton's Econometric Model for 1989, which was developed to analyze the

contribution of international tourism into global economy, each dollar spent by tourists has a multiplier effect of 1.2 to 2.0 over the national income of countries where an ecotourism segment was developed as part of the national tourism industry. Sustainable Tourism enables self-sustainability, which leads to the mitigation of social maladies such as crime, hunger, unemployment in marginalized and rural sectors, infrastructure issues, etc. Quality of life and self-sufficiency are the ultimate goal.

Puerto Rico has a great diversity of ecosystems and natural assets of high scenic value and a very diverse endemic flora and fauna, as well as caves, mountain peaks, canyons, karst formations, waterfalls, thermal waters (in Coamo and Arroyo), sumps, mountain passes, lakes and lagoons, mangroves, islands, keys and islets, coral reef ecosystems, coves, saltpeter beds, underground rivers, wetlands, estuaries, and bioluminescent bays. These natural assets are near historical sites such as lighthouses and the remnants of sugar mills, indigenous ceremonial parks, old sugarcane and coffee plantation houses, and coffee pulping houses. Ecosystems with high ecological value are extremely fragile. It is necessary to know how they work and the interaction between themselves before setting out to decide the uses they are able to sustain. On the other hand, Puerto Rico also has a modern infrastructure in terms of ports (both maritime and air), roads, transportation, electrical and hydrographic systems, and communications systems, among others, which allow for the easy access and ability to connect to the rest of the world. In addition, the Island has a network of inns, hotels and lodging facilities located near natural areas (public and private), well capable of accommodating local and foreign tourists.

It is of utmost necessity to develop a Master Plan for the Sustainable Development of Tourism whereby to determine those uses which are

compatible with the conservation of natural resources and the preservation of critical habitats in these locations, taking into account the carrying capacity and the limit of acceptable change of these ecosystems, as well as the ecological footprint of development, before authorizing the development of new tourist projects. This Master Plan should be based on the principles of sustainable development of tourism as defined by the World Tourism Organization, mentioned above, and integrate the results and recommendations issuing from the following Plans and Surveys: (1) the Land Use Plan, (2) the Long-Term Transportation Plan, (3) the Integrated Water Management Plan, (4) the Puerto Rico Coastal Zone Management Program, and (5) Agenda 21, among others. The above, in turn, fosters the redirection of existing tourist products and attractions.

The success of the sustainable development of tourism and ecotourism in the Commonwealth of Puerto Rico will depend on: (1) the determination to maintain, as a public policy, the conservation of renewable and nonrenewable natural resources as an issue with priority over any other activity; (2) a thorough analysis of the needs in public and private natural areas; (3) an optimal allocation of budgetary resources for the management of natural resources in private and public areas; (4) the formulation of socially efficient and fair strategies to finance sustainable tourism, ecotourism and agrotourism projects, among others, and the promotion and marketing of sustainable activities by enabling the broadest participation of local communities, environmental organizations, the cooperative movement, educational institutions, professional associations, and other groups of interest; (5) the efficient planning and the rigorous economic analysis of the projects proposed in order to select those investments which actually contribute to maximize net social benefits intertemporarily and to finance in

whole or in part the costs for the management of protected natural areas (public and private), which constitute the capital assets of this program; (6) the implementation of the best management practices in public and private natural areas with potential for the development of ecotourism, the determination of the limit of acceptable change (carrying capacity), and the appropriation of an adequate budget to finance the expenses for well-planned investments and the efficient management of natural resources, in order to allow the upkeep of the sustainable nature of this segment of the tourism industry; (7) the scheduled programmed investments which strictly comply with the provisions of Act No. 416 of September 22, 2004, as amended, in order for these not to be prejudicial to the environmental integrity, the flora and the fauna of the locations for which these are proposed on a short and a long term; (8) the monitoring and periodical evaluation of the environmental conditions in natural areas hosting ecotourism projects; (9) to establish as a priority in the public policy on sustainable tourism development that real opportunities are to be offered in order for communities to integrate themselves into the planning and implementation of projects through the formulation of strategies which enable the creation and operation of community tourism and ecotourism micro businesses; and (10) the conjunction of efforts of the different government agencies which have inherence in the Island's development and conservation processes, observing the various surveys and plans developed for such purposes and abiding by the provisions of Act No. 267 of September 10, 2004, better known as the "Sustainable Development Public Policy Act."

