

# Lights, Camera, Action!



## Huge incentives igniting Puerto Rico film-industry boom

By Eva Lloréns Vélez  
pages 14-19

### TOP STORY

**Price-fixing lawsuit could cripple Puerto Rico maritime shippers**  
page 2

### INSIDE

**Administration's P3 model to revamp Medical Center, several infrastructure projects** page 6

**Long-term LNG deal around the corner; inside sources point to Texas-based Excelerate** page 7

**H.B. 3969 to reimburse up to \$8,000 for purchase of hybrid, all-electric vehicles** page 8

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# Rolling...

**When Gov. Fortuño signed a new film incentives law in March 2011, the message went out across the world that Puerto Rico was out to become a serious player in the global film industry**



BY EVA LLORÉNS VÉLEZ  
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Puerto Rico is well on its way to become a leading actor in major motion pictures. The island has already portrayed Brazil, Cuba, Vietnam and other countries in Hollywood films. Enticed by aggressive local film incentives, studios from abroad have come to set up production, shooting locally and injecting more than \$80 million into the economy over the past four years and providing thousands of much-needed jobs.

Previously, two major laws impacted the island's film industry: Law 27, which repealed a 1999 law to broaden film incentives, and Law 121 of 2001, which created the Cinematography Fund to promote local productions. In 1999, the government enacted Law 362 to create incentives to attract local and foreign investors in an effort to help create film infrastructure and projects. At first, the law was controversial because it did little to help boost local film production and mostly benefited the television series "The Dream Team," which after taking advantage

of the incentives, left unpaid debts on the island.

Over a period of 10 years, the incentives yielded an estimated \$481 million in economic activity, according to a legislative report. An average of \$48 million annually was a far cry from the potential \$100 million annual investment from movies shot in Puerto Rico that some industry insiders thought possible. With that in mind, Law 362 was repealed and substituted by Law 27 in 2011, broadening the existing incentives as part of an effort to put the island at the forefront of other U.S. jurisdictions

such as Connecticut, Louisiana, Massachusetts, Michigan and New Mexico, which are trying to develop their respective film industries.

The new law, amended recently to broaden tax credits, provides incentives to make music videos, commercials and video games. It also helps create film-industry development zones to promote the construction of large-scale studios and the infrastructure needed to attract productions from around the globe.

"The new law improves the current incentives to increase the number

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of film projects produced in Puerto Rico,” said José Ramón Pérez-Riera, Economic Development & Commerce Department secretary. “With the approval of the new law, we will bring the industry to the next level, improving our competitiveness with a new incentives structure for the production of film projects.”

The incentives, in place since March 2011, have resulted in about 30 productions coming to the island, generating some \$80 million in investment, Gov. Luis Fortuño said. Recent examples include television episodes for Showtime’s “The Big C” and the movie “Runner, Runner” with Ben Affleck and Justin Timberlake.

“Our target is to have at least 30 films [including documentaries, commercials and feature films] produced annually in Puerto Rico,” Mariella Pérez, Puerto Rico Film Commission (PRFC) executive director, told CARIBBEAN BUSINESS. “We are hoping to surpass \$100 million invested annually.”

The goal is realistic. Puerto Rico’s incentives, local production talent and diverse locations are drawing the attention of filmmakers. “Fast Five,” filmed over the spring and summer of 2010, included scenes that were shot at the Teodoro Moscoso Bridge; through the streets of downtown Hato Rey, San Juan’s banking district; and ones using the mountains as their backdrop to help recreate Brazil.

Currently filming at sites around the island, “Runner, Runner” is expected to pump \$35 million into the local economy.

Leading industry publication Variety has trumpeted Puerto Rico’s varied settings, noting the island has stood in for Iraq, Vietnam, Spain, Brazil, Cuba and various other “far-flung places” as filmmakers increasingly look to the island for its diverse scenery and talented local crews.

