

## ***“Farm Insurance Act of Puerto Rico”***

Act No. 12 of December 12, 1966, as amended,

(Contains amendments incorporated by:

Act No. 32 of June 9, 1969

Act No. 166 of August 11, 1988

Act No. 99 of July 2, 2002)

(Amendments non-incorporated:

Reorganization Plan No. 4 of July 26, 2010)

*Be it enacted by the Legislature of Puerto Rico :*

### **Section 1. — Short Title.** (5 L.P.R.A. § 1401)

This Act shall be known as the “Farm Insurance Act of Puerto Rico”.

### **Section 2. — Creation and Faculties to Engage in the Business of Farm Insurance.** (5 L.P.R.A. § 1402)

A corporation which shall be known as the "Puerto Rico Farm Insurance Corporation" is hereby established in the Department of Agriculture of Puerto Rico, to provide farm insurance to farmers against loss or damage to plantations, crops, animals, fowls, tobacco sheds and other structures and equipment for agricultural use in rural farms, caused by natural risks such as hurricanes, abnormal droughts and uncontrollable diseases. In the case of tobacco sheds and other structures, and equipment for agricultural use in rural farms, the Puerto Rico Farm Insurance Corporation is hereby empowered to provide insurance against loss or damage caused by fire. Commercial fishing boats and their equipment shall also be covered against hurricanes, fire and any kind of maritime risks. The Puerto Rico Farm Insurance Corporation is also empowered to provide farm income insurance based on a planting plan that its Board of Directors may determine through regulations and which will allow the farmers to receive the percentage that the Puerto Rico Farm Insurance Corporation may determine of the expenses incurred at the time the loss occurs, or the percentage that the Puerto Rico Farm Insurance Corporation may determine, when the annual income received from the farm operations covered by the Farm Income Insurance under a determined planting plan is lower than the estimated income for said insurance, including the financial risk involved at the time each insured crop is sold or liquidated.

The Puerto Rico Farm Insurance Corporation may also offer farm insurance as authorized by this Act experimentally, limiting it to a specific agricultural enterprise, sector or area for the period that the Board of Directors may deem advisable and, on the basis of the experience acquired during the experimental period fixed, the Puerto Rico Farm Insurance Corporation

shall determine if it should offer such insurance generally, or if it should eliminate it. It may also offer one or any of said insurance on an experimental or permanent basis, whether individually or in a combined way, covering one or more of the risks authorized by this Act.

**Section 2-A. — Farm insurance, defined.** (5 L.P.R.A. § 1402a)

Any insurance authorized hereunder shall be understood as "farm insurance".

**Section 3. — Board of Directors.** (5 L.P.R.A. § 1402b)

The Farm Insurance Corporation shall be directed by a Board of Directors composed of the following five (5) members: the Secretary of Agriculture, who shall be its Chair, the Dean of the Faculty of Agricultural Sciences of the Mayagüez Campus of the University of Puerto Rico, a representative of the Government Development Bank duly designated by the President of said agency, and two (2) bona fide farmers who are patrons of the insurance provided by the Corporation, who shall be appointed by the Governor with the advice and consent of the Senate of Puerto Rico, for a term of three (3) years each, and until their successors are appointed and take office.

The initial appointments of the members of the Board of Directors who are farmers shall be, one for a term of three (3) years, and the other for a term of two (2) years.

In the event there is a vacancy before the term of appointment of the members of the Board of Directors that are farmers expires, the Governor, with the advice and consent of the Senate of Puerto Rico, shall extend a new appointment for the remaining term of the member who caused the vacancy. The Governor of Puerto Rico may dismiss any of said members for repeated absences at the meetings of the Board of Directors, negligence in the performance of duties, conviction of a felony or misdemeanor that implies moral turpitude or total and permanent disability to carry out the duties of the office.

The members of the Board of Directors who are not public officials or employees shall receive no remuneration or compensation for carrying out their duties as such, but may receive a per diem of not more than fifty (50) dollars for each day or part thereof that they devote to the performance of the official duties of the office.

