

(H. B. 4271)

(No. 125)

(Approved July 20, 2008)

AN ACT

To authorize the “Act to Transfer the Right to Collect Tax Receivables of Puerto Rico of 2008,” with the purpose of authorizing the Department of the Treasury, on behalf of the Commonwealth of Puerto Rico, to sell, assign, exchange, negotiate, transfer, dispose of or transmit to other persons tax receivables or the right to receive payments on account of tax receivables or any interest thereon; to establish the collection procedure; to establish the rights and obligations of persons involved in the transaction; to impose penalties; to create the Special Tax Receivable Fund as an independent instrumentality, attached to the Government Development Bank for Puerto Rico, with the authority to issue securities and to use other mechanisms to pay or acquire the right to receive payments on account of tax receivables or any interest thereon; to authorize, as an exception, the issue of special obligations; and for other purposes.

STATEMENT OF MOTIVES

Taxes are an essential source of revenue for the General Fund of the Commonwealth of Puerto Rico, as well as an indispensable instrument for the Government of the Commonwealth of Puerto Rico to be able to carry out its public endeavor. At present, there are many tax debts that have not been collected, which creates budgetary problems that adversely affect the operating order of the Government of the Commonwealth of Puerto Rico. The intent of this Act is to provide for a speedy and efficient manner of procuring the necessary funds for the General Fund through the sale by the Department of the Treasury, on behalf of the Commonwealth of Puerto Rico,

of tax receivables or of the right to receive payments on account of tax receivables or any interest thereon to eligible persons or public entities. This Act authorizes the sale of tax receivables, but it also recognizes the sale or transfer of the right to receive payments on account of tax receivables or any interest thereon as another effective method to provide for Government asset liquidity without compromising its resources. This Act provides the Department of the Treasury, as a representative of the Commonwealth of Puerto Rico, with the authority to sell or transfer the right to receive payments on account of any tax receivables or any interest thereon. The Government Development Bank for Puerto Rico shall act as the fiscal agent and financial advisor of the Government of the Commonwealth of Puerto Rico in all matters relative to the implementation of this Act.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.—Short Title.—

This Act shall be known as the “Act to Transfer the Right to Collect Tax Receivables of Puerto Rico of 2008.”

Section 2.—Statement of Public Policy.—

It is hereby stated that the public policy of the Commonwealth of Puerto Rico shall be to promote by all reasonable means the creation of the venues needed for the Department of the Treasury, on behalf of the Commonwealth of Puerto Rico, to be able to sell; assign; exchange; negotiate; transfer; dispose of or convey; jointly or severally, tax receivables or the right to receive payments on account of tax receivables or any interest thereon.

Section 3.—Definitions.—

(a) Economic Year.—Shall mean the fiscal year beginning on July 1st of each year and ending on June 30 of the following year.

(b) Demand for Payment, Attachment and Sale of Debtor's Property.—Shall mean the authority of the Secretary of the Treasury to attach and sell the property of a debtor as provided under the Code.

(c) Government Development Bank.—Shall mean the Government Development Bank for Puerto Rico.

(d) Code.—Shall mean the Puerto Rico Internal Revenue Code, Act No. 120 of October 31, 1994, as amended.

(e) Tax.—Shall mean income taxes levied under Subtitles A, B, C and D of the Code.

(f) Taxpayer.—Shall mean any person under the obligation to pay taxes to the Commonwealth of Puerto Rico.

(g) Department of the Treasury.—Shall mean the Department of the Treasury of Puerto Rico, established by Art. IV, Sec. 6 of the Constitution of the Commonwealth of Puerto Rico.

(h) Tax Receivable.—Shall mean tax debts of any nature which, under the various laws of the Commonwealth of Puerto Rico, fall under the responsibility of the Secretary of the Treasury in terms of their collection, and which have become or could become tax receivables on or before June 30, 2008, pursuant to the laws in effect, including penalties, surcharges or interest. The term "tax receivable" shall not include deficiencies, as said term is defined in the Code, which have prescribed under the applicable provisions of the Code or under any other applicable law.

