

# Law No. 60 of the Year 2019

*Puerto Rico Incentives Code.*

*L e. No. 60 of July 1, 2019*

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**T**o adopt the "Puerto Rico Incentives Code"; consolidate the dozens of decrees, incentives, subsidies, refunds, or existing tax or financial benefits; promote the right environment, opportunities and tools to promote the sustainable economic development of Puerto Rico; establish the legal and administrative framework that will govern the request, evaluation, grant or denial of incentives by the Government of Puerto Rico; promote the effective and continuous measurement of the costs and benefits of the incentives granted to maximize the impact of the investment of public funds; give stability, certainty and credibility to the Government of Puerto Rico in everything related to private investment; improve the economic competitiveness of Puerto Rico, add a new Section 5 to Act No. 135 of May 9, 1945, as amended, known as the "Tax Exemption for Public Carriers of Air Transport Services"; amend Article 8 of Act No. 7 of March 4, 1955, as amended, known as the "Tax Exemption of Historic Areas"; repeal Section 61.240 of Act No. 77 of June 19, 1957, as amended, known as the "Puerto Rico Insurance Code"; amend Section 6 of Act No. 72 of June 21, 1962, as amended, known as the "Exemption of Contributions to the Dairy Industry Corporation of Puerto Rico, Inc."; amend Article 9 of the Act No. 126 of June 28, 1966, as amended, known as the "Sea Freight Transportation Act"; repeal Act No. 42 of June 19, 1971, as amended, known as the "Annual Farm Workers' Bonus Act"; amend Section 8 of Act No. 54 of June 21, 1971, as amended, better known as the "Tax Exemption for Commercial Production of Flowers and Ornamental Plants"; amend Article 12 of Act No. 47 of June 26, 1987, as amended, known as the "Public and Private Sector Co-Participation Law for the New Housing Operation"; repeal the Act No. 46 of August 5, 1989, as amended, known as the "Law to Establish the Salary Subsidy Program for Eligible Farmers"; repeal Law 225-1995, as amended, known as the "Puerto Rico Agricultural Tax Incentives Act"; amend Article 8 of Law 165-1996, as amended, known as the "Rental of Housing for the Elderly Program with Low Income"; add a new Article 7 to the Law 213-2000, as amended, better known as the "Social Interest Housing for People with Disabilities or the Elderly"; amend Article 2.3 of Act 140-2001, as amended, known as the "Tax Credit Law for Investment in Construction or Rehabilitation of Housing for Rental to Low or Moderate Income Families and Tax Credit for Investment in Acquisition, Construction or Rehabilitation of Affordable Housing to Rent for the Elderly "; add a new Article 23 to Act 244-2003, as amended, known as the "Law for the Creation of Housing Projects of Assisted Living for the Elderly in Puerto Rico"; repeal l Law 325-2004, as amended, known as the "Law for the Development of Renewable Energy"; repeal Act 464-2004, as amended, known as the "JUVEMPLEO Program Law"; repeal Law 26-2008, as amended, known as the "Law of the Program for the Financing of Agricultural and Food Technology Research and Development"; amend Sections 5 and 20 of Act 73-2008, as amended, known as the "Puerto

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Rico Economic Incentives for Development Act"; amend Section 15 of Act 74-2010, as amended, known as the "Puerto Rico Tourism Development Act of 2010"; amend Article 3.6 of the Law 83-2010, as amended, known as the "Green Energy Incentives Act of Puerto Rico"; amend Article 19 of Law 118-2010, as amended, known as the "Law on Incentives for Municipal Economic and Tourism Development"; repeal Law 159-2011, as amended, known as the "Tax Incentives Law for Investment in Reduction, Disposal and / or Solid Waste Treatment Facilities"; amend Article 20 of Law 20-2012, as amended, known as the "Law to Promote the Export of Services"; amend Article 12 of the Law 22-2012, as amended, known as the "Law to Encourage the Transfer of Investor Individuals to Puerto Rico"; amend Section 9.7 of Act 27-2011, as amended, known as the "Law of Economic Incentives for the Film Industry of Puerto Rico"; repeal Law 1-2013, as amended, known as the "Employment Now Law"; repeal Act 95-2013, as amended, known as the "Business Incubator Incentives Program Act"; repeal Articles 5, 6 and 7 of Act 73-2014, as amended; amend Article 17 of Law 135-2014, as amended, known as the "Law on incentives and financing for young entrepreneurs"; repeal Articles 5, 6 and 7 of Law 171-2014, as amended; repeal Act 185-2014, as amended, known as the "Private Capital Funds Act"; repeal Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, renumber conformity, and amend Article 115 of Law 187-2015, as amended, known as "Law of the Interagency Portal of Validation for the Concession of Incentives for the Economic Development of Puerto Rico"; amend Article 20 of Law 14-2017, as amended, known as the "Incentive Law for the Retention and Return of Medical Professionals"; amend Section 8 of Act No. 74 of June 21, 1956, as amended, known as the "Puerto Rico Employment Security Act " ; amend Article 24 of the Law 272-2003, as amended, known as the "Canon Tax Law for Housing Occupation of the Commonwealth of Puerto Rico"; amend section (b) of Section 2 of Act 132-2010, as amended, known as the "Real Estate Market Encouragement Act"; amend Sections 1023.10, 1031.02, 1031.06, 1033.14, 1033.15, 1034.04, 1040.02, 1040.05, 1061.20, 1062.03, 1062.05, 1062.07, 1063.01, 1063.16, 1071.02, 1071.10; add a Subchapter G to Chapter 7 of Subtitle A, 1081.05, 1082.01, 1082.02, 1114.16, 4010.01, 4050.09, 6030.25, 6041.11, add a new Section 1115.11, and repeal Section 1033.12 of Act 1-2011, as amended, known as "Internal Revenue Code for a New Puerto Rico"; for the purpose of promoting incentives and a favorable regulatory environment to establish qualified Opportunity Areas in Puerto Rico; repeal Law 21-2019, as amended known as the "Puerto Rico Economic Development Opportunity Zones Development Law 2019"; and for other related purposes.

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## STATEMENT OF MOTIVES

Economic development and private capital investment is a cornerstone on the road to economic recovery. In just over two (2) years, this administration has made strong decisions aimed at achieving a better and more efficient business and investment environment. Among these, we can highlight:

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m) Primal film filming, whose production will generate 737 direct and over 2,000 indirect jobs;

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y) The approval of the New Tax Model, which encourages the local economy and does justice to taxpayers; and

z) The approval of the "Puerto Rico Economic Development Opportunities Development Act of 2019"; Law 21-2019.

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After the passage of hurricanes Irma and María, the economic situation of Puerto Rico, greatly affected by our colonial situation, worsened. After 8 difficult months of recovery, investors are putting their trust back in Puerto Rico. The road to the reconstruction of Puerto Rico includes the allocation of tens of billions of federal funds related to hurricane recovery, money that will enter the economy, but temporarily. This is why we have to maximize opportunities and maximize our talents. The abovementioned achievements are further proof that we are going in the right direction to return to being an attractive jurisdiction to do business. Looking ahead, it is up to us to continue identifying more and better ways to attract economic activity.

With the arrival of funds for the reconstruction of Puerto Rico, the island is open for business and will continue to promote economic development measures that relocate Puerto Rico as a connecting bridge between the Americas.

Puerto Rico has a long history and track record of providing incentives to stimulate investment and job creation in Puerto Rico. The use of various economic incentives has been a central part of the various economic development strategies that the island has been implementing over the past decades. To such ends, throughout the years the Legislature has approved a multiplicity of laws that have defined the priorities that existed in Puerto Rico at that time, which are not necessarily the priorities or needs of Puerto Rico that we live today. The present economic and fiscal reality of Puerto Rico requires that the Government make a holistic review of all its incentives in order to bring coherence,

The economy of Puerto Rico has contracted in eleven of the past twelve years, and no significant changes are projected in that macroeconomic pattern, excluding the effects of Hurricane Maria and the recovery funds that Puerto Rico has to receive from the United States as a result. . There is no doubt that one of the tools available to the Government of Puerto Rico to counteract such economic contraction is to provide incentives to industries, both local and foreign, of high performance and whose primary activity is focused on the export of goods or services, of We encourage you to bring new capital to Puerto Rico through these exports. Likewise, The consequent increase in public debt and the precariousness of Puerto Rico's fiscal situation make it imperative that an evaluation of the incentives that have historically been granted to determine which have the highest return, and which produce a negative return, is carried out. Armed with that information, Puerto Rico will have the tools to redirect our limited resources towards those activities that truly stimulate the economic growth of our economy, raise our level of commercial competitiveness, encourage export and external investment in Puerto Rico, and create more Well-paid jobs for our people.

