

**ACT 3 OF APRIL 4, 2013**  
**(Unofficial Translation)**

*BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:*

Section 1.- Section 1-101 of Act No. 447 of May 15, 1951, as amended, is hereby amended to read as follows:

“Section 1-101.- Employee Retirement System - Creation: effective and operative dates; coordination with the Federal Social Security.-

There is hereby created a retirement and benefit system to be designated as the “Employee Retirement System of the Government of the Commonwealth of Puerto Rico,” which shall be deemed as a trust. The funds of said System created hereby shall be used and applied, as established in this Act, for the benefit of the participating members of its membership, and for the benefit of their dependents and beneficiaries for the payment of retirement annuities, disability annuities, death benefits and annuities, and other benefits, upon fulfillment of conditions set forth hereinafter, in order to achieve economy and efficiency in the administration of the Government of the Commonwealth of Puerto Rico.

The System shall be established as of the effective date of this Act and shall begin operations on January 1, 1952, when contributions by members shall begin and benefits shall be payable as provided in this Act. The period from the effective date of this Act to January 1, 1952, shall constitute a period of organization of the System. January 1, 1952, shall be known as the “operative date of the System”. In the case of public enterprises and municipalities, the operative date shall be the date their participation in the System commences. As of the effective date fixed in the modification of the agreement signed between the Agency in Charge, the Secretary of Health and the Secretary of Education, pursuant to the provisions of Act No. 396 of May 12, 1952, as amended, the benefits of Chapter 2 of this Act shall be coordinated with the benefits of Title II of the United States Social Security Act. In no case shall the combined payments of annuities of the Social Security and the Retirement System under the Chapter 2 of this Act be less than the annuity that would have corresponded to the participant of the System under Chapter 2, pursuant to the provisions of this Act. Retirement benefits provided under Chapters 3 and 5 of this Act shall not be coordinated with the benefits of Title II of the United States Social Security Act, except where applicable under the provisions of Chapter 5.”

Section 2.-Section 1-102 of Act No. 447 of May 15, 1951, as amended, is hereby

amended to read as follows:

“Section 1-102.- Employee Retirement System – Benefits for the Employees of the System.-

This Act shall consist of five chapters. Chapter 1 shall contain the provisions related to the creation of the System. Chapter 2 shall contain the provisions related to the defined benefits retirement program for the employees who became a part of the System prior to January 1, 2000. Those employees who became a part of the system prior to January 1, 2000, shall only enjoy the benefits provided in Chapters 2, 4 and 5 and shall not be entitled to any other benefit provided by this Act, unless, pursuant to the provisions of Section 3-102 of this Act they chose to participate in the Retirement Savings Account Program. Chapter 3 shall contain the provisions related to the Retirement Savings Account Program. The participants of the Retirement Savings Account Program shall only enjoy the benefits provided in Chapters 3, 4 and 5 of this Act, and shall not be entitled to any other benefit provided by this Act. Chapter 4 shall contain the provisions related to the administration of the System and the investment of the System’s funds. Chapter 5 of this Act shall contain the provisions of the Defined Contribution Hybrid Program that shall apply to all employees who are participants of the System as of July 1, 2013. The employees participating in the Defined Contribution Hybrid Program shall be subject only to the provisions of Chapters 4 and 5, except as otherwise provided in this Act. The provisions of Chapters 1, 2 and 3 shall remain in force in order to preserve the rule of law applicable to all the transactions that have been or shall be performed on or before June 30, 2013, to preserve those sections whose provisions shall be applicable together with Chapter 5, as specifically provided in this Act, and to preserve the definitions of the terms applicable to Chapter 5 of this Act.”

Section 3.-Section 1-104 of Act No. 447 of May 15, 1951, as amended, is hereby amended to read as follows:

“Section 1-104. -Definitions.-

The following terms and phrases as used in this Act, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) Board. Shall mean the Board of Trustees of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico.

...

- (25) Hybrid Program. Shall mean the Defined Contribution Hybrid Program established in Chapter 5 of this Act, under which the participant shall make contributions that shall be used subsequently to grant a lifetime annuity.
- (26) ...
- (27) ...
- (28) ...
- (29) ...
- (30) ...
- (31) Normal date of retirement. Shall mean under Chapter 3 of this Act:
- (a) General rule- The first day of the month that coincides with or is subsequent to the date that the participant of the program reaches the age of sixty (60), except as provided in clause (b) of this subsection.
  - (b) Public Officers in High-Risk Positions- In the case of Public Officers in High-Risk Positions, it shall mean the first day of the month that coincides with or is subsequent to the date that the Participant reaches the age of fifty-five (55) years.
  - (c) Effectiveness of these provisions: the normal date of retirement established in subsections (a) and (b) of this definition shall be in force until June 30, 2013.
- (32) New retirement age. Shall mean the retirement age of the participants established in the provisions of Chapter 5 of this Act.
- (33) Transfer option.- ...
- (34) Participant of the Program. Shall mean, until June 30, 2013, every person for whom the Administrator maintains an account under the Retirement Savings Account Program pursuant to the provisions of Chapter 3 of this Act. Beginning on July 1, 2013, it shall mean every person for whom the Administrator maintains an account under the Defined Contribution Hybrid Program pursuant to the provisions of Chapter 5 of this Act.
- (35) ...

- (36) ...
- (37) ...
- (38) ...
- (39) Code. Shall mean the Internal Revenue Code for a New Puerto Rico, Act 1-2011, as amended.
- (40) Public Officers in High-Risk Positions. Shall mean the Commonwealth of Puerto Rico Police, the Municipal Police, the Commonwealth Firefighter Corps, the Municipal Firefighter Corps, and the Custody Officers Corps.
- (41) Retirement age for participants who joined public service after June 30, 2013. The retirement age shall be 67 years, except in the case of Public Officers in High-Risk Positions, for whom it shall be fifty eight (58) years.

The masculine gender of the pronoun, wherever it is used, shall encompass both genders.”

Section 4.- Section 2-101 of Act No. 447 of May 15, 1951, as amended, is hereby amended to read as follows:

“Section 2-101.-Retirement annuity.

