



MIGUEL ROMERO
SECRETARY

August 19, 2011

Ms. Gay Gilbert
Administrator
Office of Unemployment Insurance
200 Constitution Avenue, NW
Washington, DC 20210

RE: PUERTO RICO APPLICATION FOR 2011 UI MODERNIZATION INCENTIVE FUNDS

Dear Ms. Gilbert:

In accordance with the Assistance for Unemployed Workers and Struggling Families Act, Title II of Division B of Public Law No. 111-5 enacted February 17, 2009 and as outlined in Unemployment Insurance Program Letter No. 14-09, as amended, we are making an application on behalf of Puerto Rico Department of Labor and Human Resources ("PRDOL") for the distribution of both the one-third (1/3) portion and the two thirds (2/3) portions of the Unemployment Modernization Incentive payment, which total \$41,247,756.

Regarding the one-third portion, with the enactment of Act No. 191, on August, 18th, 2011, (copy attached) Puerto Rico's Employment Security Law (Title 29, Sec. 702-703) was amended to provide an "**alternate base period**" for individuals who have earned insufficient wages in the first four of the last five completed calendar quarters base period, to become monetary eligible for unemployment insurance benefits. For such individuals, the alternate base period would be the four most recent completed calendar quarters immediately preceding the effective date of the claimant's unemployment insurance claim.


The provisions of the above mentioned Law No. 191, including the provision concerning the Alternative Base Period, become effective immediately, with six month after approval of the Act to carry out its implementation.

Puerto Rico certifies that the amendment to the Alternative Base Period statute is a permanent amendment that will be recorded in the official statute books. The amendment is not subject to discontinuation under any circumstance other than by repeal of the Legislature. Puerto Rico intends to use the Unemployment Modernization Incentive Funds

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for the payment of future unemployment insurance benefits and administrative costs as authorized by federal law and stated in Law 191.

Regarding the two-thirds portion, with the enactment of HB 2523, Act No. 191, on August, 18th, 2011, (copy attached) Puerto Rico Employment Security Law (Title 29, Sec. 704) also was amended to address "compelling family reasons" and "part-time work" as indicated below:

- 
1. Provide that an individual who quits employment in order to accompany his spouse to a place from which it is impractical for the individual to commute and due to a change in location of spouse's employment, will not be disqualified from the receiving benefits for this reason.
 2. Provide that an individual who quits or is discharged from employment to care for his spouse, his child under the age of 21, or his parent with a verified illness or disability will not be disqualified from receiving benefits for this reason.
 3. Clarify that an individual's family means the individual's spouse, child under the age of 21, or parent.
 4. Provide that an individual who quits or is discharged from employment due to circumstances directly resulting from the individual's experience of domestic violence will not be disqualified from receiving benefits for this reason.
 5. Provide that a claimant who refuses a referral to or offer of full-time work shall not be disqualified from the receiving unemployment insurance benefits for this reason.
 6. Provide that no individual shall be determined ineligible to receive unemployment insurance benefits for any week in which he seeks only part-time work, if the majority of weeks of work in his unemployment insurance claim base period were in part-time employment.
 7. Provide that a claimant will not be disqualified for benefits if he has made himself able and available for work for a minimum of twenty (20) hours each week, unless the job that creates the eligibility in the basic period or at the moment of separation was for fewer hours.

With regard to determining whether an individual has experienced domestic violence for unemployment insurance benefit purposes, the Puerto Rico Division of Unemployment Insurance requires the individual to provide documentation of the domestic violence

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involved, such as a police or court record, or documentation of the domestic violence from a shelter worker, attorney, member of the clergy or medical or other professional from whom the employee has sought assistance in addressing domestic violence and its effects. All evidence of domestic violence experienced by an individual, including the individual's statement and any corroborating evidence shall not be disclosed by the PRDOL unless written consent for disclosure is given by the individual.

Relative to compelling family reasons, the provisions of HB 2523 are consistent with III-10 of UIPL No. 14-09 since the statutory language specifically states that an individual who becomes unemployed (both by voluntarily leaving or by discharge) due to compelling family reasons shall not be disqualified from receiving unemployment insurance benefits.

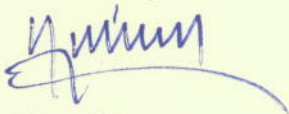
This is to certify that the alternate base period, the compelling family reasons, and the part-time work provisions of Puerto Rico's Employment Security Law are permanent and are not subject to discontinuation under any circumstances other than repeal by the Puerto Rico General Assembly.

Of the total amount petitioned to DOL (\$41,247,756), PRDOL will destine \$3,749,252 to cover administrative cost expenses of the UI and ES programs including purchase of equipment, technological upgrades and modernization equipment. The remaining amount will be deposited in the Trust Fund for payment of UI benefits to qualified claimants.

This is to also certify that this application is submitted in good faith with the intention of providing benefits to unemployed workers who meet the eligibility provisions on which the application is based. As mentioned, these three provisions are expected to be fully implemented by the Puerto Rico Department of Labor six calendar months after being signed approved by the Governor, that is, on or before January 1st, 2012.

Should there be any questions concerning this application or its attachment, please contact the Deputy Secretary for PRDOL Elvira Cancio, Esq., at 787-754-2111, at the Puerto Rico Department of Labor, e mail emcancio@dtrh.gobierno.pr.