The Plan for Puerto Rico contemplates a change of vision in the management of the incentives that Puerto Rico uses to promote economic activity, so that we can temper and refocus our efforts to correct the problems that past strategies have fostered. It is imperative for the economic development of Puerto Rico that we create a dynamic platform of economic stimulus that is consistent with the fiscal and economic reality of Puerto Rico. That is why, consistent with the Plan for Puerto Rico, we are creating an Incentive Code that promotes activities that contribute to the growth of the economy in Puerto Rico through investment, export and job creation; to responsibly expedite the application and approval process; and to establish uniform regulatory processes, measurement and continuous evaluation after the granting of incentives to guarantee compliance, transparency and the achievement of the fiscal development objectives. As stated in the Plan for Puerto Rico, the use of incentives must yield a benefit not only for the incentive entity, but also for Puerto Rico in general. It is important that incentives result in tangible benefits to raise funds to the treasury, avoiding redundant activities, and promoting economic development in a more comprehensive, balanced and diversified manner. The tax and economic incentives should be aimed at strategically and intelligently balancing the investment of external capital with the ecosystem of creation of local companies, to encourage the continuous transfer of knowledge, processes, innovation and technology between the two.

In compliance with our programmatic commitment, the Department of Economic Development and Commerce of Puerto Rico (DDEC) was given the task of analyzing current laws, economic principles, methodology and results of all economic incentives that have been granted in Puerto Rico, taking into account the most recent data available. From the analysis it appears that at present there are around 76 laws or programs that promote investment through the granting of incentives. Of the total, 58 stimulate economic activity and 18 serve social needs. According to the available data, it was determined that the programs identified as economic represent a total fiscal cost in excess of \$ 7,462 million, of which eighty-one percent (81%) is considered an opportunity cost. [1]

The fiscal costs attributable to the granting of economic development incentives consist of:

- (a) Opportunity Cost - These are revenues that the Government ceases to receive due to the preferential rates granted on income subject to contributions and, therefore, the Government does not budget its cost.
- (b) Reimbursements and Subsidies - This is the cash that is granted for economic stimulus activities, such as job creation, infrastructure investment and utility payments.
- (c) Tax Credit - Contribution by means of a credit to an Exempt Business or an Eligible Person to promote its business development, subject to the limits and terms established in this Code and the Incentive Regulations and which is granted through an incentive contract.
- (d) Special Deductions - These are the deductions included in the return granted to investments in machinery, Renewable Energy or other related operational expenses, as provided by law.
- (e) Municipal Exemptions - Are the exclusions of property tax payments, municipal patents and Sales and Use Tax (IVU) that correspond to the municipalities, as provided by law.

Although the experience, in general terms, has been positive in granting incentives, to advance the task of economic development more effectively, the Government understands that the incentive program can be maximized by consolidating all the different types of sector incentives that Our existing economic incentive laws provide. We have taken on the task of rethinking the economic incentive system of Puerto Rico, and redesigning it so that our incentives are in line with our needs, take into account our limitations, and maximize our potential. The result of this effort is this Incentive Code, through which for the first time in our history, Puerto Rico now has a document that breaks down all stimulus programs economic available in Puerto Rico. Quite the contrary, to the arbitrary efforts that have been used in the past to grant incentives, the Plan for Puerto Rico, taking into account the results that produced a series of rigorous analysis of the effectiveness of these incentives. In addition, this comprehensive evaluation regarding the effectiveness and performance of economic incentives will be carried out continuously. For these purposes, it is imperative that our new Incentive Code contains an agile and pragmatic paradigm to support the continuous improvement of the economic development strategy, and the ability to identify emerging risks and opportunities.

That is why we propose a Code of Incentives that rationalize and consolidate the dozens of decrees, incentives, subsidies, reimbursements, and tax or financial benefits that Puerto Rico offers, and that we temper or limit said offer to only those that we can demonstrate factually and economically that they will have a favorable macroeconomic impact on the island. The Incentives Code is intended to promote the environment, opportunities and appropriate tools to foster the sustainable economic development of Puerto Rico. This new code will establish the legal and administrative framework that will govern the request, evaluation, grant or denial of incentives by the Government of Puerto Rico; will achieve stability, certainty and credibility for all types of private investment in Puerto Rico and will serve as a promotional tool for investment in the island. By virtue of this, this Code grants incentives that: “they should not be interpreted as the old tax exemptions which were privileges, for which reason it was beneficial to interpret them restrictively. On the contrary, [...] they must be interpreted [liberally] in a manner consistent with their creative purpose . ” *Textile Dye Works, Inc. v. Secretary of the Treasury* , 95 DPR 708, 713 (1968). See also *Pfizer Pharm. V. Mun. de Vega Baja* , 182 DPR 267, 286 (2011). In addition, this Code maintains the guiding principle that the incentives set forth herein: “ are not a grace, in the old sense of the phrase, that the Government of Puerto Rico confers but is an instrument used by Puerto Rico to promote industry. and productive investment" *Id.* At the same time, this Legislative Assembly is interested in making it clear that the tax exemptions granted in this Incentive Code are considered to constitute a contract between the Government of Puerto Rico, the Exempt Business and its shareholders, partners or owners, therefore, the general rules regarding contracts apply. And, therefore, “ on these applies the principle of the autonomy of the will of the parties, who can establish the covenants, clauses and conditions they deem appropriate, provided they are not contrary to laws, morals, or public order . ” *Pfizer Pharm. V. Mun. de Vega Baja* , *supra* , on page 283. In this sense, the Incentives Code will be of great value and utility to entities such as *Invest Puerto Rico Inc .* and the *Puerto Rico Destination Marketing Organization ( DMO )* , who will be responsible, among others, for attracting capital to achieve economic development.

The incentive evaluation that was carried out while preparing this Incentive Code, as well as future evaluations that will continue to be made in the future, were carried out and will be carried out under the guiding principle that the most important for such consideration will be the economic fundamentals proposed or defined by the Government and the activities and industries that should be encouraged to ensure the growth of the economy of Puerto Rico. The Incentives Code will allow the Government to achieve the primary goal of enacting development initiatives by creating conditions conducive to promoting competitiveness and innovation and supporting emerging industries and technologies that foster sustainability, with incentives that favor training and operational improvement, sustainable economic development and job creation to temper them to the fiscal reality of Puerto Rico and the global competitive environment. The Incentives Code will also facilitate the process to institute uniform rules to request, process and grant incentives while government investment in certain activities that are not competitive or productive is ruled out.

The Incentives Code will allow the types of incentives that are now granted to be standardized, and that risky incentives that have historically resulted in losses or that have adversely impacted Puerto Rico's economy be minimized. The Incentives Code recognizes that it is essential to promote the effective and continuous measurement of the costs and benefits of the incentives granted, in order to determine the cash that is invested vis a vis what the treasury receives. Therefore, the new Incentive Code will also incorporate provisions to measure the return on investment (ROI) and maintain updated data on that return by economic sector.

The Incentives Code will facilitate the analysis of our incentives to determine the desirability of maintaining, modifying or discontinuing any incentive that proves to be obsolete, or consequently, that has resulted in negative performance. The analysis, in addition, will allow to determine which incentives can provide positive performance based on specific data, if government resources should be redirected to other industries to maximize performance and stimulate productivity, and even, will identify the need to create New incentive mechanisms . New incentives will be evaluated and approved through mechanisms and processes established in the regulation adopted by the DDEC, based on complete analyzes that allow informed decisions. This structure will allow processes to be improved, incentives based on ROI, and economic priorities to be analyzed, and the desirability of continuing to grant the incentive to be determined within a reasonable time.

In line with the above, an incentive evaluation model will also be created, in accordance with the needs of the Puerto Rican economy, to measure the effectiveness of the program based on the annual reports submitted by the beneficiaries. The analysis of the reports will allow stimulus programs to be improved, and will ensure that incentives are allocated and used to maximize the economic impact on the island. Likewise, the evaluation will facilitate compliance with the terms and conditions of the incentives granted, including the measurement of risk and return on investment of such stimuli, in line with the public policy of economic development.

As an important element to ensure rigor in the application of standards and transparency, a single office will be designated to monitor compliance aspects. For these purposes, the Tax Exemption Office, now the Incentive Office, will become part of the DDEC and assume other responsibilities in accordance with the new Incentive Code.

The new Incentive Code will be divided into sections based on particular characteristics to meet the various sectors of the economy (manufacturing; exports; visitor economy; creative industries; finance, investments and insurance; infrastructure; and agro-industries) and to drive strategic activities . It is for these reasons that it is proposed that those funds that have been granted as incentives in negative performance categories or subcategories be reassigned, if possible, to positive performance activities within the same category.