- (a) Upon separation from service, on or after reaching the ages, and after completing the period of service indicated below, all participants who have not been reimbursed their accrued contributions shall be entitled to receive a retirement annuity. Said annuity shall commence on the date in which the participant files his/her application for retirement, but in no case before his/her separation from the service.

...

However, a minimum pension of five hundred dollars (\$500) per month is hereby fixed for those participants who retired in accordance with the provisions of this Chapter 2. Every pensioner who receives a pension of less than five hundred dollars (\$500) per month shall receive, beginning on July 1, 2013, the increase required for his/her pension to be five hundred dollars (\$500).

The provisions on minimum pensions set forth in this Section shall not apply to persons who, having been participants of this System, retire under

the jurisdiction of any other of the systems sponsored by the Government of the Commonwealth of Puerto Rico in accordance with the provisions set forth in this Act.

...

- (b) Notwithstanding the fact that a superannuation retirement annuity is payable for life, if annuitants return to the service, the payment of their annuity shall be suspended. After an annuitant separates from service, payment of the suspended annuity shall resume and he/she shall also have the option to withdraw the contributions made since the date he/she returned to service up until he/she separates from service if, after returning to service, he/she worked less than five (5) years or accrued contributions for less than ten thousand dollars (\$10,000). In the event the annuitant worked five (5) years or more and contributed ten thousand dollars (\$10,000) or more, after returning to service, he/she shall be entitled, after his/her separation from service and after reaching the age established in Section 5-110 of this Act, to receive an additional annuity computed pursuant to Section 5-110 of this Act, on the basis of the contributions made since the date said annuitant returned to service until his/her separation from it.

..."

Section 5.- Section 2-103 of Act No. 447 of May 15, 1951, as amended, is hereby amended to read as follows:

“Section 2-103.-Retirement Benefits for System Employees - Annuities for new participants.

- (A) Annuity for years of service. Retirement shall be optional for new participants joining the System for the first time after April 1, 1990, as of the date in which they reach the age of sixty-five (65), have completed a minimum of ten (10) years of accredited services and have not requested or received the reimbursement from the accrued contributions. The amount of the annuity shall be one point five percent (1.5%) of the average compensation multiplied by the years of accredited services. However, a minimum pension of five hundred dollars (\$500) per month, effective July 1, 2013, is hereby fixed for those participants who retired in accordance with the provisions of this Chapter 2. Every pensioner who receives a pension of less than five hundred dollars (\$500) per month shall receive, effective July 1, 2013, the increase required for his/her pension to be five hundred dollars (\$500).

..."

Section 6.- Section 2-104 of Act No. 447 of May 15, 1951, as amended, is hereby repealed in full.

Section 7.- The title of Section 2-104-a of Act No. 447 of May 15, 1951, as amended, is hereby amended to renumber it as Section 2-104, so that it read as follows:

"Section 2-104.- Public Officers in High-Risk Positions - Mandatory retirement.

..."

Public Officers in High-Risk Positions may voluntarily opt to retire after reaching the age of fifty-five (55) and thirty (30) years of service. Retirement shall be mandatory on the date the participant reaches both thirty (30) years of service and the age of fifty-eight (58). Provided, that the Superintendent of the Puerto Rico Police, the Chief of the Firefighter Corps or the corresponding appointing authority may grant dispensations authorizing members of this group to work for an additional maximum period of two (2) years performing the functions assigned to them; provided that their health and safety are not compromised. Such a request for dispensation shall be made by the member, not later than ninety (90) days before his/her retirement date.

It is hereby provided that the Superintendent of the Puerto Rico Police, the Chief of the Firefighter Corps or the corresponding appointing authority shall make the necessary regulatory provisions to comply with this Act."

Section 8.- Section 2-115 of Act No. 447 of May 15, 1951, as amended, is hereby repealed in full.

Section 9.- Section 2-116 of Act No. 447 of May 15, 1951, as amended, is hereby repealed in full.

Section 10.- Sections 2-117 thru 2-120 of Act No. 447 of May 15, 1951, as amended, are hereby renumbered as Sections 2-115 thru 2-118 of Act No. 447 of May 15, 1951, as amended.

Section 11.- Section 3-104 of Act No. 447 of May 15, 1951, as amended, is hereby repealed in full.

Section 12.- Section 3-105 of Act No. 447 of May 15, 1951, as amended, is hereby repealed in full.

Section 13.- Sections 3-106 thru 3-112 of Act No. 447 of May 15, 1951, as amended, are hereby renumbered as Sections 3-104 thru 3-110 of Act No. 447 of May 15, 1951, as amended.

Section 14.- Chapter 5 of Act No. 447 of May 15, 1951, as amended, is hereby created with the title of "Defined Contribution Hybrid Program".

Section 15.- Section 5-101 of Act No. 447 of May 15, 1951, as amended, is hereby added, so that it read as follows:

"Section 5-101.- Creation of the Defined Contribution Hybrid Program.-

(a) Creation of the Program.- A Defined Contribution Hybrid Program is hereby created consisting of the establishment of an individual contribution account for each participant of the System who becomes a part of said program as provided in this Chapter. The contributions of each participant of the Hybrid Program and the investment yield shall be credited to the participant's account pursuant to Section 5-108 of this Chapter. The benefits to be provided to each participant upon separation from the service, whether by retirement or otherwise, shall depend on the total contributions to the Hybrid Program accrued in his/her account (including, in the case of employees who joined the System for the first time on or after January 1, 2000, the contributions accrued in their savings accounts under the Retirement Savings Account Program, which are rolled over to the Hybrid Program pursuant to Section 5-103 of this Act), the investment yield and the lifetime annuity granted based on these, pursuant to Section 5-110 of this Act.

(b) Participants of the Program.- The following persons shall participate in the Hybrid Program:

(1) Every employee who is a participant of the System as of July 1, 2013.

(2) Every new employee who joins the System for the first time after July 1, 2013."

