

***“Puerto Rico and the Island Municipalities Maritime Transport
Authority Act”***

Act No. 1 of January 1, 2000 as amended,

(Contains amendments incorporated by:

Act No. 231 of August 26, 2004

Act No. 52 of August 4, 2009)

To create a public corporation that shall be known as the Puerto Rico and the Islands Municipalities Maritime Transport Authority and establish its duties and powers; authorize the Puerto Rico Ports Authority to transfer to the Authority the assets and operations with regard to the transportation by ferry between Fajardo, Vieques, Culebra, San Juan, Hato Rey and Cataño; and to appropriate funds.

STATEMENT OF MOTIVES

At present, the growth and development of the needs, responsibilities and obligations of maritime transportation in Puerto Rico have reached such levels that they deserve special attention so that said responsibilities and obligations may be administered with the necessary promptness in order to improve the service.

In order to expedite the control, administration, growth and maintenance of maritime transportation in Puerto Rico, it is essential to create a government instrumentality, as a public corporation, to execute the powers and duties of maritime transportation that were once part of the Ports Authority.

For all that is stated above, our Administration deems it necessary to create the Maritime Transport Authority and to authorize the Puerto Rico Ports Authority to transfer to it the operations of the ferry services it presently provides between Fajardo, Vieques, Culebra, Hato Rey, San Juan and Cataño, including the assets used in said services

Be it enacted by the Legislature of Puerto Rico :

Section 1. — Title of the Act. (23 L.P.R.A. § 3201 note)

This act shall be known as "Puerto Rico and the Island Municipalities Maritime Transport Authority Act".

Section 2. — Definitions. (23 L.P.R.A. § 3201)

The following words and terms shall have the meanings stated hereinbelow, except when the context clearly indicates otherwise:

(a) *Federal Agency* — Means the United States of America, the President, any agency or department of the Government of the United States of America, or any corporation, agency or instrumentality created, designated or established at the present or in the future by the Government of the United States of America.

(c) *Specialized Training* – includes any basic or advanced training which does not require a license in medicine, including pre-hospital and rapid response care and handling of patients during emergency situations. This training includes first aid, use and management of automatic external defibrillators, ventilation assistance, management of patients with altered levels of consciousness (epilepsy, diabetes, cerebral vascular accident – CVA), management of patients in shock, among others.

(d) *Department* — Means the Department of Transportation and Public Works.

(e) *Maritime Transit Facilities* — Mean any tangible or intangible real, personal or mixed property, that the Authority owns, operates, administers, controls or uses on land or sea that are necessary or convenient for the transporting of persons and/or freight by sea, and all rights and interests thereon, and the development, construction, maintenance, control or operation related to maritime transportation, including, but without being limited to:

(1) Vessels and vehicles.

(2) Parking lots and structures, canals, stations, roofed passenger stops, depots or intermodal or multimodal centers, docks, piers, galleries and other facilities on land or sea that are necessary or advisable for the movement, anchoring, boarding, loading and landing of persons and/or freight by sea.

(3) Permits, approvals, offices, equipment, supplies, fuel, power, communications systems, movable inventory and other property, systems and facilities that are useful or convenient for the development, construction, control, operation or maintenance related to the transportation of persons and/or freight by sea.

(4) Any real or personal property that is located in or adjacent to the property described in the preceding clause (2), that the Authority designates for any public or private commercial, tourist, mixed or industrial use directed to promoting the services offered by the Authority.

(f) *Person* — Means any natural or juridical, public or private person or any agency, department, instrumentality, political subdivision or municipality of the Government of Puerto Rico, the United States government, or of any state [of the U.S.].

(g) *Transportation Plan* — Means the document that sets forth the public transportation policy drafted by the Secretary upon consultation with the advisory board regarding Puerto Rican transportation, and approved by the Governor of Puerto Rico.

(h) *Secretary* — Means the Secretary of Transportation and Public Works.

(i) *Maritime Transportation* — Means the transportation service by boat that is currently rendered by the Ports Authority and that is transferred to the Authority pursuant to Section 14 of this Act, and those others that may be included in the future as part of the services rendered by the Authority within the jurisdiction of the Government of Puerto Rico.

(j) *Metropolitan Area Transport Authority* — Means the service rendered between Cataño-San Juan and the Acuaexpreso service.

(k) *Island Level Transport Authority* — Means the service rendered by other facilities outside the metropolitan area, which includes the Fajardo-Vieques-Culebra service.