Yours truly,



Miguel Romero

Enclosures

*Cámara de Representantes
Capitolio
San Juan, Puerto Rico*



Yo, CARLOS R. FAJARDO VERDEJO, Secretario de la Cámara de Representantes de Puerto Rico,

CERTIFICO:

Que el P. de la C. 2523, titulado

"Ley

Para añadir un nuevo inciso (bb) a la Sección 2; un nuevo sub inciso (3) al inciso (c) de la Sección 3; un nuevo sub inciso (14) al inciso (b) y un nuevo inciso (d) a la Sección 4 de la Ley Núm. 74 de 21 de junio de 1956, según enmendada, conocida como "Ley de Seguridad de Empleo de Puerto Rico"; a los fines de atemperarla a las disposiciones federales de la Ley Pública 111-5, conocida como "The Assistance for Unemployed Workers and Struggling Families Act", y la Reglamentación del Departamento del Trabajo Federal; añadir, para fines de los cómputos de beneficio para el seguro por desempleo, un período básico alterno, que permitirá la utilización del último trimestre natural, cuando el reclamante no cualifique para seguro por desempleo utilizando el período básico; disponer la utilización de la fórmula del período básico alterno; disponer que el seguro por desempleo estará disponible a individuos que estén buscando empleo solamente a tiempo parcial, siempre que cumplan con los requisitos establecidos por el Secretario del Departamento del Trabajo y Recursos Humanos; disponer que un individuo será elegible para recibir pagos del seguro por desempleo si presentan ciertas razones de carácter familiar, como ser víctima de violencia doméstica, tener que cuidar a un familiar inmediato o tener que acompañar a su cónyuge fuera de su lugar de residencia; disponer que el Secretario promulgará la reglamentación necesaria para lograr la eficaz consecución de esta Ley; y para otros fines."

ha sido aprobado por la Cámara de Representantes y el Senado de Puerto Rico en la forma que expresa el ejemplar que se acompaña.

PARA QUE ASI CONSTE, y para notificar al Gobernador de Puerto Rico, expido la presente en mi oficina en el Capitolio, San Juan, Puerto Rico a los dieciocho (18) días del mes de agosto del año dos mil once y estampo en ella el sello de la Cámara de Representantes de Puerto Rico.


CARLOS R. FAJARDO VERDEJO
Secretario

(P. de la C. 2523)

LEY

Para añadir un nuevo inciso (bb) a la Sección 2; un nuevo sub inciso (3) al inciso (c) de la Sección 3; un nuevo sub inciso (14) al inciso (b) y un nuevo inciso (d) a la Sección 4 de la Ley Núm. 74 de 21 de junio de 1956, según enmendada, conocida como "Ley de Seguridad de Empleo de Puerto Rico"; a los fines de atemperarla a las disposiciones federales de la Ley Pública 111-5, conocida como "The Assistance for Unemployed Workers and Struggling Families Act", y la Reglamentación del Departamento del Trabajo Federal; añadir, para fines de los cómputos de beneficio para el seguro por desempleo, un período básico alterno, que permitirá la utilización del último trimestre natural, cuando el reclamante no cualifique para seguro por desempleo utilizando el período básico; disponer la utilización de la fórmula del período básico alterno; disponer que el seguro por desempleo estará disponible a individuos que estén buscando empleo solamente a tiempo parcial, siempre que cumplan con los requisitos establecidos por el Secretario del Departamento del Trabajo y Recursos Humanos; disponer que un individuo será elegible para recibir pagos del seguro por desempleo si presentan ciertas razones de carácter familiar, como ser víctima de violencia doméstica, tener que cuidar a un familiar inmediato o tener que acompañar a su cónyuge fuera de su lugar de residencia; disponer que el Secretario promulgará la reglamentación necesaria para lograr la eficaz consecución de esta Ley; y para otros fines.

EXPOSICION DE MOTIVOS

El Programa Federal de Seguro por Desempleo, a nivel estatal, provee beneficios de desempleo a todos aquellos trabajadores que sean elegibles y que estén desempleados por razones que no sean por su determinación (según la ley estatal), y cumpla con otros requisitos de elegibilidad. Los estados, incluyendo el Gobierno de Puerto Rico, operan programas de desempleo bajo sus propias leyes, las cuales deben cumplir sustancialmente con las disposiciones de la ley federal. El Departamento del Trabajo de los Estados Unidos, provee asistencia técnica, directrices programáticas, asignación de fondos administrativos, y realiza evaluaciones del cumplimiento de los diferentes estados con las reglamentaciones y leyes federales sobre seguridad de desempleo.

Bajo el Programa Federal de Seguro por Desempleo, se pagan a las personas desempleadas una porción de su sueldo. Mediante este programa se intenta minimizar el impacto económico que tiene para una persona el desempleo, y estabilizar la economía en tiempos de crisis.

La Ley de Reinversión y Estímulo Económico Federal "Ley ARRA", por sus siglas en inglés, (*"American Recovery and Reinvestment Act"*) es la ley federal firmada el 17 de febrero de 2009 por el Presidente Barack Obama. Esta legislación busca estimular la creación de empleos durante estos tiempos de retos económicos, con la inversión de \$787 mil millones de dólares durante los próximos dos años, en sectores cruciales como la energía, salud, infraestructura y educación, transportación, comercio, energía, vivienda, justicia y empleos.