The new Incentive Code amends eligibility and benefits provided prospectively for various economic activities. Companies that are operating in accordance with the terms of decrees granted will not be affected. Some incentives will remain unchanged, as is the case of exporting companies or that are key suppliers for exporters, foreign investors and incentives to the cruise industry, while others have been eliminated, uniformed or amended to produce a better return on public investment.

The Code of Incentives also proposes that all laws and social programs in order to ensure inclusion in the monitoring process are incorporated (oversight) to provide transparency to the use of these subsidies and measure its impact on Puerto Rich.

The Incentives Code defines and imposes the responsibility of overseeing the incentive program and accountability by requiring the DDEC to publish annual reports with data on the expenses and benefits of all incentive programs. The report will facilitate the evaluation of incentives to determine which programs should be modified, expanded or rethought to maximize their impact on the economy, and align with the strategic development plan. The annual report will also improve the visibility of the Government of Puerto Rico regarding the use of its fiscal resources.

Another priority of the Government when adopting a new Incentive Code is to facilitate the transition so that most of the process is automated and focused on a system that allows multiple users, such as proponents, service providers, agencies and other parties interested, have access to public information and can carry out transactions efficiently.

The Incentives Code also formally incorporates the participation of the private sector in the process by creating the figures of the Qualified Promoter and the Certified Professional, who will assist the Government in attracting companies to the Island and facilitating the application processes and fulfillment. Finally, it is imperative that, in order to achieve the purposes of the new Incentive Code, an adequate transition be contemplated with precise change management guidelines for each government agency that administers the particular law and for the beneficiaries, present and future.

Some changes to our economic incentives in the Incentives Code include the organization of exemptions by industry segments and sectors, so that several incentive laws can be grouped into the same category as long as these laws provide encouragement to those sectors, as follows:

1. Individuals
2. Export (Services and Goods)
3. Financial and Insurance Services
4. Visitor Economy
5. Manufacturing, including the Research and Development component
6. Infrastructure
7. Agriculture
8. Creative Industries
9. Entrepreneurship
10. Other

Tax rates are also harmonized as far as possible across industries, to provide a series of tax benefits that as a general rule apply to all sectors, providing a simple guide on what is offered and to whom. Additional benefits are established for small and medium enterprises (SMEs) and for Exempt Businesses established in Vieques and Culebra.

In the agricultural area, we incorporate the participation of the Secretary of Agriculture in the granting of agricultural incentives. The original benefits of salary incentive and bonus to agricultural workers also remain .

Also, in recognition of a recent and emerging global industry, merchandise (commodities), currencies, and any digital assets based on blockchain technology are added, as eligible for the incentive applicable to individual capital gains Investor Residents (former Law 22).

The Incentives Code also incorporates the mechanism of tax credits which, will be distributed by the Secretary of the DDEC to maximize the performance of the incentives subject to healthy administration parameters established by regulation. In no way does this Code limit the State's ability to grant tax credits as respected in Section 208 (b) (1) of the Federal PROMESA Law. Likewise, this Legislative Assembly reserves the right to establish additional controls, as provided herein, in the use of tax credits that impact the General Fund.

The term of tax exemption decrees is also standardized so that everyone has a 15-year term with a possible renegotiation for an additional 15-year term. Similarly, the use of decrees for all tax exemption benefits, including Law 185 of Private Equity Funds, among others, is incorporated.

The power to grant decrees and the regulation of the Incentive Code in the DDEC is centralized, providing that tax and tax matters will be worked together with the Department of the Treasury. All changes established by this

Incentive Code are prospective and do not affect companies or individuals with decrees, credits, or incentives granted prior to approval.

On the other hand, in compliance with the commitment expressed in the Plan for Puerto Rico, the Incentives Code includes the My Future Account. Through this new program, this Administration will open an account with one thousand dollars (\$ 1,000) to each kindergarten student in the public education system. This account will allow children to accumulate savings they will receive once they graduate fourth year. These funds could be used, among others, to start college, or start a business. This is a mechanism to continue fighting against social inequality, dropping out of school and promoting academic performance. In addition, Account My Future is consistent with the Fiscal Plan certified by the Board of Fiscal Supervision under the PROMESA Federal Law,

It also includes a program to repay student loans to doctors, veterinarians, dentists and scientific researchers in the area of health to remain in Puerto Rico after completing their training. This initiative seeks to promote that these health professionals remain on the island after completing their training. For this purpose, the DDEC may grant a grant for student loans incurred by these doctors, subject to their remaining in Puerto Rico and establishing their practice here. With this measure we also try to reduce the exodus of doctors and specialists that Puerto Rico has been seeing for a few years.

We approve this Incentive Code with the conviction that it will improve the economic competitiveness of Puerto Rico. On the one hand, this Code will create a simple, agile and efficient process, focused on the client, and will generate the trust of the population and the private sector through the transparency of the processes around the incentives granted. At the same time, we make possible the continuous review of the incentives provided to identify those incentives that are not cost-effective and strengthen those for which it is shown that they have an impact and produce a return on investment to the treasury. Finally, with the tools provided by this Code, this Administration will continue to boost the economy and attract private capital to the island. We continue working without pause to position Puerto Rico worldwide as an open jurisdiction to do business.

Although there are many obstacles that we must still overcome on the road to definitive recovery, there is hope and optimism in our people. The road to economic recovery is traced. This Administration will continue committed to Puerto Rico to direct it towards the definitive rebound in our economy. That is our north and we are heading towards that. We are confident that with the actions we have taken and will take, Puerto Rico will rise, with more force than ever.

## **BE DECLARED BY THE PUERTO RICO LEGISLATIVE ASSEMBLY:**

### **Section 1000.01- Title**

This Code, divided into Subtitles, Chapters, Subchapters and Sections, will be known and cited as the “Puerto Rico Incentives Code”.

### **Section 1000.02- Classification of Provisions**

The provisions of this Code are hereby classified and designated as follows:

- Subtitle A- General Provisions
- Subtitle B - Economic Development Incentives
- Subtitle C - Tax Credits
- Subtitle D - Subsidies and Other Programs
- Subtitle E - Benefit Grant Funds
- Subtitle F - Administrative Provisions

### **Section 1000.03- Guiding Principles of the Incentive Code**

- (a) Return on Investment - The term Return on Investment as used in this Code refers to the relationship between the net benefit and the cost that results from an Incentive Concession. The above includes the result of total benefits less total costs, divided by total costs. The benefits taken into consideration include: a) direct payroll taxes; b)

indirect and induced payroll taxes; c) Sales and Use Taxes (IVU) generated by direct and indirect economic activity; and d) taxes generated on the consumption of non-residents. The costs used in the calculation include: a) credits; b) investments; c) subsidies; and d) opportunity costs related to income tax exemption. These calculations vary by the type of industry and its multipliers by production and by type of employment according to the tables of the American Industry Classification System (NAICS). The DDEC will consider different types of incentives that will be implemented through the Incentive Regulation, using the Return on Investment formula, ROI, and other factors to assess the effectiveness of such incentives, including, without limitation the following factors:

- (i) The various sources of tax revenue generated by the activity;
  - (ii) All tax and economic benefits granted;
  - (iii) The direct, indirect and induced effects based on the official multiplier factors provided or endorsed by the Planning Board;
  - (iv) Local purchases, including purchase of Manufactured Products in Puerto Rico; and
  - (v) An analysis of the benefits attributable to incremental and non-redundant economic activity to sustainable economic activity due to aggregate local demand.
- (b) Annual Incentive Effectiveness Report - The DDEC will analyze the effectiveness of the incentives and other economic development tools that have been used during the previous Fiscal Year of the Government of Puerto Rico, and will submit a copy of such report before April 1 of each calendar year to the Governor of Puerto Rico. In addition, it will present a copy of said report to the Secretariat of both Bodies of the Legislative Assembly.
- (c) Avoid Duplication of Regulation - In those cases in which the activities or transactions permitted by this Code to a Exempt Business are subject to federal legislation or regulations, the Secretary of the DDEC will evaluate its processes and regulations and may eliminate or amend any duplication or obstacle to the achievement of the objectives of this Code through the Incentive Regulation, administrative order, circular letter, memorandum, or interpretative document.
- (d) Promote Reciprocity with other Jurisdictions- In those cases in which the activities or transactions permitted by this Code to an Exempt Business are covered by reciprocity clauses with other jurisdictions that allow said entities to do business with other jurisdictions, the Secretary of the DDEC shall have the authority to dispense, through the Incentive Regulations, any limitation so that reciprocity can be carried out to the extent that the acts or omissions of the Government of Puerto Rico are an obstacle to said reciprocity.
- (e) Public Information - The existence of a Decree or other benefit provided by this Code, the name of an Exempt Business and the Chapter of Subtitle B of this Code under which the Decree was granted is considered public information, provided that any other Information related to the Exempt Business will be disclosed in aggregate by sector or industry, and not by person.
- (f) Any person who is interested in establishing new incentives should bring said procedure through the Secretary of the DDEC so that it analyzes the impact of such incentives based on the Return on Investment (ROI) formula.