Section 16.- Section 5-102 of Act No. 447 of May 15, 1951, as amended, is hereby added, so that it reads as follows:

“Section 5-102.-Transfer to the Program.-

As of July 1, 2013, every employee who is a participant of the System, including mayors, regardless of the date when he/she was first appointed to the Government of the Commonwealth of Puerto Rico, its instrumentalities, municipalities or participating employers of the System, shall become part of the Defined Contribution Hybrid Program. These participants shall receive the benefits established in this Chapter.

The provisions of Chapters 1, 2 and 3 shall not apply to these employees, except as otherwise provided in this Chapter.”

Section 17.- Section 5-103 of Act No. 447 of May 15, 1951, as amended, is hereby added, so that it reads as follows:

“Section 5-103.-Accrued Benefits-

- (a) After this Act takes effect, the benefits accrued by employees who participate in the System that began to work before January 1, 2000 and are not participants of the Retirement Savings Account Program established in Chapter 3 of this Act, shall be preserved with respect to the years of service accrued and the manner in which the average salary is computed. Those participants who, as of June 30, 2013, were entitled to retire and receive some type of pension under this Act because they had met the requirements of years of service accrued and age provided here, may retire on any later date and they shall be entitled to receive the annuity corresponding to them under Chapter 2 of this Act on the basis of salaries and years of service accrued as of June 30, 2013, as well as the annuity established in accordance with Section 5-110. In addition, the provisions of subsections (a) 7, 8, 9, 10 and 11 of this Section shall apply to these participants.

The following provisions shall apply to employees who participate in the System that (i) began to work before January 1, 2000, (ii) as of June 30, 2013, are not participants of the Retirement Savings Account Program established in Chapter 3 of this Act and (iii) as of June 30, 2013, do not meet the requirements of years of service and age to retire that are required in Chapter 2 of this Act:

- (1) New Retirement Age for participants who joined the System for the first time before April 1, 1990. For those participants who, as of June 30, 2013, have not reached the age of 58 and completed at

least 10 years of service, or have not reached the age of 55 and completed at least 25 years of service, retirement shall be optional when they meet the following age and service requirements:

- (i) If, as of June 30, 2013, the participant is 57 years of age, the retirement will be optional when he/she reaches 59 years of age and has completed at least 10 years of service.
  - (ii) If, as of June 30, 2013, the participant is 56 years of age, the retirement will be optional when he/she reaches 60 years of age and has completed at least 10 years of service.
  - (iii) If, as of June 30, 2013, the participant is 55 years of age or less, the retirement will be optional when he/she reaches 61 years of age and has completed at least 10 years of service.
- (2) Retirement Age for participants who joined the System for the first time between April 1, 1990, and December 31, 1999.- For participants who, as of June 30, 2013, have not reached the age of 65 and completed at least 10 years of service, retirement shall be optional when the participant reaches 65 years of age and has completed 10 years of service.
- (3) For Public Officers in High-Risk Positions who began to work before April 1, 1990 and who, as of June 30, 2013, have not reached the age of 50 and completed at least 25 years of service, or who have not completed 30 years of service, regardless of their age, retirement shall be optional when they reach 55 years of age and have completed 30 years of service.
- (4) For Public Officers in High-Risk Positions who began to work between April 1, 1990, and December 31, 1999, and who, as of June 30, 2013, are not 55 years old and have completed 25 years of service, or who have not completed 30 years of service, regardless of their age, retirement shall be optional when they reach 55 years of age and have completed 30 years of service.
- (5) Public Officers in High-Risk Positions who separate from active service before meeting the requirements of age and service provided in subsection (a)(3) or (a)(4) of this Section may only receive their accrued pension when they meet the following age and service requirements:

- (i) If the participant joined the System for the first time before April 1, 1990, after he/she meets the age and service requirements established in subsection (a) 1 of this Section.
  - (ii) If the participant joined the System for the first time between April 1, 1990, and December 31, 1999, after he/she meets the age and service requirements established in subsection (a) 2 of this Section.
- (6) Pension Computation.- When the participant meets the age and service requirements established above, he/she shall be entitled to receive an annuity computed on the basis of years of service accrued as of June 30, 2013, in accordance with the following rules:
- (i) The average salary of employees who began to work before April 1, 1990, shall be the one established in definition number 15 of Section 1-104 of this Act.
  - (ii) The average salary of employees who began to work between April 1, 1990, and December 31, 1999, shall be the one established in Section 1-108 of this Act.
  - (iii) The pension computation of employees who began to work before April 1, 1990, shall be made on the basis of one and one half percent (1.5%) of the average salary, multiplied by the number of years of creditable service up to twenty (20) years, plus two percent (2.0%) of the average salary, multiplied by the number of years of creditable service in excess of twenty years, in each case up to June 30, 2013.
  - (iv) The pension computation of employees who began to work between April 1, 1990 and December 31, 1999, shall be made on the basis of one and one half percent (1.5%) of the average salary, multiplied by the number of years of creditable service up to June 30, 2013.
  - (v) Participants of the System who, as of June 30, 2013, have availed themselves to the Coordinating Plan and are receiving Social Security benefits will have their annuities adjusted in accordance with the provisions of subsection (e) of Section 2-101 of this Act. Provided that until the participant is entitled to receive the Social Security benefits, he/she may receive an annuity in accordance with Section 5-103 of this Act.