La Ley Pública 111-5, conocida como "*The Assistance for Unemployed Workers and Struggling Families Act*", dispuso la distribución de una serie de incentivos para aportar fondos a los programas de compensación de desempleo en todos los estados, siempre que se cumplan con ciertos requisitos establecidos en la ley y reglamentación federal. Según la *Unemployment Insurance Program Letter*, No. 14-09, promulgada por el Departamento del Trabajo Federal, según enmendada, provee para una primera fase de distribución de fondos por la cantidad de \$7 billones, siempre y cuando las leyes estatales de compensación por desempleo incluyan las disposiciones requeridas por ley federal. Mediante la segunda fase, se proveyó para una transferencia de fondos de \$500 millones de dólares, para que los fondos estatales fueran utilizados con fines administrativos.

Este dinero, se repartirá entre los estados que modernicen sus leyes de beneficios de seguro por desempleo a trabajadores elegibles que están desempleados debido a la falta de trabajo apropiado. El programa permite que los estados hagan más accesible los beneficios por desempleo porque evitan incurrir los costos que conlleva liberalizar los requisitos de elegibilidad al seguro por desempleo. Hasta la fecha, 32 estados que han conformado sus leyes de beneficios de seguro por desempleo al estatuto federal han solicitado fondos bajo el programa y se han distribuido \$2.9 billones.

En el caso de Puerto Rico, el Programa de Recuperación - Modernización del Seguro por Desempleo ha reservado sobre \$41 millones que impactarían directamente a miles de ciudadanos americanos residentes en Puerto Rico que se encuentran actualmente desempleados.

Para poder cualificar para dichos beneficios, particularmente con la distribución de fondos de la primera fase, es preciso atemperar la Ley Núm. 74 de 21 de junio de 1956, según enmendada, conocida como "*Ley de Seguridad en el Empleo de Puerto Rico*", ("*Ley Núm. 74*") para que se recojan en ésta los requisitos necesarios para poder hacer elegible a miles de puertorriqueños del recibo de dichos fondos bajo el programa de desempleo.

Como parte de los requisitos que establece la Ley Federal y el *Unemployment Insurance Program Letter*, se tiene que proveer, además de un período básico para utilizar en el cómputo del beneficio por desempleo, un período básico alterno, que utiliza el

último trimestre del tiempo trabajado, para llevar a cabo el cómputo. Del mismo modo, y en aras de lograr la elegibilidad para este programa, la ley local debe ser enmendada para incluir varias opciones que impartan flexibilidad y apertura a la evaluación de las razones de separación de un empleo; o sea, aquellas personas que son separadas de su empleo por razones ajenas a su voluntad, por ejemplo, las situaciones familiares que puedan surgir a causa de que el individuo es víctima de violencia doméstica o necesita ser relocalizado por traslado o nueva oportunidad laboral de su cónyuge, o a causa de enfermedad o incapacidad en algún miembro de la familia inmediata, y proveer protección al reclamante que sólo busque, solicite o acepte empleo a tiempo parcial.

Esta Asamblea Legislativa implora y exige un tratamiento igualitario al de los demás estados de la Nación Americana. Entendemos que esta Ley es un paso de avanzada para poder cumplir con los requisitos federales necesarios para poder cualificar para los fondos separados por la Ley ARRA y por el "Assistance for Unemployed Workers and Struggling Families Act" para atender los fondos de desempleo en los estados.

Por tal razón, entendemos que son meritorias las enmiendas a la Ley Núm. 74, *supra*, de manera que podamos recibir un trato igual que los demás estados de la jurisdicción americana, y recibir la aportación de fondos que son tan necesarios para el programa de seguro por desempleo del Gobierno de Puerto Rico.

DECRETASE POR LA ASAMBLEA LEGISLATIVA DE PUERTO RICO:

Artículo 1.-Se adiciona un nuevo inciso (bb) a la Sección 2 de la Ley Núm. 74 de 21 de junio de 1956, según enmendada, conocida como "Ley de Seguridad de Empleo de Puerto Rico", para que lea como sigue:

"Sección 2.-Definiciones

A menos que de su contexto se deduzca otra cosa los términos que se expresan a continuación tendrán las siguientes acepciones:

- (a) ...
- (b) Período básico.-Significa los primeros cuatro (4) de los últimos cinco (5) trimestres naturales cumplidos que inmediatamente precedan al primer día del año de beneficio de alguna persona. Disponiéndose, que en caso de una reclamación de salarios combinados a tenor con el acuerdo aprobado por el Secretario del Trabajo de los Estados Unidos, el "período básico" será aquel aplicable bajo las disposiciones de la Ley de Compensación por Desempleo del estado deudor.

(bb) Período Básico Alternativo.-Significa los últimos cuatro (4) trimestres naturales consecutivos, incluyendo siempre el último, que inmediatamente precedan al primer día del año de beneficio del reclamante. Disponiéndose que para fines de esta Ley, toda referencia al "período básico" incluirá tanto el Período Básico definido en el inciso (b) de la Sección 2 como el Período Básico Alternativo cuando éste aplique.

(c) ...

..."

Artículo 2.-Se adiciona un nuevo sub inciso (3) al inciso (c) de la Sección 3 de Ley Núm. 74 de 21 de junio de 1956, según enmendada, conocida como "Ley de Seguridad de Empleo de Puerto Rico", para que lea como sigue:

"Sección 3.-Fórmula de beneficio

(a) ...

(b) ...

(c) Salarios para calificar

(1) ...

(2) ...

