

(H.R. 2610)
(Conference)

ACT NO. 83
OF JULY 19, 2010
AN ACT

To create the “Puerto Rico Green Energy Incentives Act” to promote the generation of renewable energy, in accordance with short-, medium-, and long-term compulsory goals; to empower the Administration of Energy Affairs to promote compliance with the compulsory goals and the development of sustainable and alternative renewable energy; to create measures to stimulate the development of sustainable energy systems to promote savings and efficiency in the use of energy, through the establishment of a special fund known as the Green Energy Fund, in accordance with the objectives of the Government of Puerto Rico’s new energy policy; to reform, organize and standardize existing incentives regarding the creation or utilization of sustainable renewable energy and alternative renewable energy sources and to create new incentives to foster the proliferation of these energy sources; to amend Article 21 of Act No. 70 of June 23, 1978, as amended, better known as the “Puerto Rico Solid Waste Authority Act;” to amend Sections 1023, 1121, 1330 and 1343, and repeal Sections 1023(v), 1023(aa)(2)(I) and 2034 of Act No. 120 of October 31, 1994, as amended, better known as the “Puerto Rico Internal Revenue Code of 1994;” to amend Section 1040J of the “Puerto Rico Internal Revenue Code of 1994,” which was created by virtue of Act No. 182 of December 10, 2007, and rename it as the new “Section 2016A” of the Internal Revenue Code; and to amend Section 1040J of the Internal Revenue Code created by virtue of Act No. 248 of August 10, 2008; and other related purposes.

PRELIMINARY RECITALS

Puerto Rico, as well as many other jurisdictions, is facing an energy crisis that affects all of its citizens. Therefore, there is an urgent need to lay down concrete measures to deal with this problem and facilitate and promote the diversification of energy production on the island. In order to achieve such diversification, we must implement a new energy public policy for Puerto Rico.

Our island uses oil to generate about 70% of its electricity. The cost of oil increases every year, and it is expected to continue increasing. Moreover, the excessive use of energy sources derived from oil contributes to climate change, which is of great concern to the Puerto Rican people. Although climate change is a global phenomenon, our current energy policy undoubtedly contributes to it. Therefore, the Government of Puerto Rico has the obligation to create the necessary conditions for future generations on the island to progress and develop in a healthy environment, all the while creating the necessary tools to create new sources of economic development.

The Government's obligation to foster the island's sustainable development is not a new matter. On the contrary, it is set forth in the very Constitution of Puerto Rico, which was adopted in 1952. Section 19 of Article VI of the Constitution provides that: "[I]t shall be the public policy of the Commonwealth of Puerto Rico to conserve its natural resources as efficiently as possible and to develop and utilize them to their full potential for the general benefit of the community..." Although this constitutional principle has served as a basis for various government programs and measures, a lack of concrete objectives to guide us toward achieving this goal has left Puerto Rico lagging behind in terms of energy policy. The reality is that we are not exploiting or developing our natural resources to their full potential for the overall benefit of our community. The reasons for this are not unknown.

Puerto Rico's energy policy has remained one-dimensional for the past 60 years, which is one of the reasons why the cost of electricity in Puerto Rico is so high compared to other jurisdictions. In fact, it is estimated that the current cost of electricity in Puerto Rico is twice as high as the average cost of electricity in the rest of the United States, and that the average Puerto Rican pays approximately 20 cents per kilowatt-hour (kWh) of electricity. Furthermore, it has been determined that this increase in the cost of electric power on our island is primarily due to a rise in the cost of petroleum-derived fossil fuels.

The high cost of energy is not only detrimental to our quality of life and our environment, but also to our economic competitiveness, as it increases the cost of doing business on our island. The President of the United States, Barack Obama, has undertaken to invest 150 billion dollars in renewable energy technology over the next decade. Estimates are that this shall generate five (5) million direct and indirect jobs for the United States' economy in upcoming years.

Moreover, reducing our dependence on petroleum-derived fuels to produce power has other benefits that go beyond our economy. Producing electrical power with

alternative and sustainable renewable energy sources yields benefits of great value for all of our citizens, such as reducing air pollution and mitigating the adverse effects of pollution on the health of our citizens.

Renewable Energy Certificates

Among the mechanisms to be used to implement Puerto Rico's new energy policy are energy-conservation measures and Renewable Energy Certificates ("RECs"). As defined in this Act, an REC is a personal asset that is a tradable good or security that can be bought, sold, assigned and transferred between individuals, for any lawful purpose, which as a whole, indivisible asset, is equivalent to one (1) megawatt hour (MWh) of electricity generated by a source of sustainable or alternative renewable energy (issued and registered in accordance herewith) and, in turn, comprises the environmental and social attributes defined herein.

Another objective of this new Act is to give residents of Puerto Rico the opportunity to participate in the REC- and renewable-energy market currently existing in the United States. RECs shall be marketable and negotiable in Puerto Rico and abroad. Therefore, the issuance of RECs has an economic value for anyone acquiring, marketing or negotiating them.

The Green Energy Fund

This Act shall create the "Green Energy Fund of Puerto Rico" ("the Fund"), in order to provide economic incentives to foster the establishment of renewable energy projects in Puerto Rico and other related matters. The Fund shall be established by the Department of the Treasury as a special fund, separate from other government funds, which shall be funded through various sources of revenue, such as state and federal incentives, taxes, donations from private entities (related to the production of alternative and sustainable renewable energy) and fines. These amounts assigned and credited to the Fund shall be used solely for activities and disbursements consistent with the public interests pursued hereunder.

The Administration of Energy Affairs shall be the entity in charge of managing the monies deposited in the Fund to grant incentives to sustainable and alternative renewable energy projects (jointly and with regard to incentives, "green energy"). Incentives provided to foster the development of green energy projects on the island shall be aimed at promoting the use of renewable energy sources for residential, commercial and industrial purposes. By promoting that these sectors become more energy independent, we are fostering more sustainable development and a reduction of costs directly related to the fluctuations of the market.

The Fund shall operate under the supervision of an Evaluating Committee comprised of three (3) members. These members shall be the Secretary of the

Department of Economic Development and Commerce, the President of the Government Development Bank and the Secretary of the Treasury, who shall hold their positions on an ex-officio basis. Some of the main duties of the Evaluating Committee shall be to receive and review the periodic reports of participating credit unions and financial institutions that will provide incentives to small-scale green energy projects. The Committee shall also certify quarterly competitive tendering procedures for medium-scale green energy projects and approve REC purchase agreements for large-scale green energy projects.

Green Energy Incentives

At present, incentives to promote the development and production of green energy in Puerto Rico are dispersed in various laws, which is both impractical and incoherent. Moreover, not having a unified incentive plan to foster and develop green energy projects in Puerto Rico has made it impossible for us to develop alternatives to reduce our energy production costs and our dependence on oil as our main source of energy. Likewise, the current tax benefit plan offered by the Government of Puerto Rico has proved inadequate to create a market sufficiently attractive for the development of green energy projects and to implement renewable energy policy in Puerto Rico.

This Act brings together under one law our existing economic benefits, in order to reform, organize and standardize incentives for the creation or utilization of sustainable and alternative renewable energy sources. This Act also offers new benefits to stimulate the development of green energy projects. The reorganization and creation of a unified framework of economic benefits will make Puerto Rico a highly competitive jurisdiction in terms of incentives for the development of sustainable and alternative renewable energy projects.

Tax Benefits

Moreover, this Act provides tax benefits to assist small-, medium-, and large-scale sustainable and alternative renewable energy projects. These benefits are tailored to suit the particular characteristics and needs of each level of production. The benefits available under this Act include rebates to reduce part of the cost of installing the production unit, in the case of small- and medium-scale green energy projects. In turn, people who acquire RECs to meet renewable energy portfolio requirements may deduct the cost of acquiring such RECs from their ordinary income, upon withdrawing and canceling them. In addition, producers meeting certain requirements may apply for tax exemption grants to obtain preferential rates on income taxes, real and personal

property taxes, and municipal licenses, among others. The Act also provides benefits for owners of real properties where green energy production units are located.

In short, today, this Legislative Assembly is fulfilling its constitutional mission that Puerto Rico take full advantage of its natural resources to ensure the well-being of future generations of Puerto Ricans, establishing an energy public policy that guarantees to its citizens the development of renewable and sustainable electrical power on the island, and a new source of development.

BE IT DECREED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

CHAPTER 1

PRELIMINARY PROVISIONS

Article 1.1.-**Short Title.**-

This law shall be known as the “Puerto Rico Green Energy Incentives Act.”

Article 1.2.-**Statement of Public Policy.**-

The Government of Puerto Rico hereby establishes as public policy that we must diversify our sources of electricity and energy technology infrastructure, by reducing our dependence on sources of energy derived from fossil fuels, such as oil; reduce and stabilize our energy costs; control the volatility of the price of electricity in Puerto Rico; reduce flight of capital caused by fossil fuel imports; preserve and improve our environment, natural resources and quality of life; and promote the conservation of energy and social well-being, through several mechanisms, including the establishment and achievement of goals within a mandatory timetable and through economic and tax incentives to stimulate efforts to generate electrical power, through sustainable and alternative renewable energy sources.

In order to fulfill the purposes of this public policy, a special fund, known as the Puerto Rico Green Energy Fund, to be used to promote the establishment and development of alternative and sustainable renewable energy projects in Puerto Rico, shall be established. In addition, other tax benefits shall be offered through grants issued to qualifying activities.

Article 1.3- **Interpretation.**-

The provisions of this Act shall be interpreted liberally, so that projects eligible for the incentives provided hereunder are made viable.

Article 1.4- Definitions.-

For purposes of this Act, the following terms or phrases shall have the meaning set forth below, except where they clearly have a different meaning, and terms used in the singular include the plural, and vice versa:

1. "Eligible Activity" - means:
 - a. Any business engaged in the production and sale of green energy on a commercial scale for consumption in Puerto Rico, either as the owner and direct operator of the production unit or as the owner of a production unit being operated by another person, in which case, both the owner and the operator shall be considered as businesses engaged in an eligible activity for purposes of this Act;
 - b. A producer of green energy, as defined in this Article 1.4, to be consumed in Puerto Rico, provided that it is the person's main business;
 - c. Assembly of green energy generation equipment, including installation thereof at the facilities of the user of green energy to be generated by such equipment; and
 - d. Property dedicated to the production of green energy.
2. "Administration" - means the Administration of Energy Affairs created by Article 4 of Act No. 73 of May 28, 2008, attached to the Puerto Rico Department of Economic Development and Commerce, as the successor of the Puerto Rico Energy Office ("Energy Office"), attached to the Office of the Governor, created under Act No. 128 of June 29, 1977, later transferred to the Department of Consumer Affairs and, through Reorganization Plan No. 1 of December 9, 1993, to the Department of Natural Resources.
3. "Environmental and Social Attributes" - means, for purposes of this Act, all the qualities, properties of RECs that are inseparable and include benefits to nature, the environment and society, resulting from the generation of sustainable or alternative renewable energy, but excluding energy attributes, as defined. For purposes of this Act, "environmental

and social attributes” includes, but is not limited to, the reduction of air pollutants, such as carbon dioxide and other gas emissions that produce the greenhouse effect.

4. “Energy attributes” - for purposes of this Act, refers to the benefits of producing electrical power [measured in units or fractions of a megawatt-hour (MWh)], through a source of sustainable or alternative renewable energy, including the use or consumption of electricity, the stability of the grid, and the capacity to produce and contribute to Puerto Rico’s electrical power system.
5. “Authority” - means the Puerto Rico Electric Power Authority.
6. “Renewable Biomass” - means any organic or biological material derived from organisms that have the potential to generate electricity, such as wood, waste, and alcohol fuels. This includes natural biomass, which occurs naturally without human intervention, and residual biomass, which is the by-product or waste generated by farming, forestry and livestock activities, as well as the solid waste produced by the food and agriculture industry, and the wood processing industry; for purposes of this Act, it also includes any biomass similar to the biomasses described above, as designated by the Administration.
7. “Renewable Energy Certificate” or “REC” - is a personal asset that is marketable and negotiable. It can be bought, sold, assigned and transferred between individuals for any lawful purpose, and as a whole, indivisible asset, it is equivalent to one (1) Megawatt-hour (MWh) of electricity generated by a source of sustainable or alternative renewable energy and, in turn, comprises all the environmental and social attributes defined herein.
8. “Puerto Rico Internal Revenue Code” - means the Puerto Rico Internal Revenue Code of 1994, Act No. 120 of October 31, 1994, as amended, or any successor law.
9. “Evaluating Committee” - means the Committee created by Article 2.7 of this Act.
10. “Participating Credit Union” - means a credit union described in Act No. 255 of October 28, 2002, as amended, with which the Administration has

executed a participation agreement for purposes of Section (a)(1) of Article 2.8 of this Act.

11. "Cost of installation" - means the cost of acquiring, building, installing the production unit and the costs associated with the engineering design required to begin operating said production unit.
12. "Tax Exemption Grant for the Production of Green Energy" - means any of the following: "Exemption Grant," "Tax Exemption" or merely "Exemption," "Grant," or "Concession," and can be used interchangeably, as appropriate, for purposes of illustrating what the text provides.
13. "Developer" - means an individual or legal entity engaged in the development of real property projects.
14. "Municipal Solid Waste" - means non-hazardous solid waste generated in single-family and multi-family residences, camping or recreational areas, offices, industries, businesses and similar establishments, as a result of the basic activities of human beings and animals, specifically including garbage, human sanitary waste, and other similar waste, as designated by the Puerto Rico Solid Waste Authority.
15. "Director" - means the Director of the Exemption Office.
16. "Director of Economic Development" - means the Executive Director of the Puerto Rico Industrial Development Company.
17. "Executive Director" - means the Executive Director of the Administration of Energy Affairs.
18. "Owner" - means a person who owns a production unit, or even if he does not hold the legal title to same, he has possession of the production unit, if the legal title has been assigned to another person as part of a financing lease or sale and lease back transaction.
19. "Alternative Renewable Energy" - means energy derived from the following sources:
 - a. Conversion of municipal solid waste;
 - b. Combustion of gas derived from a landfill;

- c. Anaerobic digestion;
 - d. Fuel cells; and
 - e. Any other energy subsequently defined by the Administration, by regulation or an order, as alternative renewable energy.
20. "Sustainable Renewable Energy" - means energy derived from the following sources:
- a. Solar energy;
 - b. Wind energy;
 - c. Geothermal energy;
 - d. Renewable biomass combustion;
 - e. Combustion of gas derived from renewable biomass;
 - f. Combustion of biofuels derived exclusively from renewable biomass;
 - g. Qualifying hydroelectric energy;
 - h. Marine and hydrokinetic renewable energy, as this term is set forth in Section 632 of the "United States Energy Independence and Security Act of 2007," Pub.L. 110-140, 42 U.S.C. § 17211);
 - i. Oceanic thermal energy;
 - j. Any other clean or renewable energy subsequently defined by the Administration, by regulation or an order, as renewable energy.
21. "Green Energy" - the term "Green Energy" jointly includes the terms "sustainable renewable energy" and "alternative renewable energy."
22. "Green Energy Fund" - means the Green Energy Fund of Puerto Rico, as established in Chapter 2 of this Act.
23. "Sustainable Renewable Energy Source" - means any of the sources of electricity that produce electrical power by using sustainable renewable energy, as defined in this Act.