The United Nations Environment Program (UNEP), the World Tourism Organization (UNWTO), and the Canadian Tourism Commission held the

2002 Ecotourism World Summit in Quebec, with the participation of three thousand representatives from one hundred and thirty-two countries from the public, the private and the nongovernmental sectors. The Quebec Declaration on Ecotourism established that: (1) “different forms of tourism, especially ecotourism, if managed in a sustainable manner, can represent a valuable economic opportunity for local and indigenous populations and their cultures and for the conservation and sustainable use of nature for future generations” and (2) “to achieve equitable social, economic and environmental benefits from ecotourism and other forms of tourism in natural areas, and to minimize or avoid potential negative impacts, participative planning mechanisms are needed that allow local and indigenous communities, in a transparent way, to define and regulate the use of their areas at the local level, including the right to opt out of tourism development.”

The participants of said Summit recommended national governments to: (1) “provide technical, financial, educational, capacity building and other support to ecotourism destinations, host community organizations, small businesses and the corresponding local authorities in order to ensure that appropriate policies, development and management guidelines, and monitoring mechanisms are being applied towards sustainability” and (2) “As part of a community vision for development, that may include ecotourism, define and implement a strategy for improving collective benefits for the community through ecotourism development including human, physical, financial, and social capital development, and improved access to technical information... strengthen, nurture and encourage the community’s ability to maintain and use traditional skills, particularly

home-based arts and crafts, agricultural produce, traditional housing and landscaping that use local natural resources in a sustainable manner.”

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.—Title.—

This Act shall be known and may be cited as the “Puerto Rico Sustainable Tourism Development Public Policy Act.”

Section 2.—Public Policy.—

It is hereby declared that the public policy of the Commonwealth of Puerto Rico is to propitiate the sustainable development of tourism as an instrument to educate and raise awareness in order to conserve, appreciate and experience natural resources as well as valuable environmental, cultural and historical resources in public and private natural areas with the active participation of the communities, for the enjoyment and financial well-being of present and future generations pursuant to Article VI, Section 19 of the Constitution of the Commonwealth of Puerto Rico and Act No. 416 of September 22, 2004, as amended, known as the “Environmental Public Policy Act.”

The participation of the following public institutions of the Commonwealth of Puerto Rico is required in order to meet the purposes of this Act: the Puerto Rico Tourism Company; the Department of Natural and Environmental Resources; the Department of Economic Development and Commerce; the Planning Board; the Environmental Quality Board; the Department of Agriculture; the Department of Education; the Government Development Bank; the Puerto Rico Economic Development Bank; the Office of Management and Budget; the Sports and Recreation Department; the Regulations and Permits Administration; the Special Communities Office; the National Parks Company; the Institute of Puerto Rican Culture;

the Department of Transportation and Public Works; the Department of the Treasury; the University of Puerto Rico; and the municipal governments. Furthermore, the Executive Director, in pursuing to promote the sustainable development of tourism in Puerto Rico, shall create strategic alliances among the government, the private sector, nongovernmental and community organizations, academic research institutions, and intergovernmental institutions and organizations.

Section 3.—Definitions.—

For the purposes of this Act, the following terms shall have the meaning stated below:

(a) Area of Cultural Value – A space, location or property that contains important features or attributes which are characteristic of or distinctive to our national culture, which may be, but are not limited to, historical, architectural or archeological features or attributes, or nontangible cultural elements, such as customs, folklore, traditions, cuisine, artistic expressions, and others.

(b) Area of Natural Value – Pieces of land or bodies of water which hold ecological importance under the criteria of the “Puerto Rico Natural Patrimony Program Act” (Act No. 150 of August 4, 1988).