(3) Cuando el cómputo de beneficio del Período Básico según definido en el inciso (b) de la Sección 2 no cualifique al Reclamante para el beneficio, el Secretario habrá de aplicar el Período Básico Alternativo para realizar el cómputo de elegibilidad.

(d) ...

(e) ...

(f) ..."

Artículo 3.-Se adiciona un nuevo sub inciso (14) al inciso (b) y un nuevo inciso (d) a la Sección 4 de Ley Núm. 74 de 21 de junio de 1956, según enmendada, conocida como "Ley de Seguridad de Empleo de Puerto Rico", para que lea como sigue:

"Sección 4.-Condiciones para recibir beneficios

(a) ...

(b) ...

(1) ...

...

(14) No se considerará inelegible a ningún reclamante por cesar en su empleo por causa de una situación familiar en la que se haga excesivamente oneroso o impráctico el acceso o la asistencia regular al lugar de empleo por las siguientes razones:

- i. necesidad de cambiar o relocalizar su domicilio por causa del traslado laboral o nuevo empleo del cónyuge;
- ii. situaciones o incidentes de violencia doméstica en que el acceso o la asistencia regular al empleo constituya un riesgo para la seguridad propia o de miembros del grupo familiar. Disponiéndose, que se considerará familiar inmediato el cónyuge, padres o hijos menores de edad.

Será suficiente muestra de la situación de violencia doméstica, aunque no limitadas, las siguientes:

- 1) Una orden de protección del Tribunal;
- 2) Informe policial del incidente de violencia doméstica;
- 3) Un informe o certificación de una organización bona fide que brinde servicios de apoyo a víctimas de violencia doméstica;
- 4) Una declaración de un profesional de asistencia, tales como consejeros, funcionario

de albergue, abogado, representante de alguna iglesia o profesional de la salud.

La información contenida en los documentos antes mencionados, será confidencial, por lo que no podrá ser divulgada, a menos que medie el consentimiento escrito del reclamante. El Secretario del Trabajo implantará un programa de capacitación sobre el manejo de las reclamaciones de desempleo por razón de violencia doméstica, en coordinación y colaboración con la Oficina de la Procuradora de las Mujeres. El mismo estará dirigido a adiestrar a los gerenciales y al personal que atenderá a las víctimas de violencia doméstica. Este Programa se pondrá en vigor sesenta (60) días a partir de la vigencia de esta Ley;

- iii. situaciones o incidentes en que el reclamante sea víctima de delito o testigo de la comisión de algún delito, que por causa de esta situación, el acceso o la asistencia regular al empleo constituya un riesgo para la seguridad física del reclamante que le requiera cambiar o relocalizar el domicilio;
- iv. enfermedad o incapacidad constatable de un miembro del grupo familiar inmediato, que requiera que el reclamante se haga cargo del cuidado y acompañamiento del familiar por un período de tiempo mayor al que el patrono pueda garantizar mediante alguna licencia. Disponiéndose, que se considerará familiar inmediato el cónyuge, padres o hijos menores de edad.

De ocurrir un despido relacionado o motivado por las razones arriba indicadas y el Secretario del Trabajo determinar que el mismo estuvo asociado a las razones familiares de peso aquí aludidas, declarará al reclamante elegible a beneficios.

(c) ...

(d) Empleo a tiempo parcial: No obstante cualquier otra disposición en esta Ley, la elegibilidad para beneficios se extenderá a todo reclamante que esté disponible para realizar o aceptar colocación en trabajo solamente a tiempo parcial, sujeto a las siguientes disposiciones:

(1) Si la mayoría de las semanas de trabajo en el período básico de un reclamante incluye trabajo a tiempo parcial, a éste no se le denegará los beneficios por desempleo al amparo de las disposiciones de esta Ley relativas a la disponibilidad para el trabajo, búsqueda activa de trabajo, o no aceptar un trabajo, solo porque el individuo está buscando únicamente trabajo a tiempo parcial.

(2) Para los fines de este inciso, "disponible para trabajo a tiempo parcial" significará disponible para trabajo por al menos veinte (20) horas semanales, salvo que la jornada de empleo que crea la elegibilidad en el período básico o al momento de cesantía fuere menor.

(3) Nada de lo dispuesto en este inciso se interpretará como un impedimento para que la persona que haya estado empleada a tiempo parcial solicite o acepte colocación o participe en programas de adiestramiento, para empleo a jornada completa.

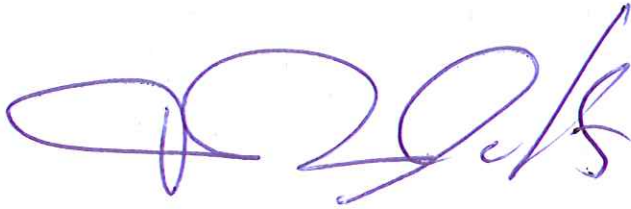
Artículo 4.-Esta Asamblea Legislativa dispone que del dinero que reciba el Gobierno de Puerto Rico debido a las enmiendas prescritas por la presente ley, al amparo de la American Recovery and Reinvestment Act, *supra*, se separará la suma de tres millones setecientos cuarenta y nueve mil doscientos cincuenta y dos dólares (\$3,749,252.00) para ser utilizado en la administración del programa de seguro por desempleo y servicio de empleo, incluyendo la compra de equipo y modernización tecnológica.