- (vi) This pension shall be received together with the annuity accrued by a participant under Section 5-110 of this Act.
- (7) Beginning on July 1, 2013, participants shall not accrue any more years of service for the determination of the average salary and computation of a pension under Section 5-103(a)(4). In addition, participants may not have services not credited recognized, contributions transferred or returned for periods worked before June 30, 2013, except for those exceptions specifically established in this Act.
- (8) The contributions of the participants shall be subject to the provisions of Section 2-119.
- (9) Reimbursement of contributions: As of July 1, 2013, participants who separate from service permanently shall be entitled to the annuity established in this Section and shall not be entitled to have their contributions reimbursed in the event of voluntary or involuntary separation from service or disability. The contributions of those participants of the system who began to work on or before December 31, 1999, and who, as of June 30, 2013, have not completed ten (10) years of service, shall be transferred to the participant's account under the Hybrid Program.
- (10) Death of a participant in active service: Upon death of any person who is rendering services and who had contributions accrued in the System, these contributions shall be reimbursed to the person or persons the participant had designated through written order duly acknowledged and submitted to the Administrator, or to his/her heirs, in the event such designation had not been made. The reimbursement shall be equal to the sum of the contributions and the interest accrued up to six (6) months after the date of death or the date of payment of this sum by the System, whichever occurs first. The Administrator shall collect from the contributions any debt the participant may have with the System.
- (11) Death of a pensioner: Except if, in accordance with this Act, a transfer of annuity was payable, upon death of a participant who was receiving a retirement annuity, a death benefit shall be paid in one lump sum in cash to the person or persons the participant had designated through written order duly

acknowledged and submitted to the Administrator, or to his/her heirs, in the event such designation had not been made. This benefit shall consist of the excess, if there was one, of the contributions accrued up to June 30, 2013, on behalf of the participant until the date of his/her death. If the demise of a retired participant should occur within thirty (30) days after the date of retirement, the demise shall be construed, for purposes of any of the provisions of this Act, as having occurred while in service, notwithstanding any other provision of this Act to the contrary.

- (b) Those participants who began to work on or after January 1, 2000, or those who as of June 30, 2013, were participants in the Retirement Savings Program and who as of June 30, 2013, could retire from service because they are sixty (60) years old, may retire on any later date and they shall be entitled to receive the annuity that could be acquired with the balance of the contributions under the Retirement Savings Account Program and those accrued under the Defined Contribution Hybrid Program.

- (1) The savings accounts under the Retirement Savings Account Program of employees who joined the System for the first time on or after January 1, 2000, shall be rolled over to the Defined Contribution Hybrid Program. Be it provided that if, as of June 30, 2013, the employees have not reached the age of sixty (60), they shall be entitled to the annuity established in Section 5-110 of this Act when they meet the following age requirements:

- (i) If, as of June 30, 2013, the participant is 59 years old, the retirement will be optional when he/she has reached 61 years of age.
    - (ii) If, as of June 30, 2013, the participant is 58 years old, the retirement will be optional when he/she has reached 62 years of age.
    - (iii) If, as of June 30, 2013, the participant is 57 years old, the retirement will be optional when he/she has reached 63 years of age.
    - (iv) If, as of June 30, 2013, the participant is 56 years old, the retirement will be optional when he/she has reached 64 years of age.

- (v) If, as of June 30, 2013, the participant is 55 years old or less, the retirement will be optional when he/she has reached 65 years of age.

- (2) For Public Officers in High-Risk Positions who began to work after December 31, 1999, and who, as of June 30, 2013, are not 55 years old, retirement shall be optional when they reach 55 years of age."

Section 18.-Section 5-104 of Act No. 447 of May 15, 1951, as amended, is hereby added, so that it reads as follows:

"Section 5-104.-Establishing Contribution Accounts for the Defined Contribution Hybrid Program.-

The Administrator shall establish and maintain an account with the contributions of each participant in the Hybrid Program, which shall be credited and debited pursuant to Sections 5-108 and 5-109 of this Chapter.

- (a) For employees who are participants of the System and who began to work before January 1, 2000, and, as of June 30, 2013, are not participants of the Retirement Savings Account Program, their accounts will be credited with the contributions they make beginning on July 1, 2013. The individual contributions they made before June 30, 2013, shall be used to pay for the annuity provided in Section 5-103 of this Act.
- (b) For employees who are participants of the System and who began to work on or after January 1, 2000, their accounts will be credited with the balance, as of June 30, 2013, of their savings account under the Retirement Savings Account Program and of the contributions they make beginning on July 1, 2013, except for the provisions of Section 5-103(b).

These contributions shall be subject to the provisions of Section 2-119 of this Act."

Section 19.- Section 5-105 of Act No. 447 of May 15, 1951, as amended, is hereby added, so that it reads as follows:

"Section 5-105.- Contributions of participants of Hybrid Program.-

- (a) Contributions to the account.- Contributions to the account.- Every participant of the Hybrid Program shall compulsorily have to contribute ten percent (10%) of his/her salary while he/she is an employee.

- (b) Contributions under the Plan of Coordination with Social Security benefits.- The participants of the System who, as of June 30, 2013, have availed themselves to the Plan of Coordination with Social Security benefits shall contribute to the Hybrid Program:
- (1) Effective July 1, 2013, shall contribute seven percent (7%) of their monthly salaries up to five-hundred fifty dollars (\$550) and ten percent (10%) of their monthly salaries in excess of said amount.
  - (2) Effective July 1, 2014, shall contribute eight point five percent (8.5%) of their monthly salaries up to five-hundred fifty dollars (\$550) and ten percent (10%) of their monthly salaries in excess of said amount.
  - (3) Effective July 1, 2015, shall contribute ten percent (10%) of their full monthly salaries.

The participants of the Program under subsections (a) and (b) of this Section may voluntarily contribute to their account an amount in addition to the one established here. These contributions shall be credited to the contribution account of each participant of the Hybrid Program. The Administrator shall establish the way in which the participants may make additional contributions.

- (c) Mandatory Contribution for the Purchase of Disability Insurance.- Every participant of the Hybrid Program shall mandatorily contribute to the disability insurance established in Section 5-112 of this Chapter, for which he/she shall have to contribute such sums, fixed in dollars or a percent of the salary, that the Administrator, with the approval of the Board, determines that are needed to provide the disability benefit, provided the contribution required by the Administrator is equal to or less than point twenty five percent (0.25%) of the participant's salary. The contributions made pursuant to this subsection may be credited against and will reduce the contributions that the participant of the Program is bound to pay to the Commonwealth of Puerto Rico Employees Association as provided in Section 8 of Act No. 133 of June 28, 1966, as amended. The contributions made under this subsection shall not be credited to the participant's account."