**Section 4. — Powers and Immunities.** (5 L.P.R.A. § 1403)

The Puerto Rico Farm Insurance Corporation is hereby empowered to carry out, on behalf and in representation of the Commonwealth of Puerto Rico, the business of farm insurance authorized by this Act with all the powers, duties, rights, obligations, privileges, and immunities that are required to engage in said business under the name or firm name of "Puerto Rico Farm Insurance". The Corporation shall perform all acts and contracts that are necessary to such effects, in a like manner and to the same extent as private commercial entities engaged in the insurance business in Puerto Rico. The said powers, duties, rights, obligations, privileges and immunities shall include the following, without said listing being construed as a limitation:

(a) To adopt, alter and use a seal of which judicial cognizance shall be taken.

(b) To prescribe, adopt and repeal rules and regulations to govern the policies of its activities in general, and exercise and perform the powers and duties imposed upon it by law, once such rules and regulations are approved and promulgated by the Board of Directors and the requirements of Act No. 112 of June 30, 1957 as amended, known as the "Rules and Regulations Act of 1958", have been complied with, they shall have the force of law. All rules and regulations for the implementing of this Act, except those for the organization and internal proceedings, shall be the subject to public hearings before their adoption and promulgation.

(c) To sue and be sued, and accuse in all the courts.

(d) To enter into contracts, to formalize and execute all instruments necessary or advisable in the exercise of any of its powers.

(e) To borrow money on short terms for any of its purposes and to guarantee the payment of the obligations with its properties or receipts.

(f) To accept financial assistance of any nature including subsidies, donations, advances or other assistance of equal nature deriving exclusively from nonprofit institutions of the Federal Government or from the government of any state of the American Union or from any instrumentality, agency or political subdivision of said governments or from the Government of the Commonwealth of Puerto Rico pursuant to the provisions of Act No. 57 of June 19, 1958 [3 L.P.R.A. §§ 1101-1108], and to enter into contracts, leases, agreements and other transactions with any of said agencies and to invest the earnings of any of the funds received for the purposes established in this Act.

(g) To conduct or carry on searches, examinations, surveys, and investigations, compile data and statistics in connection with the insurances authorized in this Act.

(h) With the consent of any board, division, commission, political subdivision, or executive department of the Commonwealth or federal Government, including any office rendering guidance or aid services to the farmer, he may obtain from such offices the use of any information, services or facilities, or the employment of the officers or agents thereof to render their services temporarily and in case of emergency for the carrying out of the provisions of this Act.

(i) Shall also have all such incidental powers as may be inherent in any private corporation and specially any insurance entity which may engage in insurance business under the Insurance Code of Puerto Rico.

(j) To offer as incentives to the farmers and fishermen insurance policies such as group or individual insurances, life insurance, life credit or casualty insurances or any other incentive that may serve as an encouragement in order that the farmers or fishermen may avail themselves of the benefits provided under this Act. To such effect he may use, from the money in the Farm Insurance Fund, the sum he may deem advisable to buy from private insurance companies the insurances not authorized under this Act when such insurance policies constitute the incentive to be offered.

(k) To enter into reinsurance contracts for the whole or any part of the assumed risk, seeking at all times to restrict the maximum risk to a level commensurate to its financial capacity.

(l) To appoint the said officers, agents, employees or officials and to fix the duties to be required for the carrying out of their functions, to require bonds from them in accordance with the provisions of this Act, paying the premiums on the required bonds.

(m) Shall be exempt from all surcharges, taxes, fees, imposts, or contribution levied or to be levied by the laws of Puerto Rico.

(n) Shall operate the business of Farm Insurance authorized by this Act without being subject to the Procurement and Service Act, Act No. 96 of June 29, 1954, as amended.

(o) To require, on a mandatory basis, the acquisition of a catastrophic insurance, as minimum insurance, to all bona fide farmers duly registered in the Department of Agriculture of Puerto Rico, or to those farmers that receive state subsidies. Being it understood that if the farmer obtains the regular "By Up" [sic] insurance, any other insurance provided by the Puerto Rico Agricultural Insurance Corporation complies with the requirement of this Act.