Artículo 5.-El Secretario del Departamento del Trabajo y Recursos Humanos, adoptará o enmendará, dentro de los seis (6) meses siguientes a la aprobación de esta Ley, la reglamentación necesaria para lograr la eficaz consecución de esta Ley.

Artículo 6.-El Secretario del Departamento del Trabajo y Recursos Humanos remitirá a la Asamblea Legislativa, un informe detallando el estado del programa de seguro por desempleo, y el cumplimiento del mismo y de la Ley Núm. 74 de 21 de junio de 1956, para de esta manera maximizar la obtención de fondos federales al programa, al año siguiente a la aprobación de esta Ley.

Artículo 7.-Vigencia

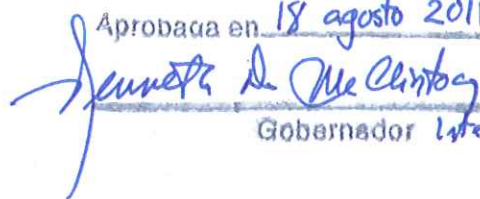
Esta Ley comenzará a regir inmediatamente después de su aprobación. No obstante, se concede un término de seis (6) meses para la implementación de esta Ley.



.....
Presidente del Senado



.....
Presidenta de la Cámara

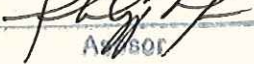
Aprobada en 18 agosto 2011 8:36pm

Gobernador Luperón

Este P. de C Núm. 2523

Fue recibida por el Gobernador

Hoy 18 de agosto

De 2011 a las 6:00 pm


Asesor

(House Bill 2523)

LAW NO. 191 ENACTED ON AUGUST 18, 2011

To add a new paragraph (bb) to Section 2; a new subparagraph (3) to paragraph (c) of Section 3; a new subparagraph (14) to paragraph (b) and a new paragraph (d) to Section 4 of Law No. 74 enacted on June 21, 1956, as amended, known as the "Puerto Rico Employment Security Act;" in order to harmonize it with the federal provisions of Public Act 111-5, known as "The Assistance for Unemployed Workers and Struggling Families Act," and the Regulations of the Federal Department of Labor; to add, for purposes of calculating unemployment insurance benefits, an alternate base period, which shall allow using the last calendar quarter when the claimant is not eligible for unemployment insurance using the base period; to provide for the use of the alternate base period formula; to provide that unemployment insurance will be available for individuals only looking for part-time work, as long as they comply with the requirements established by the Secretary of the Department of Labor and Human Resources; to provide that individuals will be eligible to receive unemployment insurance payments if they claim certain family-related reasons, such as being a victim of domestic violence, having to take care of an immediate family member or having to accompany his or her spouse outside of their place of residence; to provide that the Secretary shall promulgate the necessary regulations to achieve the effective implementation of this Act; and for other purposes.

DECLARATION OF PURPOSES

At a state level, the Federal Unemployment Insurance Program provides unemployment benefits to all eligible workers who are unemployed for reasons not determined by them (according to state law) and comply with other eligibility requirements. The states, including the Government of Puerto Rico, operate unemployment programs under their own laws, which must substantially comply with the provisions of the federal law. The United States Department of Labor provides technical assistance, program guidelines, and assignment of administrative funds, and performs evaluations regarding compliance by the different states with the federal laws and regulations regarding unemployment security.

Under the Federal Unemployment Insurance Program, unemployed individuals are paid a portion of their salary. Through this program, an attempt is being made to

pep

I, Juan E. Segarra, USCCI/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

minimize the impact that unemployment has on individuals and stabilize the economy during times of crisis.

The American Recovery and Reinvestment Act ("ARRA" Act) is the federal act signed on February 17, 2009 by President Barack Obama. This legislation seeks to stimulate the creation of jobs during these challenging economic times by investing \$787 billion dollars during the following two years in crucial sectors such as the energy, health, infrastructure, education, transportation, commerce, energy, housing, legal system and employment sectors.


Public Act 111-5, known as "The Assistance for Unemployed Workers and Struggling Families Act," provided for the distribution of a series of incentives to contribute funds to the unemployment compensation programs in all states, as long as certain requirements established by the federal laws and regulations are complied with. According to the Unemployment Insurance Program Letter, No. 14-09, promulgated by the Federal Department of Labor, as amended, provides for a first fund distribution phase amounting to \$7 billion, as long as the state laws regarding unemployment compensation include the provisions required by the federal act. The second phase provides for the transfer of funds amounting to \$500 million dollars requiring that the state funds be used for administrative purposes.

This money will be distributed to the states which update their unemployment insurance benefit laws for eligible workers who are unemployed due to a lack of suitable work. The program allows states to make unemployment benefits more accessible since they avoid incurring the costs to liberalize the unemployment insurance eligibility requirements. Up to the present date, 32 states which have harmonized their unemployment insurance benefit laws with the federal statute have requested funds under the program and \$2.9 billion have been distributed.

In the case of Puerto Rico, the Recovery Program - Updating Unemployment Insurance has reserved over \$41 million which would directly impact the thousands of American residents residing in Puerto Rico who are currently unemployed.

In order to be eligible for said benefits, especially for the first fund distribution phase, it is necessary to harmonize Law No. 74 enacted on June 21, 1956, as amended, known as the "Puerto Rico Employment Security Act" ("Law No. 74"), by including in the same the necessary requirements to make thousands of Puerto Ricans eligible to receive said funds under the unemployment program.