Section 20.- Section 5-106 of Act No. 447 of May 15, 1951, as amended, is hereby added, so that it reads as follows:

“Section 5-106.-Employer contributions.-

Every employer, beginning on July 1, 2013, shall mandatorily contribute to the System a sum equal to twelve point two hundred seventy-five percent (12.275%) of the salary of each participant of the Program as long as the participant is an employee. These contributions shall be deposited in the System to increase the level of assets of the System, reduce the actuarial deficit and enable the System to meet its future obligations. Beginning on July 1, 2014, and up until June 30, 2016, the minimum employer contribution rate of twelve point two hundred seventy-five percent (12.275%) shall be annually increased on every successive July 1<sup>st</sup> by one percent (1%) of the salary regularly received by the participants. Beginning on July 1, 2016, and up until June 30, 2021, the minimum employer contribution rate that is in effect on June 30 of every year shall be annually increased on every successive July 1<sup>st</sup> by one point twenty-five percent (1.25%) of the salary regularly received by the participants. It is provided that the established increases applicable to the municipalities for fiscal years 2012-2013 and 2013-2014, shall be included in the budget petition submitted by the Office of Management and Budget to the Legislative Assembly.”

Section 21.-Section 5-107 of Act No. 447 of May 15, 1951, as amended, is hereby added, so that it reads as follows:

“Section 5-107.-Obligations of the Employer, Sanctions.-

Every employer who is bound to deduct and withhold the contributions of the participants of the Program and make contributions to the System pursuant to the provisions of this Chapter, shall have the following obligations:

- (a) **Obligation to Deduct and Withhold the Contributions of the Participants and Remit the Employer and Participants Contributions to the System.** – Every employer of a participant of the Program shall deduct and withhold the contributions provided in Section 5-105 from the salary of the participant. The Secretary of the Treasury, or any paymaster of the employer, is hereby authorized to make the deductions, even if the salary to be paid in cash to the participant as a result of these deductions is reduced to less than any minimum prescribed by Law. The contributions of the participants of the Program shall be remitted by the employer along with the employer contributions that the employer is bound to make to the System, on or before the fifteenth (15<sup>th</sup>) day of the month following the date the withholding was made, as provided in Section 5-106. The Administrator shall establish the form and manner that the contributions shall be remitted.

- (b) **Liability for the Contributions.**—Every employer that is bound to deduct and withhold the contributions of the participants of the Program and to remit the contributions of the participants and the employer provided in this Chapter, shall be liable to the System for the full payment of said contributions. If the employer should fail to make the deduction or remit the contributions, the sums that should have been withheld and the unpaid contributions shall be collected from the employer by the Administrator, following the procedure established in Section 4-111 of this Act.
- (c) **Interest on Indebted Contributions.**—Every employer who does not remit his/her contributions and those of the participants of the Program within the established term, shall be liable to the System for the payment of interest on the indebted contribution from the day the contribution should have been remitted to the System until the date that the contribution is remitted, at the rate determined by the Board. Interest owed by an employer shall be collected by the Administrator following the procedure established in Section 4-111 of this Act.
- (d) **Crediting of Investment Yield.**—If an employer does not remit the contributions of the participants of the Program within the established term, the Administrator shall credit the investment yield to the account of the participants of the Program affected thereby, as of the date set for the employer to remit the contributions, pursuant to Section 5-108 of this Chapter.”

Section 22.—Section 5-108 of Act No. 447 of May 15, 1951, as amended, is added, so that it reads as follows:

“Section 5-108.—Credits to the Contribution Account, Investment Yield, and Rights to the Contribution Account.—

- (a) **Credits.**— The Administrator shall credit the following items to the account of each participant of the Hybrid Program:
  - (1) **Initial Transfer Balance.**— In the case of participants of the Retirement Savings Account Program, the savings account and income balance that is transferred to the Hybrid Program, shall be credited.
  - (2) **Contribution of the Participant to the Hybrid Program.**— The contributions made by the participant of the Hybrid Program as required by this Act shall be credited once they are remitted to the

System by the employer.

- (3) Investment Yield.- The investment yield shall be credited at the close of each semester of each fiscal year. The investment yield shall be computed on the last business day of each semester of the fiscal year, on the average monthly balance in the contribution account of the participant of the Hybrid Program, during the semester in question. The investment yield shall be determined by the Board and shall never be less than 80% of the investment portfolio yield of the System during each semester of each fiscal year minus management fees such as, but not limited to, fees payable to administrators of the portfolio, safekeeping of securities and investment counseling.
- (b) Contribution Account Rights.- The participants of the Hybrid Program shall always have the right to one hundred percent (100%) of the initial transfer balance provided in clause (1) of subsection (a) of this Section and of their contributions to the Hybrid Program account."

Section 23.-Section 5-109 of Act No. 447 of May 15, 1951, as amended, is hereby added, so that it reads as follows:

"Section 5-109.- Debits to the Contribution Account.-

The Administrator shall debit the contribution account established for each participant of the Hybrid Program for those sums used for granting an annuity for the payment of benefits or to make a global distribution pursuant to Sections 5-110 and 5-111 of this Chapter. Once the annuity is granted or the total balance of the contribution account is distributed, the account shall cease to exist. The Administrator may, in addition, debit the account of the participant for the total of the disability insurance premium."

Section 24.- Section 5-110 of Act No. 447 of May 15, 1951, as amended, is hereby added, so that it reads as follows:

"Section 5-110.- Benefits on Separation from Service.-

- (a) Retirement benefit.- Upon permanent separation from service, when the separation is not due to death or total and permanent disability, the balance in the account of the participant of the Hybrid Program shall be distributed to the participant if the participant meets any of the following requirements: (i) he /she has less than five (5) years of computed services in the public service or (ii) has an amount equal to or less than ten thousand dollars (\$10,000) accrued in the System.