#### **Section 1000.04- Bill of Rights for Decree Holders**

- (a) Every Exempt Business and its shareholders shall have the right to receive a dignified, considered and impartial treatment by all DDEC officials and employees in any management carried out before this Department.
- (b) The Tax Exemption Decrees constitute a contract between the Government of Puerto Rico, the Exempt Business and its shareholders. The terms and conditions agreed in the contract will be honored during the term of the Tax Exemption Decree subject to the Concessionaire being in compliance with the terms and conditions thereof.
- (c) Tax exemption decrees are valid throughout Puerto Rico, including its municipalities. When an Exempt Business begins operations in a new Municipality, it will not have to request an amendment to its Tax Exemption Decree to carry out the activities covered by the Decree.



- (d) Every Exempt Business and its shareholders shall have the right to negotiate with the Secretary of the DDEC, as a representative of the Government of Puerto Rico, in matters of economic development and tax decrees. Regarding matters of a tax and accounting nature, the endorsement of the Secretary of the Treasury will be necessary.
- (e) When a new law is passed or a regulation is adopted, which provides more favorable terms and conditions than those contained in the Decree, the Exempt Business may request a modification to its Decree that reflects such benefits or better terms for the Exempt Business and its shareholders, subject to the discretion of the Secretary of the DDEC and the endorsement of the Secretary of the Treasury.
- (f) Every Exempt Business and its shareholders will have the right to a clear and expedited process to obtain a Tax Exemption Decree.
- (g) Every Exempt Business and its shareholders shall have the right to be guaranteed the confidentiality of the information submitted to the DDEC. No person outside the DDEC, who is not authorized by the Exempt Business and its shareholders, will have access to such information, unless expressly permitted by this Code or other law. In addition, the Exempt Business and its shareholders will have the right to know the purpose for which the information is requested, the use that will be given and the consequences of not providing it.
- (h) Every Exempt Business and its shareholders shall have the right to be assisted by any person authorized to represent them, except that, in the case of Certified Professionals, they shall be licensed lawyers or authorized public accountants in Puerto Rico.
- (i) All Exempt Businesses and their shareholders will have the right to be notified in writing of any amendment to the Decree made by the DDEC as a result of any audit that shows non-compliance. DDEC notify the nature of the modification of the Decree and the rationale for such changes, giving you the opportunity to be heard within the framework of due process of law (process due) .
- (j) Every Exempt Business and its shareholders shall have the right not to be discriminated against on the grounds of race, color, sex, birth, origin or social status, political affiliation or religion of the Exempt Business, its shareholders or any person who represents it .

The DDEC will not impose or require arbitrary provisions in the Decrees that could result in the Exempt Business and its shareholders having to incur unofficial operating expenses to comply with such provisions.

The Decrees constitute a valuable instrument used by the State to promote capital investment and the creation of jobs and wealth in Puerto Rico, which is the creative purpose of tax exemptions that should govern its interpretation. Nothing in this Section should be construed as a limitation on the powers of the Secretary of the DDEC or the Secretary of the Treasury to carry out investigations, provided that the rights of the Exempt Businesses, their shareholders or of the persons who do not violate represent them.

It will be a high priority for the Government of Puerto Rico to promote the renewal of existing decrees and the approval of new decrees to maintain or expand the manufacturing activity in Puerto Rico, as a primary sector of revenue collection for the government and generation of economic activity, generation of jobs and income in the local jurisdiction.

## **SUBTITLE A- GENERAL PROVISIONS**

### **CHAPTER 1- DECLARATION OF PUBLIC POLICY**

#### **Section 1010.01- Public Policy Statement**

- (a) It shall be public policy of the Government of Puerto Rico to collect in a Code the economic principles proposed to encourage competitiveness, innovation, export and activities that increase the long-term sustainable economic growth of Puerto Rico. This new Code seeks to provide the right environment, opportunities and tools to promote the economic development of Puerto Rico in order to offer a better quality of life. With this Code, models of government will be developed that allow: (i) to attenuate the high operational costs and to make more flexible the regulatory limitations that affect the competitive position of Puerto Rico; and (ii) simplify government processes through the use of technology.
- (b) This Code seeks to guarantee a relationship between the private sector and the Government of Puerto Rico that is based on stability, transparency, certainty and credibility. It also seeks to promote and exercise controls in order to make us an attractive destination to attract foreign direct investment and promote local capital investment, resulting in the attraction and establishment of new businesses, job creation and growth. economic, as well as retaining high impact activities, thus strengthening the supply and value chain, and the creation of conglomerates in strategic sectors.
- (c) This Code offers industries with high growth potential an attractive tax proposal to be able to compete with other jurisdictions and, in accordance with this:
  - (1) Make Puerto Rico a world-class tourist destination while promoting the fiscal strengthening of municipalities through tourism, among others;
  - (2) Encourage the promotion and development of Medical Tourism and medical services facilities in our jurisdiction;
  - (3) Take decisive action to modernize infrastructure and reduce energy costs by investing in infrastructure and the different alternatives of Renewable and Alternate Sources, as well as encouraging the use of technologies that promote sustainability and production of utilities that are cost-effective. efficient and cleaner than those provided by current infrastructure;
  - (4) Promote a service industry that is aimed at exporting all kinds of services and technology;
  - (5) Develop Puerto Rico as an International Center for Financial and Insurance Services;
  - (6) Promote Puerto Rico as a unique location for the film industry and related activities, including postproduction;
  - (7) Offer manufacturing industries, including their research and development, and high-tech sectors, as primary sectors of the economy, a tax proposal and an attractive incentive structure so that they can preserve and expand their current investment and generate new investment in Puerto Rico, as well as exporting goods and services in a more competitive way compared to other jurisdictions;
  - (8) Strengthen the agricultural sector and promote the export and added value of its products; and
  - (9) Strengthen the construction sector to make viable those important works for the economic recovery and reconstruction of Puerto Rico.
- (d) This Code shall be governed by the following guiding principles:
  - (1) Maximize transparency, by publishing all the costs and benefits of each available incentive to ensure fiscal responsibility;
  - (2) Minimize risk to the government;
  - (3) Make economic public policy decisions based on facts and assumptions reported;
  - (4) Avoid encouraging redundant economic activities that would be carried out equally without incentives;
  - (5) Restore sustainable economic growth by improving competitiveness;
  - (6) Continually measure the return on investment (ROI) of all incentives;
  - (7) Ensure the faithful fulfillment of the commitments made by companies in exchange for economic benefits.

## CHAPTER 2- DEFINITIONS

\*\*\*\*\* TEXT OMITTED, DOES NOT PERTAIN TO FILM \*\*\*\*\*

### Section 1020.09 - Definitions Applicable to Creative Industry Activities

- (a) For the purposes of Chapter 9 of Subtitle B of this Code related to Creative Industries activities, the following terms, phrases and words shall have the meaning and scope expressed below:
- (1) Creative Industry Development Districts - Means each geographic area as described in Section 2094.01 of this Code.
  - (2) Study - Means a high-capacity full-length film and television production studio, built for such purposes, developed and operated anywhere in Puerto Rico, suitable for housing soundstages, outdoor scenery, including facilities for build and design set designs, production offices and production services departments that provide services to the producing community and any other necessary comfort or facility within the study, as determined by the Incentive Regulation, administrative order, circular letter or any other communication of a general nature, whose budget as certified by the Auditor, is equal to or greater than five hundred thousand dollars (\$ 500,000.00).
  - (3) Postproduction Study- Means a completion study of filmic material that contains rooms specialized in sound editing, rooms specialized in video editing, rooms specialized in color correction, equipment for creating visual effects, other equipment and others specialized structures whose value in equipment at the time of purchase and installation or building has been equal to or greater than one million dollars (\$ 1,000,000.00), as long as the rooms have the designated process as their sole purpose and do not constitute generic use rooms . The value of the building and land will be excluded from this amount.
  - (4) Deposit - Means a contingent and irrevocable letter of credit issued by a Financial Institution authorized to do business in Puerto Rico, a guarantee from a bond or insurance company, or a guarantee issued by a Person with a good credit history, in each case acceptable to the Secretary of the Treasury or the Secretary of the DDEC, as the case may be, so that a Film Project will be completed within the proposed terms and parameters. In the case of Film Projects, the term “Deposit” will include a “Completion Bond” (completion bond).
  - (5) Main Photograph - Means the production phase during which a Film Project is filmed. The term will not include preproduction or postproduction.
  - (6) Production Expenses - Means those development, preproduction, production and postproduction expenses incurred directly in the production of a Film Project. Only expenses attributable to the development of a Film Project will be included when not less than fifty percent (50%) of the Main Photograph of the Film Project is carried out in Puerto Rico. The expenses attributable to preproduction, production and postproduction will not have to meet the requirement of fifty percent (50%) of the Main Photography stated above to be considered Production Expenses.
  - (7) Puerto Rico Production Expenses - Means payments made to Domestic or Foreign Persons for services physically provided in Puerto Rico, directly attributable to the development, preproduction, production and postproduction of a Film Project. Only expenses attributable to the development of a Film Project will be included when not less than fifty percent (50%) of the Main Photograph of the Film Project is carried out in Puerto Rico. The expenses attributable to pre-production, production and post-production will not have to comply with the requirement of fifty percent (50%) of the Main Photograph mentioned above to be considered Puerto Rico Production Expenses. To be Puerto Rico Production Expenses, Payments received by Domestic Persons and Foreign Persons will be subject to income taxes in Puerto Rico, pursuant to Chapter 9 of Subtitle B of this Code, either directly or through a professional services corporation or other Entity. Puerto Rico Production Expenses include payments related to the development, preproduction, production and postproduction of a Film Project, including, but not limited to, the following:

