

(H.B. 3316)

(No. 223)

(Approved August 21, 2004)

## **AN ACT**

To establish “Our Puerto Rican Music Act” which provides that any festival, concert or any other musical event defrayed in its totality by the Executive Branch or its public corporations or by the municipalities, or with a contribution from the executive or the corporation of over ten thousand (10,000) dollars, must include fair and reasonable representation of Puerto Rican native music.

### **STATEMENT OF MOTIVES**

The native music of Puerto Rico faithfully reflects the cultural and social values that best define our idiosyncrasy as a people. Our music is the most genuine expression of the collective feelings that reach the depths of our spiritual nature and that most profoundly touches all Puerto Ricans through its melodies and interpretations and which at the same time reaffirms our most precious traditions, customs and collective preferences. There is certainly no Puerto Rican whatsoever that in her or his innermost being does not treasure the musical legacy that blossoms out of the lavish gamut of musical genres that are authentically Puerto Rican.

We can, however, give incontrovertible testimony as to the notorious absence of the interpreters of our music from those musical activities and events that are held in the four corners of our Island. It’s not difficult to observe how foreign musical genres pervade the programming in concerts

and other musical activities, evidently forsaking those genres that from time immemorial identify us as a people and delight our souls.

In that sense we become aware of the gradual disappearance of our music in those artistic performances held under the auspices of the agencies, public corporations and municipalities that produce and defray a substantial portion of the musical events that delight our people during the various seasons. This is no indication that our people may be indifferent to their national music, much the less does it imply a change in the preferences and tastes in detriment to the musical genres which represent us. However, the fact that this is so hinders the study, development and diffusion of our music, since it limits the employment opportunities available to our dedicated musicians forcing them to devote their time, talent and efforts to the advancement of other foreign genres in search of greater employment opportunities. Our government executives and our mayors are seriously committed to fostering the development of Puerto Rican music and as such we are certain that this Act shall be a tool for achieving this purpose.

All of the above leads this Legislature, in its unwavering task of strengthening our culture, to establish by law that every artistic activity produced in its totality by the Executive Branch or its public corporations or by the municipalities, or with a contribution from the Executive or the corporation of over ten thousand (10,000) dollars, include reasonable and proportional representation of Puerto Rican native music. This, undoubtedly, embodies the legislative intention which indicates that the musical events held under the auspices of the Executive Branch or its public corporations or municipal governments must give reasonable room to our music so as to avoid the progressive exclusion suffered by the exponents of our national

music. Thus, we embark on a hopeful journey that will lead to giving our music a solid presence and provide for an increase in its programming.

***BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:***

Section 1.-This Act shall be known and may be cited as “Our Puerto Rican Music Act.”

Section 2.-At every patron saint’s feast day celebration, artistic festival or other musical event in which a variety of musical genres are performed and for which the Executive Branch or any public corporation or municipality contributes the total cost of the activity or ten thousand (10,000) dollars or more, the corresponding government dependency shall and be bound to secure the fair and reasonable participation of the various exponents of our native Puerto Rican music. In order to determine whether said obligation has been complied with, a strictly quantitative analysis of the total budget used or the contribution made for contracting artists and musicians by the agency, the public corporation or the municipality, and in accordance thereof the budgetary portion or the amount devoted to contracting artists or musicians interpreters of native Puerto Rican music shall be examined.

Section 3.-Definitions

(1) Native Puerto Rican Music: The Institute of Puerto Rican Culture, according to the definitions it adopted for this type of native Puerto Rican music, shall certify the various artists and groups as interpreters thereof under the regulations it shall adopt, for the proper implementation of this Act. To such ends and through the study of the development and the historic reality of Puerto Rican musical genres, the Institute shall introduce definitions to allow for the identification of those particular genres that are

or were the product of said development and which reveal the inherent and unique musical personality of the Puerto Rican people.

(2) Fair and Reasonable Participation or Inclusion: The participation of the exponents or interpreters of native Puerto Rican music shall be fair and reasonable to the degree to which their inclusion is in proportion and in balance, in comparative terms, with other types of musical genres included in the programming of the activity in question and which is subject to the provisions of this Act. This is not to be interpreted to mean that the inclusion of other musical genres is similar or equal to that of the native Puerto Rican music. It shall rather mean that the inclusion of native Puerto Rican music is fair and reasonable if it is ascertained that, at least:

a) thirty (30) percent of the total funds appropriated for contracting musicians is used to contract interpreters of native Puerto Rican music, as defined in this Act. This shall be done when the activity is directly sponsored by the government entity itself or when the services of an independent promoter or producer are contracted to carry out the activity in question.

b) it is also provided that when the government entity sponsors a musical activity carried out by an external entity, thirty (30) percent of the appropriation must be used to contract interpreters of typical music, as defined in this Act.

c) when the activity is directly carried out by a municipality or sponsored by the latter under the parameters established in this Act, the basis for computing the participation shall be determined by the total number of activities carried out during a specific period of time.

Section 4.-Obligations of the Executive Branch and the Public Corporations

(1) Should a formal procedure for adjudicating bids mediate for holding an activity or event subject to this Act, the bid specifications prepared by the dependency, public corporation or municipality, shall include a provision that would compel compliance with the provisions of this Act. Accordingly, every dependency or corporation shall draft regulations to ensure proper compliance with this provision.