- (b) Time for Granting Annuity Contract and Commencement of Distribution.- In those cases in which the participant (i) permanently separates from service having five (5) years or more of computed service in the public service, and (ii) has an amount equal to or greater than ten thousand dollars (\$10,000) accrued in the System, he/she shall have the right to a lifetime annuity computed on the basis of his/her contributions pursuant to subsection (c) of Section 5-110 of this Act. The age at which the participant may begin to receive that annuity, provided he/she permanently separates from service, shall be as follows:
- (1) For participants who joined the System for the first time before April 1, 1990, and are not participants of the Savings Account Program: at the age that they would have been entitled to a pension under subsection (a)(1) of Section 5-103 of this Act.
  - (2) For participants who joined the System for the first time between April 1, 1990, and December 31, 1999, and are not participants of the Savings Account Program: at the age that they would have been entitled to a pension under subsection (a)(2) of Section 5-103 of this Act.
  - (3) For Public Officers in High-Risk Positions who began to work on or before December 31, 1999: at the age that they would have been entitled to a pension under subsections (a)(3), (a)(4) and (a)(5) of Section 5-103 of this Act.
  - (4) For participants who joined the System for the first time from January 1, 2000, to June 30, 2013: at the age that they would have been entitled to an annuity under subsection (b) of Section 5-103 of this Act.
  - (5) For participants who began in the public service on or after July 1, 2013: at age 67.
  - (6) For Public Officers in High-Risk Positions who began in the public service after July 1, 2013: at age 58.
- (c) The lifetime annuity of every participant shall be computed, upon retirement, as follows: (i) the balance accrued of the contributions in his/her account in the Hybrid Program as of the date of retirement shall be divided by (ii) a factor, established by the Board in consultation with its actuaries and based on the actuarial life expectancy of the participant and

a specific interest rate.

- (d) Transfer of annuity: The participants of the Hybrid Program may offer a pension to a dependent pursuant to the provisions of Section 2-105 on transfer of annuity.
- (e) The annuities granted under this Chapter 5 shall be lifetime annuities and shall be payable in monthly installments, and may not be increased, reduced, revoked or repealed, except when they have been granted by error, or when otherwise explicitly provided. The first annuity payment shall be made for the fraction of month elapsed up to the end of the first month; and the last payment shall be made up to the end of the month when the demise of the participant occurs.

The employers must submit all the required documentation to the Administration within sixty (60) days after the date of application for the retirement benefits or funds. The Administration shall process the application for benefits or liquidation of funds within sixty (60) days after the filing date of the application including the documentation required by the Retirement System.

If an employer fails to comply with the obligation established in this Section, it shall be responsible for paying the participant an amount equal to the monthly salary he/she received on the date of the application for pension benefits or liquidation of funds.”

Section 25.- Section 5-111 of Act No. 447 of May 15, 1951, as amended, is hereby added, so that it reads as follows:

“Section 5-111.- Death, disability or terminal illness benefits.-

- (a) Death of a participant in active service: Upon death of any person who is rendering services and who had contributions accrued in the Hybrid Program, these contributions shall be reimbursed to the person or persons the participant had designated through written order duly acknowledged and submitted to the Administrator, or to his/her heirs, in the event such designation had not been made. The reimbursement shall be equal to the sum of the contributions and the investment yields up to the date of the demise of the participant. The Administrator shall collect from the contributions any debt the participant may have with the System.
- (b) Death of a pensioner.- If a pensioner dies without having consumed all of his/her pension payment contributions, his/her designated beneficiaries or, absent such designation, his/her heirs, shall continue receiving the

monthly pension payments until the contributions of the participant are completely consumed.

- (c) Separation from service for disability or terminal illness.- The balance in the contribution account of every participant of the Hybrid Program who is permanently separated from service due to total and permanent disability, due to disability pursuant to Act No. 127 of June 27, 1958, as amended, or due to terminal illness, as determined by the Administrator, shall be distributed to the participant by the Administrator in a lump sum, or through the grant of an annuity, or any other optional form of payment pursuant to Section 5-110 of this Act, at the option of the participant.

Beginning on June 30, 2013, no disability pensions shall be awarded pursuant to Sections 2-107 thru 2-111 of this Act."

Section 26.- Section 5-112 of Act No. 447 of May 15, 1951, as amended, is hereby added, so that it reads as follows:

"Section 5-112.- Disability insurance-

The Administrator, with the approval of the Board, shall establish a disability benefits program, which shall provide a temporary annuity in the event of total and permanent disability. Disability benefits may be provided through one or more disability insurance contracts with one or more insurance companies authorized by the Insurance Commissioner of Puerto Rico to conduct business in Puerto Rico. The determination as to whether a person is partially or totally and permanently disabled, shall be made by the insurance company that issues the insurance policy covering the person. All the participants of the Program who are employees shall avail themselves to the disability benefits program in the manner and form established by the Administrator."

Section 27.- Section 5-113 of Act No. 447 of May 15, 1951, as amended, is hereby added, to read as follows:

"Section 5-113.- Application of the Uniform Securities Act.-

The interest of any participant in the Hybrid Program shall not constitute a security for the purposes of Act No. 60 of June 18, 1963, as amended, known as the Uniform Securities Act."

Section 28.- Section 5-114 of Act No. 447 of May 15, 1951, as amended, is hereby added, to read as follows:

“Section 5-114.-Reciprocity between the Retirement Systems; Services not credited for Veterans; Voluntary Contribution to the Hybrid Program.

- (a) Beginning on July 1, 2013, there shall not be reciprocity, under Act No. 59 of June 10, 1953, as amended, between the Employees Retirement System of the Government and other retirement systems regarding employees who have computed service in other systems and become part of the Employees Retirement System of the Government.
- (b) The provisions of subsection E of Section 4 of Act 203-2007, as amended, known as the Puerto Rican Veteran’s Bill of Rights for the 21<sup>st</sup> Century, shall continue to apply to participants of the System who are veterans only with respect to services rendered up to June 30, 2013. However, there shall be no due date for veterans to request accreditation for services not credited that were rendered on or before June 30, 2013.
- (c) Any participant of the Hybrid Program who, on or after July 1, 2013, is in military leave because he/she is in the active service with the Armed Forces of the United States of America and is not bound to contribute mandatorily under Section 5-105(a) of this Act, may make voluntary contributions to his/her Hybrid Program account for the time he/she is in such military leave. There shall be no due date to make said voluntary contributions. These contributions shall be credited to the contribution account of said participant of the Hybrid Program. The Administrator shall establish the manner in which these participants may make voluntary contributions to their Hybrid Program accounts.