As part of the requirements established by the Federal Law and the Unemployment Insurance Program Letter, in addition to a base period to be used for the calculation of the unemployment benefit, an alternate base period which uses the

 I, Juan E. Segarra, USCCI/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

last quarter of worked period to perform the calculation must be provided. Furthermore, and in order to be eligible for this program, the local law must be amended to include several options providing flexibility and openness to evaluate the reasons for the separation from employment; that is, persons who are separated from their employment for reasons out of their control, for example, family situations which may arise as a result of an individual being the victim of domestic violence or needing to be relocated due to the transfer or new work opportunity of his or her spouse, or due to an illness or disability of an immediate family member, and to provide protection to the claimant only looking or applying for or accepting part-time work.

This Legislative Assembly implores and calls for treatment that is equal to the one given to the other states of the American Nation. We believe that this Law is an advanced step to be able to comply with the necessary federal requirements to be eligible for the funds separated by the ARRA Act and the Assistance for Unemployed Workers and Struggling Families Act to deal with state unemployment funds.

Based on the foregoing, we believe that the amendments to Law No. 74, *supra*, merit that we become eligible to receive treatment that is equal to the one given to the other states of the American jurisdiction, and to receive the contribution of funds so necessary for the unemployment insurance program of the Government of Puerto Rico.

THE PUERTO RICO LEGISLATIVE ASSEMBLY DECREES:

1 Article 1.-A new paragraph (bb) is added to Section 2 of Law No. 74 enacted on
2 June 21, 1956, as amended, known as the "Puerto Rico Employment Security Act," to
3 read as follows:

4 "Section 2.-Definitions

5 Unless otherwise required by the context, the terms below will have the
6 following meanings:

7 (a) ...

pep

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1 (b) Base period.- Means the first four (4) of the last five (5) completed
 2 calendar quarters immediately preceding the first day of a person's
 3 benefit year. It is provided that in the event of a combined salary
 4 claim in accordance with the agreement approved by the Secretary
 5 of Labor of the United States, the "base period" will be the one
 6 applicable under the provisions of the Unemployment
 7 Compensation Act of the liable state.

8 ...

9 (bb) Alternate Base Period- Means the last four (4) consecutive calendar
 10 quarters, always including the last one, immediately preceding the
 11 first day of claimant's benefit year. It is provided that for purposes
 12 of this Act, all referenced to the "base period" shall include both the
 13 Base Period defined in paragraph (b) of Section 2 and the Alternate
 14 Base Period, when the latter applies.

15 (c) ...

16 ..."

17 Article 2.-A new subparagraph (3) is added to paragraph (c) of Section 3 of Law
 18 No. 74 enacted on June 21, 1956, as amended, known as the "Puerto Rico Employment
 19 Security Act," to read as follows:

20 "Section 3.-Benefit Formula

21 (a) ...

pep

I, Juan E. Segarra, USCCI/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

1 (b) ...

2 (c) Wages to be calculated

3 (1) ...

4 (2) ...

5 (3) When the calculation of the benefit of the Base Period as
6 defined in paragraph (b) of Section 2 does not make
7 Claimant eligible for the benefit, the Secretary will apply the
8 Alternate Base Period to perform the eligibility calculation.

9 (d) ...

10 (e) ...

11 (f) ...”

12 Article 3.-A new subparagraph (14) is added to paragraph (b) and a new
13 paragraph (d) is added to Section 4 of Law No. 74 enacted on June 21, 1956, as
14 amended, known as the “Puerto Rico Employment Security Act,” to read as follows:

15 “Section 4.-Conditions to receive benefits

16 (a) ...

17 (b) ...

18 (1) ...

19 ...

I, Juan E. Segarra, USCCI/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

1 (14) No claimant will be considered ineligible as a result of a
2 separation from his or her employment due to a family
3 situation where access or regular attendance to the
4 workplace are excessively onerous or impractical for the
5 following reasons:

6 i. a need to change or relocate his or her residence as a
7 result of a work transfer or new employment of his or
8 her spouse;

9 ii. domestic violence situations or incidents where access
10 or regular attendance to the workplace pose a risk to
11 the employee's safety or to the safety of his or her
12 family members. It is provided that immediate family
13 members will be spouses, parents or underage children.

14 The following, without limitation, constitute sufficient proof of a
15 domestic violence situation:

16 1) A Court protection order;

17 2) A police report of the incident of domestic violence;

18 3) A report or certification from a bona fide organization
19 that provides support services to victims of domestic
20 violence;

21 4) A statement by an assistance professional, such as

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1 counselors, home employees, attorneys, church
2 representatives, or health professionals.

3 The information contained in the above-referenced
4 documents will be confidential; therefore, it may not be
5 disclosed unless it is authorized, in writing, by the
6 claimant. The Secretary of Labor shall establish a
7 training program for handling unemployment claims as
8 a result of domestic violence in coordination and
9 collaboration with the Women's Advocate Office. The
10 same will have the purpose of training the management
11 and personnel that will deal with victims of domestic
12 violence. This Program will come into effect sixty (60)
13 days from the effective date of this Act;

- 14 iii. situations or incidents in which the claimant is the
15 victim of a crime or witness to the commission of a
16 crime, where as a result of this situation, access or
17 regular attendance to the workplace pose a risk to the
18 physical safety of the claimant requiring that the same
19 change or relocate his or her residence;

pep

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1 iv. evident illness or disability of an immediate family
 2 member requiring that the claimant take care and
 3 accompany the family member for a period of time that
 4 is longer than one which the employer may guarantee
 5 under a leave. It is provided that an immediate family
 6 member will be a spouse, parent or underage child.