**Section 5. — Director, Puerto Rico Farm Insurance.** (5 L.P.R.A. § 1404)

The Secretary of Agriculture is hereby empowered to appoint the Director of the Puerto Rico Farm Insurance Corporation with the consent of the Board of Directors, and to delegate to him such functions and powers as he may deem advisable.

**Section 6. — Suits by and Against the Commonwealth.** (5 L.P.R.A. § 1405)

The Puerto Rico Farm Insurance Corporation may sue and be sued on behalf and in representation of the Commonwealth of Puerto Rico, for any claim that may arise in relation to the insurance or reinsurance business authorized by this Act. In case of suits against the Commonwealth, the latter shall waive its immunity and shall recognize any obligation that may be duly established and adjudicated by the Courts of Justice, after having previously exhausted the proper administrative procedure established in the regulations of the Insurance Plans authorized by this Act for the settlement of such claims; Provided, That when both parties accept the obligation, and there is conflict only as to some difference, such court action shall rest solely with respect to the difference; Provided, further, That in these claims the procedure for regular civil actions shall be followed, and such judgments as may devolve upon the Commonwealth of Puerto Rico shall, upon becoming final, be paid chargeable to the Farm Insurance Fund. On and after July 1, 1969, any judicial action to recover losses shall prescribe after two (2) years, counted from the date of the disaster that caused the losses. Whenever arbitration is required through the insurance contract or by a regulatory provision to determine the amount of the losses, the written application of the claimant requesting that the matter be submitted to arbitration and appointing his arbitrator shall, if filed on time and under the terms of the insurance contract, stop the prescribed period for the duration of said arbitration. What is provided herein shall in no way affect the provisions of Section 13 of this Act.

**Section 7. — Risks and Hazards, Defined.** (5 L.P.R.A. § 1406)

The Board of Directors shall define the risks and hazards covered by said insurance plans in the regulations that will govern each one of the insurance plans offered by the Puerto Rico Farm Insurance Corporation to the farmers or fishermen.

**Section 8. — Transfers of Funds and Other Properties of the Office of Puerto Rico Farm Insurance.** (5 L.P.R.A. § 1407)

The personnel and all the funds, investments, reserves, properties, assets of all kinds, accounts, bonds, credits, rights, obligations, files and records currently in the Office of Puerto Rico Farm Insurance, attached to the Farm Service Administration, including the Farm Insurance Funds, which shall remain at the disposal of the Puerto Rico Farm Insurance Corporation under the name of "Farm Insurance Fund", are hereby transferred to the Puerto Rico Farm Insurance Corporation, and shall be used to carry out of the purposes of this Act.

**Section 9. — Premiums and Reserves.** (5 L.P.R.A. § 1408)

The Puerto Rico Farm Insurance Corporation shall fix premiums for the farm insurance authorized by this Act at a reasonable rate which is sufficient to cover the possible claims for losses, considering the possible occurrence and severity of the risk or hazard to be insured for a specific number of years. Said premiums shall be paid in the manner and at the time that the Puerto Rico Farm Insurance Corporation may determine in the regulations which are to govern each said farm insurance; Provided, That no insurance contract shall exist until the amount of the premium has been received in the Central Office of the Farm Insurance Corporation, unless the postponement of its payment is permitted in the corresponding regulations. The income from said farm insurance shall be covered into the "Farm Insurance Fund", but a separate account shall be kept for each type of farm insurance provided.

The Puerto Rico Farm Insurance Corporation shall ensure that a sufficient reserve of such premiums' income be accumulated in order to operate or to continue operating the different insurance plans that it may establish, taking into account the obligations contracted and the reinsurance placed in each one of said insurance plans, and the possibility of catastrophic losses, as well as other risks not anticipated when structuring the rates. The Insurance Commissioner of Puerto Rico shall have the faculty to evaluate such reserves, from time to time, for the purpose of determining if they are appropriate and to require the Farm Insurance Corporation to adopt a plan to keep said reserves at a level that the Insurance Commissioner may deem adequate.