Section 29.- A new Section 4-108 of Act No. 447 of May 15, 1951, as amended, is hereby created, to read as follows:

“Section 4-108.-Benefit Preservation.

- (a) The benefits, under this Act, of the participants of the System who began receiving a pension on or before June 30, 2013, shall not be modified, including the benefits the participant’s beneficiaries receive or would receive in the event of his/her death.
- (b) The right of every participant who, as of June 30, 2013, was eligible to receive a deferred pension because he/she met all the requirements thereof, shall be preserved regardless of whether he/she had requested said pension.
- (c) The right of every employee who has applied for a disability pension

before this Act takes effect and whose application is pending evaluation by the System, shall be preserved.

- (d) In the case of a pensioner who had returned to public service before June 30, 2013, his/her contributions up to that date shall be preserved pursuant to the option chosen under subsection (c) of Section 2-101 of Act No. 447 of May 15, 1951, as amended. Once he/she separates from service permanently, he/she shall be granted the benefit under the aforementioned subsection (c) of Section 2-101, with the salary and the contributions made up to June 30, 2013; provided, that beginning on July 1, 2013, he/she joins the Defined Contribution Hybrid Program established in Chapter 5 of Act No. 447 of May 15, 1951, as amended.
- (e) Every pensioner who returns to public service beginning on July 1, 2013, shall be subject to the provisions of subsection (c) of Section 2-101 of Act No. 447 of May 15, 1951, as amended."

Section 30.- A new Section 4-109 of Act No. 447 of May 15, 1951, as amended, is hereby created, to read as follows:

"Section 4-109.- Submission of Applications before June 30, 2013.

Every participant of the System who wishes to submit a retirement transaction application before the benefit preservation date, shall submit the application before the Employees Retirement System of the Government of Puerto Rico and the Judiciary. The Administrator shall establish the procedure to process these applications."

Section 31.- Sections 4-108 thru 4-114 of Act No. 447 of May 15, 1951, as amended, are hereby renumbered as Sections 4-110 thru 4-116 of Act No. 447 of May 15, 1951, as amended.

Section 32.- Subsection (j) is hereby added to Act No. 105 of June 28, 1969, as amended, to read as follows:

"(j) The benefits provided under this Act shall not apply to pensioners who retire pursuant to Chapter 5 of Act No. 447 of May 15, 1951, as amended."

Section 33.- Section 1 of Act No. 37 of June 13, 2001, is hereby amended to read as follows:

"Section 1.-Every person who has been receiving a pension or benefit pursuant to Act No. 12 of October 19, 1954, as amended, shall be entitled to

receive a Summer bonus equal to one hundred dollars (\$100), which shall be made no later than July 15 of each year.

If there were more than one beneficiary entitled to a pension upon the death of the active or retired participant, the bonus shall be distributed, pro rata, among all the beneficiaries.”

Section 34.- Section 1 of Act No. 155 of June 27, 2003, is hereby amended to read as follows:

“Section 1.- Any person who is receiving a pension or benefit under Act No. 12 of October 19, 1954, as amended, shall be entitled to receive each year a Medication Bonus equivalent to one hundred dollars (\$100), starting in 2003, which shall be paid no later than July 15 of each year.”

Section 35.- Section 8 of Act No. 95 of June 29, 1963, as amended, is hereby amended, to read as follows:

“(a) The Government employer contribution for health benefits for employees covered by health benefit plans under this Act shall be fixed in the General Budget of Expenses and shall not be less than five dollars (\$5) monthly in the case of the municipalities nor one hundred dollars (\$100) monthly for the employees of rest of the Government dependencies, and one hundred dollars (\$100) for the pensioners of the Teachers Retirement System, but shall not exceed the total amount of the corresponding fee to be paid to any employee. Provided, that said employer contribution to the health plans of public employees not covered by Act No. 45 of February 25, 1998, as amended, and for those who are, but that as of February 29, 2004, had not signed agreements with related financial clauses, the same shall take effect as of October 1, 2004. On the other hand, employees covered by the provisions of said Act No. 45 who, in turn, have agreements signed up to February 29, 2004, that include clauses on employer contributions shall receive one hundred dollars (\$100) as of July 1, 2004. Likewise, in the cases in which the agreement provides a lesser amount than the amount proposed through this legislation shall receive the amount that is necessary to complete the proposed employer contribution of one hundred dollars (\$100) monthly as of July 1, 2004. It is further provided that those employees covered by clauses with an employer contribution greater than one hundred dollars (\$100) monthly may receive the difference, if the agency contributes the additional costs thus entailed.

(b) ...

- (c) ...
- (d) Government employer contributions with respect to employees in active service shall be included in the General Budget of Expenses of the Commonwealth of Puerto Rico.

The employer contribution corresponding to pensioners of the Judiciary Retirement System and the Annuity and Pension System for the Teachers of Puerto Rico shall be consigned in the General Budget of Expenses of the Commonwealth of Puerto Rico as an additional contribution to said systems.

It is hereby provided, that the Office of Management and Budget shall be empowered to provide through reimbursement the cost of the increase in employer contributions, to be charged against the appropriations included for such purposes in the Joint Resolution for the General Budget of Expenses. However, said reimbursement shall only cover the wages that are defrayed with resources obtained from the General Fund. It is provided that those employees that according to the dates established herein are qualified to receive this increase, but who receive income from other funds, shall receive the same increases chargeable to the special federal and state funds from which they receive their income. In order to obtain this reimbursement, each agency that defrays such an increase from the General Fund shall submit a certified itemized list of the employees that qualify for the increase to the Office of Management and Budget, as the latter shall provide. Said certification shall be received at the Office of Management and Budget not later than October 31, 2004."