(c) Carrying Capacity – The capacity of an ecosystem to tolerate the punctual or cumulative impact of a tourist zone, caused by the number of persons that may visit the location without having a negative environmental, sociocultural or aesthetic impact or causing ecological instability. This number is computed mathematically, taking into account the geographical, social and ecological characteristics of the location.

(d) Certification – An acknowledgment granted by the Tourism Company to facilities, products and services which meet the most stringent

requirements established worldwide by the industry in order to be denominated and to be able to self-promote as sustainable or ecotourism facilities and to be entitled to incentives granted under this Act and other laws.

(e) Inter-Agency Commission – The entity created under this Act to impart direction at the macro level and to coordinate in an integrated manner the efforts pursued by the Commonwealth government required for the optimal development and promotion of sustainable tourism, as well as ecotourism, throughout the Island.

(f) Company – The Puerto Rico Tourism Company.

(g) Community – The term refers to a heterogeneous group of people that share a common geographical area for residential purposes and have access to a grouping of local natural resources. The degree of social differentiation and cohesion, the strength of common beliefs and institutions, the cultural diversity and other factors vary greatly within and between communities (Schmink, 1999).

(h) Advisory Council – The entity created under this Act to advise on the matter of the development of initiatives to facilitate the implementation of plans and strategies which seek the sustainable development of tourism.

(f) Department – The Department of Natural and Environmental Resources of the Commonwealth of Puerto Rico.

(g) Executive Director – The Executive Director of the Tourism Company.

(h) Ecosystems – The relation between the life processes of a biotic community and its surrounding physical and environmental factors.

(i) Ecotechniques – Ecologically responsible design and construction practices aimed at minimizing direct or indirect environmental impact and at reducing costs. These techniques are implemented through the use of: clean technology, solar energy, waste treatment and recycling, the production of compost from organic garbage, used water management, alternative supply of water for domestic or commercial use, the consideration of environmental factors to optimize design, such as: interpretive trails, bioclimatic criteria in architectural design for the orientation of dominant winds, natural insolation, and others; the use of vegetation and topographical accidents as weather regulation elements, and landscape architecture.

(j) Ecotourism – Sustainable tourism modality which consists in visiting and experiencing natural and cultural assets, while ensuring the protection of resources and generating economic activity which directly benefits local populations without compromising the options for future generations.

(k) Species – Organisms of a group which mate with other members of a group not other than their own. Includes any species, subspecies or variety of flora, or wild fauna, as well as any population segment thereof.

(l) Commonwealth of Puerto Rico – The agencies, instrumentalities, departments, offices, dependencies, municipalities, and public corporations of the Commonwealth of Puerto Rico.

(m) Habitat – A zone or part of an ecosystem which meets the living conditions that a specific species needs to survive.

(1) Natural Habitat – Tracts of land whose ecological conditions allow for the existence and reproduction of wildlife

populations. This term excludes urbanized tracts of land and includes but is not limited to forests, wetlands, and grass prairies, among others.

(2) Human Habitat – Location where a human individual, group or community lives and which is characterized by great diversity throughout the planet and by the combination of natural and cultural elements.

(3) Critical Natural Habitat – Specific tracts of land within a geographical area where a designated or endangered species is found or may be reintroduced and which have physical and biological characteristics that are essential for the conservation of the species and that need special protection or management.

(ñ) Infrastructure in Public and Private Natural Areas – Any structure, facilities and systems provided for carrying out sustainable tourism activities or modalities. Includes but is not limited to: interpretive trails; boardwalks; research laboratories; recreational fishing docks; ramps; dry dock areas and fish cleaning facilities; picnic areas; observation towers; underwater trails; the placement of fishing floats to lure pelagic fish species for recreational fishing; safe camping facilities; mooring buoys; facilities for the sale of educational materials, arts and crafts, or souvenirs; the designation of protected natural areas and restoration of wetlands; watershed reforestation; cavern habilitation; the construction of “ecolodgings” or ecotourist inns; and the creation of information and education centers.

(o) Limit of Acceptable Change (LAC) – An analysis and planning tool whose methodology allows for the identification and monitoring of major environmental and social indicators, including the identification of social and environmental impacts on natural areas. All sectors which are

stakeholders in the development of ecotourism on the Island must be incorporated in the LAC formulation process.