**Section 10. — Debts and Obligations.** (5 L.P.R.A. § 1409)

The Board of Directors shall determine annually, upon the recommendation of the Insurance Commissioner of Puerto Rico and the approval of the Governor, the amount of the obligations that the Puerto Rico Farm Insurance Corporation may contract. The Insurance Commissioner's recommendation shall be made on the basis of actuarial principles that shall contain the separation of the reserve indicated in Section 9 of this Act.

The Secretary of the Treasury shall make available whatever funds are needed to carry out the purposes of this Act chargeable to any unencumbered funds in the Commonwealth Treasury, for the payment of any claim in excess of the funds and resources of the Puerto Rico Farm Insurance Fund.

**Section 11. — Reinsurance.** (5 L.P.R.A. § 1410)

When it is impossible to obtain reinsurance under reasonable conditions with insurance companies authorized to do business in Puerto Rico, the Puerto Rico Farm Insurance Corporation is hereby authorized to do reinsurance business with the Federal Crop Insurance Corporation of the Department of Agriculture of the United States, with any group of individual underwriters of the Lloyd class, or with any insurance company of the United States or any foreign country. The Puerto Rico Farm Insurance Corporation may make the contracts authorized by this section directly or through intermediaries located in Puerto Rico or abroad. Said intermediaries shall be exempt from compliance with the requirements of the Insurance Code of Puerto Rico, with regard to the transactions authorized herein.

When the magnitude of the risk to be assumed by the Puerto Rico Farm Insurance Corporation in connection with certain insurance in any one year may endanger the stability of its resources, the latter may pay out of its funds the reinsurance costs in excess of the income from said insurance, and/or pay out of its funds such part that the Puerto Rico Farm Insurance Corporation may determine from the cost of the premiums collected from the insured by the direct underwriters, and/or the necessary or pertinent expenses to obtain direct insurance from other underwriters

**Section 12. — Administrative Expenses.** (5 L.P.R.A. § 1411)

The funds to cover administrative expenses corresponding to any farm insurance that the Puerto Rico Farm Insurance Corporation may offer, including inspection expenses, whether they be to ascertain the fulfillment of minimum requirements established or to verify any loss or damage, shall be defrayed from the income derived from each farm insurance offered, for which a separate account of each must be kept; Provided, That if such income is not sufficient to meet said expenses, the Puerto Rico Farm Insurance Corporation is hereby empowered to defray said expenses by using the funds that are available in the Farm Insurance Fund therefor.

**Section 13. — Adjustment and Payment of Claims.** (5 L.P.R.A. § 1412)

In every insurance contract that it offers, the Puerto Rico Farm Insurance Corporation shall establish the procedure to be followed by insureds when filing claims as well as the adjustment and payment thereof by the Puerto Rico Farm Insurance Corporation; Provided, That the failure on the part of the insured to strictly comply with the terms and conditions stipulated in such insurance contracts shall be deemed as a sufficient basis to relieve the Puerto Rico Farm Insurance Corporation from all liability.

**Section 14. — Deposits and Disbursements.** (5 L.P.R.A. § 1413)

All the monies of the Corporation shall be entrusted to known depositaries for the funds of the Commonwealth of Puerto Rico and shall be deposited to the name of the Puerto Rico Farm Insurance Corporation. The disbursements shall be made in accordance with the norms and regulations that the Board of Directors may approve.

**Section 15. — Investments of the Farm Insurance Fund.** (5 L.P.R.A. § 1414)

The Puerto Rico Farm Insurance Corporation is hereby authorized to invest such part of the Farm Insurance Fund and of its future income as it may deem advisable in consultation with the Government Development Bank for Puerto Rico, in securities that the Board of Directors may deem advisable, provided said securities have a constant market and are easy to dispose of. The proceeds from such investment shall be covered into the Farm Insurance Fund. The Puerto Rico Farm Insurance Corporation may also use such part of its funds that it may require to defray its operations.