“For the first time, we will establish a system of tax decrees very similar to what we have with the industrial and manufacturing sector,” Secretary Pérez-Riera said. “Under the new film law, tax credits are evaluated and approved in an expedited manner; it is one of our main competitive advantages.”



*Top and bottom: Local production crews working on the set of “Pirates of the Caribbean: On Stranger Tides,” helped convert the backdrop of El Morro (inset, opposite page) into Cádiz, Spain.*



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—Mariella Pérez, executive director of Puerto Rico Film Commission (PRFC)

## INCENTIVES GALORE

Building upon the success of “Fast Five,” which featured Puerto Rico prominently after filming here in 2010, Fortuño signed a new cinema-incentives law in March 2011 to take Puerto Rico’s developing film industry to the next level and use the movie’s success to advertise the island as a filming destination. Entertainment-industry icons Jennifer López and Marc Anthony, who were reportedly looking to build a top-notch studio on the island, attended the bill-signing ceremony.

“Fast Five” benefited from the old incentives law; it brought \$28 million into the local economy. The film also employed 236 technicians, 13,145 extras and generated 16,824 hotel-room nights, according to the PRFC.

The new film incentives, which were amended in July, provide a 40% tax credit during production on payments to local companies and individuals. The incentives also provide a 20% production tax credit on all payments made to nonresident talent “above the line,” or prior to filmmaking, including producers, directors, writers and actors. The minimum investment required to qualify for the tax credit is \$100,000 for a film project and \$50,000 for a short film. The new law also provides a 25% tax credit for the development of film studios, laboratories, facilities for the international transmission of television images or other media and related infrastructure, after a minimum investment of \$5 million.

Eligible projects can qualify for preferential rates or exemptions that include fixed income-tax rates of 4% to 10%; 100% exemption on dividend taxes; 90% exemption from municipal and state property taxes; and 100% exemption from municipal license taxes and excise taxes, according to the PRFC.

Since the law’s enactment, the island has had several large film projects such as Showtime’s “The Big C,” which brought in \$3 million; a remake of “Treasure Island,” fetching \$5 million; as well as the television series “The River,” producing about \$7 million. “Treasure Island” is said to have begun filming under the old law, but was allowed to re-submit its application to benefit from the new one.

Continued from page 15

“Runner, Runner” is currently shooting in Puerto Rico and is expected to add \$35 million to the local economy. There have also been several commercials shot locally, yielding about \$1 million.

PRFC’s Pérez expects four more big projects before the year ends, but couldn’t reveal their titles due to confidentiality clauses. Nevertheless, film-industry sources believe one of the projects may generate about \$7 million in revenue.

### PROMOTIONS ARE KEY

Puerto Rico has received a lot of media attention from the major films shot locally, and there is word the PRFC isn’t alone in helping attract the production of films in Puerto Rico over the past few years.

Some local professionals credit Ellen S. Gordon, Ocarina Films partner, for attracting the studios. Gordon is apparently friends with the producer of “Eastbound & Down,” a television series that filmed here a couple of years ago.

They also say John Singleton, producer of “Fast Five,” was familiar with the incentives because he had filmed “Illegal Tender” locally, in 2006. Disney filmed part of “Pirates of the Caribbean: On Stranger Tides” in the eastern region’s city of Fajardo last year; and more recently, the Disney Channel’s “Big Moves,” was filmed on the island in 2003 and 2006.

In the U.S., the Louisiana film incentives enacted this year provide a tax credit of 25% for locally shot films and a 5% labor credit. There are 12 major productions working in the state this month. Chris Stelly, executive director of Louisiana Entertainment, estimates that in 2011 alone nearly \$200 million was generated. He said there are more than 150 applications filed to film in that state. Besides aggressive promoting, the state has invested in needed infrastructure, including new studios, to help its film industry grow. Schools, anticipating a film-industry boon in that state, are now including drama and theater courses. The goal of the state is to be able to bring long-lasting job opportunities through the entire year so local actors and producers don’t have to move to California or New York to work.