24. "Alternative Renewable Energy Source" - means any source of electricity that produces electrical power by using alternative renewable energy, as defined in this Act.
25. "Force Majeure" - means an event that cannot even be foreseen, and if foreseen, cannot be avoided, and includes the exceptional events caused by nature itself, such as: earthquakes, floods and hurricanes (i.e., "Acts of God"), and events that are caused by the actions of Man, for example, riots, strikes, and wars, among others.
26. "Controlled Group Corporations or Partnerships" - shall have the same meaning as the one provided in Section 1028 of the Puerto Rico Internal Revenue Code.
27. "Green Energy Revenue" "GER" - means income from, or derived from, the following sources:
 - a. Net income derived from the operation of an Eligible Activity by an exempt business that has a Grant issued hereunder, computed in accordance with the Puerto Rico Internal Revenue Code, adjusted with the special deductions provided hereunder, including income derived from the sale of RECs, as well as income from the operation of said exempt business upon making a choice under Section (b) of Article 2.15 of this Act.
 - b. Income received as a dividend or profit from a corporation or partnership that has shares in the exempt business making the distribution, provided that such income is attributable to GER derived by the exempt business.
 - c. The net income derived by an exempt business that has a grant hereunder from business interruption insurance policies, provided that there is no reduction in the number of jobs in the exempt business, as a result of the act that gave rise to the collection of such income.
 - d. The net income derived from the sale of intangible property and any other right to receive income related to activities or intangible property related to the Eligible Activity and owned by an exempt business that has a grant hereunder.

28. "Financial institution" - means an individual or legal entity described in Section 1024 (f) (4) of the Puerto Rico Internal Revenue Code.
29. "Industrial or Tax Incentives Act" - means Act No. 73 of May 28, 2008, as amended, Act No. 135 of December 2, 1998, as amended, Act No. 78 of September 10, 1993, as amended, Act No. 70 of June 23, 1978, as amended, or any previous or subsequent similar law granting economic, tax or any other type of benefit to green energy production.
30. "Exempt business" - means a business engaged in an Eligible Activity, as defined herein, established, or to be established, in Puerto Rico by an individual or legal entity, or a combination of both, that could be organized under a common trademark, and to which one or several tax exemption grants have been issued hereunder.
31. "Predecessor Exempt Business" - means any of the following:
 - a. Any business that is receiving or has received an exemption hereunder or under industrial or tax incentive laws to perform an Eligible Activity substantially similar to the one specified in the Grant of a successor business; and in which the successor business or any of the shareholders or owners of the successor business holding twenty-five percent (25%) or more of the shares or other ownership interest of the successor business holds or held twenty-five percent (25%) or more of its issued and outstanding shares or other ownership interest. This last requirement shall not apply when referring to a predecessor exempt business in Article 2.16 (a) (4) of this Act. For purposes of this definition:
 1. Ownership of shares or other property interest shall be determined in accordance with the rules governing ownership of shares in corporations and interest in partnerships set forth in Subtitle A of the Puerto Rico Internal Revenue Code.
 2. If any of the shareholders or owners of a successor business affected by said rules is able to prove to the satisfaction of the Secretary of the Treasury that the capital invested or to be invested in the successor business does not come directly or indirectly from their spouses, direct ancestors or

descendants, or their siblings, and that it comes from their own private wealth, such rules shall not apply.

32. "Successor Business" - means any business that receives a grant hereunder to produce green energy for consumption in Puerto Rico, whose activity is substantially similar to the one specified in the grant of a predecessor business, including a grant under industrial or tax incentive laws, as provided for in this Act.
33. "Exemption Office" - means the Office of Industrial Tax Exemption.
34. "Operator" - means any person who controls, operates or manages a production unit, sustainable renewable energy source or alternative renewable energy source.
35. "Person" - means any individual, partnership, company, association, corporation, public corporation or entity, whether or not it is under the jurisdiction of the Commission or the Administration.
36. "Sustainable Renewable Energy Producer" - means an operator of a sustainable renewable energy source that generates and sells electricity on a commercial scale.
37. "Alternative Renewable Energy Producer" - means an operator of an alternative renewable energy source that generates and sells electricity on a commercial scale.
38. "Property Dedicated to the Production of Green Energy" - means any:
 - a. Real Property, including land and improvements, or parts thereof, as well as any addition thereto equivalent to no less than twenty-five percent (25%) of the area of the main floor, dedicated to the exploitation of an exempt business and placed at the disposal of, utilized, or owned by, an exempt business that has a grant hereunder, in its development, organization, construction, establishment or operation.
 - b. Set of machinery and equipment necessary for an exempt business issued a grant hereunder to carry out the activity for which it is granted a tax exemption, that is held, installed or, in any way, used under contract by said exempt business.

For purposes of this Act, the term “property dedicated to the production of green energy” does not include financing leases.

39. “Intangible property” - means patents, inventions, formulas, processes, designs, patterns, know-how, copyrights, trade secrets, literary, musical or artistic compositions, factory brands, factory seals, trade names, brand names, franchises, licenses, contracts, methods, programs, systems, procedures, surplus, campaigns, surveys, studies, trials, projections, estimates, client lists, technical data or any other similar property.
40. “Large-scale Green Energy Project” - means any electrical power production project that uses green energy and whose capacity is greater than one (1) megawatt (MW).
41. “Medium-scale Green Energy Project” - means any electrical power production project that uses green energy and whose capacity is greater than one hundred (100) kilowatts (kW) and up to one (1) megawatt (MW).
42. “Small-scale Green Energy Project” - means any electrical power production project that uses green energy and whose capacity is up to one hundred (100) kilowatts (kW).
43. “Substation” - means an electrical installation designed to convert the energy produced by a wind turbine to the voltage needed to be connected to electric power transmission or distribution lines.
44. “Secretary of Development” - means the Secretary of the Department of Economic Development and Commerce.
45. “Secretary of the Treasury” - means the Secretary of the Department of the Treasury.
46. “Green Energy Technology” - means technology dedicated to the production of energy, as provided in paragraphs (19) and (20) of this Article.
47. “Production Unit” - means a plant, machinery, or set of machinery and equipment, installed at one or more locations, but constitutes one integrated green energy project, capable of producing green energy, including equipment and supplementary structures, such as those related to the distribution of the energy produced or to the administrative

functions of the exempt business or green energy project, even if it performs certain operations away from the premises of said unit. In order to determine whether a set of machinery and equipment, and supplementary facilities, set up at various locations, constitute one integrated green energy project certain factors shall be taken into consideration, such as the potential customer or customers who would purchase the energy produced, financing agreements, operational efficiencies, managerial control and supervision of capital and human resources, and risk control, among others.

CHAPTER II

GREEN ENERGY INVESTMENT INCENTIVES

Article 2.1.-Purpose of the Puerto Rico Green Energy Fund.-

In order to foster the generation of green energy markets and the development of mechanisms to stimulate the establishment, organization and operation of green energy production units on a commercial scale in Puerto Rico, and stimulate the development of sustainable energy systems to promote savings and efficiency in the use of energy, a special fund called the Puerto Rico Green Energy Fund is hereby established, in accordance with the short-, medium- and long-term objectives of this Act.

Article 2.2.- Creation of the Green Energy Fund; Special Deposit

- a. A special fund is hereby created and established, separate from the General Fund of the Government of Puerto Rico. This special fund shall be called the Puerto Rico Green Energy Fund. The Department of the Treasury shall establish this fund as a special fund separate from other government funds, as set out below:
 1. Starting in fiscal year 2011-2012, the first excise taxes on motor vehicles and motorcycles collected in accordance with Section 2011 of the Puerto Rico Internal Revenue Code shall be deposited, when received by the Department of the Treasury, into a special fund to be maintained by, and in the name of, the Green Energy Fund, designated the "Puerto Rico Green Energy Fund" and shall be used by the Green Energy Fund for the purposes set out in this Act, up to a maximum of:

Fiscal Year	Amount
2011-2012	20,000,000
2012-2013	20,000,000
2013-2014	25,000,000
2014-2015	30,000,000
2015-2016	35,000,000
2016-2020	40,000,000

Should the monies received from the aforementioned excise taxes be insufficient to cover the amounts assigned herein, the Secretary of the Treasury is hereby authorized to cover the shortfall with any available funds and the Director of the Office of Management and Budget, at the request of the Green Energy Fund, shall include in the recommended budget of the pertinent fiscal year the necessary appropriations to cover shortfalls.

2. The Green Energy Fund is hereby authorized to divide a portion of these funds into one or more sub-accounts and to pledge all or part of the funds in one or more sub-accounts, subject to the provisions of Section 8 of Article VI of the Constitution of the Commonwealth of Puerto Rico, to comply with the obligations it undertakes pursuant to the provisions of this Act that are consistent with the public interest established hereunder.
 3. If at the closing of any fiscal year, the Evaluating Committee, after having considered the long-term contractual obligations authorized hereunder, determines that there is a surplus or surplus of funds in the Green Energy Fund, such surplus may be transferred to the Secretary of the Treasury to be deposited into the General Fund. The existence of a surplus shall be ratified by the Green Energy Fund to the Secretary of the Treasury and the Office of Management and Budget, for the latter to determine whether the transfer will be performed or whether the deposit set forth in Section (a) of this Article will be reduced proportionately to the surplus notified.
- b. The public interest pursued by the activities of the Administration and the Green Energy Fund shall include the following:

1. Developing and increasing the use of, and accessibility to, green energy sources in Puerto Rico;
 2. Protecting the environment and the good health of the citizens of Puerto Rico by preventing, mitigating, reducing and relieving adverse impacts;
 3. Distributing the benefits produced by more diverse fuel and power supplies among the consumers of Puerto Rico;
 4. Fostering greater investment by the public and the private sector, and competitive advantages for green energy, and companies, institutions and projects related to green energy in Puerto Rico; and
 5. Fostering entrepreneurial activities in these companies, institutions and projects.
- c. In order to further the aforementioned aims and public interest, the Administration may, through disbursements from the Green Energy Fund, grant incentives, contracts, loans, investment instruments, energy production credits, financial assistance, and take any other action, in the form and under the terms and conditions it determines, pursuant to the criteria and procedures deemed appropriate by the Administration, in accordance with the public policy set out hereunder and in keeping with good business practices, including, but not limited to, the following:
1. Promoting the growth of the green energy production industry;
 2. Fostering the use of green energy by energy consumers in Puerto Rico;
 3. Training and educating the public about green energy;
 4. Developing products and the market;
 5. Demos and pilot projects and other activities designed to increase the use and accessibility of green energy sources by and for consumers in Puerto Rico;
 6. Providing financing to support the development and implementation of green energy technologies at all levels, including, but not limited to, marketing activities;

7. Conserving and maximizing energy resources.
- d. The Administration shall recommend, develop and implement programs, projects and initiatives in one or more of the ways described in Section (c) of this Article. For each program, project or initiative, the Administration may establish any regulations necessary to implement and manage them. The regulations shall be adopted and amended from time to time as necessary to serve the purposes and public interest provided in this Chapter, in accordance with the public policy of this Act. The Administration shall be authorized to take advantage, and make use, of a wide range of resources, expertise and involvement by all the agencies and instrumentalities of the Government of Puerto Rico, as needed, to design and implement programs, projects or initiatives in accordance with this Article. Prior to, and pending on, the enactment of the regulations provided for in this paragraph, the only programs authorized for Puerto Rico Green Energy Fund disbursements shall be those described in Article 2.8 of this Act.
 - e. Before any program, project or initiative, other than the ones set forth in Article 2.8 of this Act, requiring disbursements from the Green Energy Fund, can be established, the Administration shall submit a proposal to the Secretary of Development and the Evaluating Committee, who shall certify that such program, project or initiative is in keeping with Puerto Rico's energy public policy and the economic development of Puerto Rico.
 - f. Starting in the fiscal year ending on June 30, 2011, the Administration shall present to the Governor and the Legislature a yearly report, detailing the disbursements and investments made of the resources of the Green Energy Fund during the previous fiscal year and the Fund's compliance with the requirements and provisions of this Article, as well as any recommendation to improve the Administration's and the Fund's ability to comply with the requirements and provisions set forth in this article.

Article 2.3.-Collection Mechanism.-

- a. In addition to the Special Deposit contemplated in Section (a) of Article 2.2, the Green Energy Fund shall be authorized to request and receive any federal or state funds available for the purposes for which it was created, and may receive funds from donations by private non-governmental entities dedicated to the promotion, endorsement and other purposes

related to the production of green energy, in full compliance with the Government Ethics Act, Act No. 12 of July 24, 1985, as amended. The definition of private non-governmental entity shall be provided by the Administration in regulations.

- b. REC processing costs and fines and penalties imposed by the Administration, as authorized hereunder, shall also be deposited into the Green Energy Fund.