- (i) Wages, marginal benefits, allowances or fees for talent, administration or labor to a person who is a Domestic Person or a Foreign Person. However, the diets of a person who is not a Domestic Person or Foreign Persons, may be included in the definition of Puerto Rico Production Expenses, at the discretion of the Secretary of the DDEC;
  - (ii) Interest, charges and fees paid to Persons included in paragraph (4) of section (f) of Section 1033.17 of the Puerto Rico Internal Revenue Code; or
  - (iii) Any of the following goods or services provided by a supplier that is a Domestic Person or Foreign Person:
    - (A) the story and script that will be used for a Film Project;
    - (B) the construction and operation of set designs, clothing, accessories and related services;
    - (C) photography, sound synchronization, lighting and related services;
    - (D) postproduction services such as video editing, audio, color correction, visual effects and other related, including the rental of specialized rooms and postproduction equipment within them;
    - (E) rental of facilities and equipment;
    - (F) rental of vehicles, including airplanes or boats, as long as the plane or vessel to be rented is registered in, and has Puerto Rico as its main port, and the rental is limited to travel within Puerto Rico, its airspace and territorial waters;
    - (G) food and lodging;
    - (H) plane tickets, as long as they are purchased through a travel agency or company based in Puerto Rico to make trips to and from Puerto Rico, or within Puerto Rico, directly attributable to the Film Project;
    - (I) insurance or bond coverage, as long as it is acquired through an insurance producer authorized to do business in Puerto Rico; and
    - (J) other costs directly attributable to the Film Project, in accordance with the general practice accepted in the entertainment industry, as determined by the Incentive Regulation, administrative order, circular letter or any other general communication.
  - (iv) The following are excluded from the definition of Puerto Rico Production Expenses:
    - (A) Those items paid to Domestic Persons with the cash of any subsidy, donation, or allocation of funds, from the Government of Puerto Rico. Those items paid to Domestic Persons with the cash of contributions made to a Film Project, which by their nature and terms are repayable, such as loans or investments, excluding contributions by the Cinematographic Fund as defined in the "Law of Economic Incentives for Industry Film ", at the discretion of the Secretary of the DDEC, may be included in the definition of Puerto Rico Production Expenses.
    - (B) the cost of goods acquired or leased by Domestic Persons , outside of Puerto Rico, for resale or rental to a Concessionaire who does not comply with the rules issued by the Secretary of Development through regulations and / or circular letter and when, in Auditor's opinion, there is no economic substance in the transaction.
    - (C) Those items paid to Domestic Persons, primarily, for the services of Foreign Persons, except for Entities that render the services of Foreign Persons.
- (8) Creative Industries - For the purposes of this Code, Creative Industries are those companies registered in the Creative Industries Registry, which have potential for job creation and economic development, mainly through the export of creative goods and services in the following sectors : Design (graphic, industrial, fashion and interior); Arts (music, visual, performing arts and publications); Media (application

development, video games, online media, digital content and multimedia); and Creative Services (architecture and creative education).

- (9) Studio Operator - Means the Person dedicated to administering and operating a Studio or a Postproduction Studio.
- (10) Domestic Producer - Means the Domestic Person entrepreneur that:
  - (i) directly or indirectly controls the intellectual property rights of the Film Project and is responsible for the financing and production of the Film Project; and
  - (ii) directly or indirectly, individually or together with other Domestic People producers, you have the right to receive not less than thirty percent (30%) of the net proceeds of the Film Project to be distributed among the producers of the Film Project, after repayment of financing and other economic obligations.
- (11) Film Project - Means one or more of the activities contemplated in paragraph (1) of section (a) of Section 2091.01 of this Code.
- (12) Transfer - Means, as appropriate, the rental, sale, exchange, transfer, transfer, or any other form of transfer, of movable or immovable property, as the case may be.

\*\*\*\*\* TEXT OMITTED, DOES NOT PERTAIN TO FILM \*\*\*\*\*

## **SUBTITLE B- ECONOMIC DEVELOPMENT INCENTIVES**

### **CHAPTER 9- CREATIVE INDUSTRIES**

#### **SUBCHAPTER A- ELIGIBILITY**

##### **Section 2091.01- Companies dedicated to Creative Industries**

- (a) It is provided so that a business established, or that will be established, in Puerto Rico by a Person, or combination thereof, organized or not under a common name, may request the Secretary of the DDEC to grant economic incentives when the Entity It is established in Puerto Rico to engage in one of the following eligible activities:
  - (1) Film Projects - A Person may obtain a Decree in relation to a Film Project, provided that:
    - (i) the production or postproduction of the Film Project is carried out in Puerto Rico, partially or totally;
    - (ii) the Film Project is for commercial guidelines, distribution or exhibition to the general public outside of Puerto Rico by any means, except for the Film Projects listed in clauses (A), (B) and (C) of subsection (iv) of this paragraph one (1), below, which may be for pattern, distribution or commercial display to the general public in Puerto Rico. In those cases of the Film Projects that are not contemplated in clauses (A), (B) and (C) of subsection (iv) of this paragraph (1), whose pattern, distribution or display outside of Puerto Rico is considered incidental and minimum or that the Film Project is for consumption in Puerto Rico, the Secretary of the DDEC will determine that it fails to comply with the terms of this paragraph; and
    - (iii) Puerto Rico Production Expenses are at least fifty thousand dollars (\$ 50,000.00), provided that in the case of a Film Project described in (B) and (C) of subsection (iv) of this paragraph (1) ), the Production Expenses of Puerto Rico shall be at least twenty-five thousand dollars (\$ 25,000.00).
    - (iv) For purposes of this Code, the term "Film Project" means:
      - (A) Feature films
      - (B) Short film
      - (C) Documentaries

- (D) Series in episodes, mini-series and television programs of a similar nature, including pilots and those produced for digital distribution. Provided, in addition, that for all these instances, the pattern, distribution or display outside of Puerto Rico cannot be considered incidental and minimal .
  - (E) Ads that are displayed outside our jurisdiction, including campaigns made up of several ads, as long as all campaign ads are accumulated in a single contract or purchase order with aggregate Puerto Rico Production Expenses of at least one hundred thousand dollars (\$ 100,000.00), that individually meet the other requirements established in this Subchapter, except for the minimum expense set forth in subsection (iii) of paragraph one (1) of this section, and comply with any other requirements established by the Secretary of the DDEC through the Incentive Regulation or circular letter.
  - (F) Video games
  - (G) Television projects, including but not limited to, tele-reality programs, known in English as reality shows , interviews, news, game shows, entertainment, comedy and those aimed at children, and variety.
  - (H) The postproduction of one or several Film Projects indicated above provided that all Film Projects accumulate in a single contract or purchase order with aggregate Puerto Rico Production Expenses of at least one hundred thousand dollars (\$ 100,000.00), which individually meet with the other requirements established in this Code, except for the minimum expenditure set forth in subsection (iii) of paragraph one (1) of this section, and comply with any other requirements established by the Secretary of the DDEC through the Incentive Regulation or letter circular.
  - (I) Film Festivals
  - (J) Music Videos
  - (K) A Film Project does not include any of the following:
    - 1. A production that consists primarily of religious or political propaganda;
    - 2. a production that includes pornographic material;
    - 3. a radio program;
    - 4. a production that serves primarily to market a product or service that is not an advertisement in accordance with clause (E) of subsection (iv) of this paragraph (1);
    - 5. a production whose primary purpose is to raise funds;
    - 6. a production whose main purpose is to train employees or do internal corporate advertising or any other similar production; or
    - 7. Any other project determined by the Secretary of the DDEC through the Incentive Regulations or circular letter.
  - (v) A Film Project may:
    - (A) Use real images as a source, as well as animation or electronically generated images;
    - (B) use for its production any means currently available or that may be developed in the future, such as, but not limited to: celluloid, tape, disc or paper. The medium may be magnetic, optical, ink or any other that develops in the future. The way of recording and reproducing images and sound may be analogous, digital or any other form developed in the future; or
    - (C) be disseminated in any medium, including electronic means of information transmission.
- (2) Operators of Postproduction Studies or Studios that directly or through an endorsed concessionaire, according to the definition provided, properly operate a Postproduction Study or Studio, as well as the required components in order to provide the necessary services to respond to commercial needs of the Film Projects.