7 In the event of termination related to, or as a result of, the above-
 8 indicated reasons, if the Secretary of Labor determines that said
 9 termination was related to the forceful above-referenced family reasons, the
 10 same will declare the claimant eligible for the benefits.

11 (c) ...

12 (d) Part-time employment: Notwithstanding any other provision in
 13 this Act, the eligibility for benefits will extend to all claimants who
 14 are available to perform or accept placement only in part-time job,
 15 subject to the following provisions:

16 (1) If most of the work weeks under the base period of a claimant
 17 include part-time work, the same will not be denied unemployment
 18 benefits under the provisions of this act related to the availability
 19 for work, active job search, or failure to accept a job, only because
 20 the individual is solely looking for a part-time job.

21 (2) For purposes of this paragraph, "available for part-time

pep

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1 work" shall mean available for at least (20) hours of work
2 per week, unless the employment schedule creating
3 eligibility under the base period or at the time of separation
4 was shorter.

5 (3) Nothing provided in this paragraph will be interpreted as an
6 impediment for a person who had a part-time job to request
7 or accept placement or participate in training programs for
8 full-time employment.

9 Article 4.- This Legislative Assembly provides that from the money received by the
10 Government of Puerto Rico as a result of the amendments prescribed by the present act, under
11 the American Recovery and Reinvestment Act, supra, the amount of three million seven hundred
12 and forty-nine thousand two hundred and fifty-two dollars (\$3,749,252.00) will be separated to
13 use it for the administration of the employment service and unemployment insurance program,
14 including purchasing equipment and updating technology.

15 Article 5.-El Secretary of the Department of Labor and Human Resources shall
16 adopt or amend, within six (6) months following the approval of this Act, the necessary
17 regulations to achieve the effective implementation of this Act.

pep I, Juan E. Segarra, USCCI/translator, certify that the foregoing is a true and accurate translation,
to the best of my abilities, of the document in Spanish which I have seen.

1 Article 6.-The Secretary of the Department of Labor and Human Resources shall
2 remit to the Legislative Assembly a report detailing the status of the unemployment
3 insurance program and its compliance with Law No. 74 enacted on June 21, 1956 in
4 order to maximize the assignment of federal funds for the program on the year
5 following the approval of this Act.

6 Article 7.-Effective Date

7 This Act will come into effect immediately after it is approved. *However, a term of*
8 *six (6) months is granted to implement this Act.*

9

10

11 [signature] _____
12 President of the House

13 [signature] _____
14 President of the Senate

15

16

17 Approved on August 18, 2011 8:36p.m
18 [signature] _____
19 Acting Governor

pep

I, Juan E. Segarra, USCCI/translator, certify that the foregoing is a true and accurate translation, to the best of my abilities, of the document in Spanish which I have seen.

Attachment I

Alternate Base Period Amendment

- STATE LAW** : Law No. 191 of August 18th, 2011, which amends the provisions of Law No. 74 of June 21, 1956, as amended
- EFFECTIVE DATE** : Immediately, with up to six months for implementation
- CERTIFICATION OF PERMANENCY** : I certify that the alternate base period provisions of Puerto Rico law are not subject to discontinuation under any circumstances other than repeal by the Puerto Rico Legislature. (See Articles 1 and 7)
- USE OF FUNDS** : Puerto Rico intends to use the incentive funds for the payment of unemployment compensation and administrative costs as authorized by federal law and Law 191.
- CERTIFICATION OF GOOD FAITH** : This application is submitted in good faith with the intention of providing benefits to unemployed workers who meet the eligibility provisions on which it is based.

LAW PROVISIONS

Article 1.-A new paragraph (bb) is added to Section 2 of Law No. 74 enacted on June 21, 1956, as amended, known as the "Puerto Rico Employment Security Act," to read as follows:

"Section 2.-Definitions

Unless otherwise required by the context, the terms below will have the following meanings:

- (a) ...
- (b) Base period.- Means the first four (4) of the last five (5) completed calendar quarters immediately preceding the first day of a person's benefit year. It is provided that in the event of a combined salary claim in accordance with the agreement approved by the Secretary of Labor of the United States, the "base period" will be the one applicable under the provisions of the Unemployment Compensation Act of the liable state.

- ...
- (bb) Alternate Base Period- Means the last four (4) consecutive calendar quarters, always including the last one, immediately preceding the first day of claimant's benefit year. It is provided that for purposes of this Act, all referenced to the 'base period' shall include both the Base Period defined in paragraph (b) of Section 2 and the Alternate Base Period, when the latter applies.
- (c) ...
"
"

Article 2.-A new subparagraph (3) is added to paragraph (c) of Section 3 of Law No. 74 enacted on June 21, 1956, as amended, known as the "Puerto Rico Employment Security Act," to read as follows:

"Section 3.-Benefit Formula

- (a) ...
- (b) ...
- (c) Wages to be calculated
 - (1) ...
 - (2) ...
 - (3) When the calculation of the benefit of the Base Period as defined in paragraph (b) of Section 2 does not make Claimant eligible for the benefit, the Secretary will apply the Alternate Base Period to perform the eligibility calculation.
- (d) ...
- (e) ...
- (f) ...

