

(H. B. 3030)

(No. 308)

(Approved December 27, 2006)

AN ACT

To add a new Section 2.05-A to Act No. 255 of October 28, 2002, as amended, known as the “Cooperative Savings and Credit Unions Act of 2002,” to authorize cooperative savings and credit unions to establish branches and service offices outside of the jurisdiction of Puerto Rico; and for other related purposes.

STATEMENT OF MOTIVES

The cooperative movement constitutes an integral part and a strong pillar of the economic and social development of the country. For such reason, the current Legislature of Puerto Rico seeks to promote and propitiate the growth and strengthening of the cooperative movement in our Island. This has been achieved through the promulgation of advanced legislation that allows cooperative savings and credit unions the opportunity to be more competitive and leading entities in the economic development of the Island.

One of the results of the development reached by our cooperatives under the modern regulatory framework that directs them is their insertion into the trends of globalization and their integration into international financial markets. A concrete example of this reality is the participation of Puerto Ricans residing in the United States as members of our cooperatives. This financial and community integration runs parallel to the active participation of Puerto Rican commercial banking in the diverse Hispanic communities of several states of the union.

In this sense, it is important to point out that to December 31, 2005, the assets generated by the operations in the United States of Puerto Rican commercial banks

were over \$16.3 billion, which represents more than thirteen percent (13%) of the total assets of our banking institutions. Such operations represented income totaling more than \$988 million, or over fourteen percent (14%) of the total income of our banking institutions.

On the other hand, there is a regulatory gap in our legislation concerning the entry of cooperative entities organized under the laws of other states that establish offices and branches in Puerto Rico. While other states regulate such practice by applying principles of reciprocity, the absence of norms in Puerto Rico leaves this economic integration in a juridical limbo. Such uncertainty opens the door to unequal norms for one or the other entities, and may cause that members and clients are deprived of a government agency in Puerto Rico to protect the public interest.

In accordance with the public policy of competitive equality firmly adopted in Act No. 255, supra, and in order to clarify the participation of our cooperatives located outside of the jurisdiction of Puerto Rico, and vice versa, we hereby fill said gap by means of this Act.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- A new Section 2.05-A is hereby added to Act No. 255 of October 28, 2002, as amended, to read as follows:

“Section 2.05-A.- Establishment of branches and service offices outside of the jurisdiction of Puerto Rico; foreign cooperative entities.

- (a) The cooperatives organized pursuant to this Act, upon prior approval of the Corporation and subject to compliance with the norms provided in this Section, shall be authorized to establish branches and/or service offices outside of the jurisdiction of Puerto Rico. Every cooperative that requests the establishment of a branch and/or service office outside of the jurisdiction of Puerto Rico shall submit

to the Corporation such documents and evidence as it requires by means of regulation.

- (b) The establishment of such branches and/or offices does not confer to the members who reside outside of the jurisdiction of Puerto Rico the right to demand the creation of districts, nor to demand the holding of assemblies in their jurisdictions.
- (c) In spite of the fact that the branches and/or service offices to be established outside of Puerto Rico shall keep separate accounting from the Main Office and other branches, all documents and information pertaining to the operations of such branches and/or service offices shall be available at all times for inspection by the Corporation. The cooperatives shall defray the costs and expenses of the examination of all the operations of such branches and/or service offices, which shall be defined by the Corporation by means of Regulations to such effects.
- (d) The establishment of branches and/or service offices outside of the jurisdiction of Puerto Rico shall not impair the authority of the Corporation, the Board of Directors or the high management of the cooperatives in all institutional, operational, and administrative matters, as the case may be. The main offices of the cooperatives in Puerto Rico shall be considered as the institutional domicile of the same.
- (e) The Corporation is hereby authorized to provide by means of regulation the norms to implement the provisions in this Section, including, but not limited to:
 - (1) content of the application for authorization;

- (2) documents to be enclosed with the application, including evidence of compliance with the permits required by the jurisdiction in which the proposed branch and/or office shall be established. The regulations shall take into account the granting of temporary permits pending the delivery of the same;
- (3) financial situation required from the applying cooperatives;
- (4) amount to be paid for the application's study and investigation charges, annual fees and examination expenses for each of said branches and/or service offices;
- (5) period for the approval or denial of the application, which shall not exceed sixty (60) working days as of the Corporation's notice that the file of the application for authorization is complete.

While the adoption of said rules is pending, the establishment of branches and/or service offices outside of Puerto Rico shall be governed by the regulations in effect for branches in Puerto Rico.

- (f) No cooperative entity organized under the laws of a jurisdiction other than Puerto Rico may do business locally, unless:
 - (1) it has prior authorization from the Corporation;
 - (2) it complies with the register of inscription of foreign cooperatives to be established by the Corporation to such purposes; and
 - (3) the Corporation issues an affirmative decision stating that cooperatives organized pursuant to this Act are allowed to operate within the jurisdiction of incorporation of the foreign entity that submits the application.

All foreign cooperative entities authorized to operate in Puerto Rico pursuant to this Act shall be subject to the provisions set forth herein and those of Act No. 114 of August 17, 2001, as amended, known as the “Public Corporation for the Supervision & Insurance of the Cooperatives in Puerto Rico Act,” and the regulations adopted thereunder, as well as all the powers of supervision and oversight of the Corporation. Provided that the tax exemptions established in this Act shall not apply to them.

The norms in effect in Puerto Rico concerning eligibility to become a member and the election and composition of the directing bodies shall apply to the extent that they are not in conflict with the laws of the location of incorporation of the foreign entity.”

Section 2.- The Corporation is hereby empowered to adopt through regulation the necessary and convenient norms to implement this Act.

Section 3.- Entities organized under the Federal Credit Union Act or other federal laws are hereby exempted from the provisions of this Act. Cooperatives organized under other laws and that have branches operating in Puerto Rico as of the date of effectiveness of this Act shall be subject to the demands thereof, except that prior approval of the Corporation shall not be required for them to continue their operations.

Section 4.- This Act shall take effect immediately after its approval. However, one hundred eighty (180) days are hereby granted to the Public Corporation for the Supervision and Insurance of Cooperatives in Puerto Rico to promulgate the regulations provided in this Act.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 308 (H.B. 3030) of the 4th Session of the 15th Legislature of Puerto Rico:

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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