(q) Office – The Office for the Sustainable Development of Tourism in Puerto Rico, created under Section 7 of this Act, with the purpose of implementing public policy to enable the development of sustainable tourism in Puerto Rico.

(r) Nongovernmental Organization (NGO) – Any private nonprofit institution, entity, association, trust or organization constituted pursuant to the laws of Puerto Rico, whose main functions or purposes include the protection or conservation of an area with natural, cultural, agricultural or ecotourist value, as well as socioeconomic development.

(s) Community Participation – Accessibility by the community to the processes of planning, decision-making, implementation, evaluation, administration, operation and maintenance of ecotourist projects and programs.

(t) Secretary – Means the Secretary of the Department of Natural and Environmental Resources of the Commonwealth of Puerto Rico.

(u) Conservation Easement – A lien levied on real property in benefit of a person or premises, which imposes obligations, rights and conditions on the real property and its owner for the purposes of protecting or conserving an area with natural value or a property with cultural, agricultural and ecological value.

(v) Natural Succession – A sequence of changes experienced by an ecosystem throughout time.

(w) Types of Ecotourists – Ecotourists are classified as: (1) Casual: those who visit natural areas incidentally, as part of their trip; (2) Mainstream: those who visit natural areas in seeking to experience a

unique tour; (3) Dedicated: those who travel specifically to observe protected natural areas and who want to know the local natural and cultural history; and (4) Hard-Core: scientific researchers and participants in travels specifically organized for environmental education purposes, who are engaged in efforts to assist in the recovery of flora and fauna.

(x) Sustainable Tourism – A tourism activity which meets the needs of tourists and host communities, while protecting and improving future opportunities. It entails the management of all resources in such a manner so that economic, social and aesthetic needs are met while maintaining cultural integrity, essential ecological processes, biodiversity and life support systems.

(y) Sustainable Tourism Zone – Areas identified to have ecological or cultural value, with potential for sustainable tourism development. Includes areas with potential for the development of ecotourism.

Section 4.—Duties and Powers of the Executive Director.—

The Executive Director shall have all powers as convenient and necessary for the development of and for carrying out the public policy provided for in this Act. Furthermore, he/she shall have the duty of coordinating, in close collaboration with the Chairperson of the Planning Board and the Secretary, all matters relative to the sustainable development of tourism in Puerto Rico and to the conservation, use and management of natural resources, without impairing the authority and powers conferred onto these officers by virtue of the laws and regulations of the Commonwealth of Puerto Rico.

In seeking to obtain information and advisory, as well as new product opportunities and participation in new projects, the Executive Director or his/her designated representative shall participate in international and

regional activities and organizations that promote the sustainable development of tourism and ecotourism, such as: the Ecotourism Society, Green Globe, the World Tourism Organization (UNWTO), the Caribbean Tourism Organization, and the United Nations Environmental Programme (UNEP), among others.

Section 5.—Responsibilities of the Secretary.—

The Secretary shall be responsible for identifying areas which offer opportunities pursuant to the statutes he/she administers so as to foster and promote the effective implementation of the public policy set forth in this Act. The Secretary shall designate capable personnel with knowledge of: the implementation of ecotourist and sustainable projects and programs; technical assistance; community participation; and participation in related activities, which personnel shall be charged with collaborating directly and closely with the mission of the Office. The Secretary shall establish by regulation, the procedure adopted by the Agency for the implementation of the Limit-of-Acceptable-Change methodology in the natural areas he/she administers. Likewise, the Secretary shall submit before the Board the uses and activities that are allowed in protected natural areas in accordance with ecotourism modalities pursuant to the criteria identified by the Inter-Agency Commission.

Section 6.—Responsibilities of the Chairperson of the Planning Board.—

Once the Master Plan has been prepared, the Company shall submit the same to the Board for its adoption; the Board may require modifications as it deems pertinent in seeking to benefit the public interest.