- (i) Any bona fide office, business or establishment, as well as its equipment and machinery, which has the capacity and skills necessary to provide the Commercial Operator with a commercial scale service, shall be considered a strategic supplier, provided that the services: (i) are directly related to the business of development, preproduction, production, postproduction or distribution of a Film Project; (ii) are indispensable for the Study Operator to fulfill its obligations under paragraph (2) of section (a) of this Section; and (iii) are provided to the Study Operator, on a recurring and exclusive basis. The Person who provides services to the Study Operator sporadically will not be considered a strategic supplier.
- (3) Strategic suppliers or Concessionaires endorsed by the Secretary of the DDEC that meet the requirements set forth in subsection (i) of paragraph (2) of this section.
  - (i) This supplier or Concessionaire who has an endorsement will enjoy the same benefits that the Study Operator enjoys under his Decree as a Concessionaire who carries out the activity directly.
- (4) Infrastructure Projects that include a substantial development or expansion in Puerto Rico of Studios, laboratories, facilities for the international transmission of television images or other media, or other permanent facilities to carry out Film Projects, regardless of whether such projects are eligible for the provisions of this Code, whose direct cost budgets, known in English as hard costs, exceed, as certified by the Auditor, five hundred thousand dollars (\$ 500,000).

## **SUBCHAPTER B- CONTRIBUTIVE BENEFITS**

### **Section 2092.01- Income Tax**

- (a) In General- The Concessionaire's net income derived directly from the exploitation of the activities eligible under this Chapter and covered in the Decree, will be subject to a preferential fixed tax rate of four percent (4%) instead of any other contribution, if any, provided by the Internal Revenue Code of Puerto Rico or any other law of Puerto Rico.
- (b) Study Operators - A Study Operator will be subject to a preferential fixed tax rate on their net income derived from the exploitation of the activities covered by the Decree of four percent (4%) provided in section ( a) of this Section.
- (c) Movable Property Income. Notwithstanding the provisions of the Internal Revenue Code of Puerto Rico, this Code or any other law of Puerto Rico, shall not be subject to income taxes, withholding of income taxes at source or sales and use tax, payments made after July 1, 2019 by a Concessionaire, with Decrees issued under this Code or under Previous Incentive Laws to non-resident individuals, corporations, foreign companies or other foreign persons not engaged in an industry or business in Puerto Rico for income from movable property located in Puerto Rico or any interest in said property, including income from using movable property in Puerto Rico, as long as said property is used directly or indirectly in eligible activities under this Chapter. Provided, however, that in order to enjoy the exemption granted in this section, the Concessionaire must submit to the Department of the Treasury and the Secretary of the DDEC for approval a certification proving that the movable property was not available in Puerto Rico to be used for directly or indirectly in eligible activities under this Chapter.
- (d) Special Contribution for Foreign Person- A special contribution of twenty percent (20%) over the total amount received for any other tax imposed by the Puerto Rico Internal Revenue Code will be taxed, collected and paid in lieu of any other tax Individual Foreign Person or by an Entity that hires the services of a Foreign Person to provide services in Puerto Rico, in relation to a Film Project, which represents salaries, marginal benefits, allowances or fees. In the event that this twenty percent (20%) applies to an Entity that contracts the services of a Qualified Non-Resident, the portion of the payment received by the Entity that is subject to this special contribution will not be subject to the contribution. special twenty percent (20%),
  - (1) Obligation of Discounting and Withholding - Any Person who has control, receipt, custody, disposition or payment of the amounts of remuneration described in section (c) of this Section, will deduct and withhold the contribution of twenty percent (20%) and pay the amount of such contribution discounted and withheld at the Internal Revenue Collection of the Department of the Treasury, or will be deposited in any banking

institution designated as a depository of public funds authorized by the Secretary to receive the contribution. The contribution must be paid or deposited on or before the fifteenth (15) day of the month following the date on which the payment was made, subject to the withholding of twenty percent (20%) imposed by this section.

- (2) Non-compliance with the Obligation to Withhold - If the withholding agent, in contravention of the provisions of paragraph (1) of section (c) of this Section, does not withhold the contribution of twenty percent (20%) imposed by section (c) of this Section, the amount that should have been deducted and withheld, unless the person receiving the income has satisfied their tax liability with the Secretary of the Treasury, will be charged to the withholding agent, following the same procedure that would be used if it were a contribution due by the withholding agent. The Person who receives the payment must pay the non-withheld tax by submitting a return within the term set forth in Section 1061.16 of the Puerto Rico Internal Revenue Code and the payment of the tax pursuant to the provisions of Section 1061.17 of the Puerto Rico Internal Revenue Code. Although the person receiving the payment pays the corresponding contribution, the withholding agent will be subject to the penalties set forth in paragraph (5) of this section.
  - (3) Tax Responsibility - Any Person obliged to deduct and withhold the contribution of twenty percent (20%) imposed by section (c) of this Section, shall respond to the Secretary of the Treasury for the payment of said contribution and shall not have to respond to any other person for the amount of any payment thereof.
  - (4) Return - Any person obliged to deduct and withhold the contribution of twenty percent (20%) imposed by section (c) of this Section, must submit a return in relation to it, on or before February 28 from the year following the year the payment was made. The form must be submitted to the Secretary of the Treasury and will contain the information and will be prepared in the manner established by the Secretary of the Treasury, through regulations. Any person submitting the return required by this subsection shall not have the obligation to submit the declaration required by subsection (j) of Section 1062.08 of the Puerto Rico Internal Revenue Code.
  - (5) Penalties - For provisions on penalties and additions to the contribution, see Section 6041.01 of Subtitle F of the Internal Revenue Code of Puerto Rico.
- (e) Tax exemption on distributions in liquidation- The distributions made by an Exempt Business that has a Decree granted under this Chapter to its shareholders or partners in total or partial liquidation of such Exempt Business and that are attributed to the income derived from the exploitation of the activities covered under the Decree, they will be totally exempt from the payment of income taxes, including the minimum alternative tax and the alternate basic tax provided by the Puerto Rico Internal Revenue Code.

#### **Section 2092.02- Special Deductions to Businesses Dedicated to the Film Industry**

- (a) Donations from private persons to nonprofit entities duly authorized for the production of Feature Films Projects, short films, documentaries, film festivals or educational activities aimed at training and development of the film industry.
  - (1) To enjoy this special deduction, donations may not exceed one hundred thousand dollars (\$ 100,000.00) per Film Project. Donations may be deducted on the payroll of private persons up to twenty-five percent (25%) of their total tax liability in Puerto Rico. Donors may not be linked to the Film Project or receive any benefit for its production. The Secretary of Economic Development and Commerce shall establish additional conditions of the program through regulations.

#### **Section 2092.03- Tax on Movable and Real Property**

The movable or immovable property dedicated to film activities covered by a Decree that would usually be subject to taxes, will be entitled to an exemption of seventy-five percent (75%) of all taxes on movable and immovable property, municipal and state. Contributions on movable or immovable property shall be fixed, imposed, notified and

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administered in accordance with the provisions of Law 83-1991, as amended, known as the "Municipal Property Tax Law", or any subsequent statute in force to date. in which the contribution is fixed and imposed.

#### **Section 2092.04- Municipal Patents and other Municipal Taxes**

- (a) No Concessionaire shall be subject to the payment of contributions for municipal patents, arbitrations and other contributions on municipal income imposed by municipal ordinance at the effective date of the Decree.
- (b) Every Concessionaire, as well as its contractors or subcontractors, shall enjoy an exemption of seventy-five percent (75%) of the payment of any contribution, lien, license, arbitration, fee or fee for the construction of works to be used in activities covered by the Decree in a municipality, imposed by any ordinance of any municipality on the effective date of the Decree. Contractors or subcontractors working for a Concessionaire will determine their turnover for purposes of municipal patent contributions, discounting the payments that are required to be made to subcontractors under the main contract with the Concessionaire. Subcontractors that in turn use other subcontractors within the same project, they will also deduct the corresponding payments in determining their turnover. A contractor or subcontractor may deduct the payments described in the previous paragraph of their respective business volumes, only if the contractor or subcontractor certifies, by affidavit, that he did not include in the contract granted for works or services to be provided, in relation to the Dealer, an item equal to the contribution for the concept of the municipal patent resulting from the turnover discounted under this Section.