(2) In case the contracts are granted or the contributions made without the mediation of a bidding procedure, and so that the contracting of artists or the contribution of public funds by the dependency, corporation or municipality may be finalized, the documents required for contracting artists, promoters or producers for the event in question must include a statement signed by the head of the dependency or the mayor certifying that the activity in question is in compliance with the provisions of this Act. Every dependency and corporation shall adopt the regulations needed to comply with the objectives of this Act.

(3) At the same time, it is hereby provided that the government dependencies must submit a detailed report to the Institute of Puerto Rican Culture about each and every activity or event subject to the provisions of this Act. Said report shall include, without it being understood as a limitation, an accurate breakdown of the total budget appropriated to defray the cost for contracting artists and an account of the budgetary portion allotted for contracting artists certified under the definition of native Puerto Rican music adopted under the provisions of this Act. Said information must be certified by the heads or directors of the public dependencies, as being the official information that appears in the records of the entity. Said report shall be submitted to the Institute of Puerto Rican Culture within a period of not more than five (5) days prior to the applicable event or activity.

(4) It shall be understood that before the event or activity subject to the provisions of this Act is held or prior to the distribution or disbursement of public funds for the matters contemplated in this Act, the agency, instrumentality, public corporation or municipality must take steps to obtain from the Institute of Puerto Rican Culture a certification of compliance with this Act, accrediting that the contribution or budget used considers and includes the fair and reasonable inclusion of native Puerto Rican music, as defined in Section 2, Section 2a, 2b, and 2c of this Act. The Institute shall establish the procedures and standards needed to speedily and expeditiously process and grant, should it so merit, the certification of compliance with the provisions of this Act.

(5) It is likewise provided that the dependencies or entities subject to the provisions of this Act shall have the continuous duty of properly informing the Institute as to that data or elements inherent to the applicable activities that are essential or instrumental for certifying compliance with the provisions of this Act. They shall also have the obligation of cooperating with the Institute on all instances needed to ensure the faithful compliance with the provisions of this Act.

(6) It shall be understood that every promoter or producer of musical events paid for or sponsored by these government entities, must submit to the public entity that provides the funds, a detailed report showing compliance with this Act and stating that the corresponding percent of the musical content of the event was reserved for native Puerto Rican music.

#### Section 5.-Obligations and Powers of the Institute of Puerto Rican Culture

The Institute of Puerto Rican Culture shall be in charge of the administration or implementation of this Act and shall prescribe, through

regulations, the standards and procedures, dictate the orders and take the measures it may deem necessary for the implementation of the same.

In the discharge of such a task, the Institute shall have the obligation of investigating any complaint filed that claims that the provisions of this Act have been violated. Accordingly, it shall investigate the allegations in the complaint and take the steps needed to objectively and reliably determine if any of the provisions of this Act were in fact violated and take the pertinent administrative and legal actions to require compliance with this Act, including, but not being limited to informing the agencies with jurisdiction over the matter any irregularity detected.

The Institute may require that the agencies or entities subject to the provisions of this Act to provide records, payrolls, documents or any other pertinent evidence that may serve to show the proportion of the budget or the amount used by the entity for contracting artists or musicians and the participation of the exponents or interpreters of native Puerto Rican music in said budget.

It may likewise receive related information from private persons or entities and may also hold hearings, inspect documents and establish procedures that, in its judgment, are needed to better fulfill its functions.

It is provided that it shall be the obligation of the Institute of Puerto Rican Culture to establish a register that would include all reports required pursuant to Section 4 of this Act, so that it would enable the implementation of said provision and function as an instrument accessible to the public interested in inquiring into the compliance with the mandate of this Act. The Institute shall also enter in said register the data and description of those groups or individuals certified as exponents or interpreters of the native Puerto Rican music.

At the same time it is provided that the Institute must establish a speedy and trustworthy procedure to certify the groups or individuals that meet the criteria that define the nature of native Puerto Rican music pursuant to the provisions of this Act. In doing this, the Institute shall make sure that the groups or individuals so certified rigorously and strictly meet the cultural, musical and artistic criteria established pursuant to this Act.

The Institute is furthermore directed to provide the heads and personnel of the applicable dependencies or entities with the necessary technical advice and to collaborate with them so they may be able to work under conditions that are favorable for achieving compliance with this Act. In that regard, the Institute should provide these entities with a clear and intelligible definition of the native Puerto Rican music, a detailed and succinct breakdown of the genres included within said definition, a current register of the groups or individuals certified under the aforementioned definition and any other assistance that would contribute to comply with the provisions of this Act.

In compliance with this obligation the Institute is empowered to obtain or contract the necessary technical personnel to faithfully comply with the demands of the present provision and to require that the persons or entities with the expertise and knowledge on such matters provide the advice and collaboration needed to faithfully fulfill the requirements of this Act.

Section 6.-The government entities with inherence in the implementation of this Act are hereby empowered and directed to adopt the regulations and the administrative measures needed to enforce its provisions and requirements.

Section 7.-This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 223 (H.B. 3316) of the 7<sup>th</sup> Session of the 14<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to establish “Our Puerto Rican Music Act” which provides that any festival, concert or any other musical event defrayed in its totality by the Executive Branch or its public corporations or by the municipalities, or with a contribution from the executive or the corporation of over ten thousand (10,000) dollars, must include fair and reasonable representation of Puerto Rican native music,

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

In San Juan, Puerto Rico, today 9<sup>th</sup> of September of 2005.

Francisco J. Domenech  
Director