Section 7.—Creation of the Office for the Development of Sustainable Tourism in Puerto Rico, its Duties and its Functions.—

The Executive Director shall create and attach to this Company, the Office for Sustainable Tourism in Puerto Rico, with the purpose of planning the various tourism practices and modalities in a sustainable manner, in order to satisfy the needs of the types of tourists of present and future generations. This Office represents the operational arm of the Act to plan and promote Sustainable Tourism programs and projects on the Island and to prevent natural areas with high ecological, cultural and historical value from being managed or operated by private sectors and agencies whose objectives contravene the definition of Sustainable Tourism.

The Executive Director shall appoint the Office Director, who shall be a professional in Tourism or Planning, Natural Sciences, Environmental Sciences, or Social Sciences, with knowledge of environmental management or planning, project and program management and implementation, administration, tourism or ecotourism promotion and marketing, and technical and practical knowledge of activities relative to sustainable tourism.

The Office shall have the participation of agencies whose programmatic commitment enhances economic development, cultural programs, the conservation of natural resources, self-management and cooperative activities, the experience of tourists, tourism, education and recreation, in addition to the entities comprised within the Inter-Agency Commission and the Advisory Council to be created under Section 8 of this Act.

The duties and functions of the Office for the Development of Sustainable Tourism in Puerto Rico shall be the following:

(a) To produce the Master Plan for the Development of Sustainable Tourism in Puerto Rico and to submit the same to the Planning Board for its approval during the next twelve (12) months following the date of approval

of this Act. This Plan shall consider the following plans and documents: the LUP, Agenda 21, the Long-Term Transportation Plan, the Integrated Water Management Plan, and the Puerto Rico Coastal Zone Management Program, among others. Likewise, the Office shall study the viability of creating a trust attached to the Company to develop and provide incentives for sustainable tourism projects.

(b) To oversee, in coordination with the Department, compliance with the responsibilities and duties assigned and necessary for enforcement of this Act.

(c) To promote sustainable development principles, together with the Department and the Planning Board, by establishing standards for planning and developing tourism projects.

(d) To enable the broadest participation of all sectors in Puerto Rico that are stakeholders in the development of sustainable tourism in Puerto Rico, including the Government, local communities, the private sector, professional associations, environmental organizations, educational institutions, and other groups of interest.

(e) To act as an agent which facilitates initiatives, programs and projects that foster sustainable tourism via its diverse modalities.

(f) To establish strategic alliances and liaisons with specialized local and international organizations which allow for the frame of reference to be broadened and for sustainable tourism to grow and become competitive.

(g) To promote collaboration in order to improve environmental education and to exert influence over the behavior of communities, specially of community organizations and tourist service providers, such as: tour operators, tour guides, and purveyors, among others.

(h) To analyze and recommend actions to address infrastructure and facility needs as required by the development of sustainable tourism in Puerto Rico for the enjoyment of our natural resources by visitors.

(i) To establish the classification standards and criteria required to certify, in a uniform and standardized manner, projects for sustainable tourism in its diverse modalities, such as: green structures, ecotourism, agrotourism, and hostelrys, among others, which shall be incorporated into the Master Plan. Projects shall be evaluated by considering their economic impact, the redistribution of income into the community, the conservation of natural resources, the culture, and the fostering of educational activities.

(j) To identify sources and resources for the funding of sustainable tourism projects, operations and activities, seeing that most of the economic benefits derived from the development of these projects be destined for activities to conserve and manage the corresponding natural areas and to promote the economic and social development of the communities involved. To stimulate and enable support to be extended as to matters of a technical, interpretive, or financial nature or concerning the development of human resources in microbusinesses and small and medium-sized businesses organized under the self-management model, such as Special Employee-Owned Corporations, Cooperative Associations, and Nonprofit Organizations, among others.

(k) To identify the natural and environmental resources with the greatest potential for ecotourism in Puerto Rico, so as to foster their fullest employment based on the sustainable development concept, while maintaining the conservation of said resources as a priority over any other activity.

(l) To foster the participation of the private sector and the municipalities as key agents in the implementation of the plan to develop sustainable tourism.

(m) To recommend an appropriate budget which contemplates funding for the Office.