(i) Public Entity.—Shall mean any agency, department, public instrumentality or political subdivision of the Government of Puerto Rico,

including but not limited to any public corporation or its subsidiaries or affiliates.

(j) Date of Sale or Transfer.—Shall mean the date of execution of the contract or document whereby the tax receivable or the right to receive payments on account of tax receivables or any interest thereon is sold, assigned, exchanged, negotiated, disposed of, transferred or conveyed.

(k) Government Accounting Act.—Shall mean the “Government Accounting Act,” Act No. 230 of July 23, 1974.

(l) Person.—Shall mean any natural or juridical person.

(m) Eligible Person.—Shall mean any person who meets the requirements established in Section 5 of this Act.

(n) Secretary of the Treasury.—Shall mean the Secretary of the Department of the Treasury.

(ñ) Sale or Transfer.—Shall mean the sale, assignment, exchange, negotiation, transfer, disposal or conveyance.

Section 4.—Authorization to Sell or Transfer Tax Receivables or the Right to Receive Payments on Account of Tax Receivables or Any Interest Thereon.—

(a) The Department of the Treasury shall be authorized, acting on behalf of the Commonwealth of Puerto Rico, to jointly or severally sell, assign, exchange, negotiate, transfer, dispose of or convey tax receivables or the right to receive payments on account of tax receivables or any interest thereon to any eligible person or public entity.

(b) The Department of the Treasury may jointly or severally sell, assign, exchange, negotiate, transfer, dispose of or convey tax receivables or the right to receive payments on account of tax receivables or any interest

thereon, by direct negotiation with no need for auctions, bidding or any other means the Department deems convenient.

(c) The Department of the Treasury shall analyze and screen records relative to tax receivables and make all necessary efforts to identify those tax receivables that meet the criteria and requirements of this Act and the regulations thereunder.

(d) The Department of the Treasury, with the advice of the Government Development Bank, shall establish the criteria to be considered when determining the price of sale or transfer, whether jointly or severally, of tax receivables or the right to receive payments on account of tax receivables or any interest thereon. Said price may be at a discount or with a premium. The cost associated with handling the transaction may be added to the price.

(e) The Department of the Treasury may accept, as part of the price of sale or transfer, any valid cause, including but not limited to any note, share, bond, voucher, debt voucher, trust certificate, or any obligation of the buyer or acquirer whereby he/she commits to make additional payments to the Department of the Treasury under the terms and conditions agreed to between them, or in general, any security, obligation or share in any of the aforementioned instruments issued by the buyer or acquirer.

(f) As to any portion of the price of sale or transfer payable in cash, the Department of the Treasury, in its discretion, may accept cash or its equivalents, in payment of the price on tax receivables or the right to receive payments on account of tax receivables or any interest thereon.

(g) The Department of the Treasury, in consultation with and with the prior approval of the Government Development Bank, may make all necessary efforts for the sale or transfer of tax receivables or the right to

receive payments on account of tax receivables or any interest thereon, as well as enter into negotiations, execute contracts and issue certificates of sale or transfer. The Department of the Treasury shall protect the right to privacy conferred by the laws of the Federal Government and the Commonwealth of Puerto Rico upon taxpayers, in connection with the information in possession of the Department of the Treasury concerning taxpayers.

(h) Under no circumstance shall it be construed that the sale or transfer of tax receivables or the right to receive payments on account of tax receivables or any interest thereon constitutes a loan or a financing mechanism for the Department of the Treasury or the Commonwealth of Puerto Rico, its instrumentalities, subdivisions or agencies, and shall therefore not be deemed to be a violation of Act No. 103 of May 25, 2006, better known as the “Fiscal Reform Act of the Government of the Commonwealth of Puerto Rico of 2006.”

Section 5.—Eligible Persons.—

(a) The Government Development Bank shall establish the eligibility requirements to be met by any person interested in buying or acquiring tax receivables or the right to receive payments on account of tax receivables or any interest thereon, including the following conditions:

(1) No person who owes any taxes to the Commonwealth of Puerto Rico, the municipalities, or its agencies or instrumentalities, shall be eligible.