Section 3. — Creation of the Authority. (23 L.P.R.A. § 3203)

A corporate and body politic is hereby created as a public corporation and instrumentality of the Government of the Commonwealth of Puerto Rico, attached to the Department, which shall be known as the Puerto Rico and the Island Municipalities Maritime Transport Authority, subject to the control of the Secretary, with legal existence and personality separate from the Government of the Commonwealth of Puerto Rico, its agencies, instrumentalities and political subdivisions.

The division of the services rendered by the agency shall be established in two units that shall concentrate their efforts in two fundamental parts: service at island level and in the metropolitan area. The metropolitan area shall include the services offered by the Cataño-San Juan and the Acuaexpreso ferries, which shall be integrated into the mass transportation system of the metropolitan area, attached to the Puerto Rico Highways Authority.

The island level service shall concentrate, but not be limited to, the Fajardo-Vieques-Culebra ferry service, for the purpose of concentrating efforts in maximizing the operations in said zone.

The debts, obligations, contracts, notes, receipts, expenses, accounts, funds, pledges and properties of the Authority, its officials, agents or employees shall be deemed as belongings of said Authority and not as property of the Government of Puerto Rico or of any office, bureau, department, instrumentality, agency, or public subdivision, municipality, agent, official or employee thereof.

The Authority shall exercise its duties and powers and shall comply with its obligations under this Act in coordination with the Department. The execution by the Authority of the powers and faculties conferred to it by this Act shall at no time have the effect of vesting the Authority with the character of a private enterprise.

Section 4. — Duties, Powers and Authority. (23 L.P.R.A. § 3204)

(a) *Powers of the Secretary* The powers and duties of the Authority shall be exercised by the Secretary, but he/she shall not be entitled to receive compensation for said services. The Secretary may take any action deemed convenient or necessary to achieve the objectives of this Act, including, but without it being understood as a limitation, the following duties, powers and authority:

- (1) Organize the Authority.
- (2) Establish the general policy of the Authority in order to comply with the objectives of this Act in harmony with the transportation Plan.
- (3) Authorize the capital program of the Authority and the annual operating budget.
- (4) Appoint, as deemed necessary, an executive officer and establish his/her duties, powers and authority pursuant to the provisions of this Act, and fix his/her remuneration.
- (5) Adopt and approve the regulations that shall govern the internal operations of the Authority as well as those deemed necessary to execute the provisions of this Act pursuant to the provisions of Act No. 170 of August 12, 1988, as amended, [3 L.P.R.A. §§ 2101 et seq.], known as the "Commonwealth of Puerto Rico Uniform Administrative Procedures Act".

(6) Shall have the authority to establish through regulations, special rates, including free of charge, for users of the transportation system offered by the Authority who are residents of Vieques and Culebra and are deserving thereof.

(7) Shall have the authority to enter into contracts with any government or municipal entity, municipal consortium, public entity, department, agency or private entity legally constituted in Puerto Rico, for the operation of the service.

(8) Carry out any action that is deemed convenient or necessary to attain the objectives of this Act as it may be subsequently amended.

(b) *Powers of the Authority* The Authority shall be empowered to develop and improve, own, operate and manage all types of maritime traffic facilities and maritime transportation services between any points within the jurisdiction of Puerto Rico, except as provided in Section 15 of this Act. The Authority may exercise all the necessary or inherent powers to carry out its corporate purposes, including, but not limited to:

(1) Have perpetual existence as a corporation.

(2) Formulate, adopt, amend and repeal regulations to exercise its powers.

(3) Adopt, alter and use a corporate seal as it wishes.

(4) Own in its own rights, or otherwise, traffic facilities and any other property that is used or useful with regard thereto, and administer and operate said facilities, or contract them to any person, or under the direction of its own officials, agents and employees, or through or by them.

(5) Have absolute control and supervision of any maritime traffic facility that it owns, manages or operates, under the provisions of this Act, including but without being limited to the determination of the site, location, and the establishing and control of the points of entry and exit of said facilities, and the construction, maintenance, repair and operation thereof.

(6) To sue and be sued in its own name, to file complaints and defend itself in all courts of justice and administrative bodies, file any judicial action to protect or enforce any right conferred to it by law, contract or other agreement.

(7) Receive, or accept and administer any gifts, subsidies, loans or gifts of any properties or monies and contract, lease, agree on or execute any other transaction with any federal agency, any state, the Government of Puerto Rico, or any political subdivision, municipality, instrumentality, agency or department thereof, spend the revenues thereof for any of its corporate purposes, and comply with all the conditions and requirements with regard thereto.