(n) To recommend strategies for the promotion and marketing of sustainable tourism modalities in Puerto Rico and abroad and for the development of environmental education activities relative to ecological tourism. To support the application of international principles, directives and codes of ethics for sustainable tourism, such as those proposed by the United Nations Environmental Programme (UNEP), the World Tourism Organization (UNWTO), the Convention on Biological Diversity, the United Nations Sustainable Development Commission, and the International Labor Organization (ILO). To require the analysis of factors, such as: the Limit of Acceptable Change, socioeconomic and environmental impacts of a project, capability for managing the natural and environmental resource under discussion, in any proposal submitted concerning the development of sustainable tourism projects in Puerto Rico.

(o) To coordinate with the pertinent agencies for the extension of technical and financial support to microbusinesses organized under the self-management model, such as, for example, Special Employee-Owned Corporations or Community Cooperative Associations, among others.

(p) To recommend to the Planning Board, if necessary, new districts to reserve tracts of land best suited for sustainable tourism. Likewise, it shall suggest changes or recommend modifications of the existing districts, so that these conform to the need for the development of sustainable tourism on the Island.

(q) To promote and support those educational and technical training activities necessary for the various components of sustainable tourism, ecotourism and agrotourism, among others.

(t) To study the viability of granting incentives to proposing entities to foster the development of sustainable tourism and ecotourism projects.

(u) To urge municipalities to incorporate the development of sustainable tourism into their Land Ordinance Plans, in coordination with the Office created under this Act.

(v) To use as a model internationally approved and revised directives on the institution of certification systems, ecolabels, and other voluntary initiatives aimed at maintaining the sustainability of ecotourism, while encouraging the private sector to incorporate these systems and promoting consumer awareness.

(w) To coordinate and collaborate in the institution of community training programs which build entrepreneurial capacity and foster self-management in sustainable projects.

(x) To encourage and support the creation of municipal and regional cooperation activities and networks for the promotion and marketing of ecotourist products, both national and international.

(y) To submit to the Governor of the Commonwealth of Puerto Rico and to the Legislature of Puerto Rico, the recommendations needed to establish and implement the public policy of the Commonwealth of Puerto Rico to promote the development of sustainable tourism.

Section 8.—Creation of the Inter-Agency Commission.—

The Inter-Agency Commission is hereby created to impart direction at the macro level and to coordinate in an integrated manner the efforts pursued by the Commonwealth government required for the optimal development and promotion of sustainable tourism, as well as of ecotourism, throughout the Island. The Inter-Agency Commission shall be constituted by: the Secretary of the Department, the Chairperson of the Planning Board, the Director of the Institute of Puerto Rican Culture, the Director of the National Parks Company, the Secretary of the Department of Economic Development and Commerce, and the Executive Director of the Company, who shall preside over the works of the Commission. This Commission represents the integrative arm, governed under the Office. The head of each agency shall designate the delegate who shall represent him/her.

Section 9.—Creation of the Advisory Council.—

The Advisory Council is hereby created, to advise in the development of initiatives to facilitate the implementation of plans and strategies aimed at the sustainable development of tourism. The Council shall be constituted by members convened by the Inter-Agency Commission as their participation in relative matters may be required, to provide information and scientific, technical and professional data, and to enable community participation and coordination, among other functions. The following sectors shall be equally represented: community organizations, professional organizations, academia, and technicians, together with the Economic Development Bank, the Commerce and Export Company, the Cooperative Development Administration, and representatives from the municipal governments, according to the matter under discussion. This Council shall be the advisory arm of the Office.

The Office may incorporate new members from both the public and the private sector, according to the needs and situations being addressed and the objectives set forth in the Master Plan for the Sustainable Development of Tourism in Puerto Rico.

Section 10.—Community Participation.—

The Company, in coordination with the Advisory Council, shall develop a plan aimed at enabling community participation in the various stages of the development of sustainable tourism and ecotourism projects. Consequently, the Office shall recommend amendments to the laws governing Cooperative Savings and Credit Unions and recommend as well new financial products to private institutions to invest in or finance sustainable tourism projects. The Company shall foster community participation principles pursuant to what has been internationally established at the Earth Summits on Sustainable Development.