(2) Any person who wishes to be found eligible shall submit before the Department of the Treasury:

(A) A sworn statement attesting that he/she meets all eligibility criteria established by law and by the Government Development Bank, and

(B) All documents needed to prove that said person is eligible.

(b) No buyer or acquirer of tax receivables or the right to receive payments on account of tax receivables or any interest thereon may otherwise convey or assign the tax receivable acquired or said right to receive payments on account of tax receivables or any interest thereon to persons identified as non-eligible persons, as provided in the above clauses of subsection (a) of this Section. Said buyer or acquirer shall make a representation in the contract whereby tax receivables or the right to receive payments on account of tax receivables or any interest thereon are sold or transferred, that he/she does not plan to sell, exchange or otherwise convey said right or interest to any non-eligible person.

(c) In the event that any sale or transfer is conducted in violation of the provisions of this Section, the tax receivable or the right to receive payments on account of tax receivables or any interest thereon, shall revert to the Department of the Treasury, and the buyer or acquirer shall not be entitled to any refund for amounts paid. Furthermore, the buyer or acquirer shall return to the Department of the Treasury any amount he/she has earned as part of the right to receive payments on account of tax receivables or of any interest thereon. The preceding notwithstanding, the provisions of this subsection shall not prevent non-eligible persons from being able to own a security backed by tax receivables or the right to receive payments on account of tax receivables or any interest thereon.

(d) Public entities shall be deemed to be eligible persons for buying or otherwise acquiring tax receivables or the right to receive payments on account of tax receivables or any interest thereon.

(e) The Government Development Bank and any subsidiary, affiliate or entity attached thereto (whether existing or as created in the future), entirely in its discretion, shall be authorized to buy or acquire from the Department of the Treasury tax receivables or the right to receive payments on account of tax receivables or any interest thereon. This includes the Puerto Rico Tax Receivables Trust created by Section 14 of this Act.

Section 6.—Collection of Tax Receivables.—

(a) The Secretary of the Treasury shall have the ministerial duty of collecting the tax receivables whose right to receive payments or any interest thereon has been sold or transferred under the provisions of Section 4 of this Act. The obligation of the Secretary of the Treasury to collect such tax receivables shall terminate when the same have been paid in full or when the same have prescribed pursuant to the applicable provisions of the Code.

(b) The Secretary of the Treasury may employ all the authorities and powers conferred upon him/her under the Code and the Government Accounting Act, including procedures for the demand for payment, attachment and sale of the taxpayer's property for the collection of tax receivables whose right to receive payments on account thereof has been sold or transferred to an eligible person under the provisions of Section 4 of this Act.

(c) In cases in which the tax receivables whose right to receive payments on account thereof or any interest thereon have been a part of a sale or transfer under the provisions of this Act, concur with tax receivables of the same taxpayer which have not been the subject of a sale or transfer

agreement or transaction whatsoever, any collection by the Secretary of the Treasury by any means or procedure shall be applied, firstly, to the payment of tax receivables whose right to receive payments on account thereof or any interest thereon have been a part of a transaction under the provisions of this Act.

(d) Any plan or amnesty directed to fostering the collection of tax receivables shall include tax receivables whose right to receive payments on account thereof or any interest thereon has been sold or transferred under the provisions of this Act.

(e) Before approving any payment plan or payment offer for a sum lesser than that which is owed (including but not limited to any amnesty), except when agreed otherwise in the contract of sale or transfer, the Secretary shall obtain the express consent of the buyer or acquirer of the right to receive payments on account of such a tax receivable or any interest thereon.

(f) The Secretary of the Treasury and any eligible person who buys or acquires the right to receive payments on account of tax receivables or any interest thereon may, if necessary and as part of the contract of sale or transfer, agree to contracting services to support and assist in the collection of such tax receivables. In cases in which services are contracted to support and assist in the collection of such tax receivables, the provisions of Sections 6, 7, 8, 10 and 11 of Act No. 95 of June 8, 2000, shall be observed. The compensation to be paid to these persons or companies thus contracted shall be a reasonable amount, negotiated and determined by the Government Development Bank, taking into account that these shall be payable from public funds.