Article 2.4.- REC Characteristics and Acquisition by the Green Energy Fund.-

- a. The Green Energy Fund may acquire, sell and otherwise legally transfer or use RECs for any present or future public purpose of a commercial, financial or industrial nature, under state, federal or international law, using them as assets that have been purchased and can be disposed of.
- b. RECs issued annually in accordance with this Act shall indicate the total megawatt-hours (MWh) of energy generated from a source of sustainable or alternative renewable energy, the year in which the energy was generated, and the source that generated the energy. The title to every REC issued shall belong to the source of energy that generated the electricity until ownership thereof is sold, assigned or otherwise lawfully transferred.
- c. For tax purposes, the purchase, sale, assignment or transfer of RECs shall have the following effects:
 - 1. Tax Base - The tax base of every REC for a business engaged in the production of green energy that generates RECs from its operations in Puerto Rico shall be equal to the costs of issuing and processing the REC, in accordance with Article 2.5 of this Act. The base of an REC shall not include the costs of producing green energy generated in the operation related to the REC.
 - 2. Ordinary Income - Any income or profit derived from the sale of RECs stemming from the operations of a business engaged in the production of green energy in Puerto Rico shall be treated as Green Energy Revenue for purposes of this Act, except that such income or profit shall be exempt from municipal license and other municipal taxes.

3. Capital Gain- A REC shall be excluded from the definition of capital asset, as provided in Section 1121 of the Puerto Rico Internal Revenue Code. Nevertheless:
 - i. Income derived from the sale of a REC by a person who acquired the REC by purchasing it and subsequently disposes of it in exchange for cash or property shall be treated as capital gain and shall be subject to the relevant provisions of the Puerto Rico Internal Revenue Code on the disposition of capital assets, including the applicable rate, base and period of possession of RECs, among others.
 - ii. Income derived from the disposition of a REC by a person who acquired the REC by purchase and subsequently disposes of it shall be exempt from municipal license and other municipal taxes.
 - iii. Anyone engaged in the industry or business of buying and reselling RECs shall be excluded from this treatment.
4. Withdrawal and Cancellation of RECs - Any person who, in the exercise of a trade or business, in order to comply with renewable energy portfolio requirements, acquires RECs by purchase, assignment or transfer for purposes of promoting the development of green energy sources may deduct from his ordinary income the acquisition cost of the REC or the base acquired in the assignment or transfer of same. This deduction shall not be available until the REC has been withdrawn or cancelled.
5. Income from Sources in Puerto Rico - Profit from the sale or disposal, outside of Puerto Rico, of a REC generated from the operation of a green energy project located in Puerto Rico, derived by non-residents of Puerto Rico or by a foreign entity not engaged in a business or trade in Puerto Rico shall not be considered as income from sources in Puerto Rico.
6. RECs shall be exempt from state and municipal property taxes.

Article 2.5.- Processing of RECs by the Administration.-

The Administration may establish, for every REC processed, a reasonable processing cost that the titleholder of the REC must pay. The processing cost may be included in the value of every REC processed. Any income obtained from such processing costs shall be used to take any necessary and appropriate action to guarantee the fulfillment of the aims and objectives of this Act.

Article 2.6. -Management of the Puerto Rico Green Energy Fund.

- a. The power to manage the Puerto Rico Green Energy Fund is hereby vested on the Administration, who shall oversee the development and implementation of green-energy initiatives, projects and programs, as set out hereunder.
- b. Subject to the supervision of the Evaluating Committee created in Article 2.7 of this Act, the Administration shall be in charge of managing the funds available in each fiscal year to manage and grant the incentives described in Article 2.8 of this Act.
- c. The Administration shall have the power to advertise market, negotiate, buy, sell, or otherwise lawfully transfer or assign ownership of acquired RECs.

Article 2.7.- Evaluating Committee.-

- a. The operation of the Green Energy Fund shall be under the supervision of an Evaluating Committee comprised of three (3) ex-officio members, who shall be the Secretary of Development, the President of the Government Development Bank and the Secretary of the Treasury, or their respective delegates.
- b. The Evaluating Committee shall be presided by the Secretary of Development.
- c. The Evaluating Committee shall determine the internal organizational procedures and shall meet periodically, or as necessary, to comply with the purposes of this Act.
- c. The duties of the Evaluating Committee shall include the following:
 1. Receiving and reviewing the Administration's periodic reports on the incentives provided to small-scale green energy projects under Section (a)(1) of Article 2.8 of this Act.

2. Certifying quarterly competitive tendering procedures under Section (a)(2)(A) of Article 2.8 of this Act, including medium-scale green energy projects selected in each competitive tendering procedure for purposes of the incentives provided in Section (a)(2) of Article 2.8 of this Act.
3. Approving any and all Green Energy Fund disbursements of five hundred thousand dollars (\$ 500,000) or more.
4. Receiving and reviewing the Administration's periodic reports on the operation of the Green Energy Fund, including, but not limited to, the Fund's revenues and disbursements; amounts appropriated for future disbursement; administrative costs; green energy projects and programs established, or in the process of being established; future projections; and the strategic plan to achieve the goals and objectives of this Act.

Article 2.8.-Green Energy Investment Reimbursement Program.-

- a. As of the effective date of this Act, the following incentives shall be granted to owners of production units dedicated to the production and sale of green energy, based on the capacity of the production unit and in accordance with the following:
 1. First level - Small-Scale Green Energy Projects:
 - A. The owner of a production unit at a small-scale green energy project shall be granted an incentive equal to the amount that results from multiplying (i) the reference cost per watt of the technology used by the production unit, by (ii) the installed capacity of the production unit, by (iii) the partial reimbursement percentage determined by the Administration for the technology used by the production unit; provided, nonetheless, that under no circumstance shall the incentive exceed sixty percent (60%) of the cost of installing the production unit.
 - B. The Administration shall periodically publish, at least once during every fiscal year, what green energy technologies are eligible to participate in the incentive program, the partial

reimbursement percentage established for each of these technologies, as well as the reference cost for each technology, the reference cost of which shall be determined by the Administration, based on the objective criteria it establishes by regulation.

- C. The incentives granted by Section (a)(1)(A) of this Article shall be disbursed from the Green Energy Fund, and shall be limited to the funds allocated by the Administration for such purposes for the pertinent fiscal year.
- D. The Administration shall have the exclusive power to evaluate and approve incentive applications submitted by owners of production units of small-scale green energy projects under this paragraph (1), for which it may rely on specialized advisers. The Administration is hereby empowered to authorize participating institutions or credit unions to receive and process incentive applications under this paragraph (1), as well as the disbursement of the incentives granted, in accordance with same, subject to the conditions and requirements set forth by The Administration by regulation.
- E. Members of a controlled group of corporations, as defined in Article 1.4 of this Act, may receive incentives under paragraph (1) for a single small-scale green energy project per controlled group per fiscal year of the Government of Puerto Rico.

2. Second Level - Medium-Scale Green Energy Projects:

- A. The owner of a production unit at a medium-scale green energy project shall be granted an incentive equal to the amount that results from multiplying (i) the partial reimbursement percentage determined by the Administration for the technology used by the production unit, by (ii) the cost of installing the production unit, provided, nonetheless, that under no circumstance shall the incentive exceed fifty percent (50%) of the cost of installing

the production unit. This incentive shall be determined in accordance with the following procedure:

- i. The incentives granted in this paragraph (2) shall be awarded on a quarterly basis. That is, four times a year, as determined by the Administration.
- ii. The Administration shall periodically publish, at least thirty days prior to the commencement of every fiscal year, what green energy production technologies are eligible to participate in the incentive program, the partial reimbursement percentage established for that quarter for each of these technologies, as well as the funds available during that quarter for incentives to each technology.
- iii. The incentives provided in this paragraph (2) shall be awarded through competitive tendering procedures, as established by regulation, to participating projects. This competitive tendering process shall be exempt from the provisions of Act No. 170 of August 12, 1988, as amended, known as the "Uniform Administrative Procedure Act of Puerto Rico." For these purposes, the notification of award shall include the terms for review.
- iv. Medium-scale green energy project applicants must submit a proposal to the Administration, no later than the fifth day of the first month of the applicable quarter.
- v. The Administration shall take into consideration the following factors to award incentives hereunder: Whether the proposals conform to applicable specifications; the terms of delivery; the applicant's ability to perform and comply with the contract; the applicant's creditworthiness, reputation and integrity; the quality and type of equipment; the cost of producing energy; the incentives or benefits the applicant receives from other sources; the funds

available for each technology; and any other condition the Administration may deem.

- vi. No later than forty (40) days after the deadline for submitting proposals, the Administration shall notify applicants whose projects were denied of its decision, by certified mail. Awards must be made before the beginning of the next quarter. The Administration shall notify applicants who were not selected of the reasons why they were not awarded incentives.
- vii. Applicants whose projects were denied shall have ten (10) days from the date of notification to request reconsideration. The filing of a request for reconsideration shall be a jurisdictional requirement to seek judicial review.
- viii. The Administration shall issue a final notification of refusal, no later than fifteen (15) days from the date the request for reconsideration was filed.
- ix. If the Administration rejects, accepts or fails to take action within fifteen (15) days after a request for reconsideration is filed, the term to request judicial review shall start running again when said decision is notified or upon expiration of the fifteen (15) days provided to consider it, depending on the case.
- x. Applicants who receive a final adverse notification may seek judicial review by filing an appeal for judicial review with the Court of Appeals within a jurisdictional term of ten (10) days from the final adverse notification. In order to preserve efficient procedures before the Administration, pursuant to the competitive tendering process provided hereunder, the mere filing of an appeal for judicial review with the Court of Appeals shall not automatically stay processes before the Administration. Instead, such relief must be requested through a motion to that effect and must be

justified in compliance with all the requirements for an order of aid of jurisdiction. Any order issued by the Court of Appeals to stay procedures before the Administration must be issued within five (5) days of the request, and any order issued within these five (5) days shall only affect or apply in a manner limited to the amount in controversy being challenged, thus the Administration may proceed to award incentives to other selected projects, as long as sum of the incentives applicable to the project or projects under judicial review remains available after such awards. If the Court of Appeals does not issue an order to stay proceedings within five (5) days of the filing of a motion seeking such relief, the Administration must proceed with the competitive tender process as if no appeal for judicial review had been filed. On the other hand, if the Court of Appeals issues a stay order within five (5) days of filing the appeal for judicial review, then the Administration shall, without delay, proceed to award the incentives of the other selected projects, subtracting from this the sum of incentives applicable to the project or projects under judicial review. No other process or appeal for judicial review may be filed other than the one provided hereunder, nor under terms and procedures other than those set forth hereunder.

- B. The partial reimbursement award letter of each medium-scale green energy project shall establish the terms and conditions that the Administration deems necessary or convenient, including, but not limited to, the term granted by the Administration for the construction and installation of the project, which shall not exceed two (2) years. The Administration may, upon receipt of a sworn request from the applicant, extend such term in the event of a force majeure or other circumstances, which according to the Administration warrant such extension, provided that, in the case of the latter, the Administration may require the

applicant to provide a bond to guarantee completion of the project.

- C. Incentives granted by Section (a)(2)(A) of this Article shall be disbursed from the Green Energy Fund and shall be limited to the funds budgeted by the Administration for such purposes for the pertinent fiscal year.
- D. The Administration shall be in charge of managing available funds as well as disbursing the incentives awarded under Section (a)(2)(A) of this article.
- E. Applicants for projects classified at this level of production may submit incentive proposals for more than one project per controlled group per quarter of the Government of Puerto Rico. Nevertheless, regardless of the number of projects presented by the members of the controlled group or by developers, the sum of all the proposals presented by the members of the controlled group or the developers for that quarter of the Government of Puerto Rico shall be considered as a single project for purposes of designating the project as a medium-scale project.
- F. The competitive tendering procedure and the evaluation and selection criteria of projects that are going to be granted the incentives provided under Section (a)(2)(A) of this article shall be governed by the provisions of this law or of regulations enacted by the Administration.
- G. The Administration may reject a proposal when, in its judgment, it understands that, among other factors:
 - i. The applicant or his contractors lack the knowledge, experience or economic or technical capacity required to carry out the project;
 - ii. The nature or quality of the proposed green energy equipment or technology does not meet the requirements set forth by the Administration;

- iii. The proposed green energy technology has not been certified by the Administration;
 - iv. The quoted prices exceed the reference cost; or
 - v. The project would be of no benefit to public interest.
 - H. Applicants applying for the incentives provided Section (a)(2)(A) of Article 2.8 of this Act must state, under penalty of perjury, whether the green energy project proposed is covered by one or more industrial or tax incentive laws, what other tax incentives they receive, and under what law or laws they receive them, upon submitting their proposal to apply for benefits provided under section (a)(2)(A) of this article. Failing to comply with this requirement shall constitute grounds to deny their incentive application.
- b. Green Energy Incentive Program for large-scale green energy projects. The Administration is hereby ordered to establish a Green Energy Incentive Program with the collaboration of the Authority. This program shall be established in accordance with the purposes of this Act and shall be aimed at granting incentives to large-scale green energy projects. In this program, the Administration shall also establish a mechanism to develop a market to trade RECs related to large scale green energy projects, which shall include, but will not be limited to, the purchase and sale of RECs. The Administration shall adopt the necessary regulations, orders or guidelines to establish this program including, but not limited to, the contracting mechanisms for the production of green energy to be used by the owners of the production units. The Authority shall cooperate with the Administration in developing and implementing this program.
- c. For purposes of determining the applicable production level in a fiscal year or quarter of the Government of Puerto Rico, particularly for purposes of incentives available under section (a) of this article:
 - 1. All the members of a controlled group of corporations, as defined in Article 1.4 of this Act, shall all together be considered as a single producer; and

2. The sum of all the proposals or projects presented in one fiscal year or quarter of the Government of Puerto Rico by members of a controlled group of corporations or developers shall be considered as one single project for that particular fiscal year or quarter of the Government of Puerto Rico.
- d. In the case of businesses engaged in the production of green energy or producers of green energy operating under any industrial or tax incentive law:
1. If they claim a special credit or deduction under said industrial or tax incentive law, after June 30, 2011, with respect to an investment in a production unit, including the credit described in Section 5(d) of Act No. 73 of May 28, 2008, they shall be barred from receiving any incentives granted under this article, including incentives available under the Green Energy Incentive Program, during the term of their grant or benefits under industrial or tax laws, including extensions thereof; and
 2. Businesses not described in section (d) (1) of this article that apply for any of the incentives provided for hereunder may not claim the special credits or deductions granted under the aforementioned industrial or tax laws, including those described in Section 5(d) of Act No. 73 of May 28, 2008, as amended, with respect to the production unit receiving incentives under this Act, including those available under the Green Energy Incentive Program. Businesses engaged in the production of green energy must choose between the incentive provided in this article or the credits granted by applicable industrial or tax incentive laws, as they cannot receive both benefits in relation to one particular production unit.
- e. Debt Set-Off against Incentives Granted - The Treasury Department may set off against the incentive awarded to any business engaged in the production of green energy or producer of green energy, at any of the levels described in this article, any debt that person may have with the Department of the Treasury, except debts that have been contested or are under review.
- f. The Administration shall establish by regulation the fees and charges to be paid to process the incentives set forth in this article, which shall be

deposited into a Special Fund created for such purposes by the Secretary of the Treasury, in order to cover the Administration's ordinary operational expenses, and any such funds left over at the end of a fiscal year shall be transferred to the General Fund of the Puerto Rico Treasury, after proper notification to the Office of Management and Budget of the Government of Puerto Rico.