Section 11.—Planning to Enroll the Participation of the Private Sector in the Development of Ecotourism Projects.—

The Executive Director of the Tourism Company shall be responsible for incorporating into the development of sustainable tourism, entities and organizations of the private sector such as: cooperative movement associations; environmental organizations; owners of inns, hostelries, hotels, lodgings in general; private travel organization agencies; and other institutions which are stakeholders in the industry. In order to make the incorporation of these private institutions viable, the Executive Director shall foster the granting of special incentives to owners of tracts of land contiguous to the natural areas with high ecological value in order to foster the development of sustainable (or green) enterprises that offer support services to the industry.

Section 12.—Authority to Establish Sustainable Tourism and Ecotourism Projects.—

The authority to establish sustainable tourism and ecotourism projects is hereby recognized to natural persons and to juridical persons, whether public or private, provided these projects conform to the criteria set forth in this Act, to Article IV of the Constitution of the Commonwealth of Puerto Rico, to Act No. 149 of June 18, 2004, as amended, known as the “Penal Code,” to Act No. 267 of September 14, 2002, to Act No. 416 of September 22, 2002, and to the laws and regulations of the Commonwealth of Puerto Rico which protect natural, environmental, historical and cultural resources, and to laws and regulations which establish the zoning and uses for the aforementioned spaces and resources.

Section 13.—Marketing of Sustainable Tourism Modalities in Puerto Rico and Abroad.—

The Company shall incorporate into its promotional campaigns of Puerto Rico, elements of the Island as an environmentally responsible destination, and upon attaining the objectives of the Master Plan, as a sustainable tourism destination. The Company shall pay special attention to the marketing of the ecotourism modality in and outside Puerto Rico, for being the modality which is most recognized internationally. The Company shall conform marketing strategies to market trends.

Section 14.—Implications of the Sustainable Development of Tourism for Municipalities.—

Municipalities shall incorporate areas for the sustainable development of tourism within their Land Ordinance Plan, so as to promote the diversification of its assets within the diverse modalities of sustainable tourism, in coordination with the Puerto Rico Tourism Company. Likewise,

they shall have capable personnel in the fields of environmental sciences, planning or education to develop municipal sustainable tourism projects in coordination with the Office, the Inter-Agency Commission and the Advisory Council.

Section 15.—Funding.—

The Executive Director shall set aside in the Puerto Rico Tourism Company Budget, an annual item, as of the Budget for 2007-2008, which shall be of not less than five hundred thousand (500,000) dollars, to establish and operate the Program for Sustainable Tourism in the Commonwealth of Puerto Rico. Likewise, the sum of one million (1,000,000) dollars from the General Fund shall be appropriated annually by Joint Resolution, for the implementation and promotion of this Act. The funds shall be used to initiate the implementation of tasks, activities, promotion and construction to allow for the orderly development of sustainable tourism on the Island, pursuant to the meaning assigned thereto under this Act.

Section 16.—Repeal.—

This Act repeals Act No. 340 of December 31, 1998, as amended, known as the “Puerto Rico Ecotourism Act.”

Section 17.—Severability Clause.—

Should any paragraph, section or part of the Act be found to be unconstitutional by a court with competence and jurisdiction, all other provisions shall remain in full force and effect.

Section 18.—Effectiveness.—

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 254 (H.B. 1888) (Reconsidered) of the 4th Session of the 15th Legislature of Puerto Rico:

AN ACT to set forth the public policy to develop and foster sustainable tourism in Puerto Rico; to establish mechanisms to develop and strengthen this important sector; to provide for all matters relative to the administration thereof by the Puerto Rico Tourism Company; to create the Office for the Development of Sustainable Tourism in Puerto Rico, to be attached to the Puerto Rico Tourism Company; to repeal Act No. 340 of December 31, 1998, as amended; and to appropriate funds,

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

In San Juan, Puerto Rico, today 15th of October of 2007.

Francisco J. Domenech
Director