(8) Appoint and/or contract officials, agents and employees and establish their powers and duties as determined by the Authority, and delegate the functions and powers granted in this Act on those persons designated by the Authority, and fix and pay the corresponding remuneration. Provided, however, That the Authority shall assume all the obligations of the Ports Authority under the collective bargaining agreements in effect between said Ports Authority and the unions that represent the employees or workers covered by this Act. To those effects, it is expressly established that the provisions of Act No. 130 of May 8, 1945, as amended, known [29 L.P.R.A. §§ 61 et seq.], known as the "Puerto Rico Labor Relations Act", shall be applicable in all collective bargaining. The directors, officials and employees of the Authority shall be subject to the provisions of

Act No. 12 of July 23, 1985, as amended [3 L.P.R.A. §§ 1801 et seq.], known as the "Commonwealth of Puerto Rico Government Ethics Act".

(9) Acquire in any legal manner, including, but without being limited, the purchase, lease, donation, exchange or by other legal means of real or personal property, improved or not improved, with or without lien, and property rights over land, as may be necessary or convenient to exercise the powers and functions conferred to the Authority by this Act.

(10) Procure insurance against losses in the amounts deemed proper and in accordance to the norms established by law or regulations.

(11) Invest its funds according to the policy established by the Government Development Bank for Puerto Rico for the investment of public funds.

(12) Fix, impose and collect rents, fees, rates and other charges, hereinafter "charges", for the use of any of its maritime traffic facilities or other properties, and for its services. These charges, along with other funds legally available for the Authority and those periodic appropriations made by the Legislature, shall be sufficient to at least cover the expenses incurred by the Authority for the development, improvement, extension, repair, maintenance and operation of its maritime traffic facilities and services and to promote the broadest use possible thereof that is economically feasible. Provided, That the Secretary may make changes to the general rate structure of the Authority, and if the he/she should determine it is necessary, for said changes to be immediately effective, and in the case of temporary or emergency increases, he/she shall present the rate regulations pursuant to the provisions of the above mentioned Act No. 170.

(13) Contribute to the development of the Transportation Plan and establish and implement the necessary mechanisms to plan, evaluate and effectively develop a coordinated system of maritime traffic facilities.

(14) Sell, lease, transfer or otherwise dispose of that property that, upon compliance with the regulations approved to such effects, are no longer useful to carry out the purposes of this Act.

(15) Exercise any powers inherent to the functions, prerogatives and responsibilities conferred to it by this Act and develop any act or activity that is necessary or convenient to achieve its purposes.

(16) Promulgate such regulations that are needed to conduct its affairs as provided by law.

(17) To promulgate the necessary regulations and to enter into agreements to ensure that all crew members of the maritime route covering the Island Municipalities of Vieques and Culebra by way of Isla Grande are specially trained to handle emergency situations, ensure the wellbeing, assist persons with special needs or disabilities and provide first aid to any person, whether he/she is a resident, visitor or tourist who uses the maritime transportation service.

(18) The Maritime Transport Authority is hereby empowered to enter into agreements with the Medical Emergency Corps in order to start providing the corresponding specialized training to fulfill the purposes of this Act.

Section 5. — Funds and Accounts of the Authority. (23 L.P.R.A. § 3204)

The moneys of the Authority shall be deposited with depositories qualified to receive funds of the Government of Puerto Rico, but shall be kept in a separate account or accounts in the name of the Authority. The Authority shall make the disbursements of the same, pursuant to the regulations and budgets approved by it.

The Authority shall establish the accounting system required for the proper control and statistical registration of all expenses and income belonging to, managed or controlled by the Authority, pursuant to the generally accepted public accounting principles. The accounting system of the Authority shall be kept in such a way that will properly identify and separate, as may be advisable, the accounts of the different types of enterprises and activities of the Authority.

Section 6. — Board of Directors of the Puerto Rico and the Island Municipalities of Vieques and Culebra Maritime Transport Authority - Attachment, Integration, Meetings. (23 L.P.R.A. § 3205)

The Board of Directors of the Puerto Rico and the Island Municipalities of Vieques and Culebra Maritime Transport Authority is hereby created, attached to the Authority.

This body shall be constituted by the Secretary, who shall be its chairman, the Executive Director of the Ports Authority, the mayors of the municipalities of Vieques and Culebra, and one representative of the public interest who shall be appointed by the Governor of the Commonwealth of Puerto Rico and recommended by the mayors of the Island Municipalities of Vieques and Culebra. The members thus appointed must have an excellent reputation within the Puerto Rican community. Should new maritime facilities be included in the service at island level, the Board shall consider including the mayors of the corresponding municipalities to be representatives thereof at the regular and special meetings of the Board. The members of the Board shall never add to an even number and should the number of members be of such a nature, an additional representative of the public interest shall be solicited, as provided in this section.

