

(S. B. 2455)

(No. 278)

(Approved August 15, 2008)

AN ACT

To amend Sections 7 and 10 of Act No. 80 of May 30, 1976, as amended, in order to consider as allowance, the severance pay and progressive indemnity for discharge, and any sum received by a worker as liquidation in certain cases of dismissals as allowance; and to establish that compensation to a worker dismissed for certain reasons shall not entail payroll deductions whatsoever for being the same exempted from the payment of income tax.

STATEMENT OF MOTIVES

Stability in employment and the security of keeping the same constitute issues of compelling public interest in Puerto Rico. This explains the existence of Act No. 80 of May 30, 1976, as amended in our body of laws.

The purpose of this Act is to provide an adequate remedy, and at the same time, to regulate that which constitutes discharge without just cause. Through the establishment of a compensation remedy consisting of, at least, two months of salary, in addition to a progressive compensation equal to a week of wages for every year of service, it was sought to discourage the incidence of discharge without just cause and to provide discharged employees with some resources that would enable them to make a reasonable transition to a new workplace.

The cases of discharges due to technological changes, or reorganization, or the total or partial cease of operations of an enterprise

were excluded from the scope of said Act. That is to say, when there is a discharge for the abovementioned reasons, the workers are not entitled to compensation other than that corresponding to the work performed and not paid.

This measure is directed to include any amount received by workers discharged for reasons (d), (e) and (f) of Section 2 of Act No. 80 of May 30, 1976, as amended, as an allowance exempted from income tax deductions. We are aware that enterprises in the process of a total or partial closing, of reorganization or of technological changes pay sums of money to discharged workers that, since they are not considered allowances entail income tax deductions.

Due to its importance and public interest, Act No. 80 is considered as an Act of a reparative nature. Consequently, this measure is directed to fostering the reparative nature of the original law, and to promoting that the enterprises in the process of closing share the liquidation of their assets with the workers. This action shall help, in financial terms, those workers whose employers are in the process of closing operations and shall enable those discharged employees to have more resources available to face the difficult situation entailed by unemployment.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Section 7 of Act No. 80 of May 30, 1976, as amended, is hereby amended to read as follows:

“Section 7.- Indemnity for discharge without just cause—Allowance for compensation and indemnity

The allowance for compensation and progressive indemnity for discharge without good cause provided in Section 1 of Act No. 80 of May 30, 1976, as amended, shall be computed on the basis of the highest number

of regular working hours of the employee during any period of thirty (30) consecutive calendar days within the year immediately preceding the discharge. In the cases of discharges based on the reasons set forth in subsections (d), (e), and (f) of Section 2 of Act No. 80 of May 30, 1976, as amended, any sum of money received by workers product of the liquidation due to the closing of business or enterprise programs, shall be considered as special compensation in order to share its profit with its employees. These sums shall in no way affect the calculation or the right to claim compensation and progressive indemnity provided in Section 1 of Act No. 80 of May 30, 1976, as amended.”

Section 2.- Section 10 of Act No. 80 of May 30, 1976, as amended, is hereby amended to read as follows:

“Section 10.- Indemnity for discharge without just cause--Deductions on indemnity, prohibited

No payroll deduction whatsoever shall be made on the indemnity provided in Section 1 of Act No. 80 of May 30, 1976, as amended, and the employer must hand the total amount thereof, completely, to the employee. The compensation paid to a worker product of the liquidation or closing of business or enterprise programs in order to share profit with its employees when the discharge is based on the reasons set forth in subsections (d), (e), and (f) of Section 2 of Act No. 80 of May 30, 1976, as amended, shall be exempted from the payment of income tax, but may include those other deductions agreed on by employer and the employee.”

Section 3.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 278 (S.B. 2455) of the 7th Session of the 15th Legislature of Puerto Rico:

AN ACT to amend Sections 7 and 10 of Act No. 80 of May 30, 1976, as amended, in order to consider as allowance, the severance pay and progressive indemnity for discharge, and any sum received by a worker as liquidation in certain cases of dismissals as allowance; and to establish that compensation to a worker dismissed for certain reasons shall not entail payroll deductions whatsoever for being the same exempted from the payment of income tax,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 15th of October of 2008.

Francisco J. Domenech
Director