- g. The Green Energy Fund shall be the owner of the social and environmental attributes associated with the projects receiving incentives under paragraphs (1) and (2) of section (a) of this article, whether or not they are in the form of RECs; provided that if a green energy producer has received incentives under paragraph (2) of section (a) of this article with respect to a production unit, then he shall have the obligation to transfer, free of charge, any RECs associated with the production unit to the Puerto Rico Green Energy Fund.

Article 2.9.-**Tax Rates.-**

- a. Fixed Income Tax Rate - Exempt businesses that have a grant hereunder shall be subject to a fixed four percent (4%) rate on their GER throughout the pertinent exemption period, as provided in this article, from their starting date of operations, determined under Article 2.15 of this Act, in lieu of any other income tax, if any, imposed by the Puerto Rico Internal Revenue Code or any other law.
- b. Royalties and License Rights - Regardless of the provisions of the Puerto Rico Internal Revenue Code, the following rules shall be observed with respect to payments made by exempt businesses that have a grant hereunder to non-resident corporations, partnerships or individuals, not engaged in a trade or business in Puerto Rico, in order to use, or have the privilege to use, in Puerto Rico any intangible property related to the operation declared exempt under this Act, subject to these payments being considered to have come exclusively from sources within Puerto Rico:
 - 1. Taxes for Foreign Corporations, Partnerships or Non-Resident Individuals Not Engaged in a Trade or Business in Puerto Rico- Imposition of the Tax - In lieu of the tax levied under Sections 1221 and 1231 of the Puerto Rico Internal Revenue Code, a twelve percent (12%) tax shall be assessed, levied and paid for every tax year on the sum of the aforementioned payments received or

implicitly received by any foreign corporation or partnership not engaged in a trade or business in Puerto Rico, coming exclusively from sources within Puerto Rico.

2. Tax Withholding at Source in the Case of Foreign Corporations and Partnerships Not Engaged in a Trade or Business in Puerto Rico - Any exempt business obligated to make payments to non-resident individuals for the use in Puerto Rico of intangible property related to the operation exempted hereunder, shall deduct and withhold at source a tax equal to the tax levied under paragraph (1).

c. Distribution, Sale or Exchange of Shares or Assets-

1. The shareholders or partners of a corporation or partnership that has a grant under this Act shall be exempted from paying income taxes on distributions of dividends or profit from the GER of the exempt business. In the case of exempt businesses that are not domestic corporations or partnerships, distributions of dividends or profit from income earned by the exempt business from sources outside of Puerto Rico, pursuant to the Puerto Rico Internal Revenue Code, shall also be exempt from income taxes on dividend or profit distributions when such distributions are made to shareholders or partners that do not reside in Puerto Rico or to foreign corporations or partnerships.

Subsequent GER distributions carried out by any corporation or partnership shall also be exempt from any and all taxes.

2. Profit made from the sale, exchange or other disposition of shares in corporations or interest in partnerships that are or have been exempt businesses; interest in joint ventures and similar entities comprised of several corporations, partnerships, individuals or a combination thereof, that are or have been exempt businesses; and shares in corporations or interest in partnerships that in any way own the entities described above shall be subject to the provisions of paragraph (4) of this article upon the sale, exchange or other disposition, and any subsequent distribution of such earnings, whether as dividend or in liquidation shall be exempt from additional taxes.

3. Attribution of Exempt Distributions - The distribution of dividends or profit made by an exempt business that has a grant hereunder, even after its tax exemption has expired, shall be considered to have been made of its GER if, as of the date of the distribution, it does not exceed the undistributed balance of its accumulated GER, unless such exempt business, at the time of the statement, chooses to distribute the dividend or profit, in whole or in part, from other utilities or profits. The amount, year accrued, and nature of the distribution made of the GER shall be that designated by the exempt business in a notification sent along with the payment thereof to its shareholders or partners and the Secretary of the Treasury, in an informative statement, no later than the 28th day of February following the year of the distribution.

In the case of corporations or partnerships that, as of the date they begin operating as exempt businesses, have accrued utilities or profits, distributions of dividends or profit made from said date on shall be considered to have been made from the undistributed balance of such utilities or profit, but once this is exhausted by virtue of such distributions, the provisions of the previous paragraph shall apply.

4. Sale or Exchange of Shares or Assets.-
 - A. During the Exemption Period - Gains from the sale or exchange of shares or interest in a partnership, or from substantially all the assets of an exempt business, performed during its exemption period and that would have been subject to income tax under the Puerto Rico Internal Revenue Code shall be subject to a four percent (4%) tax on the sum of the profit made, if any, in lieu of any other tax imposed by the aforementioned Code. Any loss from the sale or exchange of such shares or assets shall be recognized in accordance with the provisions of the Puerto Rico Internal Revenue Code.
 - B. After the Ending Date of the Exemption Period- When such sale or exchange is made after the ending date of the exemption, the gain shall be subject to the tax provided for

in paragraph (A) above, but only up to the amount of the value of the shares or interest in the partnership, or of substantially all the assets in the books of the corporation or partnership, as of the ending date of the exemption period, reduced by the amount of exempted distributions received on the same shares or interest in the partnership after said date, minus the base of such shares or interest in the partnership or of substantially all the assets. Any remnant of the profit or any loss, if any, shall be recognized in accordance with the provisions of the Puerto Rico Internal Revenue Code in effect as of the date of the sale or exchange.

- C. Exempt Exchanges - Exchanges of shares or interest in a partnership that do not result in taxable events because they are exempt reorganizations shall be treated in accordance with the provisions of the Puerto Rico Internal Revenue Code in effect as of the date of the sale or exchange.
- D. Determination of Bases in Sale or Exchange -The base of the shares, interest or assets of exempt businesses under this Act in a sale or exchange, shall be determined in accordance with the applicable provisions of the Puerto Rico Internal Revenue Code in effect at the time of the sale or exchange, increased by the sum of GER accrued hereunder.
- E. For purposes of this paragraph (4), the term “substantially all the assets” shall mean the assets of the exempt business that represent no less than eighty percent (80%) of the exempt business’s book value at the time of the sale.
- F. The Secretary of the Treasury shall establish the necessary regulations to give effect to the provisions of this paragraph.

5. Liquidation

- A. General Rule - No income tax shall be levied or charged to an assignor or an assignee in relation to the total liquidation of an exempt business that obtained a grant hereunder, on or before the expiration of its grant, as long as the following requirements are met:

- i. All the property distributed as part of the liquidation was received by the assignee in accordance with a liquidation plan on or before the expiration date of the grant; and
 - ii. The distribution in liquidation made by the assignor, whether in one payment or from time to time, was made by the assignor to fully redeem or cancel its entire share capital.
- B. The assignee's base in the property received in liquidation shall be equal to the exempt business's adjusted base in the property immediately prior to the liquidation. Furthermore, and for purposes of this article, a corporation or partnership participating in a partnership that is an exempt business shall, in turn, be considered, an exempt business.
- C. Liquidations by Assignors with Revoked Grants - If an assignor's grant is revoked prior to its expiration, in accordance with the provisions of Section (f)(1) of Article 2.17 of this Act, regarding permissible revocations, the accumulated surplus of its GER as of the date on which the revocation takes effect may be transferred to an assignee at any time thereafter, subject to the provisions of subsection (A) of this paragraph. In cases of mandatory revocation under Section (f)(2) of Article 2.17 of this Act, the accumulated surplus shall be subject to taxation in accordance with the Internal Revenue Code.
- D. Liquidation Subsequent to the Expiration of a Grant - Once an assignor's grant has expired, he may transfer to an assignee the accumulated surplus of his GER earned during the life of the grant, subject to the provisions of subsection (A) of this paragraph.
- E. Liquidations of Assignors with Exempt and Non-Exempt Activities - In the event that an assignor carries out exempt and non-exempt activities, he may transfer to an assignee the surplus of his GER accumulated hereunder and the property dedicated to the activity eligible hereunder as part of his

total liquidation, subject to the provisions of subsection (A) of this paragraph. The accumulated surplus that is not from GER and the property not dedicated to the eligible activity shall be distributed in accordance with the provisions of the Puerto Rico Internal Revenue Code.

- e. Tax Payment - Unless otherwise provided, taxes withheld or due shall be withheld or paid in the manner and form provided in the Puerto Rico Internal Revenue Code for the payment of income taxes and withholdings in general.

Article 2.10.- Special Deductions.-

- a. Deduction and Carryover of Net Operating Losses –
 - 1. Deductions for Current Losses Incurred in Activities not Covered by an Exemption Grant - If an exempt business with a grant hereunder incurs a net operating loss from operations other than the one exempted hereunder, computed without the benefit of the deduction laid down in Section (b) of this Article, the loss shall be used solely against income not covered by an exemption grant and shall be governed by the provisions of the Puerto Rico Internal Revenue Code. Provided, however, that interest in losses of special partnerships that own or operate tourism businesses exempted under Act No. 78 of September 10, 1993, as amended, or a similar subsequent law, may be used against income covered by a tax exemption grant issued hereunder.
 - 2. Deduction for Current Losses Incurred in the Operation of the Exempt Business - If an exempt business with a grant hereunder incurs a net loss in the operation exempted hereunder, computed without the benefit of the special deduction provided in Section (b) of this Article, it may deduct the loss from its GER from the operation that incurred the loss.
 - 3. Deduction for Carryover of Losses from Previous Years - A deduction for carrying over losses incurred in previous years shall be granted as provided below:

- A. Losses in excess of the losses deductible under paragraph (2) of this section may be carried forward against the GER of subsequent tax years. Losses shall be carried forward in the order in which they were incurred.
 - B. Any net loss incurred in a year in which the option of Section (b) of Article 2.15 is in effect may be carried forward only against the GER generated by the business exempted under the grant under which the choice provided by Section (b) of Article 2.15 of this Act was made. Losses shall be carried over in the order in which they were incurred.
 - C. Upon expiration of the income tax exemption period, net losses incurred in the operation exempted hereunder, as well as any losses in excess of the deduction allowed under Section (b) of this Article that the exempt business may be carrying over as of the expiration date of the aforementioned period, may be deducted against any income taxable in Puerto Rico, subject to the limitations provided in Subtitle A of the Puerto Rico Internal Revenue Code. Such losses shall be deemed to have been incurred in the last tax year in which the exempt business issued a grant hereunder was exempt from income taxes under the grant.
 - D. The amount of net operating losses to be carried over shall be calculated in accordance with the provisions of Section 1124 of the Puerto Rico Internal Revenue Code.
- b. Special Deduction for Investment in Buildings, Structures, Machinery and Equipment-
- 1. Any exempt business with a grant hereunder shall be given the choice of deducting, in the tax year in which they are incurred, in lieu of any expense capitalization required under the Puerto Rico Internal Revenue Code, the total expenses incurred, after the effective date of this Act, in purchasing, acquiring or constructing buildings, structures, machinery and equipment, provided that such buildings, structures, machinery and equipment:

- A. Were not previously used or depreciated by any other business or person in Puerto Rico; and
 - B. That they are used in the activity for which the benefits provided hereunder were granted.
2. The deduction provided in this section shall not be in addition to any other deduction provided by law, but merely an acceleration of the deduction of the expenses described above. Provided that in the case of machinery and equipment previously used outside of Puerto Rico, but never before used or depreciated in Puerto Rico, the investment made in such machinery and equipment shall only qualify for the special deduction provided in this Section (a) if the machinery and equipment, as of the date it is acquired by the exempt business, still has at least fifty percent (50%) of its useful life left, pursuant to the Puerto Rico Internal Revenue Code.
 3. Exempt businesses that have a grant hereunder may deduct, in the tax year in which they are incurred, their total expenses incurred, after the effective date of this Act, in remodeling or repairing buildings, structures, machinery and equipment, in lieu of any expense capitalization required under the Puerto Rico Internal Revenue Code, both if the buildings, structures, machinery and equipment were acquired or built before or after the effective date of this Act, and whether they were or not used or depreciated by another business or person prior to being acquired by the exempt business issued a grant hereunder.
 4. The sum of the eligible investment described in paragraphs (1) and (3) of this section for the special deduction provided in this section in excess of the exempt business's GER in the year of the investment, may be claimed as a deduction in subsequent tax years until such excess is exhausted.
 5. The special deduction provided in this section may also be claimed by the exempt business in any year in which it opts for the flexible tax exemption benefit provided for by Section (b) of Article 2.15 hereinbelow.