The appointments shall be made for terms of four (4) years each and until their successors are appointed by the Governor and take office. The members of the Board who are not public officials shall be entitled to receive the minimum per diem established in the Political Code for members of the Legislature for each day they attend Board meetings. Three (3) authorized members shall constitute quorum and the agreements shall be reached by the majority of those present. The Board shall meet at least six (6) times a year in regular meetings, and may meet for special meetings as often as it may deem pertinent, upon convocation by the Chairperson. The Board shall adopt and approve regulations to govern its affairs pursuant to this Act.

The Governor may remove any member from office for negligence in the performance of his/her duties, immoral conduct or any other reasonable cause, upon notice and hearing.

Section 7. — Functions. (23 L.P.R.A. § 3206)

The Board of Directors of the Maritime Transport Authority of the Island Municipalities of Vieques and Culebra shall serve as governing body for determining the policy related to the maritime transport service for the Island Municipalities of Vieques and Culebra, and of any other service to be established for such a purpose.

Section 8. — Report. (23 L.P.R.A. § 3207)

The Authority shall render an annual report to the Legislature and to the Governor of Puerto Rico which shall include:

- (a) A complete financial statement and report of the business of the Authority of the preceding fiscal year;
- (b) a complete and detailed list of all its contracts and transactions for the fiscal year corresponding to the report, and
- (c) full information on the condition and progress of all its activities from the date of its last report.

Section 9. — Acquisition of Property. (23 L.P.R.A. § 3208)

By request of the Authority, the Governor of Puerto Rico or the Secretary may acquire in the name and in representation of the Government of Puerto Rico, through purchase, eminent domain or any other legal means, for the use and benefit of the Authority, in the manner provided in this Act and the laws of Puerto Rico on eminent domain, the title of any property or interest thereon that the Authority deems necessary or convenient for its purposes, including its future needs.

Section 10. — Transfer of Funds and Property . (23 L.P.R.A. § 3209)

Notwithstanding any other provision of law to the contrary, all the municipalities, political subdivisions, instrumentalities, agencies, and departments of Puerto Rico are hereby authorized to cede or transfer to the Authority, upon petition by the latter, the Secretary or the Governor of Puerto Rico, and under reasonable terms and conditions, any property or interest thereon, including assets already dedicated to public use, that the Authority deems necessary or convenient to carry out its purposes. The Authority may transfer the needed funds to the municipalities, political subdivisions, instrumentalities, agencies, and departments of the Government of Puerto Rico so that they may construct, operate and maintain the maritime transit facilities that are or may be under the jurisdiction of the Authority, as well as for the acquisition of the easements needed for these purposes, when the Authority deems it most convenient to best comply with the purposes of this Act.

Section 11. — Construction, Operations and Purchase Contracts. (23 L.P.R.A. § 3210)

(a) Every work or service contract, except personal services or contracts and every purchase made by the Authority, including contracts for the construction and maintenance of maritime transit facilities, shall be executed through bidding or proposals for bids, notice of which shall be made sufficiently in advance of the date established for the opening of the bidding papers or the receipt of the proposal so that the Authority can provide sufficient information and the opportunity to bid. The Authority shall adopt the regulations that shall govern the bidding processes and the request for bids.

(b) When the estimated sum for the acquisition or work does not exceed twenty-five thousand dollars (\$25,000), it may be executed without the need to hold the bidding process or request for bids. Furthermore, it shall not be necessary to hold a public bidding or request for bids in the following cases:

(1) When due to an emergency, the immediate delivery of materials, goods and equipment, or the rendering of services is required.

(2) When replacement parts, accessories, supplementary equipment or services are needed for supplies or articles previously furnished or contracted, or when they are not available on the Puerto Rican market.

(3) When the prices are not subject to competition, because there is only one source of supply or because they are regulated by law.

(c) When comparing proposals and awarding adjudications, in addition to the price, due consideration shall be given to factors such as:

(1) Whether the bidder has met the specifications of the bid.

(2) The ability of the bidder to perform the works or the services of the nature involved, in the contract under consideration.

(3) The relative quality and adaptability of the materials, supplies, equipment or services.

(4) The financial responsibility of the bidder and his/her ability, experience, business reputation and ability to render the required services.

(5) The term of delivery or of the execution thereof.

(6) The experience and proven ability to construct, operate or give maintenance to maritime transportation systems, if applicable.

(d) The Authority shall promulgate the regulations needed to implement these considerations.