The Hawaii Film Commission,



with incentives that are not as generous as Puerto Rico’s, says their idea is to get viewers to relate the film to the place where it was shot and get the island’s name out there when the picture is released.

As a prerequisite of the receiving incentives, the films shot in Puerto Rico must include a credit at the end of the film that stipulates that the

afterthought. Proponents, who suggest touting Puerto Rico as a film location, point to Hawaii’s success in promoting that state’s value as a diverse movie set.

In an interview with CARIBBEAN BUSINESS, talent scout Gordon said it was too early to measure the impact of the incentives.

### WHAT ABOUT JOBS FOR LOCAL PROFESSIONALS?

“Ours is a twofold mission, to promote Puerto Rico as a film destination and to boost the island’s economy by providing work for those in the film industry in Puerto Rico,” explained the PRFC’s Pérez. “When you bring films to Puerto Rico, you grow the economy by providing jobs, not just in film, but in parallel industries such as tourism, transportation, catering and restaurants.”

Local producer and director Juan Esteban Suárez, who has been in the industry for decades, and has worked as assistant director in “The River,” “The Men Who Stare at Goats,” “Treasure Island,” “The Rum Diary,” and currently in “Runner, Runner” said: “I am a local producer and director, but here I am an assistant director.”

He says that working on films shot here provides experience and helps improve the skills of local professionals even if the job is for only for “two or three months” of the year, adding that when “Fast Five” filmed in Puerto Rico, “they took some of the technicians back with them.”

On the other hand, local actors are often relegated to short lines of the script or work as extras.

Leonardo Castro, a local actor featured on “The Argentine” and other Hollywood films, said that most local actors are given one- or two-day roles. On the positive side, if they are able to obtain a role, they will get paid according to the salaries established by the Screen Actors Guild (SAG), which depending on the amount of the film’s budget, could range from \$285 to \$800 a day, or \$800 to \$1,200 for a week. In that regard, Castro, who was acclaimed for his performance in the short film “Man,” which was featured at Cine Fiesta, suggested broadening the film incentives further so Hollywood and foreign filmmakers shooting here,

*Vin Diesel (top) takes a break in the shooting of a chase scene, shot on the Teodoro Moscoso bridge to recreate Brazil in Fast Five. That film brought \$28 million into the local economy.*

*Fast Five also employed 236 technicians, 13,145 extras and generated 16,824 hotel-room nights, according to the PRFC.*

movie was made possible through funding provided by Act 27, known as the Puerto Rico Film Industry Economic Incentives Act. The credits must also state that the movie was shot on location in Puerto Rico.

Some critics suggest that the “Shot on location in Puerto Rico” credit should have more prominence as the credits roll, not just a mention as an

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are motivated to hire local talent in important roles. “You can’t force them to do so, but you can certainly give them incentives to hire local talent,” he said.

Carlos López, an accountant and actor who was featured in “The Rum Diary,” is working as an extra in “Runner, Runner.” “As an extra, you get paid \$125 because you are not covered by SAG. The people who are really benefiting from the films coming here are the technicians,” he said.

Luis Torres, head of Agencia de Talentos Luis Torres in Mayagüez, said his agency has provided talent for all types of productions, including most recently Disney’s “Big Moves” and “La Granja,” a local production. Talent agencies obtained, on average, 20% of what is paid to actors they represent. Torres told CARIBBEAN BUSINESS that the producers of “Runner, Runner” had hired a local casting director to audition actors here, using talent provided by local casting agencies. However, “all of a sudden,” they dismissed the official after everything had been done, opting instead to hire another casting agency from outside Puerto Rico, Marinella Casting, which did an open casting.

“[Marinella] did [its] own casting, disregarding local talent agencies, and we were left out,” he said. Yet Torres said his industry has high expectations that this year at least two more high-budget movies will come to Puerto Rico. “We are waiting,” he said.