(g) In cases in which the sale or transfer of tax receivables to private or individual persons or entities does not entail the sale of the right to receive payments on account of or any interest on tax receivables, the Secretary of the Treasury shall have neither the power nor the obligation to collect such tax receivables which have been sold or transferred under the provisions of Section 4 of this Act.

Section 7.—Special Tax Receivable Fund.—

(a) A special fund, separate and independent from all other funds of the Treasury of Puerto Rico, called the “Special Tax Receivable Fund,” (hereinafter, the “Fund”) is hereby created, to be administered by the Government Development Bank. All moneys, payments or revenues received or collected by the Secretary of the Treasury on account of tax receivables, including penalties, surcharges and interest, which have been the subject of a sale or transfer under the provisions of this Act, shall be directly covered into the Fund upon receipt and shall not be covered into any other fund of the Treasury of Puerto Rico.

(b) The moneys deposited in the Fund shall be used to make payments to eligible persons who bought or acquired the right to receive payments on account of tax receivables or any interest thereon, to match the receipt of such payments. However, to the extent in which services to support or assist in the collection of such tax receivables have been contracted, an agreement may be arranged with the providers of such services as to a commission based on the total amount collected or a fixed amount which may be paid from the moneys deposited in the Fund before any other disbursement is made.

(c) If after all payments required have been made to eligible persons who bought or acquired the right to receive payments on account of

tax receivables or any interest thereon and to the service provider, if any, any moneys remain deposited in the Fund, said moneys shall be transferred to the General Fund of the Treasury of Puerto Rico.

Section 8.—Notices in Advance of the Sale or Transfer.—

(a) Tax receivables and the rights to receive payments on account of tax receivables or any interest thereon may only be the subject of a sale or transfer authorized by Section 4 of this Act after the Department of the Treasury has notified the intent to sell or transfer the same through a publication in a newspaper of general circulation in Puerto Rico, at least sixty (60) days in advance of the date scheduled for closing said sale or transfer, or if the Department of the Treasury chooses to receive bids or private negotiation offers, at least fifteen (15) days in advance of the date scheduled by the Department of the Treasury to submit bids or private negotiation offers, as the case may be. Said notice shall provide a general identification of taxpayers whose tax receivables are subject to a sale or transfer authorized by Section 4 of this Section.

(1) In the event that the transaction is to be conducted by means of bidding, the notice shall specify the terms and conditions of sale or transfer, and the criteria to be met by any person interested in bidding. The Department of the Treasury may turn down one, several or all bidders in a bidding.

(2) If the sale or transfer is to be conducted by means of a private negotiation, the notice shall list the documents and the information that possible buyers or acquirers shall submit together with their offer. In the event the Department of the Treasury has identified a possible buyer or acquirer, the notice shall so indicate.

(b) In addition to the provisions of subsection (a) of this Section, the Department of the Treasury may not conduct a sale or transfer authorized by Section 4 of this Act without notifying its intent of conducting the same to the delinquent taxpayer through a letter sent by certified mail, addressed to his/her last known address. Said notice shall be remitted not less than thirty (30) days in advance of the date set for the sale, and said notice shall include:

(1) The amount of tax receivables, including a breakdown of the amount of the taxes, interest, surcharges and penalties and the economic years to which these correspond;

(2) A warning stating that, if tax receivables are not paid within a term of thirty (30) days as of the date of remittance of such a notice, the sale or transfer shall be conducted.

If on the date of the transaction, the tax receivables have not been paid, the Department of the Treasury may sell such debts or the right to receive payments on account of such tax receivables pursuant to the provisions of Section 4 of this Act.

Section 9.—Cancellation or Deferment of the Transaction.—

The Department of the Treasury may cancel or defer any proposed sale or transfer before the date of the transaction. The Department of the Treasury shall be under the obligation to fulfill the notice requirements imposed by Section 8 of this Act, before resuming the sale or transfer, unless the date of the transaction has been deferred for a term not greater than ten (10) days, in which case, it shall not be necessary to fulfill the notice requirements under Section 8 of this Act again.