Section 12. — Tax Exemptions. (23 L.P.R.A. § 3211)

The Authority shall be exempted from the payment of all taxes, license fees, charges or licenses imposed by the Government of Puerto Rico or its municipalities, and on those under the jurisdiction, control, domain, possession, or supervision of the Authority, and on the income obtained from any of the enterprises or activities of the Authority. However, the Authority shall pay excise taxes on consumer goods subject to the provisions of Act No. 120 of October 31, 1994, as amended [13 L.P.R.A. §§ 8006 et seq.], known as the "Puerto Rico Internal Revenue Code of 1994". The Authority shall also be exempted from the payment of all charges, internal revenue stamps and vouchers, fees or taxes of any nature required by law

to handle judicial procedures, the production of certificates in all offices or agencies of the Government of Puerto Rico, and the issuing of public documents and their registration in any public registry of the Government of Puerto Rico.

Section 13. — Statement of Public Use. (23 L.P.R.A. § 3212)

The purposes for which the Authority is created and for which it shall exercise its powers are of a public nature for the benefit of the People of Puerto Rico, and the exercise of the powers conferred by this Act constitutes the compliance of essential government functions. Every work, project, enterprise and property and their accessories that the Authority deems necessary or convenient to use in order to carry out the purposes of this Act, are hereby declared of public usefulness.

Section 14. — Transfer of funds and properties of the Puerto Rico Ports Authority. (23 L.P.R.A. § 3213)

(a) The Puerto Rico Ports Authority shall transfer to the Authority any real or personal property, whether tangible or intangible, that on the effective date of this Act may be under the control, lease, power, administration or use in the rendering of Ports Authority ferry services between Fajardo, Vieques and Culebra. Said transfer shall be conducted to include the service operating items which consists of the terminals, ticket booths and any facilities needed to operate the ferries and the employees who at the time operate the same. All properties and assets of any type related to said ferry services shall become the property of, or shall be taken over by the Authority, both at the island and the metropolitan levels. The procedures for transferring the operating facilities, to wit, the terminals, the ticket booths and the ferries for the service, shall begin immediately after the approval of this act. The Secretary and the Ports Authority shall exercise the necessary diligence for completing the same as soon as possible.

(b) The Authority shall be, for all purposes, the successor of the Ports Authority in all matters concerning the transferred property related to the operational phase of the ferries and the collection of accounts and payment of the obligations according to the terms thereof. It is further provided that any expenses incurred in the operation of the ferries by the Ports Authority as of the effective date of this act shall be reimbursed to the Ports Authority from the funds appropriated by the Legislature until the effective date of the transfer of the ferries or until the debt has been paid in full.

(c) The Ports Authority shall retain ownership of the docks, their repairs and the maintenance of the personnel needed to carry out this function. The remaining personnel related to the operation of the service and the ferries shall be taken over by the Authority at the island level and those that comprise the personnel of the metropolitan area shall be transferred to the San Juan-Cataño and Acuaexpreso service.

Section 15. — Exclusions. (23 L.P.R.A. § 3214)

The ferry transportation services provided by the Department in Lago Dos Bocas are specifically excluded from the jurisdiction of the Authority.

Section 16. — Transitory Provisions. (23 L.P.R.A. § 3201 note)

(a) As soon as the transfer provided in Section 12 of this Act becomes effective, the Authority shall take charge of the employees that have regular positions and are contracted by the Ports Authority to provide the ferry services thus transferred, subject to those regulations that the Authority may approve pursuant to Section 4.

(b) The Property Registrars shall register in the name of the Authority in the corresponding Property Registry, all real property used by the Ports Authority in the operation of the ferry services transferred as provided in Section 12 of this Act, as it appears in the certificate to be issued by the Executive Director of the Ports Authority describing all the property thus used and transferred.

Section 17. — Appropriation of Funds. (23 L.P.R.A. § 3201 note)

The Authority is authorized to request the Legislature and the Office of the Management and Budget the funds needed to carry out the functions, powers and responsibilities entrusted to it by this Act.

Section 18. — Inconsistent Provisions and other Substituted Laws. (23 L.P.R.A. § 3201 note)

If any provision of this Act should be in conflict with the provisions of any other law of the Legislature of Puerto Rico, the provisions of this Act shall prevail.

Section 19. — [Repealed. Act No. 166 of June 28, 2004]. (23 L.P.R.A. § 3201 note)

Section 20. — Severance Clause. (23 L.P.R.A. § 3201 note)

If any provision of this Act or the application of said provision to any person were to be declared invalid, the remainder of this Act and its application shall not be impaired by said determination.

Section 21. — Injunctions. (23 L.P.R.A. § 3215)

No injunction shall be issued to prevent the application of this Act or any of its parts.

Section 22. — This Act shall take effect immediately after its approval.

Note. This compilation was prepared by Puerto Rico OMB staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text. Compiled by the Office of Management and Budget Library.