Article 2.11.-Credits.-

a. Credit for Purchasing Products Manufactured in Puerto Rico-

1. If an exempt business buys products manufactured in Puerto Rico, including components and accessories, it shall be entitled to a credit against the GER tax provided hereunder equivalent to twenty-five percent (25%) of the purchases of such products, during the tax year with respect to which the aforementioned credit is taken, up to a maximum of fifty percent (50%) of the aforementioned tax. This credit shall only be granted for purchases of products manufactured by companies not related to the exempt business.
2. Should an exempt business that has a grant hereunder purchase or use products transformed into goods from recycled materials, or with raw material from recycled, recollected or reconditioned materials by exempt businesses that have a tax exemption grant pursuant to Section 2(d)(1)(I) of Act No. 73 of May 28, 2008, as amended, or similar provisions from previous or subsequent laws, the credit provided in the previous paragraph shall be equal to thirty-five percent (35%) of the total purchases of such products or of the amount paid for use thereof, depending on the case, during the tax year with respect to which the credit is claimed, up to a maximum of fifty percent (50%) of the tax against which the credit is claimed, as provided in paragraph (1) of this section (a). This credit shall only be granted for purchases of products manufactured by companies not unrelated to the exempt business.
3. The credit provided in this section shall not be transferable, except in the case of an exempt reorganization. Any credit not used by the exempt business in a tax year may be carried over to subsequent tax years, until it is fully used. This credit shall not generate a refund.

b. Credit for Job Creation-

1. Any exempt business starting operations after the effective date of this Act shall be granted one credit for every job created during its first year of operation. The amount of this credit shall depend on

the industrial development zone where the operations of the exempt business are located, as provided below:

Area	Credit
Vieques and Culebra	\$5,000
Low Industrial Development Zone	\$2,500
Intermediate Industrial Development Zone	\$1,000
High Industrial Development Zone	\$0

2. When an exempt business with a grant hereunder sets up operations in more than one zone, the sum of the credit shall be based on the location of the operations where the job that gave rise to the credit was created.
3. For purposes of this section the “number of jobs of the exempt business” shall consist in the number of individuals residing in Puerto Rico, who work as permanent, full-time employees at the exempt business, but shall not include individuals such as consultants or independent contractors. In order to receive this credit the exempt business must maintain during each of the three (3) consecutive years following the year in which the credit was originated an average number of jobs equal to, or greater than, the number of jobs that generated the credit. The Secretary of the Treasury shall establish by regulation the applicable proportional recovery mechanism, based on the time that has elapsed and the number of jobs maintained, should the exempt business fail to comply with the job number requirement.
4. The exempt business may only claim the credit provided in this section against the GER tax provided in Section (a) of Article 2.9 of this Act. This credit cannot be sold, assigned or transferred, nor shall it generate a refund for the exempt business. However, any credit provided by this subsection, not used during the first year of operations, may be carried over for a period not to exceed four (4) years from the first tax year in which the exempt business generates net income.

5. For purposes of this credit, the industrial development zone classifications shall be those determined by the Secretary of Development, in consultation with the Director of Industrial Development, the Chairman of the Planning Board and the Secretary of the Treasury, as provided in Section 11 of Act No. 73 of May 28, 2008, as amended.
 6. The reclassification of a municipality or geographical area from one zone to another shall not affect the exemption of the exempt businesses already established in that municipality or region. Nevertheless, a business that has applied for a tax exemption grant to set up a business in any given municipality or region, but has yet to set up the business, or obtained the exemption before the date on which the municipality or area was reclassified from one zone to another, and consequently qualifies for incentives inferior to the ones it would have received under the former classification, shall be entitled to receive the exemption incentives in effect prior to the reclassification if it sets up its business in that zone within one (1) year from the date on which the zone was reclassified. For purposes of this Act, the date of the first payroll for training or production purposes shall be deemed to be the date when the business was established.
- c. Credit for Investment in the Research and Development of Green Energy Sources-
1. Any exempt business with a grant hereunder may claim a research and development investment credit equal to fifty percent (50%) of the special eligible investment made in Puerto Rico, after the effective date of this Act, by the exempt business or an affiliated entity. This credit may be applied against the GER tax provided for in Section (a) of Article 2.9 of this Act.
 2. For purposes of the credit provided in this section (c), the term "special eligible investment" means the amount of cash used by the exempt business, or any entity affiliated to the exempt business, in research and development activities directly related to green energy production, including infrastructure, copyright or operational expenses incurred or used directly in said research and

development activities. The term “special eligible investment” shall include an investment made by the exempt business with cash from a loan secured by the exempt business itself or its assets, or any entity affiliated to the exempt business or its assets. The Secretary of the Treasury, in consultation with the Administration, shall implement regulations to establish the costs qualifying as special eligible investment.

3. Utilization of the Credit - The tax credit granted by this section may be taken in two (2) or more installments. Up to fifty percent (50%) of the credit may be taken in the year in which the eligible investment is made, and the balance of the credit in subsequent years until fully used. This credit shall not generate a refund.
4. Assignment of the Special Eligible Investment Credit-
 - A. The special eligible investment credit provided in this paragraph may be assigned, sold, or otherwise transferred by the exempt business to any person, in whole or in part, and shall be governed by the provisions of subsections (1) and (3) of this paragraph, unless the assignee is not an exempt business, the credit may be used against the income tax set forth in Subtitle A of the Puerto Rico Internal Revenue Code.
 - B. The money or value of the property received in exchange for the investment credit shall be exempt from taxation under Subtitle A of the Puerto Rico Internal Revenue Code, and under the “Municipal License Act,” up to an amount equal to the amount of the investment credit assigned.
 - C. Those who buy investment tax credits shall be exempt from taxation under Subtitle A of the Puerto Rico Internal Revenue Code for the difference between the amount paid to acquire such credits and the value thereof, and such buyers shall not be subject to the provisions of Chapter 1 of Subtitle F of the Puerto Rico Internal Revenue Code.

5. Adjustment to the Base – The base of any asset for which a credit provided under this section is claimed shall be reduced by the amount of the credit claimed.
6. The exempt business may not claim this credit in relation to the portion of the eligible investment on which it takes or has taken the deduction provided for in Section (b) of Article 2.12 of this Act.

d. Credit for Technology Transfer Investment-

Any exempt business with a grant hereunder may take a credit, solely against the fixed GER tax provided in Section (a) of Article 2.9 of this Act, equal to twelve percent (12%) of its payments made to non-resident corporations, partnerships or persons to use or to have the privilege of using intangible property in its exempt operation in Puerto Rico, as long as any income used to make such payments comes from sources in Puerto Rico.

The tax credit set out in this section shall not be transferable, but may be carried over until exhausted. Nonetheless, this carryover shall never exceed a period of eight (8) tax years from the closing of the tax year when the credit was originated. Such carryover shall never result in a tax lower than the one provided in Section (e) of Article 2.11 of this Act. This credit shall not be refunded.

e. Application of Credits and Minimum Tax – Application of the tax credits laid down in this article shall be subject to the following rules:

1. Tentative Tax – The exempt business shall initially calculate its tax obligation pursuant to the applicable fixed income tax rate, in accordance with Section (a) of Article 2.9 of this Act.
2. Application of Credits - The total amount of tax credits granted under this article, subject to the limitations applicable to each, claimed by the exempt business, shall be deducted from the tax obligation computed in paragraph (1) of this section (e).
3. Minimum Tax – The exempt business's determined GER tax, computed after the application of the credits provided in paragraph (2) of this section, shall never be less than the amount which, added

to the sums deposited under Section (b) of Article 2.9 with respect to that tax year, results in:

- A. The fixed income tax rate provided in Section (a) of Article 2.9 of this Act applicable to the exempt business, multiplied by the exempt business's GER.
 - B. In the case of an exempt business that is directly owned by at least fifty-percent (50%) by individuals residing in Puerto Rico, three percent (3%) of the exempt business's GER.
4. An exempt business with a grant hereunder shall pay whichever amount is greater between paragraph (2) and paragraph (3) of this section (e).

Article 2.12.- Real and Personal Property Taxes.-

- A. In General – The personal and real property of an exempt business used in the development, organization, construction, establishment, or operation of the activity covered by its grant shall be ninety percent (90%) exempt from state and municipal personal and real property taxes during the exemption period laid down in Article 2.15 of this Act.
- b. Period – The real property of an exempt business that has a grant hereunder shall be completely exempt during the period provided under the grant to build or set up the exempt business and during the first fiscal year of the government during which the exempt business would have been subject to property taxes for operating as of the 1st day of January prior to the commencement of said fiscal year, if it weren't for the exemption provided herein. Likewise, any real property of the exempt business directly related to an expansion of the exempt business shall be completely exempt from property taxes during the period authorized by the grant to perform the expansion. Upon expiration of the full exemption period laid down in this paragraph, the partial exemption provided in this article shall begin.
- c. Appraisal – Real and personal property taxes shall be assessed, levied, notified and administered in accordance with Act No. 83 of August 30, 1991, as amended, ("Municipal Property Tax Act"), and the Puerto Rico Internal Revenue Code.

Article 2.13.-Municipal Licenses and other Municipal Taxes.-

- a. Exempt businesses with a grant hereunder shall be sixty percent (60%) exempt from municipal licenses, municipal excise taxes and other municipal taxes levied by municipal ordinance during the periods provided hereunder.
- b. The portion taxable under section (a) of this article shall be subject, throughout the life of the grant, to the tax rate in effect as of the execution of the grant, regardless of any subsequent amendment made to the grant to cover operations of the exempt business in one or several municipalities.
- c. Exempt businesses with a grant hereunder shall be fully exempt from municipal taxes or licenses applicable to the business volume of the exempt business during the semester of the government fiscal year during which the exempt business started operations in any municipality, in keeping with the provisions of the "Municipal License Act of 1974," as amended. Furthermore, the exempt business shall be fully exempt from municipal taxes or licenses on its business volume attributable to said municipality during the two (2) semesters of the government fiscal year or years following the semester in which the exempt business began operations in the municipality.
- d. Exempt businesses and their contractors and subcontractors shall be fully exempt from any tax, law, license, excise tax, rate or fee levied by municipal ordinance on the construction of works to be used by the exempt business within a municipality, without it being understood that these taxes include the municipal license tax imposed on the business volume of the contractor or subcontractor of the exempt business during the term authorized under the tax exemption grant.

Article 2.14.-State Excise Taxes and Sales and Use Tax.-

- a. In addition to any other excise tax or sales and use tax exemption granted under Subtitles B and BB, respectively, of the Puerto Rico Internal Revenue Code, the following articles introduced or acquired directly or indirectly by a business issued a grant hereunder shall be fully exempt from these taxes during the period of exemption provided herein.

1. Any raw material to be used in Puerto Rico in the production of green energy. For purposes of this paragraph and the applicable provisions of Subtitles B and BB of the Puerto Rico Internal Revenue Code, the term "raw material" shall include:
 - A. Any product in its natural form derived from agriculture or extractive industries; and
 - B. Any by-product, residual product, or partially elaborated or finished product;
2. The machinery, equipment and accessories to be used exclusively and permanently to transport raw materials within the circuit of the exempt business; machinery, equipment and accessories used in green energy production, or that the exempt business is required to acquire under the law, or federal or state regulations to operate the eligible activity.

Despite the foregoing, the exemption shall not cover machinery, devices, equipment or vehicles used, in whole or in part, in the administrative or commercial phase of the exempt business, except in cases in which they are also used, at least ninety percent (90%) of the time, in the production of green energy, in which case, they shall be deemed to be used exclusively for the eligible activity.

3. Any machinery and equipment that an exempt business must use to meet environmental, health and safety requirements, shall be fully exempt from state excise taxes and the sale and use tax.
4. Chemical materials used by an exempt business in the treatment of waste water.
5. Energy efficient equipment duly certified by the Administration.
6. Electrical substations.
- b. Exceptions - The following use and consumption articles used by an exempt business issued a grant hereunder, regardless of the area or premises where they are located or used, shall not be considered as raw materials, machinery, or equipment for purposes of section (a) of this article:

1. Any construction material and prefabricated buildings;
2. Any electrical equipment and water pipes embedded in buildings;
3. Lubricants, grease, wax and paints not related to the energy production process;
4. Light poles and lights installed in parking areas; and
5. Treatment plants.

Article 2.15.-Tax Exemption Periods.-

a. Exemption-

An exempt business with a grant hereunder shall be tax exempt for twenty-five (25) years.

b. Flexible Tax Exemption -

Exempt businesses shall have the option of choosing specific tax years to be covered by their grants with respect to their GER, as long as they notify the Secretary of the Treasury, the Director of Industrial Development and the Executive Director of this no later than the income tax return filing deadline provided by law for that tax year, including any extensions granted. Once the exempt business opts for this benefit, its exemption period shall be extended by the number of tax years that it did not receive this benefit under its exemption grant.

c. Provisions Applicable to the Tax Exemption of Businesses with Property Dedicated to the Production of Green Energy -

1. The period during which property dedicated to the production of renewable energy belonged to a political subdivision, agency, or instrumentality of the Government shall not be deducted from the period referred to in section (a) of this article, provided that in such cases, the property shall be considered to have never been dedicated to the production of green energy before, for purposes of this Act.
2. When an exempt business has property dedicated to the production of green energy, the period referred to in section (a) of this article

shall not cover periods during which the property dedicated to the production of green energy is on the market for lease to an exempt business, or is unoccupied, or is leased to a non-exempt business, except as provided below. These periods shall be computed based on the total period during which the property was at the disposal of the exempt business, as long as this total number of years does not exceed the one provided under section (a) of this article, and the exempt business qualified as property dedicated to the production of green energy sends written notification to the Secretary of the Treasury, the Director of Industrial Development and the Executive Director of the date when the property is leased for the first time to an exempt business and the date when the property is vacated and reoccupied by another exempt business.

If the exemption of a business issued a grant as a property dedicated to the production of green energy expires while being used under lease by an exempt business, the business exempted as a property dedicated to the production of green energy, shall be fifty percent (50%) exempt from property taxes, while the exempt business continues to use the property under lease.

3. When an exempt business is one of property dedicated to the production of green energy, the period referred to in section (a) of this article shall continue its normal course, even when the exemption grant of the exempt business that is using the aforementioned property expires, whether because its normal period has ended or because its grant has been revoked, before the exemption period of the property dedicated to the production of green energy, unless in the event of revocation, it is proved that at the time when the property was made available to the exempt business, the owners of the property knew of the facts that later led to the revocation.

d. Setting up Operations in other Municipalities-

An exempt business may set up operations or additional facilities as part of the operations covered by an exemption grant in effect, in the same municipality where its headquarters are located, or in any other municipality in Puerto Rico, without having to apply for a new exemption

grant or amend the existing grant, as long as it notifies the Exemption Office within thirty (30) days of the commencement of the operation or additional installation. By virtue of such notification, the additional installation, unit or operation shall be deemed to be included in the exemption grant and it shall receive the exemptions and benefits provided hereunder for the rest of the exemption period of the grant in effect.

e. Interruption of the Exemption Period -

If an exempt business ceases operations and later wishes to resume same, the period of time during which it did not operate shall not be deducted from its corresponding exemption period, and it shall receive tax benefits for the remainder of the period of its tax exemption grant, as long as the Secretary of Development, in consultation with the Administration, determines that the cessation of operations was due to good cause and the reopening of the exempt business would be in the best social and economic interest of Puerto Rico.

f. Establishing Starting Dates of Operation and Exemption Periods-

1. An exempt business with a grant hereunder may choose its starting date of operations for purposes of this Act by filing a sworn statement with the Exemption Office, with a copy to the Secretary of the Treasury, expressing its unconditional acceptance of the benefits awarded to it hereunder. The starting date of operations for purposes of this Act may be the date of the exempt business's first payroll for training or production purposes, or any date within a period of two (2) years subsequent to the date of the first payroll.
2. An exempt business may postpone the application of the fixed tax rate provided hereunder for a period no greater than two (2) years from the starting date of operations set under Section (f)(1) of this Article. During such postponement period, the exempt business shall be subject to the tax rate applicable under Subtitle A of the Puerto Rico Internal Revenue Code.
3. The real and personal property tax exemption period provided hereunder shall begin on the first day of the Government of Puerto Rico fiscal year, subsequent to the last fiscal year in which the exempt business was fully exempt, pursuant to the provisions of

this Act. The partial exemption for such fiscal year shall correspond to the tax levied on the property owned by the exempt business on the 1st day of January preceding the beginning of the aforementioned fiscal year.