Section 10.—Continuation of Sale or Transfer.—

Unless cancelled or deferred pursuant to Section 9 of this Act, a sale or transfer authorized by Section 4 of this Act may, in the discretion of the Department of the Treasury, be continued or resumed from day to day, with no need to issue new notices, until the tax receivables or the right to receive payments on account of or any interest on all tax receivables, all transferable deficiencies subject to notice as mentioned in Section 8 of this Act have been sold.

Section 11.—Certificate of Sale or Transfer.—

(a) The Department of the Treasury shall deliver to the buyer or acquirer of tax receivables or the right to receive payments on account of tax receivables, a certificate of sale or transfer for each delinquent taxpayer, upon receipt of payment for said sale or transfer. Furthermore, by request of a buyer or acquirer, the Department of the Treasury may issue and remit a certificate of sale or transfer corresponding to more than one delinquent taxpayer. Each certificate of sale or transfer shall identify the delinquent taxpayer, including his/her last known address, the buyer or acquirer thereof, the amount of the payments on account of tax receivables whose right to receive such payments has been sold or transferred, the economic years to which the same correspond, the amount subject to attachment and sale of delinquent taxpayer's property, if any, and any other information as the Department of the Treasury may provide. The certificate of sale or transfer shall also state that under no circumstance shall it be construed that the sale or transfer of tax receivables or the right to receive payments on account of tax receivables or any interest thereon constitutes a financing mechanism for or a loan granted to the Department of the Treasury, the Commonwealth of Puerto Rico, its instrumentalities, subdivisions and agencies.

(b) The certificate shall constitute attesting proof of the sale or transfer of the tax receivables or the right to receive payments on account of tax receivables or any interest thereon for any legal purpose and in any judicial or administrative proceeding.

(c) The Department of the Treasury shall not retain rights or obligations in relation to the right to receive payments on account of tax receivables or any interest thereon, even when he/she continues to be the nominal title owner of such tax receivables, once the transaction has been conducted and the certificates of sale or transfer have been delivered, except for the provisions of Section 6 of this Act and the right to receive the payment of the sales or transfer price, including any note or other obligation delivered to the Department of the Treasury as part of the deferred sales or transfer price, or other provision thereof, or as provided in the contract of sale or transfer. Except in the situations provided under Section 14 of this Act, no provision of this Act shall be construed to constitute a guarantee from the Department of the Treasury as to the ability to collect such tax receivables.

(d) The Department of the Treasury shall establish through regulations, the procedure to be observed for the conservation and updating of the copies of certificates of sale or transfer and other documents relative to the sale or transfer of the right to receive payments on account of tax receivables or any interest thereon.

(e) In the case of sale, assignment, transfer, pledging, constitution of a personal property lien or other disposition of the right to receive payments on account of tax receivables or any interest thereon by the original buyer or acquirer, or any owner subsequent thereof, such a subsequent buyer or owner shall notify the Department of the Treasury of

such a transaction, as the Department of the Treasury may provide. The new acquirer of the right to receive payments on account of tax receivables or any interest thereon, shall deliver the certificate of sale or transfer thus acquired to the Department of the Treasury, in order for the latter to issue a new certificate of sale or transfer in the manner established in subsection (a) of this Section. Notwithstanding the provisions of the Puerto Rico Civil Code, the Business Transaction Act or any other law providing otherwise, a personal property lien or pledge on a certificate of sale or transfer shall be constituted and perfected and shall be effective against third parties, upon delivery to, and upon maintenance of continuous physical possession of the certificate of sale or transfer by, the creditor, the insured party or a third party authorized to act on behalf of any of the former.

(f) Upon payment to the owner of the certificate of sale or transfer, as well as the applicable interest, surcharges and penalties, such an owner shall be under the obligation to deliver such a certificate to the Department of the Treasury.