#### A BOOM FOR THE LOCAL FILM INDUSTRY?

Puerto Rico began its film industry in 1912 with the movie “Un drama en Puerto Rico.” However, 100 years later, filmmakers still have to deal with obstacles to a flourishing film industry. While they praise the 2011 film incentives, they note that the PRFC needs more funding to support the local industry while it attracts outside studios.

Professionals from the tight-knit local film industry have said that while there is no doubt the incentives have brought revenue and jobs into the local economy, they haven’t managed to jumpstart the industry as required by the charter law of the



*Puerto Rico as Puerto Rico in Showtime’s acclaimed television series “The Big C.” Cast from the show Gabourey Sidibe (top left) and Gabriel Basson on location at El Conquistador Resort in Fajardo.*

PRFC. “From a panoramic standpoint, this law is geared toward attracting foreign capital, but leaves the government’s commitment to promote and develop our own cinematography on the back burner,” said Jacobo Morales, renowned director of “Lo que le pasó a Santiago,” the only Puerto Rican production ever nominated for an Academy Award for Best Foreign Language Film.

Luis Ruiz, president of Pimienta Films, which has produced widely seen local movies such as horror flick “The Caller,” said the tools are there, but the PRFC hasn’t been very successful. “The government does have a public policy in support of the local film industry; the problem is that it isn’t being executed by the [PRFC],” Ruiz said.

Regarding the perceived lack of government support for the local film

industry, the PRFC’s Pérez sees a big challenge presented by a small fixed budget and lukewarm audience support. The Cinematography Fund, enabled by Law 122 of 2001, remains at \$3.3 million annually. “Naturally, you have a fixed number of films that you can back,” she explained. “The previous administration financed four films in four years. During this administration we have backed 12 films in three years.”

Pérez sees local films affected negatively by poor performance at the box office, which in turn impedes local producers’ ability to deliver a return on the investment. “If the government gives you \$100,000, that’s \$100,000 without a return on investment,” Pérez added. “Because those films do not have audience support, you do not have the necessary income. In Puerto Rico, people do not

go to see the local films in theaters. So, it isn’t that the government isn’t backing the films; it’s that the people are not backing the locally produced movies. So we are making movies that nobody goes to see.”

Because of the lukewarm ticket sales for local films, the PRFC is focusing on helping local filmmakers and talent by drawing the big-budget films that have been coming to the island in recent months. The PRFC sees public funding as an additional measure of support.

#### FOR THE PEOPLE, BY THE PEOPLE

The 2001 film fund continues to provide up to 80% of a film’s budget—up to \$1.2 million.

There are other ways to access the fund, including a 60/40 formula. If the local filmmaker has 60% of the money for a project, the fund provides 40%. Local filmmakers also have the help of Ibermedia, a Latin American fund. The PRFC also has funding for small films. The Labor & Human Resources Department provides help in the form of salary payments.

The PRFC’s board approves funding with the aid of a consulting board. The PRFC Board comprises Commerce Secretary Pérez-Riera; Treasury Department Secretary Juan Carlos Méndez; Adriana Ramírez; Marilyn Cruz; WIPR-TV Board Director Ralphie Pagán; and private-sector members John Regis Jr., Fast Food Management chief executive; and attorney Delfina Betancourt.

#### HIGH ADMINISTRATIVE EXPENSES

Commonwealth Comptroller reports show that some of the film fund’s budget is needed to pay administrative expenditures, as well as advertising and salaries at the agency. For instance, in 2010, money from the fund was used to pay about \$132,000 in contracts for legal services; \$71,000 to pay the PRFC executive producer; and close to \$66,000 paid out to the Puerto Rico Industrial Development Co. for administrative consulting.

Three loans were listed for the past year: \$635,000 for Demented The Movie LLC, \$537,000 for Pasadena Films and \$500,000 for Broche de Oro LLC. Funding was also granted for public relations and advertising to La Granja.