Section 36.- Section 1 of Act No. 98 of June 4, 1980, as amended, is hereby amended, to read as follows:

"Section 1.-Any person who receives a pension or benefit pursuant to the provisions of Act No. 12 of October 19, 1954, as amended, shall be entitled to receive a Christmas Bonus equal to five hundred dollars (\$500) in December 2005, five hundred fifty dollars (\$550) in December 2006, and six hundred dollars (\$600) in December 2007, whose payment shall be made not later than December 20 of each year. Pensioners under the provisions of Act No. 305 of September 24, 1999, known as the 'Retirement Savings Accounts Program' and those persons who retire under Chapter 5 of Act No. 447 of may 15, 1951, as amended, shall be excluded from the benefits set forth in this Act."

Section 37.- It is hereby ordered the creation of a Special Permanent Commission, whose purpose shall be to guarantee the continued solvency of the Retirement Systems. The composition of this Commission shall be established through special legislation.

Section 38.-The Additional Benefits Program is established for pensioners of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico; said benefits are separate and shall not form part of the pension or annuity.

“Section 1.-Except for those persons who retire under Chapter 5 of Act No. 447 of May 15, 1951, as amended, every person who was receiving a pension or benefit under Act No. 447 of May 15, 1951, as amended, or the pension plans superseded by it, or any other law administered by the Administrator of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico, excluding any person who is receiving a pension or benefit under Act No. 12 of October 19, 1954, as amended, shall be entitled to receive the following benefits:

- (a) a Medication Bonus equal to one hundred (\$100), which shall be paid no later than July 15 of each year;
- (b) a Christmas Bonus equal to two hundred dollars (\$200), which shall be paid no later than December 20 of each year; and
- (c) a Government contribution for health benefits for employees covered by health benefit plans under Act No. 95 of June 29, 1963, as amended, of one hundred dollars (\$100) monthly for pensioners of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico, but it shall not exceed the total amount of the corresponding fee to be paid to any employee.

Section 2.- In order to fund the Additional Benefits Program and the Employees Retirement System of the Government of the Commonwealth of Puerto Rico, beginning on fiscal year 2013-2014 and every subsequent fiscal year, the Employees Retirement System of the Government of the Commonwealth of Puerto Rico shall receive a contribution equal to two thousand dollars (\$2,000) as of July 1 of every year for every pensioner of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico who began to work in the Public Service on or before of December 31, 1999.

Section 3.-The Administration of the Employees Retirement System of the Government and the Judiciary shall determine the total amount of the special additional contribution provided in Section 2 and shall send a certification to the Director of the Office of Management and Budget and to each public corporation and municipality whose employees are retired under the Employees Retirement System of the Government of the Commonwealth of Puerto Rico, informing them the amount corresponding to the special additional contribution.

Section 4.-The funds to cover the contribution described in Section 2, with respect to pensioners of the Central Government, shall be allocated in the Budget of Expenses of the Government of the Commonwealth of Puerto Rico. Public corporations and municipalities whose employees are covered under this Act shall provide the funds to cover the contribution described in Section 2 with respect to their pensioners.

Section 5.-The persons who retire under the provisions of Act 305-1999, known as 'Retirement Savings Accounts Program', and under Chapter 5 of Act No. 447 of May 15, 1951, as amended, shall be excluded from receiving the benefits granted under this Act."

Section 39.-Section 5-115 of Act No. 447 of May 15, 1951, as amended, is hereby added, so that it reads as follows:

"Section 5-115.-Transitory Provisions

(a) Uncomputed Creditable Service-

- (1) Any participant who, on or before June 30, 2013, applies for a payment plan to the Administrator, pursuant to the provisions of subsection (b) of Section 1-107, to pay for the cost of creditable services, may choose to make payments at a special nine point five percent (9.5%) interest rate.
- (2) Any participant who, on or before June 30, 2013, applies for a special personal loan to the Administrator to make a global payment for uncomputed creditable services, pursuant to the provisions of subsection (c) of Section 1-107, may choose to make payments at a special nine point five percent (9.5%) interest rate.
- (3) Any participant who benefits of the special interest rate of the above subsections (1) and (2) and who had begun to work in the public service on or before April 1, 1990 may only accrue up to sixty percent (60%) of the average salary in the event he/she completes thirty (30) years of service.
- (4) For purposes of this subsection (a) uncomputed creditable services must have been rendered on or before June 30, 2013.

(b) Any participant who began to work in the public service on or before April 1, 1990 and who, pursuant to the provisions of Chapter 2, would

have been entitled to retire on or before December 31 , 2013, with thirty (30) years of service, may do so under the following terms:

- (1) For those participants who have completed thirty (30) years or more of accrued services and who are not fifty five (55) years old or more, fifty five percent (55%) of their average salary.
- (2) For those participants who have completed thirty (30) years or more of accrued services and who are fifty five (55) years old or more, sixty percent (60%) of their average salary.
- (3) Participants who avail themselves to this subsection (b) shall make the mandatory contribution established in Section 5-105 for the benefit of the System and said amount shall not be included in the contribution account of the participant of the Hybrid Program. Any excess in the mandatory contribution shall be credited to the contribution account of each participant.

Section 40.-A cause of action is hereby recognized so that participants and pensioners of the Employee Retirement System of the Puerto Rico Government and Judiciary may bring suit, by themselves, against nongovernmental investment advisors and underwriters in any transaction through which the Employee Retirement System of the Puerto Rico Government and Judiciary has issued pension obligation bonds, for any damages sustained by the System or its beneficiaries.

#### Section 41.- Severability Clause.

If any clause, paragraph, subparagraph, section, subsection, provision or part of this Act were to be declared unconstitutional by a court of competent jurisdiction, said finding shall not affect or render invalid the remaining provisions of this Act. The effect of said finding shall be limited to the clause, paragraph, subparagraph, section, subsection, provision or part of this Act so declared unconstitutional.

#### Section 42.- Effectiveness.

This Act shall take effect on July 1, 2013, with the exception of the provisions in subsection (c) of the new Section 4-108 and the new Section 4-109, both of which shall take effect immediately after the approval of this Act.