Certified by



Miguel Romero
Secretary PRDOL

Compelling Family Reasons Amendment

- STATE LAW** : Law No. 191 of August 18th, 2011, which amends the provisions of Law No. 74 of June 21, 1956, as amended
- EFFECTIVE DATE** : Immediately, with up to six months for implementation
- CERTIFICATION OF PERMANENCY** : I certify that the compelling family reasons' provision of Puerto Rico law is not subject to discontinuation under any circumstances other than repeal by the Puerto Rico legislature. (See Articles 3 and 7)
- USE OF FUNDS** : Puerto Rico intends to use the incentive funds for the payment of unemployment compensation and administrative costs as authorized by federal law and Law 191.
- CERTIFICATION OF GOOD FAITH** : This application is submitted in good faith with the intention of providing benefits to unemployed workers who meet the eligibility provisions on which it is based.

LAW PROVISIONS

ARTICLE 3, SECTION 4, SUBSECTION 14

Article 3.-A new subparagraph (14) is added to paragraph (b) and a new paragraph (d) is added to Section 4 of Law No. 74 enacted on June 21, 1956, as amended, known as the "Puerto Rico Employment Security Act," to read as follows:

"Section 4.-Conditions to receive benefits

- (a) ...
- (b) ...
 - (1) ...
 - ...
 - (14) No claimant will be considered ineligible as a result of a separation from his or her employment due to a family situation

where access or regular attendance to the workplace are excessively onerous or impractical for the following reasons:

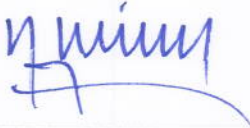
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|--------------------------|-----|---|
| Trailing Spouse | i. | a need to change or relocate his or her residence as a result of a work transfer or new employment of his or her spouse; |
| Domestic Violence | ii. | domestic violence situations or incidents where access or regular attendance to the workplace pose a risk to the employee's safety or to the safety of his or her family members. It is provided that immediate family members will be spouses, parents or underage children. |
- The following, without limitation, constitute sufficient proof of a domestic violence situation:
- 1) A Court protection order;
 - 2) A police report of the incident of domestic violence;
 - 3) A report or certification from a bona fide organization that provides support services to victims of domestic violence;
 - 4) A statement by an assistance professional, such as counselors, home employees, attorneys, church representatives, or health professionals.
- The information contained in the above-referenced documents will be confidential; therefore, it may not be disclosed unless it is authorized, in writing, by the claimant. The Secretary of Labor shall establish a training program for handling unemployment claims as a result of domestic violence in coordination and collaboration with the Women's Advocate Office. The same will have the purpose of training the management and personnel that will deal with victims of domestic violence. This Program will come into effect sixty (60) days from the effective date of this Act;
- | | | |
|---|------|--|
| Crime Victim or Witness | iii. | situations or incidents in which the claimant is the victim of a crime or witness to the commission of a crime, where as a result of this situation, access or regular attendance to the workplace pose a risk to the physical safety of the claimant requiring that the same change or relocate his or her residence; |
| Illness or Disability of Family Member | iv. | evident illness or disability of an immediate family member requiring that the claimant take care and accompany the family member for a period of time that is |

longer than one which the employer may guarantee under a leave. It is provided that an immediate family member will be a spouse, parent or underage child.

In the event of termination related to, or as a result of, the above-indicated reasons, if the Secretary of Labor determines that said termination was related to the forceful above-referenced family reasons, the same will declare the claimant eligible for the benefits.

(c) ...

Certified by:



Miguel Romero
Secretary PRDOL

Part Time Workers Amendment

- STATE LAW** : Law No. 191 of August 18th, 2011, which amends the provisions of Law No. 74 of June 21, 1956, as amended
- EFFECTIVE DATE** : Immediately, with up to six months for implementation
- CERTIFICATION OF PERMANENCY** : I certify that the part time worker amendment provision of Puerto Rico law is not subject to discontinuation under any circumstances other than repeal by the Puerto Rico legislature. (See Articles 3 and 7)
- USE OF FUNDS** : Puerto Rico intends to use the incentive funds for the payment of unemployment compensation and administrative costs as authorized by federal law and Law 191.
- CERTIFICATION OF GOOD FAITH** : This application is submitted in good faith with the intention of providing benefits to unemployed workers who meet the eligibility provisions on which it is based.

LAW PROVISIONS

ARTICLE 3, SECTION 4: CONDITIONS TO RECEIVE BENEFITS

Article 3.-A new subparagraph (14) is added to paragraph (b) and a new paragraph (d) is added to Section 4 of Law No. 74 enacted on June 21, 1956, as amended, known as the "Puerto Rico Employment Security Act," to read as follows:

"Section 4.-Conditions to receive benefits


...

... (d) Part-time employment: Notwithstanding any other provision in this Act, the eligibility for benefits will extend to all claimants who are available to perform or accept placement only in part-time job, subject to the following provisions:

- (1) If most of the work weeks under the base period of a claimant include part-time work, the same will not be denied unemployment benefits under the provisions of this act related to the availability for work, active job search, or failure to accept a job, only because the individual is solely looking for a part-time job.

- (2) For purposes of this paragraph, "available for part-time work" shall mean available for at least (20) hours of work per week, unless the employment schedule creating eligibility under the base period or at the time of separation was shorter.
- (3) Nothing provided in this paragraph will be interpreted as an impediment for a person who had a part-time job to request or accept placement or participate in training programs for full-time employment.

Certified by



Miguel Romero
Secretary PRDOL