The Puerto Rico Farm Insurance Corporation, in consultation with the Government Development Bank for Puerto Rico, shall proceed to sell the quantity or quantities of securities of the Puerto Rico Farm Insurance Corporation that it may deem pertinent, to provide it with funds to make all such payments or disbursements that are needed in order to comply with the purposes of this Act.

**Section 16. — Audits.** (5 L.P.R.A. § 1415)

The Controller of Puerto Rico or his authorized representatives must audit the accounts and books of the Puerto Rico Farm Insurance Corporation pursuant to the law, as well as the income and expenditures, contracts, leases, fund amortizations, investments and other matters related to its financial situation over which the Controller is vested with authority, in accordance with the law. Furthermore, the Board of Directors shall annually order an independent audit of the Corporation, that must be done by independent certified public accountants. In said audit the generally-accepted accounting principles for insurance programs shall be observed.

**Section 17. — Administration of Oaths.** (5 L.P.R.A. § 1416)

The Board of Directors and the Director of the Puerto Rico Farm Insurance, as well as the officers and agents appointed to carry out the business of the Puerto Rico Farm Insurance Corporation shall be empowered to administer oaths on every document connected with the Farm Insurance business authorized by this Act in which such oath is necessary or convenient, and this power shall also be vested in the agents or local officers of the Department of Agriculture, and the Agricultural Extension Service, the Farmers Home Administration, the Agricultural Credit Corporation, the Land Authority, the Occupational Development Administration, and any public corporation, or government agency or instrumentality, created in or attached to the Department of Agriculture of Puerto Rico.

**Section 18. — Personnel.** (5 L.P.R.A. § 1417a)

With respect to the personnel transferred or to be subsequently transferred to the Puerto Rico Farm Insurance Corporation, they shall maintain the same status they had pursuant to the provisions of Act No. 5 of October 14, 1975 as amended, and to the regulations adopted by virtue thereof, as long as they have the same position they had at the time of the transfer. They shall also maintain all rights, privileges, obligations and status with respect to any



existing pension, retirement, or savings and loan fund systems to which they were affiliated upon approval of this Act.

The personnel recruited on and after the effectiveness of this act shall be governed by the personnel regulations that the Corporation shall approve to such effects, and likewise, provisions may be taken so that the personnel may avail themselves of the benefits of Act No. 447 of May 15, 1951 as amended, [3 L.P.R.A. § 761 et seq.], known as the "Employees Retirement System of the Government of Puerto Rico and its Instrumentalities Act".

**Section 19. — Reinsurance of Farm Insurance Issued by Cooperative Associations.** (5 L.P.R.A. § 1418)

The Board of Directors is hereby authorized to reinsure up to ninety percent (90%) of the farm insurance underwritten by any cooperative association organized under the Insurance Code of Puerto Rico that has standards and assumes risks similar to those set in this Act and in the farm insurance plans established by the Puerto Rico Farm Insurance Corporation; and may, in turn, grant in reinsurance the total amount of the reinsurance made, to such cooperative associations.

**Section 20. — Penalties.** (5 L.P.R.A. § 1419)

Any natural or juridical person who offers, gives or sends false information willfully and maliciously in any document, information, application and/or declaration addressed to the Puerto Rico Farm Insurance Corporation, and who defrauds or attempts to defraud the Puerto Rico Farm Insurance Corporation in any way, shall incur a felony and upon conviction thereof, shall be punished by imprisonment for a minimum term of six (6) months and a maximum of five (5) years.

**Section 21. — [Repeals]** (5 L.P.R.A. § 1401 note)

Acts No. 278, approved April 5, 1946, as amended,. No. 67, approved June 10, 1953, as amended, and No. 96, approved June 25, 1962, as amended, are hereby repealed.

**Section 22. — [Rules and Regulations]** (5 L.P.R.A. § 1401 note)

The regulations promulgated under any or any one of these acts repealed by the above section shall continue in effect until same be repealed or substituted by the new regulations to be promulgated hereunder.

**Section 23. —** This Act shall take effect immediately after its approval.

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