Continues on page 19

# Film-industry incentives at a glance



*The Puerto Rico Economic Development & Commerce Department secretary offers the following credits and benefits to qualifying film projects:*

#### PRODUCTION TAX CREDITS

- 40% production tax credit on all payments to Puerto Rico resident companies and individuals
- 20% production tax credit on all payments to nonresidents "above the line," an accounting term used in film production to denote expenditures that occur prior to filming, including producers, directors, writers and casting talent

#### PREFERENTIAL TAX TREATMENT

Those engaged in qualifying film projects are eligible for the following preferential tax rates or exemptions:

- Fixed income-tax rate of 4% to 10%
- 100% exemption on dividend taxes
- 90% exemption from municipal and state taxes on property

#### REQUIREMENTS

- Qualifying film projects are: feature films, short films, documentaries, television programs, TV-series in episodes, mini-series, music videos, national and international commercials, video games, recorded live performances, and original sound-track recordings and dubbing
- \$100,000 minimum spending

requirement per project (\$50,000 for short films)

- No principal photography requirements (full or partial development, preproduction and post-production may qualify). If 50% or more of principal photography is shot on the island, development payments to Puerto Rico resident companies, individuals and nonresidents above the line may qualify.

- No per project or individual wage caps

- No cap on credits for payments to nonresidents above the line. Payments made to nonresidents above the line are subject to a 20% withholding over their Puerto Rico-sourced income.

- The annual cap on credits for payments to Puerto Rico resident companies and individuals is \$50 million (which may be expanded up to \$350 million if incurred partially in a Film Development Zone).



#### INFRASTRUCTURE INCENTIVES

- 25% tax credit on development or expansion costs of studios, laboratories, postproduction, animation and special-effects facilities, transmission facilities, and related infrastructure

- Minimum investment of \$1 million per project

- Maximum aggregate annual cap of \$10 million and lifetime cap of \$150 million for all infrastructure credits. Such credits shall only be available when a project is completed and ready for use, and may be carried forward only if the corresponding project is in operation pursuant to the terms of its grant.



#### PREFERENTIAL TAX TREATMENT

Those engaged in qualifying infrastructure projects as well as operators of studios and other purpose-built media facilities with a budget

equal to or greater than \$50 million (including their suppliers), are eligible for the following preferential tax rates or exemptions:

- Fixed income-tax rate of 4% to 10%
- 100% exemption on dividend taxes
- 90% exemption from municipal and state taxes on property
- 100% exemption from municipal license taxes, excise taxes and other municipal taxes

#### FILM DEVELOPMENT ZONES

To further incentivize the development of high-capacity production studios, the Puerto Rico Economic Development & Commerce Department may designate certain geographic areas as Film Development Zones. Qualifying media projects incurring a portion of their expenses in such zones shall also be eligible for expanded annual credit caps on all payments to Puerto Rico resident companies and individuals beyond the initial \$50 million of: (a) \$50 million; (b) an additional \$150 million, if investment in the studio located within such zone exceeds \$200 million; and (c) a further \$100 million if the caps described above are reached for two consecutive years. ■

Source: Puerto Rico Film Commission



Continued from page 17

Once a film project receives part of the funding, producers are given time to obtain the remaining financing from other sources. Local filmmaker Suárez, for example, received some \$700,000 for a film project, but has until September to obtain the \$800,000 more he needs to finance his film. He said that, right now, he is devoting his days to “Runner, Runner,” and hasn’t been able to dedicate time to getting the rest of the money. For his film, he is trying several ways to cut costs, including relying on in-kind services, integrating products to the film, convincing technicians to lower their fees and filming in locations free of charge. “It is the process of the poor person,” he said. Most producers also seek to do co-productions to find funding for their films. “For instance, Spain puts \$600,000 and I put \$200,000 in in-kind service,” he said.

#### TOUGH DISTRIBUTION

Local producers must negotiate directly with movie theaters to have a finished product shown in theaters. Others present their work in festivals before releasing them locally.

“My suggestion, and my hope, is to be able to create an organism that can help distribute films. It does not exist. You make a movie and, from then on, you have to market it. The [PRFC] should help with that,” director Morales said.