#### **Section 2092.05- State Arbitration and Sales and Use Tax**

- (a) Articles of use and consumption introduced or acquired directly by a Concessionaire to be used exclusively in film industry activities covered under a Decree are exempt from the payment of taxes imposed by Subtitle D of the Puerto Rico Internal Revenue Code, in the extent to which they remain in Puerto Rico only temporarily.

#### **Section 2092.06- Tax Exemption Periods**

- (a) Beginning of the exemption - The tax benefits granted in this Subchapter will enter into force on the date established in the Decree.
- (b) Decrees issued in relation to Film Projects may have an effective date prior to the filing of a request for a Decree, and will have a term equivalent to the duration of the project, including its exploitation, as determined by the Secretary of the DDEC through the Incentive Regulation. Decrees issued to Study Operators will have a term of fifteen (15) years.
- (c) A Study Operator who has a Decree will have the option to choose the specific tax years to be covered in terms of their income tax, patent or property tax when notified by the Secretary of the Treasury, the Municipality or the CRIM, as appropriate, and the Secretary of the DDEC, not later than the date set forth by law to file your income tax return for such Taxable Year, statement of turnover or tax return on personal property, including extensions granted for this purpose. In the case of a property tax, the CRIM shall be notified sixty (60) days before the first (1st) of January of the Economic Year for which the option is to be exercised. Once the Study Operator opts for this benefit,
- (d) Decrees issued under the provisions of this Chapter shall be transferable, subject to prior authorization by the Secretary of the DDEC.

**Section 2092.07- Tax Base**

The tax base of an investment made by a Concessionaire will be determined in accordance with the provisions of the Puerto Rico Internal Revenue Code, except that such base will be reduced dollar by dollar, but never less than zero, by the amount of the Tax Credit that the Dealer receive.

**Section 2092.08- Other Tax Benefits**

- (a) the issuance of any partial or complete certified copy, the presentation, the registration or any other operation in the Property Registry of Puerto Rico. The exemption will be subject to the prior approval of the DDEC Secretary in each case. The approval of the Secretary of the DDEC will be evidenced by a certification issued by him, a copy of which:
  - i. must be sent to the Notary, the Property Registrar of Puerto Rico, the Court of Justice or any other Entity to which they are claimed the exemptions set forth herein; and
  - ii. accompany any public deed or document presented in the Property Registry of Puerto Rico. The persons and entities included in this paragraph are hereby authorized to rely on the certification issued by the Secretary of DDEC,
  - iii. The term “real or contractual right that has access to the Property Registry of Puerto Rico,” as used in section (a) of this Section, includes all real or personal rights that have, currently or in the future, access to the Land Registry of Puerto Rico; including, but not limited to: (A) legal, real or personal easements or equity easements; (B) constitution of horizontal property, timeshare, vacation club or Condo hotel regimes; (C) surface or construction rights, and any other construction recognition or certificate of completion of construction or improvement, the registration of which is requested in the Property Registry of Puerto Rico; (D) leases; (E) mortgages; (F) sales; (G) swaps; (H) donations; (I) rights of first refusal, withdrawal and retroventa and censuses; (J) private water rights; (K) administrative concessions; (L) purchase options; and (M) conditions and restrictions of use.

\*\*\*\*\* TEXT OMITTED, DOES NOT PERTAIN TO FILM \*\*\*\*\*

**SUBTITLE C- STIMULUS MONEY ( "CASH GRANTS") or credits TAX**

**CHAPTER 5- TAX CREDIT FOR CREATIVE INDUSTRIES**

**Section 3050.01- Tax Credit for Creative Industries**

- (a) Concession of the Tax Credit - Under this Section, the Concessionaires dedicated to Film Projects may request a Tax Credit, regarding Production Expenses of Puerto Rico
- (b) Subject to the limitations, terms and conditions described in this Section, the Tax Credit will be available to the Concessionaires at the beginning of the activities covered by the Decree in the case of Film Projects, as certified by the Secretary of the DDEC. Once the requirements of this Section are met, the Secretary of the DDEC will authorize the amount of the approved Tax Credit.
- (c) Amount of the Tax Credit -
  - (1) In the case of Film Projects, the Tax Credit available in this Section will be:
    - (i) Up to forty percent (40%) of the amounts certified by the Auditor as disbursed in relation to Production Expenses in Puerto Rico, not including payments made to Foreign Persons; and
    - (ii) Up to twenty percent (20%) of the amounts certified by the Auditor as disbursed in relation to Puerto Rico Production Expenses that consist of payments to Foreign Persons.

- (iii) Up to fifteen percent (15%) of the amounts certified by the Auditor as disbursed in relation to Production Expenses in Puerto Rico, not including payments made to a Foreign Person, in feature films, or episode series, or documentaries in which a Domestic Producer is in charge of the Film Project and the director, the cinematographer, the editor, the production designer, the post-production supervisor, or the line producer are Domestic Persons, up to a maximum of four million (\$ 4,000,000) of tax credit per Film Project under this line.
- (2) In the case of a Film Project, the approved Tax Credit may be used in two (2) or more terms. Fifty percent (50%) of the Tax Credit may be used in the Tax Year during which the activities covered by the Decree begin, subject to the delivery of an acceptable Deposit to the Secretary of the DDEC or the Certification of the Auditor as provided in section (d) of this Section, and the balance of said Tax Credit in subsequent years.
- (3) The Tax Credits granted in this section (c) for payments to Domestic Persons may never exceed fifty-five percent (55%) of the total Production Expenses in Puerto Rico, not including payments made to a Person Foreign.
- (d) Deposit or Certification of the Auditor and Tax Credit available- In the case of Film Projects, up to fifty percent (50%) of the Tax Credit as described in section (a) of this Section, will be available in the Tax Year When the Concessionaire delivers an acceptable Deposit to the Secretary of the DDEC or the Auditor certifies to the Secretary of the DDEC that fifty percent (50%) or more of the Puerto Rico Production Expenses have been disbursed, the Exempt Business has begun operations covered by the Decree, and the Secretary of the DDEC determines that the other applicable provisions of this Code have been complied with.
- (e) The remaining fifty percent (50%) of the approved Tax Credit will be available in the Tax Year in which the Auditor certifies to the Secretary of DDEC that all Puerto Rico Production Expenses have been paid.
- (f) The Tax Credit Certification described in section (d) of this Section must be provided within thirty (30) days after receiving the Auditor's Certification. The thirty (30) day period will be interrupted if the Secretary of the DDEC requests additional information. However, when the thirty (30) day period is interrupted and the requested information is supplanted, the Secretary of the DDEC will only have the remaining days of the thirty (30) day period, from the date the Auditor Certification is received, to issue the Tax Credit Certification; as long as the Secretary of the DDEC has at his disposal all the necessary documents for the evaluation of the case.
- (g) Tax Exemption - Any Tax Credit under this Section granted to an Exempt Business shall be exempt from income taxes as provided in the Puerto Rico Internal Revenue Code. In addition, it will be exempt from municipal contributions, including the contribution on turnover (Patent).
- (h) The Tax Credits may be granted on a multi-annual basis to a Concessionaire through competitive calls and as established by the Secretary of the DDEC through the Incentive Regulations.
- (i) Every Concessionaire shall pay the Secretary of the DDEC, through the purchase of a voucher at an internal revenue group of the Department of the Treasury, rights equivalent to one percent (1%) of the Puerto Rico Production Expenses that qualify for such Tax Credit, as established by the Secretary of the DDEC through the Incentive Regulations, up to a limit of two hundred and fifty thousand dollars (\$ 250,000). Such income will be deposited in the Economic Incentive Fund that is created under this Code. The Secretary of the DDEC may use such funds to encourage the development of the film industry as determined or to pay for any expenses incurred in the promotion or administration of the Film Industry Development Program.
- (j) Filmic Projects may not apply for Tax Credits or additional tax credits once a Tax Credit or tax credit has been granted, which will be subject to the maximum amount established in the Decree.