Section 12.—Notice After the Sale or Transfer.—

Within a term of thirty (30) days as of the date of the sale or transfer of tax receivables or the right to receive payments on account of tax receivables or any interest thereon, the Department of the Treasury shall notify such a sale or transfer to delinquent taxpayers as they appear identified on the records of the Department of the Treasury. Such notice shall be made by mail to the last known address of the delinquent taxpayer, and shall include:

- (1) The date of the sale or transfer;

(2) The name and address of the buyer or acquirer of the tax receivable or the right to receive payments on account of tax receivables or any interest thereon;

(3) The tax receivables' amount of the credit per tax receivable transferred;

(4) The duty of the taxpayer to pay tax receivables;

(5) If applicable, the buyer's right of the Secretary of the Treasury to carry on the collection;

(6) Any other information as the Department of the Treasury may deem convenient. Omission to fulfill the notice requirement shall not affect the validity of the sale or transfer of the right to receive payments on account of tax receivables or any interest thereon.

Section 13.—Replacement or Refund.—

(a) The Department of the Treasury shall replace: the right to receive payments on account of a specific tax receivable, with the right to receive payments for one or more tax receivables of an equal or greater value; refund the buyer or acquirer an amount equal to the payments on account of the tax receivable, plus the interest earned on said payments, or make a combination of both remedies, if:

(1) The sale or transfer of the right to receive payments on account of tax receivables or any interest thereon should be found void, null or defective in part or in whole, by a final and binding ruling of a competent Court;

(2) The sale or transfer of the right to receive payments on account of tax receivables or any interest thereon does not conform to the representations and guarantees of the Department of the Treasury relative to the sale or transfer of such rights or interest;

(3) To the extent that any plan or amnesty accepted or implemented by the Department of the Treasury or the Secretary of the Treasury has the effect of reducing the number of payments on account of tax receivables whose right to receive payments or any interest thereon has been sold or transferred under the provisions of this Act; or

(4) To the extent that the tax receivable from which issues the right to receive payments has not been collectable within a period of three (3) years from the date of the sale or transfer of the right to receive payments on account of tax receivables or any interest thereon; provided, that in this specific case, the refund to the acquirer referred to in subsection (a) of this Section shall not apply, but only the right to replace the tax receivable shall indeed apply.

(b) Such a replacement or refund shall constitute the sole and exclusive remedy available to the buyer or acquirer.

(c) The Department of the Treasury shall fulfill the notice requirements established in this Act when replacing the right to receive payments on account of a specific tax receivable, with the right to receive payments on account of another tax receivable.

Section 14.—Puerto Rico Tax Receivables Trust.—

(a) A public corporation and instrumentality of the Commonwealth of Puerto Rico is hereby created, to constitute a corporate and political entity independent and separate from the Commonwealth of Puerto Rico, to be known as the *Fideicomiso para la Compra de Deudas Contributivas Morosas de Puerto Rico* (“*FIDECOM*”), whose name in English shall be Puerto Rico Tax Receivables Trust. *FIDECOM* is hereby created with the purpose of issuing securities, bonds, obligations, instruments, share

certificates or units, or other proofs of a share in investment, to obtain funds to buy or acquire tax receivables or all or part of the rights to receive payments on account of tax receivables or any interest thereon. *FIDECOM* may use any amount as necessary from the moneys originating from the payment of tax receivables which it is entitled to receive or the proceeds of the sale of securities, bonds, obligations, instruments, share certificates or units or other proofs of a share in investment, issued under the provisions of this Act, for the payment of expenses incurred in relation to the issue and sale of such securities, bonds, obligations, instruments, share certificates or units or other proofs of a share in investment, including expenses relative to insurance, letters of credit or other instruments, and to defray any operating expense. *FIDECOM* shall be attached to the Government Development Bank for Puerto Rico. The Board of Directors of the Government Development Bank shall be the Board of Trustees of *FIDECOM*. *FIDECOM* shall have the same powers, rights and authorities conferred upon the Government Development Bank under the provisions of the Charter of the Government Development Bank, whose powers may be exercised only to fulfill the purposes for which *FIDECOM* has been created, but it shall not have the authority to act as a fiscal agent of the Government. The revenues, operations and property of *FIDECOM* shall enjoy the same tax-exempt status as the Government Development Bank, and *FIDECOM* securities, bonds, obligations, instruments, share certificates or units or other proofs of a share in investment and the revenues generated on account thereof shall enjoy the same tax exemption as the Government Development Bank's securities, bonds, notes and other obligations.