Some local producers have been able to get distributors to show their films in Latin America and Spain. “The Caller,” was able to get a distributor, but most local filmmakers are not that lucky.

Local films are played on a limited release, meaning they aren’t shown at all the theaters on the island, unlike with big-budget productions.

Carlos Madera, marketing coordinator for Caribbean Cinemas, says his company has always been willing to work with local producers to feature their films. “The 60% formula is standard, but we help in other ways. We give them free promotion within our advertising. We try to lend them a hand,” he said.

He noted that the company lent a theater so moviegoers could see “Mi santa mirada,” the short feature that appeared at the Cannes Film Festival. “Four hundred people showed up in three runs,” he said. Caribbean



“The more local film talent is exposed to big-budget films that otherwise would not be done here, the more creativity is stimulated, for one, and a reference is given to look up to. The idea here is that a rising tide floats all boats.”

—Mariella Pérez, executive director of PRFC

Cinemas also hosts all of the cinema festivals organized by the PRFC.

On the island’s quality of films, Madera said that “generally speaking, the product is good. They are geared for different audiences, some are true stories, like ‘America,’ others are comedies and others are political.” He said that if a film is strongly promoted, the public will see it. In Puerto Rico, “word of mouth” is important. “Under My Nails,” a local film directed by Ari Manuel, has already gone to festivals and garnered awards. In that regard, Madera said he expects the film to do well when it opens locally in October.

Some 38,000 people saw “America,” and more than 100,000 watched “Que joyita,” a local comedy that played in theaters for eight weeks. The average time a local film is in theaters is two weeks. The average number of theaters a local film uses is 10.

Madera said independent film-

makers in Puerto Rico use some of the funding from the PRFC to do gala premieres, showings to the media or a presentation of the actors at the theaters to be able to promote it. For instance, the actors from the local movie “Mi verano con Amanda,” visited the audience in different theaters. Independent films also use social-networking media as a tool to promote films.

Local filmmakers need a distribution chain so the film can be watched by audiences in other markets such as the Dominican Republic, Madera added. The market for most local films is Puerto Rico, making it difficult for producers to get a return on gain for what they invested.

Mike Moraskie, a film buyer for Caribbean Cinemas, said Puerto Rican cinema is considered independent, which is riskier than the films produced by Hollywood studios. Independent films also have less demand regardless of the market.

Major studios have the infrastructure to distribute and market films. “It is risky because [independent films] are competing with the six global studios. In Puerto Rico, it depends on the film, but there is generally no demand for that product,” he said.

#### ALTERNATE TAKES

Another factor affecting the revenue of local films is their format. Madera said if a local movie is in film format, it can be shown in several theaters at the same time, something that does not happen when a movie is made digitally in DVD or Blu-ray format. Some producers transferred their films from digital form to 35-millimeter, but the process is very costly and isn’t carried out in Puerto Rico. “When the films are in digital format, we try to get the biggest theaters,” he said.

Madera explained that while local films are not played in all of the company’s theaters, Caribbean Cinemas tries to release them in theaters where the most people can go see them. Some local films are introduced in 10 local theaters and end up in 19. The company has also shown local films in its theaters in the Dominican Republic, the last one being “Élite”; and in their theaters in Trinidad-Tobago. “We fully support the local product,” Moraskie said.

Local film producers, CARIBBEAN BUSINESS has learned, have plans to create a “film cluster” to help local professionals distribute their product. On the other hand, Morales said he and other film professionals plan on putting out a report on the state of the local film industry in upcoming weeks.

More recently, the PRFC announced that Film Production Capital LLC, a financing firm based on the mainland U.S., is opening an office on the island to use its contacts and knowledge to help local producers find money for their films.

The collective quest of local filmmakers to find more funding is a crusade understood by the PRFC’s Pérez, who put it like this: “The more local film talent is exposed to big-budget films that otherwise would not be done here, the more creativity is stimulated, for one, and a reference is given to look up to. The idea here is that a rising tide floats all boats.” ■

See Editorial on page 18