\*\*\*\*\* TEXT OMITTED, DOES NOT PERTAIN TO FILM \*\*\*\*\*

## **SUBTITLE E- FUNDS FOR GRANTING BENEFITS**

### **CHAPTER 1- ECONOMIC DEVELOPMENT FUNDS**

#### **Section 5010.01- Economic Incentive Fund**

- (a) For the purposes of executing the economic development purposes of this Code, the Economic Incentives Fund is created. The Secretary of the Treasury shall establish an account in his custody and segregate the funds provided in this Section.
- (b) In the account called the Economic Incentive Fund, you will enter ten percent (10%) of both the proceeds from the income tax paid by all Exempt Businesses with a Decree under this Code or previous incentive laws, such as of the collections for the payment of taxes withheld for royalties related to the operations exempted under this Code or Previous Incentive Laws and any other assignment for these purposes.
- (c) The Secretary of the DDEC shall administer the monies of the Economic Incentives Fund and shall have the necessary and sufficient discretion for the use of the monies provided that such use leads to the achievement of the purposes set forth in this Code.
- (d) The economic benefits provided by this Code through this Section and Sections 2014.01, 2022.06, 2034.01, 2084.01, 2025.01, 2025.02, 2100.02, 2100.03, 2110.03, 4010.01, 4010.02, 5010.02, 5010.03 will be borne by the Economic Incentives Fund.
- (e) The amount to enter the Economic Incentive Fund from New Business will be allocated annually to the entity called Invest Puerto Rico Inc . in accordance with the provisions of Law 13-2017, as amended.
- (f) The Secretary of the DDEC will establish through regulations the criteria that will be used for the granting and disbursement of the remainder of the funds of the Economic Incentives Fund, a model for the calculation of the estimated Return on Investment of the incentive program, and the circumstances and requirements that an applicant must meet to benefit from each of the incentives provided by the DDEC. Any allocation and disbursement of monies from the Economic Incentives Fund must be approved by the Secretary of the DDEC and established through an incentive contract that must be registered with the Office of the Comptroller of Puerto Rico.
- (g) Annually, the Secretary of the DDEC will include the detail of the benefits granted under the Economic Incentives Fund in the Incentives Report.
- (h) The Secretary of the Treasury shall establish the processes and reserves necessary to accumulate and disburse the collections that correspond to the Economic Incentives Fund established herein.
- (i) The Economic Incentive Fund created by this Section will be the successor for all legal purposes of the following Special Funds:
  - (1) the Special Fund for Economic Development created by Law 73-2008, as amended;
  - (2) the Special Fund for the Development of Export Services and Promotion created by Law 20-2012, as amended;
  - (3) the Special Fund for the Development of the Film Industry created by Law 171-2014, as amended;
  - (4) the Special Fund under the "Law of Economic Incentives for the Film Industry of Puerto Rico" for the Training of the Local Film Industry created by Law 27-2011, as amended;
  - (5) the Puerto Rico Green Energy Fund created by Law 83-2010;
  - (6) Industrial Incentive Program Funds in accordance with the provisions of Article 21 of Act No. 188 of May 11, 1942, as amended and Act 203-1997, as amended;
  - (7) the funds transferred to the Industrial Development Company for the Puerto Rico Rums Program established by Law 108-2014;

- (8) the Fund for the Promotion of Employment and Economic Activity established by Law 73-2014, as amended;
- (9) the Entrepreneurship Fund established by Law 73-2014, as amended;
- (10) the Tourism Company Fund for Incentives for the Cruise Ship Industry created by Act 113-2011, as amended.
- (j) As of the validity of this Code, the funds available or owed by the Department of the Treasury to any of the funds mentioned in the preceding paragraph, will be directly entered into the Economic Incentives Fund.
- (k) The Secretary of the DDEC is authorized to use up to seven percent (7%) of the appropriation provided for each fiscal year to cover the administrative expenses caused by the execution of the provisions of this Section and any expenses directly related to the Code implementation.

#### **Section 5010.02- Incentive for the Development of the Film Industry of Puerto Rico**

- (a) The primary objectives of this incentive will be to develop the Puerto Rico Film Industry, providing tools to finance, encourage, develop and stimulate the production of Puerto Rican films for movie theaters and with additional distribution via television, internet, alternate window platforms or digital media, in accordance with the conditions established by regulation by the Secretary of DDEC, and with the objective of increasing the production of Puerto Rican Cinema and its public at local, national and international levels.
- (b) The funds required to grant the incentives provided in this Section will come from the Economic Incentive Fund and will be administered by the Secretary of the DDEC.
- (c) Fund Administration-
  - (1) The DDEC shall establish, through regulations to that effect, all that concerns the manner and manner in which the incentives provided in this Section will be requested and granted for the purposes of ensuring a sound administration of public funds.
  - (2) It will be the obligation of the DDEC to ensure that the funds allocated to the Economic Incentives Fund are used in accordance with the regulations established by it.
- (d) Eligibility-
  - (1) Only the Film Projects for which eighty percent (80%) of the Production Expenses are to Puerto Rico Residents will be eligible for the benefits of the Economic Incentive Fund.
  - (2) Only feature projects that qualify to receive Tax Credits in accordance with the provisions of Subtitle C of this Code will be eligible for the benefits of the Economic Incentive Fund.
- (e) Benefits-
  - (1) The benefits granted under this Section shall be structured as capital investments in a Film Project and may not exceed twenty-five percent (25%) of the total cost of a Film Project or one hundred and twenty-five thousand dollars (\$ 125,000.00), whatever less. This investment is considered reimbursable, so it will be associated with a percentage, established by regulation, of all the revenues of the Film Project which will be directed towards the Incentive Fund.
  - (2) Receiving benefits under this Section shall not limit that the Film Project obtains the Tax Credit or other benefits provided by this Code for investments incurred through private capital or public or governmental funds from other jurisdictions to be invested in the production in Puerto Rico of the Film Project

### **Section 5010.03- Incentives for Creative Industries**

- (a) The objective of the Incentives for Creative Industries set forth in this Section will be to foster the ideal conditions to make Puerto Rico a world-class center where artists and producers who are part of the Creative Industries, as said term is defined in Section 1020.09 of this Code, or the eSports and Fantasy Leagues industries including local artists and producers, as well as those who want to settle in Puerto Rico, have the opportunity to develop, present and expand their work and talent. Any Person dedicated to exposing and / or producing musical events will be eligible to request the incentive provided in this Section, provided that as for the other Creative Industries, those Persons who operate within the Creative Industry Development Districts that are designated in accordance with Section 2094.01 of this Code. Persons who receive the incentives provided in Sections 3050.01 and / or 5010.02 of this Code shall not be eligible for the incentives of this Section.
- (b) The funds required to grant the Incentives for Creative Industries provided in this Section shall come from the Economic Incentives Fund and shall be administered by the Secretary of the DDEC.
- (c) Fund Administration-
- (1) The DDEC shall establish, through regulations to that effect, all that concerns the manner and manner in which the incentives provided in this Section will be requested and granted for the purposes of ensuring a sound administration of public funds.
- (2) It will be the obligation of the DDEC to ensure that the funds allocated to the Economic Incentives Fund are used in accordance with the regulations established by it.

\*\*\*\*\* TEXT OMITTED, DOES NOT PERTAIN TO FILM \*\*\*\*\*

### **SUBTITLE F- ADMINISTRATIVE PROVISIONS**

#### **CHAPTER 7- FINAL PROVISIONS**

\*\*\*\*\* TEXT OMITTED, DOES NOT PERTAIN TO FILM \*\*\*\*\*

**Section 6070.17.- Article 9.7 of Law 27-2011**, known as the “Law of Economic Incentives for the Film Industry of Puerto Rico,” is amended to read as follows:

“Article 9.7. -Validity. This Law will take effect immediately after its approval. Requests for benefits covered by this Law will be received by the Secretary of the Department of Economic Development and Commerce until December 31, 2019. However, the Decrees granted under this law may be amended in accordance with its provisions. The contributions imposed and exemption provided by this Law shall remain in force during the term governed by the Decrees issued under this Law.”

\*\*\*\*\* TEXT OMITTED, DOES NOT PERTAIN TO FILM \*\*\*\*\*

#### **Section 6070.72.- Validity**

This Act shall become effective as of July 1, 2019. Provided that the validity of Section 6070.28 of this Code shall be retroactive to November 7, 2018. Provided, further, that the validity of Section 6070.53 of this Code shall be retroactive. as of November 17, 2015.

The Secretary of the DDEC may take transitional measures between the effective date set forth above and December 31, 2019, including but not limited to enforcing new incentives provided in this Code through regulations, to ensure the achievement of the objectives set forth in this Law. It is also provided that any request for incentives and tax benefits that is duly submitted and pending as of December 31, 2019 will be processed under the previous law under which it was submitted, notwithstanding that the applicant may choose to accept to the benefits provided in this Law. Likewise, it is provided that as of January 1, 2020, any request for incentives and tax benefits must be submitted under the provisions of this Law.