4. The partial exemption provided hereunder with regard to exemption from municipal licenses and other municipal taxes shall begin on the first day of the first semester of the Government of Puerto Rico fiscal year subsequent to the expiration of the full exemption period provided for in said subsection, provided that, in the case of exempt businesses that were operating prior to applying for the benefits of this Act, their starting date of operations for purposes of municipal licenses shall begin on the first day of the semester following the filing date of the tax exemption application.
5. In the case of exempt businesses issued a grant under this Act or under tax or industrial incentive laws that were operating prior to applying for the benefits of this Act, their starting date of operations for purposes of the fixed income tax rate provided in Article 2.9 of this Act, shall be the date on which an application was filed with the Exemption Office, provided, nonetheless, that the starting date may be postponed for a period no greater than two (2) years from said date.
6. An exempt business must commence operations within one (1) year from the execution of the grant, the term of which may be extended at the request of the business for just cause, but extensions extending the starting date of operations for more than five (5) years from the approval date of the grant shall not be granted.

Article 2.16.-Successor Business.-

a. General Rule-

A successor business may avail itself of the provisions of this Act, as long as:

1. The predecessor exempt business did not cease operations for more than six (6) consecutive months prior to the filing of the successor

business's exemption application, nor during the successor business's exemption period, unless it was due to force majeure.

2. The predecessor exempt business maintains its annual average number of jobs for the three (3) tax years ending with the closing of the tax year preceding the successor business's filing of an exemption application, or the applicable portion of said period, while the successor business's grant remains in effect, unless the aforementioned average cannot be maintained due to force majeure.
3. The successor business's number of jobs after its first year of operations is greater than twenty-five percent (25%) of the predecessor business's annual average number of jobs referred to in paragraph (2) above.
4. The successor business does not use physical facilities, including land, buildings, machinery, equipment, inventory, supplies, trademarks, patents, marketing outlets valued at fifty thousand dollars (\$50,000) or more and previously used by a predecessor exempt business. The foregoing shall not apply to additions to property dedicated to the production of green energy, even if they constitute physical facilities valued at fifty thousand dollars (\$50,000) or more and are being, or were, used by the main unit or predecessor exempt business. Despite the foregoing, the Secretary of Development, along with the recommendations of agencies that report on tax exemption, may determine that it is in the best economic and social interest of Puerto Rico to use the physical facilities or acquire an installation of a predecessor exempt business that is or was operating, given the nature of the facilities, the number of jobs, the amount of payroll, the investment, the location of the project, or other factors, which, in his judgment, merit such determination.

b. Exceptions-

Despite the provisions of section (a) of this article, the conditions of the article shall be deemed to have been fulfilled, as long as:

1. The successor business assigns to the predecessor exempt business the portion of its annual average jobs needed for the predecessor exempt business's annual average job number to be maintained or to be equal to the annual number of jobs the predecessor exempt business has to maintain. The assignment provided herein shall not be covered by the grant of the successor business, but the latter shall receive, with respect to the assigned portion, the benefits provided hereunder, if any, that the predecessor exempt business would receive on that portion, as if it were its own annual production. If the predecessor exempt business's exemption period had ended, the successor business shall pay the corresponding taxes on the portion of its annual production it assigns to the predecessor exempt business;
2. The successor business declares as uncovered by its grant, for property tax purposes, the portion of its facilities necessary for the predecessor exempt business's investment in physical facilities to be maintained or equivalent to the total investment in physical facilities at the closing of the predecessor exempt business's tax year preceding the filing of the successor business's exemption application, minus the depreciation thereof and minus any decrease in the investment in physical facilities that may have occurred as of the date when the provisions of this subsection are used, as a result of an authorization to use same under the provisions of section (a) (4) of this article. In cases in which the exemption period of the predecessor exempt business has not ended, the successor business shall receive the benefits provided hereunder that the predecessor exempt business would have received with respect to the portion of its investment in said physical facilities, which, for purposes of this section, it declares as not covered by its grant, had it used these facilities to produce its GER;
3. The Secretary of Development determines, with the recommendation of agencies that report on tax exemption, that the operation of the successor business is in the best economic and social interest of Puerto Rico, given the nature of the physical facilities, the number of jobs, the amount of payroll, the investment,

the location of the project or any other factors that, in his judgment, warrant such a determination, including the financial situation the particular exempt business is facing, and exempts from full or partial compliance with the provisions of section (a) of this article, conditioning the operations as convenient and necessary to serve the best interests of Puerto Rico.

Article 2.17.-Procedures.-

a. Ordinary Procedures-

1. Tax Exemption Applications - Anyone who has, or intends to, set up an exempt business in Puerto Rico may apply for the incentives provided hereunder with the Secretary of Development, by filing the pertinent, duly sworn, application with the Exemption Office.

At the time of such filing, the Director shall charge the pertinent processing fees, which shall be paid by certified check, bank or postal money order to the order of the Secretary of the Treasury.

The Secretary of Development shall implement regulations to establish the processing fees to be charged, provided that such regulations must be revised every three (3) years after their enactment.

The fees in effect under Act No. 73 of May 28, 2008, as amended, shall remain in effect until enactment of the first regulations under this provision.

2. Interagency Consideration of Applications-

- A. Once an application hereunder is received at the Exemption Office, the Director shall, within five (5) days of the filing of the application, send a copy thereof to the Secretary of the Treasury and the Director of Industrial Development for the latter, in consultation with the Executive Director, to submit a report on eligibility and a recommendation on the activity to be carried out and other facts related to the application. Upon evaluating the application, the Secretary of the Treasury shall verify that the shareholders or partners of the applicant business comply with their tax obligations under

the Puerto Rico Internal Revenue Code. This verification shall not be required in the case of shareholders that do not reside in Puerto Rico or public corporations. Failure to comply with such tax obligations shall be sufficient grounds for the Secretary of the Treasury not to endorse the business's exemption application.

- B. Once the Director of Industrial Development submits his Eligibility Report and recommendation, the Director shall send a copy of the draft of the grant, within five (5) business days of having received the necessary documentation to process the case, to the concerned agencies, including the municipality involved and the Municipal Revenue Collection Center ("CRIM by its Spanish acronym"), for them to evaluate same and issue recommendations. Any unfavorable recommendation about the draft of the grant shall be accompanied by the reasons for such unfavorable recommendation.

The agencies and municipalities consulted by the Director shall have thirty (30) days to submit their report or recommendation on the draft of the grant referred to them. If the recommendation of the agency or municipality is favorable, or if it is not received by the Exemption Office within the aforementioned thirty (30) day period, it shall be deemed that the draft of the grant received a favorable recommendation, and the Secretary of Development may take the pertinent action with respect to the application.

If the municipality raises an objection with respect to the draft of the grant referred to it, the Exemption Office shall proceed to consider the objection, as deemed necessary, and shall, therefore, notify the parties and pertinent agencies of the administrative action or review of the draft it may deem pertinent. Once the controversy is resolved, the Director shall make the decision he deems appropriate and submit the case to the Secretary of Development for final consideration.

- C. In the event of amendments to grants approved hereunder, the period for the agencies and municipalities involved to submit a report or opinion to the Director shall be twenty (20) days.
- D. Once these reports are received, or the terms to submit such reports have expired, the Director must submit the draft of the grant and his recommendation to the Secretary of Development for consideration within the following five (5) days.
- E. The Director may rely on the recommendations provided by the agencies or municipalities that submit reports or opinions and may request that they supplement same.
- F. The Secretary of Development must issue a final decision, in writing, within no more than five (5) days from the date the draft of the grant was submitted to his consideration.
- G. The Secretary of Development may delegate to the Director any duties he may deem appropriate to facilitate the administration of this Act, except the duty to approve or deny original tax exemption grants to be granted hereunder.

3. Additional Provisions-

- A. The Exemption Office may require that tax-exemption grant applicants submit any sworn statements necessary to establish the facts set forth, required or appropriate to determine whether the applicant's operations or proposed operations qualify under the provisions of this Act.
- B. The Director may hold as many hearings, public or administrative, as he deems necessary to comply with the duties and obligations imposed hereunder. Furthermore, he may require that tax-exemption grant applicants present any evidence needed to justify the tax exemption sought.

The Director or any Special Examiner of the Exemption Office designated by the Director, with the consent of the Secretary of Development, may receive the

evidence presented in relation to grant application and shall have the power to summon witnesses and take their statements about the facts alleged, or in any other way related to the grant sought, take the oath of anyone giving a statement before him, and submit a report to the Secretary of Development regarding the evidence presented, along with his recommendations on the case.

- C. Anyone who makes, or attempts to make, on his own behalf, or on behalf of another person, a false or fraudulent representation about an application or tax exemption grant, or violates the provisions on predecessor or successor exempt businesses, shall be held guilty of third degree felony and, if convicted, shall be punished in accordance with the provisions of the Puerto Rico Penal Code, as amended, regarding such crime.

Provided further that in these cases, the exemption grant shall be revoked retroactively, and the grantee or its shareholders shall be responsible for all the taxes they were fully or partially exempted from hereunder.

- D. The fees, charges and penalties prescribed in Section (a) (1) of this Article shall be deposited into a special account created for this purpose at the Treasury Department, in order to pay for the ordinary operational expenses of the Exemption Office. Prior to using resources deposited in the Special Account, the Exemption Office must annually submit, for approval by the Government Office of Management and Budget, a budget of expenditures paid with funds from the Special Account. Special Account resources set aside to pay for the Exemption Office's ordinary operational expenses may be complemented with appropriations from the General Fund of Puerto Rico, when necessary.
- E. The Exemption Office shall implement any systems necessary to facilitate the electronic filing and transmission of exemption applications and other related documents, in

order to streamline interagency consideration of exemption applications and processes in general.

b. Extensions

1. Any exempt business that has a grant hereunder may, prior to the expiration of such grant, ask the Secretary of Development for an extension thereof, if it demonstrates that it will continue operating the eligible activity.
2. A grant extension may not exceed ten (10) years additional to the ones granted in the original grant.
3. An exempt business to whom a grant extension is granted hereunder shall be subject to a fixed ten percent (10%) rate on its GER throughout the extension period, in lieu of the tax set forth in Section (a) of Article 2.9 of this Act, or any other income tax, if any, provided by the Puerto Rico Internal Revenue Code or any other law.
4. Throughout the extension period, the exempt business shall be fifty percent (50%) exempt from municipal and state taxes on real and personal property used in the development, organization, construction, establishment or operation of the Eligible Activity covered under the grant, in lieu of the exemption provided by Section (a) of Article 2.12 of this Act.
5. The exempt business shall, throughout the extension period, be fifty percent (50%) exempt from municipal license taxes, municipal excise taxes and other municipal taxes levied by municipal ordinance, in lieu of the exemption provided for in Section (a) of Article 2.13 of this Act.
6. The extension granted under this section (b) cannot be requested again upon expiration of the extension period granted under paragraph (2) of this section.

c. Renegotiations and Conversions-

1. Renegotiation of Current Grants-

- A. Any exempt business that has a grant hereunder may ask the Secretary of Development to consider renegotiating its current grant, if the exempt business demonstrates that it will make a significant investment in, or a substantial renovation of, its existing operation, that represents no less than twenty-five percent (25%) of the initial investment for which the original grant it wants to renegotiate was granted. If the exempt business demonstrates to the satisfaction of the Secretary of Development that it cannot meet the investment increase requirement described above, it shall submit the necessary evidence to the Exemption Office. The Secretary of Development, with the favorable recommendation of the Secretary of the Treasury, the Director of Industrial Development and the Executive Director, and the recommendation of agencies that report on tax exemption, may, at his sole discretion, consider the renegotiation, taking into account any other factor or circumstance that reasonably proves that the renegotiation of the grant would serve the best social and economic interests of Puerto Rico.
- B. The term granted under a grant renegotiated in accordance with this paragraph shall not exceed fifteen (15) years in addition to the ones granted by the original grant.
- C. For purposes of this article, the terms “significant investment” and “substantial renovation” shall have the meaning determined by the Executive Director by regulation.
- D. For purposes of this article, the exempt business’s investment in its existing operation shall be calculated in accordance with the book value of the property dedicated to the eligible activity, computed with the benefit of the depreciation permitted under the straight line method, taking into account the useful life of that property, determined in accordance with Subtitle A of the Puerto Rico Internal Revenue Code, in lieu of any other accelerated depreciation permitted by law.

- E. If the Secretary of Development, with the recommendation of agencies that report on tax exemption, agrees to carry out the renegotiation sought, he shall take into consideration the place where it is located, the investment, and the time remaining under its grant, the tax incentives already received and its financial capacity, so that the exempt business can obtain an additional exemption period under a renegotiated grant with tax incentives adjusted under this Act.
- F. The Secretary of Development shall establish the terms and conditions he deems necessary and convenient for the best interests of Puerto Rico, within the limits provided hereunder, and he may, in his discretion, with the recommendation of agencies that report on tax exemption, impose special requirements, limit the period and percentage of the exemption, limit the taxes to be exempted, and require and provide any other term or condition necessary for purposes of developing green energy sources as intended hereunder.
- G. When an exempt business wanting to renegotiate its grant does not meet the investment increase requirement provided in Subsection (1) (A), the Secretary of Development may, with the favorable recommendation of the Secretary of the Treasury, the Director of Industrial Development and the Executive Director, and that of the agencies that report on tax exemption, impose a fixed GER tax rate of seven percent (7%).
- H. If the Secretary of Development, after consulting the Secretary of the Treasury, the Director of Industrial Development and the Executive Director, as well as the agencies that report on tax exemption, determines that a renegotiation would be in keeping with public policy, the tax rate for the grant shall be of four percent (4%).