(b) *FIDECOM* shall have the following additional powers:

(i) To obtain for any public or private financial or banking entity, sureties, letters of credit, performance bonds, insurance or other types of instruments to improve the credit of securities, bonds, notes, obligations, instruments, share certificates or units or other proofs of a share in investment from time to time in separate series or classes; and

(ii) To issue, from time to time and in separate series or types, securities, bonds, obligations, instruments, share certificates or units or other proofs of a share in investment; and

(iii) To sue and be sued.

(c) The Commonwealth of Puerto Rico is hereby authorized, as well as all agencies, municipalities, public corporations and other public instrumentalities or political subdivisions of the Government of Puerto Rico with authority under the law to invest their funds, to invest in any securities, instruments, share units, certificates or other proof of a share in investment issued by *FIDECOM*. *FIDECOM* and the securities, bonds, instruments, share units, certificates or other proofs of a share in investment issued by *FIDECOM*, shall be exempted from the application of the provisions of Act No. 6 of October 19, 1954, as amended, known as the “Puerto Rico Investment Company Act.”

(d) The Department of the Treasury is hereby authorized to use *FIDECOM* and the other mechanisms authorized by this Act for the collection of tax receivables which have become delinquent after June 30, 2008, for the benefit of the General Fund.

Section 15.—Exception; Issue of Special Obligations.—

(a) In the event that the Department of the Treasury, in consultation with the Government Development Bank, should determine that a

transaction for the sale, assignment, exchange, negotiation, transfer, disposition or conveyance, jointly or severally, of tax receivables or the right to receive payments on account of tax receivables or any interest thereon does not serve the best interests of the Commonwealth of Puerto Rico when compared to an issue of special obligations as described henceforth in this Section 15, the Department of the Treasury shall file a detailed report with the Legislature in relation to such a determination.

(b) Once the Department of the Treasury files the report referred to in subsection (a) above, the Secretary of the Treasury may issue and sell, all at once or from time to time, special obligation bonds of the Commonwealth of Puerto Rico in a principal amount not to exceed one billion (1,000,000,000) dollars, with the purpose of providing the General Fund with liquidity, given the high incidence of delinquent taxpayers, which has not allowed the General Fund to collect funds in cash from taxpayers who are in debt to the public treasury, and the costs of the sale thereof.

(c) The bonds to be issued from time to time under the provisions of this Act, as well as any other details in relation thereto, shall be authorized through a Resolution or Resolutions to be adopted by the Secretary of the Treasury and approved by the Governor. Said bonds shall be designated as “Bonds in Advance of the Collection of Tax Receivables of the Commonwealth of Puerto Rico.”

(d) The bonds whose issue is authorized under the provisions of this Act, shall be dated and mature at a date or dates not to exceed ten (10) years from their date or dates, shall earn interest at a rate or rates not to exceed the legally authorized rates at the time of issue of such bonds. At the option of the Secretary of the Treasury, these may be redeemable before maturity, may be sold with or without premium, shall be of the

denomination and in such a form, with interest coupons or registered or both, shall have those registration and conversion privileges, shall be executed in such a manner, shall be payable at those locations within or without the Commonwealth of Puerto Rico, and shall contain those other terms and conditions as the authorizing Resolution or authorizing Resolutions may provide.

(e) The bonds authorized by this Act may be sold all at once or from time to time, in public or private sale, and for such a price or prices not to be lesser than the price legally established at the time of issue thereof, as the Secretary of the Treasury may determine with the approval of the Governor, to be most convenient to serve the best interests of the Commonwealth of Puerto Rico.