- I. The other terms, conditions and incentives contained in this Act that are not in conflict with the provisions of this section shall apply to the exempt businesses covered by same.
- J. Once a grant has been renegotiated, the exempt business may request an extension as provided in section (b) of this article.

2. Conversion of Exempt Businesses under Industrial or Tax Incentive Laws -

An exempt business that obtained a grant under industrial or tax incentive laws engaged in an Eligible Activity may apply to avail itself of the provisions of this Act, subject to the limitations provided hereinbelow, as long as it demonstrates that it is complying with all applicable legal provisions.

- A. The grant of a business exempted under industrial or tax incentive laws that avails itself of the provisions of this Act shall be adjusted to provide the benefits set out in Articles 2.9 to 2.15 of this Act.
- B. For purposes of determining the term of a grant converted to this Act, the period during which the exempt business received an exemption under industrial or tax incentive laws shall be subtracted from the term provided in Article 2.15 of this Act.
- C. An exempt business that converts its grant under the provisions of this section and that, as of the effective date of the conversion would have been operating under industrial or tax incentive laws, may distribute the income accumulated prior to the effective date of the conversion at any later time, in accordance with the tax treatment provided in the law under which such income was accumulated.
- D. An exempt business availing itself of the provisions of this section shall, in total liquidation, pay income taxes in

accordance with the tax treatment provided in each of the laws under which the income was accumulated.

- E. The benefits of this section may be requested within twelve (12) months of the effective date of this Act and the effectiveness of its provisions may be set from the first day of the tax year when they are requested, but never before the effective date of this Act, and until the first day of the next tax year, at the choice of the exempt business.
- F. The other terms, conditions and incentives contained in this Act that are not in conflict with the provisions of this section shall apply to exempt businesses covered thereunder.

d. Denial of Applications-

1. Denial of Applications if they are of no Benefit to Puerto Rico- The Secretary of Development may deny an application when he determines that the grant is not in the best economic and social interests of Puerto Rico, considering the nature of the physical facilities, the number of jobs involved, the amount of payroll and investment, the location of the project, its environmental impact, and other factors warranting such a determination, based on his own judgment and on the recommendations of agencies that report on tax exemption.

After receiving notification of such denial, an applicant may petition the Secretary of Development for reconsideration, within sixty (60) days of receiving the notification, stating any facts and arguments that he deems relevant to his application, including the offer of any consideration for the benefit of Puerto Rico that he believes gives weight to his request for reconsideration.

Should the Secretary of Development reconsider the application, he may accept any consideration offered for the benefit of Puerto Rico and may require and provide any other term or condition necessary to guarantee that the grant will serve the best interests of Puerto Rico and the purposes of this Act.

2. Denial due to Conflict with Public Interest-

The Secretary of Development may deny an application when he determines, based on the facts presented to his consideration and once the applicant has had the opportunity to offer a complete presentation on the issues in dispute, that the application is in conflict with the public interests of Puerto Rico for any of the following reasons:

- A. The exempt business has not been organized as a bona fide business on a permanent basis, or because of the moral or financial reputation of the individuals constituting the business, the plans and methods to obtain financing for the eligible activity, the nature or use proposed for the eligible activity, or any other factor that may indicate that it is reasonably possible that granting the exemption will be detrimental to the economic and social interests of Puerto Rico; or
- B. Any other reason of conflict with the public interest of Puerto Rico.

e. Transfer of an Exempt Business-

- 1. General Rule - The transfer of a tax exemption grant, or of the shares, ownership or other property interest in an exempt business that has a grant hereunder, must be previously approved by the Director. If the transfer is carried out without prior approval, the exemption grant shall be null from the very date of the transfer, except in the cases listed in paragraph (2) of this section. Despite the foregoing, the Director may retroactively approve a transfer made without his approval, when in his judgment, the circumstances of the case warrant this, taking into consideration the best interests of Puerto Rico and the purposes of this Act.

2. Exceptions-

The following transfers shall be authorized without the need for prior consent:

- A. The transfer of the assets of a deceased person to his estate or transfer by bequest or inheritance.

- B. A transfer within the provisions of this Act.
- C. The transfer of stock or any share capital when such transfer does not directly or indirectly lead to a change in the ownership or control of an exempt business that has grant hereunder.
- D. The transfer of stock of a corporation that owns or operates an exempt business that has a grant hereunder, when the transfer occurs after the Director of Industrial Development has determined that any transfer of stock of this corporation shall be permitted without his prior approval.
- E. A pledge, mortgage or other guarantee executed to answer for a "bona fide" debt. Any transfer of control, title or interest by virtue of such a contract shall be subject to the provisions of Section (a) of this Article.
- F. Transfer by operation of law, a court order or a bankruptcy judge to a receiver or trustee. Any subsequent transfer to a third person who is not the same debtor or bankrupt as before shall be subject to the provisions of Section (a) of this Article.
- G. The transfer of all the assets of an exempt business that has a grant hereunder to an affiliate. For purposes of this paragraph, affiliates shall be businesses whose shareholders or partners own in common eighty percent (80%) or more of the stock or voting shares, issued and outstanding, of the exempt business.

3. Notification-

Any transfer included in the exceptions set forth above shall be informed by an exempt business that has a grant hereunder to the Director, with a copy to the Director of Industrial Development, the Executive Director and the Secretary of the Treasury, within the next thirty (30) days, except those included under paragraph (2) (D) that do not make it a shareholder of ten percent (10%) or more of the corporation's issued stock, and those included under paragraph

(2) (G), which must be informed by an exempt business to the Director, with a copy to the Secretary of the Treasury, prior to the date of the transfer.

f. Procedures for Permissible and Mandatory Revocation-

1. Permissible Revocation -

- A. Anytime a grantee fails to comply with any of the obligations imposed on him by this Act or the corresponding regulations, or by the terms of the exemption grant.
- B. Anytime a grantee fails to commence or finish construction of the facilities required for the eligible activity, or fails to commence the eligible activity within the period provided for this under the grant.
- C. Anytime a grantee suspends operations for more than thirty (30) days without the express authorization of the Secretary of Development. The Secretary of Development may authorize such suspensions in excess of thirty (30) days when they are motivated by extraordinary circumstances.
- D. Anytime a grantee fails to comply with his tax obligations under the Puerto Rico Internal Revenue Code and other Puerto Rico tax laws.

2. Mandatory Revocation -

The Secretary of Development shall revoke any grant issued hereunder when the grant was obtained through false or fraudulent representations about the nature of the eligible activity to be carried out in Puerto Rico, or the use that has been, or will be, given to the property dedicated to the eligible activity, or any other facts or circumstances that, in whole or in part, led to the issuance of the grant.

Any violation or attempted violation of the provisions regarding successor or predecessor exempt businesses by anyone on their own behalf or on behalf of another person, shall constitute grounds for revocation under this section.

In the event of such a revocation, any computed net income, previously reported as GER, whether distributed or not, as well as any distributions thereof, shall be subject to the taxes levied under the provisions of the Puerto Rico Internal Revenue Code. The taxpayer shall also be deemed to have filed a false or fraudulent income tax return in order to evade taxes and shall consequently be subject to the pertinent penal provisions of the Puerto Rico Internal Revenue Code. Any taxes owed in such a case, as well as any other taxes exempted until then and not paid, shall be due and payable from the date on which they would have been due and payable had it not been for the grant, and shall be assessed and levied, in accordance with the provisions of the Puerto Rico Internal Revenue Code or other applicable law.

3. Procedure-

Should a grant issued hereunder be revoked, the grantee shall have the opportunity to appear before, and be heard by, the Director or any Special Examiner of the Exemption Office designated for this purpose, who shall inform the Secretary of Development of his conclusions and recommendations, with the recommendations of agencies that report on tax exemption.

Article 2.18.-Nature of the Grants.-

a. In General-

Tax exemption grants issued hereunder shall be considered to be a contract between the grantee, its shareholders, partners or owners, and the Government of Puerto Rico, and such contract shall be law between the parties. This contract shall be interpreted liberally, in keeping with the purpose of this Act to promote the protection of our environment and the socio-economic development of Puerto Rico through the establishment of green energy sources. The Secretary of Economic Development and Commerce shall have the discretion to include, in the name of, and on behalf of, the Government of Puerto Rico, any terms and conditions, benefits, and exemptions consistent with the purposes of this Act that promote these objectives, taking into account the nature of the request or action requested, as well as the applicable facts and circumstances involved in each particular case.

b. Obligation to Comply with what is Represented in the Application-

Any exempt business that has a grant hereunder shall carry out its exempt operations substantially in the manner described on its application, unless the operations have changed due to amendments authorized by the Secretary of Development, at the grantee's request, in accordance with the provisions of this Act.

c. Administrative Decisions; Finality-

1. Any and all decisions and determinations made by the Secretary of Development hereunder, regarding the issuance of grants and the contents thereof, shall be final and enforceable, and shall not be subject to judicial or administrative review or any other form of appeal, unless specifically provided otherwise. Provided that once a grant is issued hereunder, no agency, public instrumentality, political subdivision, public corporation or municipality, whether autonomous or not, of the Government of Puerto Rico, other than the Secretary of Economic Development and Commerce or the Governor, may challenge the legality of such a grant or any of its provisions.
2. Any grantee adversely affected or harmed by an action taken by the Secretary of Development, revoking or cancelling an exemption grant under Section (f)(2) of Article 2.17 of this Act, shall be entitled to a judicial review of the grant by filing an appeal with the Puerto Rico Court of Appeals, within thirty (30) days after the Secretary of Development's final decision or award. While the judicial review is in process, the Secretary of Development shall be authorized to postpone, when in his judgment justice so requires, the effective date of any action taken by him, under the conditions and to the extent necessary to avoid irreparable damage. When such postponement is requested and denied, the Court before which the review is requested, including the Supreme Court of Puerto Rico, by certiorari, may order any process necessary and appropriate to postpone the effective date of any action taken by the Secretary of Development to preserve the status or rights of the parties until the review process ends, once a bond has been paid in favor of the Secretary of the Treasury in the amount of the taxes due to date,

plus interest and penalties and interest calculated for a period of one (1) year at the prevailing legal rate.

3. Any decision or judgment by the Puerto Rico Court of Appeals shall be subject to review by the Puerto Rico Supreme Court by a petition for writ of certiorari filed by either of the parties, as provided by law.

Article 2.19.- Periodic Reports to the Governor and the Legislative Assembly.-

- a. In General - Regardless of any other report required by law, the Secretary of Development, in consultation with the Secretary of the Treasury, the Director, the Director of Industrial Development, the Executive Director and the Planning Board, shall submit an annual report to the Governor and the Legislative Assembly on the economic and fiscal impact of this Chapter. This report shall be submitted within one hundred and eighty (180) days of the closing of every fiscal year.
- b. Required Information - The Secretary of Development shall request the following information from Government agencies, municipalities or exempt businesses, as appropriate, in order to prepare the report provided for in section (a) of this article:
 1. The number of exemption applications submitted and approved;
 2. The total investment in machinery and equipment, the number of jobs, and the payroll projected by the exempt businesses;
 3. A description of any additional incentive the exempt businesses are receiving, whether from local or municipal government funds;
 4. The taxes paid by exempt businesses on income, royalties and others, and the utilization of incentives, such as tax credits and special deductions;
 5. Municipal tax payments;
 6. A comparison of the commitments contracted by exempt businesses in relation to job numbers and other conditions set forth in grants; and

7. Any other information necessary to inform the Governor and the Legislative Assembly of the scopes and effects of the implementation of this Act.
- c. Additional Information- These reports must include an evaluation of the factors that influence the development of green energy sources in Puerto Rico, such as: the impact of the process of obtaining from the government permits, licenses, authorizations, grants and the like; the availability of properties and skilled labor for the eligible activity.
- d. Report by the Secretary of the Treasury - Regardless of any other report required under the law, the Secretary of the Treasury must submit an annual report to the Legislative Assembly on the tendencies identified in the payment of taxes by the exempt businesses, comparing their tendencies to that of the previous year, and a projection of such behavior for the three (3) years following the year to which the report corresponds. This report must be submitted within one hundred and eighty (180) days of the closing of every fiscal year.

The Department of the Treasury, together with the Puerto Rico Industrial Development Company and the Administration, must implement any necessary questionnaires and regulations to fulfill the objectives of this article.

- e. Cooperation between Agencies - The Government agencies and the municipalities must provide the information set out in this article to the Secretary of Development and the Secretary of the Treasury. The Secretary of Development may establish, by regulation, any forms and processes needed to ensure the exchange of information required under this article

Article 2.20.- Grants Issued under Industrial or Tax Incentives Laws.

- a. With respect to businesses engaged in eligible activities, as defined in Article 1.4 of this Act, new exemption grant applications under Section 2(d)(1)(E), regarding property dedicated to the production of green energy, as defined in this Act, and Sections 2(d)(1)(H) and 2(d)(1)(M), as applicable, of Act No. 73 of May 28, 2008, as amended, shall not be received as of the effective date of this Act. From the effective date of this Act on, despite the provisions of the aforementioned sections of Act No. 73 of May 28, 2008, as amended, any grant application related to an

Eligible Activity shall be governed by the provisions of this Act. Nevertheless, grants issued under Act No. 73 of May 28, 2008, or similar predecessor laws, shall remain in effect with respect to their respective provisions or may be converted or renegotiated hereunder. New grant applications filed before the effective date of this Act with respect to Eligible Activities that were not issued as of the effective date of this Act, may be processed in accordance with this Act, at the applicant's discretion.

- b. Any individual or legal entity that carries out or intends to carry out an Eligible Activity may apply for a grant hereunder, regardless of its expected green energy production capacity.
- c. As a transitory measure, those who applied for an exemption grant under Section 2(d)(1)(H) of Act No. 73 of May 28, 2008, on or before the effective date of this Act, may assign, sell or transfer any credit granted prior to July 1, 2011, in accordance with Section 5(d)(3)(B) of said Act and its Regulations, and the provisions of paragraphs (c) and (f) of Section 6 of this Act shall apply. For purposes of applying these provisions:
 1. The term "investor" shall be replaced by "exempt business;"
 2. The term "industrial investment credit" shall be replaced by "eligible investment credit under section 5(d);"
 3. The reference made to paragraph (b)(2) of Section 6 of Act No. 73 of May 28, 2008, shall be understood to be made to Section 5(d)(3)(B);
 4. The term "eligible investment" according to Section 5(d)(2) of Act No. 73 of May 28, 2008, shall include an investment made with cash from a loan secured by the exempt business itself or its assets.

Article 2.21.- Application of the Puerto Rico Internal Revenue Code.-

The Puerto Rico Internal Revenue Code shall supplement this Act as long as its provisions are not in conflict with the provisions of this Act.

Article 2.22.-Repeals; Amendments.-

- a. Section (b) of Article 21 of Act No. 70 of June 23, 1978, as amended, better known as the “Puerto Rico Solid Waste Authority Act,” is hereby amended to read as follows:

“Article 21.-Investment Tax Credit

Subject to the provisions of paragraph (c) of this section, any investor, including a participant, as defined...

(a) ...

- (b) **Maximum Credit Amount.-** The maximum amount of the credit granted for investment in reduction, disposal or treatment facilities that shall be available to investors and participants for each project shall be equivalent to fifty percent (50%) of the cash amount paid by investors and participants, through the fund, to exempt facilities in exchange for shares or stock in such exempted facilities, whichever is less. The maximum amount of credit available shall be distributed among the investors and participants in the proportions determined by them. The exempt facility shall notify the Director of the Authority, the Secretary of the Treasury and its shareholders of the distribution of the credit, on or before the income tax return filing deadline provided by the Income Tax Act for its first operational year, including any extension granted by the Secretary of the Treasury to file same. Eligible distribution shall be irrevocable and mandatory for the exempt facility, investors and participants.

Solid waste reduction, disposal or treatment facilities engaged in the production of sustainable or alternative renewable energy that produce more than a (1) megawatt (MW) of electricity cannot claim the credit provided hereunder. Any solid waste reduction, disposal or treatment facility engaged in the production of sustainable or alternative renewable energy that produces more than a (1) megawatt (MW) of electricity shall have access to the incentives available for large-scale producers of renewable energy, as provided in Article 2.8(a)(3) of the “Puerto Rico Green Energy Incentives Act of 2010.”

- b. Paragraph (aa)(2)(H)(ii) of Section 1023 of Act No. 120 of October 31, 1994, as amended, better known as the “Puerto Rico Internal Revenue Code of 1994,” is hereby amended to read as follows:

“(aa) Fixed Deduction or Detailed Deductions Option.

- (1) In General. In the case...
- (2) Detailed Deductions. For purposes of this subsection, taxpayers may claim as detailed deductions in lieu of the optional fixed deduction, the following items:
 - (A) ...
 - (B) ...
 - (C) ...
 - (D) ...
 - (E) ...
 - (F) ...
 - (G) ...
 - (H) ...
- (ii) Definition of solar equipment. For purposes of this subsection, the term solar equipment means any equipment capable of using energy from the sun, directly or indirectly, to heat water, whether it is purchased or manufactured by the taxpayer, as long as it is in operation.”

- c. Section 2034 of Act No. 120 of October 31, 1994, as amended, better known as the “Puerto Rico Internal Revenue Code of 1994,” is hereby repealed.

- d. Section 1040J of the “Puerto Rico Internal Revenue Code of 1994,” which was created by virtue of Act No. 182 of December 10, 2007, is hereby renamed to be known as the new Section 2016A, and amended to read as follows:

“Section 2016A- Alternative Fuel or Hybrid Vehicle Excise Tax Rebate.

- (a) Definitions - For purposes of this section, alternative fuel or hybrid vehicles are:
- (1) Hybrid Vehicles - Those that combine a conventional fuel engine with a rechargeable electric motor.
 - (2) Electrical Vehicles - Those that run on electrical power and release no emissions whatsoever into the environment.
 - (3) Hydrogen Vehicles - Those that run on hydrogen through internal combustion or on hydrogen fuel cells.
 - (4) Bio-diesel Vehicles - Those powered by the combustion of diesel fuel derived from vegetable oil and animal fat.
 - (5) Ethanol Vehicles - Those powered by an alternate fuel produced with alcohol from natural crops.
 - (6) Methanol Vehicles - Those powered by methanol produced by the combustion of coal or wood oil.
 - (7) Natural-Gas Vehicles - Those powered by a combustible mixture of hydrocarbon gases, which come from oil deposits, mainly methane, mixed with a variety of quantities of ethanol, propane, butane and other gases.
 - (8) Propane Vehicles - Those powered by liquefied petroleum gas combustion.
 - (9) P-Series Vehicles - Those powered by the combustion of a mixture of natural gas liquids (“pentanes plus”), ethanol and the bio-mass derived co-solvent methyltetrahydrofuran (“MeTHF”).
- (b) A rebate shall be provided for excise taxes paid in accordance with this subtitle on alternative-fuel or hybrid vehicles imported to, or manufactured in, Puerto Rico.
- (c) Car dealers or individuals who pay excises taxes upon importation of a vehicle into Puerto Rico shall send an invoice to the purchaser

of the vehicle, separately detailing the amount of excise taxes paid on the vehicle.

- (d) The purchaser of the vehicle shall have one hundred and eighty (180) days from the date of the purchase of the vehicle to ask the Department of the Treasury for the excise tax rebate. The request shall be submitted, with the invoice issued by the dealer or individual who paid the excise tax upon importation, on the form provided by the Secretary for such purposes.
 - (e) The rebate granted by this section shall not exceed the amount of two thousand dollars (\$2,000) per vehicle per year.
 - (f) The Secretary of the Treasury shall establish, by regulation, circular letter or other administrative communication or determination of a general nature, the procedure and requirements to apply for the rebated pursuant to this section 2016.”
- e. Paragraph (v) of Section 1023 of Act No. 120 of October 31, 1994, as amended, better known as the “Puerto Rico Internal Revenue Code of 1994,” is hereby repealed.
 - f. Paragraph (aa)(2)(I) of Section 1023 of Act No. 120 of October 31, 1994, as amended, better known as the “Puerto Rico Internal Revenue Code of 1994,” is hereby repealed.
 - g. Section 1040J of the “Puerto Rico Internal Revenue Code of 1994,” created by virtue of Act No. 248 of August 10, 2008, is hereby amended to read as follows:

“Section 1040J.- Equipment Acquisition and Installation Tax Credit

- (a) ...
- (b) Provided that the credit shall be limited to 75% of the cost of the equipment, including installation, during fiscal years 2007-2008 to 2008-2009. Thereafter, for fiscal year 2009-2010, the credit shall be of 50% of the cost of the equipment, including installation.
- (c) Yearly Credit Cap - The maximum amount of tax credits available in a particular fiscal year of the Commonwealth of Puerto Rico to be distributed hereunder, shall be five million dollars (\$5,000,000)

for individuals and fifteen million dollars (\$15,000,000) for legal entities, provided that the Secretary of the Treasury may authorize for a particular year, an increase in the amount provided herein when so warranted by the interests of the Commonwealth of Puerto Rico. The Secretary of the Treasury shall not authorize or grant credits under this section for fiscal year 2010-2011 and thereafter.

(d) ...”

- h. Section 1121 of Act No. 120 of October 31, 1994, as amended, better known as the “Puerto Rico Internal Revenue Code of 1994,” is hereby amended to add a subparagraph (E) to paragraph (1) of section (a), to read as follows:

“(a) Definitions.- ...

(1) Capital Assets.-...

(A) ...

(B) ...

(C) ...

(D) ...

(E) Renewable energy certificates, as defined in the Puerto Rico Green Energy Incentives Act.”

- i. Paragraph (a) of Section 1330 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

“Section 1330.-General Rule...

(a) Application of Provisions...

(1) ...

(10) A business engaged in the production of feature films;

(11) A business engaged in the construction, operation or maintenance of public roads and their annex facilities; or

(12) A business exempted under sections 2(d)(1)(E) regarding property dedicated to the production of green energy, as defined in this Act, Sections 2(d)(1)(H) or 2(d)(1)(M) of Act No. 73 of May 28, 2008, known as the "Puerto Rico Economic Development Incentives Act," or similar provisions of Act No. 135 of December 2, 1998, known as the "Tax Incentives Act of 1998," or any successor law of a similar nature, including the "Puerto Rico Green Energy Incentives Act" or any law providing incentives for the generation of sustainable or alternative renewable energy sources.

..."

j. Section 1343 of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

"Section 1343.-Ineligible Partnerships

The provisions of this subchapter shall not apply to partnerships that are fully or partially tax exempt under any provision of this subtitle or under the provisions of Acts No. 6 of December 15, 1953, No. 57 of June 13, 1963, No. 26 of June 2, 1978, No. 121 of June 29, 1964, No. 126 of June 28, 1966; and No. 8 of January 24, 1987, as amended, or under the provisions of any other special law granting them tax exemptions on the income derived from their operations.

Despite the foregoing, the provisions of this subchapter shall apply to partnerships receiving a tax exemption under the "Tourism Incentives Act of 1983," as amended, the "Puerto Rico Tourism Development Act of 1993," or any other successor law of a similar nature, under Act No. 47 of June 26, 1987, as amended, known as the "Public and Private Sector Co-Partnership for the New Housing Operation," under Act No. 225 of December 1, 1995, known as the "Puerto Rico Farming Tax Incentives Act," or Sections 2(d)(1)(E), 2(d)(1)(H) or 2(d)(1)(M) of Act No. 73 of May 28, 2008, known as the "Puerto Rico Economic Development Incentives Act," similar provisions of Act No. 135 of December 2, 1998, known as the "Tax Incentives Act of 1998," or any successor law of a similar nature, including the Puerto Rico Green Energy Incentives Act and laws providing incentives for the generation of sustainable and alternative renewable energy sources.

The Secretary of the Treasury shall promulgate regulations on the application of the provisions of Act No. 120 of October 31, 1994, regarding special partnerships operating under an exemption grant pursuant to Sections 2(d)(1)(E), 2(d)(1)(H) or 2(d)(1)(M) of Act No. 73 of May 28, 2008, known as the "Puerto Rico Economic Development Incentives Act," similar provisions of Act No. 135 of December 2, 1998, known as the "Tax Incentives Act of 1998," or any successor law of a similar nature, including laws providing incentives for the generation of sustainable and alternative renewable energy, so that such businesses can choose the tax treatment of Subchapter K of Chapter 3 of Subtitle A of said Act, maintaining the fixed income tax rates, total exemption on distributions, special deductions and tax credits available to grantees under said laws, regardless of the place of organization, operation or residence of the partner. The reference to tourism businesses in Sections 1023(a)(5)(D), 1335(a)(4), 1335(a)(9), 1344(c) and 1345(b)(2) of Act No. 120 of October 31, 1994, shall be understood to include special partnerships operating under an exemption grant under Act No. 73 of May 28, 2008, known as the "Puerto Rico Economic Development Incentives Act," Act No. 135 of December 2, 1998, known as the "Tax Incentives Act of 1998," or successor laws of a similar nature, including the "Puerto Rico Green Energy Incentives Act" and laws providing incentives for the generation energy from sustainable or alternative renewable energy sources."

CHAPTER 3

GENERAL PROVISIONS

Article 3.1.-Penalties for Providing False Information.-

Anyone who offers, gives or sends false or incorrect information knowingly on any document, report, application, statement or certification required hereunder with the intent of defrauding shall be committing a fourth degree felony and, if convicted, may be punished by a minimum six (6) month and maximum five (5) year prison sentence, in addition to a \$10,000 fine for each violation.

Article 3.2.-Conflicts-

Nobody, including, but not limited to, any local or municipal government agency or corporation, may issue or impose, by regulation, agreement, contract, resolution, order, endorsement requirement, permit or the like, zoning, rating,

ordinance or any other legal or discretionary mechanism, any requirement, impediment or condition whatsoever that has, or may have, the effect of thwarting the requirements, objectives or spirit of this Act. Such requirement, impediment or condition shall be considered void on its face, unless expressly and rightly aimed at protecting human health and safety and endorsed by the Evaluating Committee, or expressly authorized by this Act or subsequent legislation. Despite the foregoing, nothing in this Act shall impair the powers conferred upon the Authority under Section 6(l) of Act No. 83 of May 2, 1941, as amended, and the powers conferred upon the Authority under said paragraph shall apply to any cost associated with the purchase of sustainable or alternative renewable energy, the purchase of RECs (including their environmental and social attributes) related to such energy, and including any other cost associated with the fulfillment of this law.

In the event of a conflict between the provisions of this Act and those of any other law or regulation, whether adopted before or after this Act, the provisions of this Act shall prevail in relation to all matters addressed hereunder.

Article 3.3. **-Regulations under this Act.-**

- a. Regulations under Articles 2.9 to 2.20 of this Act - The Secretary of Development shall prepare, in consultation with the Secretary of the Treasury, the Executive Director of the Puerto Rico Industrial Development Company and the Executive Director, any regulations required to give effect to the provisions of Articles 2.9 to 2.20 of this Act, in accordance with the purposes of same.
- b. Regulations under Article 2.11 of this Act - The Secretary of the Treasury shall, in consultation with the Secretary of Development, the Director of Industrial Development and the Executive Director, enact regulations on granting and assigning or selling tax credits under Article 2.11 of this Act.
- c. Unless otherwise provided, the approval of regulations promulgated in accordance with the provisions of this Act shall be subject to the provisions of Act No. 170 of August 12, 1988, as amended, known as the "Puerto Rico Uniform Administrative Procedure Act."
- d. The absence of any of the regulations contemplated hereunder shall not impede the application hereof.

Article 3.4.-Severability Clause.-

If any part, paragraph or section of this Act is declared invalid, null or unconstitutional by a competent court, the judgment to that effect shall only affect the part, paragraph or section so declared invalid, null or unconstitutional. The headings of the chapters or articles of this Act are only included for purposes of reference and convenience and do not constitute any part of this Act.

Article 3.5.-Terms Employed.-

Any word used in the singular form in this Act, shall be understood to also include the plural form. When so justified by its use, the masculine form shall also include the feminine form, or vice versa.

Article 3.6.-Effectiveness-

This Act shall take effect immediately after it is passed. Incentive and exemption applications filed hereunder shall be received until December 31, 2020. Any taxes levied in accordance with this Act shall remain in effect for as long as the tax exemption grants issued hereunder remain in effect.

.....

President of the House

.....

President of the Senate