(f) When any officer whose signature or facsimile appears on any bond or coupon authorized by this Act should cease in office before the delivery of such bonds, such a signature or facsimile shall, nevertheless, be valid and sufficient, being it deemed for all purposes as if such an officer had remained in office until such a delivery. Furthermore, any bond or coupon may bear the signature or facsimile of those persons who at the time of executing such a bond are the officers proper to sign the same, but which persons, as of the date of the bonds, were no longer holding office.

(g) The bonds issued pursuant to the provisions of this Act shall be deemed to be negotiable instruments under the laws of the Commonwealth of Puerto Rico.

(h) The bonds authorized by this Act may be issued in the form of coupons or in registered form, or both, as may be determined under the authorizing Act or authorizing Acts, and it may be provided for the register for any bonds or coupons in terms of principal only and also in terms of

principal plus interest, and for the reconversion of coupon bonds from any registered bonds in terms of principal plus interest.

(i) The Secretary of the Treasury, with the approval of the Governor, is hereby authorized to negotiate and execute with any bank, investment firm or other financial institution, those loan contracts, purchase agreements or other financing agreements as may be necessary for the sale of the bonds whose issue is authorized under the provisions of this Section 15 of this Act, under those terms and conditions that the Secretary of the Treasury may determine to be the most convenient to serve the best interests of the Commonwealth of Puerto Rico.

(j) The bonds whose issue is authorized under the provisions of this Section 15 of this Act shall constitute special obligations of the Commonwealth of Puerto Rico, whereby the good faith and the taxing power of the Commonwealth of Puerto Rico are not pledged for the payment of the principal plus the interest on the bonds issued under the provisions of this Act. The bonds whose issue is authorized under the provisions of this Section 15 of this Act shall be payable solely: (i) from the proceeds of the collection of tax receivables; (ii) from any surety agreement, insurance, letter of credit or similar instrument as the Secretary of the Treasury may believe necessary to improve the credit of such bonds. Tax receivables may serve as collateral for bonds issued under the provisions of this Section 15 of this Act.

(k) That amount which may be necessary is hereby appropriated from the proceeds of the sale of the bonds issued under the provisions of this Section 15 of this Act, to be applied to the payment of expenses incurred in relation to the issue and sale of such bonds, including expenses relative to

insurance, letters of credit or other instruments used to reduce financing costs.

(l) The Secretary of the Treasury may use any of the powers or mechanisms established by this Act in benefit of bondholders, to expedite the collection of tax receivables.

(m) Any public instrumentality of the Commonwealth of Puerto Rico is hereby authorized to buy or otherwise acquire the bonds issued under the provisions of this Section 15 of this Act.

(n) All bonds issued under the provisions of this Section 15 of this Act, as well as the interest earned by them, shall be exempted from the payment of all taxes levied by the Commonwealth of Puerto Rico and its instrumentalities.

(ñ) The issue of bonds authorized by this Section 15 of this Act shall not be deemed to be a violation of Act No. 103 of May 25, 2006, better known as the “Fiscal Reform Act of the Government of the Commonwealth of Puerto Rico of 2006.”

Section 16.—Rulemaking Authority.—

The Secretary of the Treasury may establish rules and regulations as necessary for the implementation of this Act.

Section 17.—Severability.—

If any provision of this Act or the application thereof should be found null, such a finding shall not affect the remaining provisions or the application of this Act which may be in effect with no need for the provisions thus found to be null, and for this purpose, the provisions of this Act are severable.

Section 18.—This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 125 (H.B. 4271) of the 7th Session of the 15th Legislature of Puerto Rico:

AN ACT to authorize the “Act to Transfer the Right to Collect Tax Receivables of Puerto Rico of 2008,” with the purpose of authorizing the Department of the Treasury, on behalf of the Commonwealth of Puerto Rico, to sell, assign, exchange, negotiate, transfer, dispose of or transmit to other persons tax receivables or the right to receive payments on account of tax receivables or any interest thereon; etc,

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

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

Francisco J. Domenech
Director