

(S. B. 1301)
(Conference)

(No. 29-2015)

(Approved March 13, 2015)

AN ACT

To amend subsections (a), (b), (e), and (h) of Section 12A of Act No. 74 of June 23, 1965, as amended; amend subsections (a), (c), (d), (h), and (j) of Section 34 of Act No. 44 of June 21, 1988, as amended; amend paragraph (ii) of subsection (a); add a subsection (g), renumber subsections (g), (h), (i), (j), (k), and (l) as subsections (h), (i), (j), (k), (l), and (m) and amend paragraph (l) of renumbered subsection (h) of Section 3020.07; amend paragraph (ii) of subsection (a), add subsection (g) and renumber subsections (g), (h), (i), (j), (k), and (l) as subsections (h), (i), (j), (k), (l), and (m); and amend paragraphs (1) and (9) of renumbered subsection (h) of Section 3020.07A; amend paragraph (1) of subsection (a) of Section 3060.11, and subsections (b) and (f) of Section 3060.11A of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” to provide for the effectiveness of the statutory lien on the income of the Highways and Transportation Authority, as well as for the modification of the excise tax on the crude oil, partially finished, finished oil by-products, or any other hydrocarbon blend; clarify the scope of the use authorized for Pledged Revenues; modify certain limitations applicable to the debt to be issued by the Puerto Rico Infrastructure Financing Authority; provide for the adjustment of the rate applicable to the excise tax on crude oil, partially finished, finished oil by-products, or any other hydrocarbon blend; and for other purposes.

STATEMENT OF MOTIVES

Through Act No. 1-2015, as amended, this Legislative Assembly authorized the Puerto Rico Infrastructure Financing Authority (IFA) to assume or repay certain debts of the Highways and Transportation Authority (PRHTA) that were

intended to be repaid with a portion of the additional funds transferred to the PRHTA under Act No. 30-2013 and Act No. 31-2013. It also approved a surtax on crude oil, partially finished, finished oil by-products, or any other hydrocarbon blend and the transfer to the PRHTA of the total income derived from said tax. It is a well-known fact that most of the PRHTA's debt to be assumed or repaid by IFA is outstanding with the Government Development Bank for Puerto Rico (GDB). Due to the market's situation and certain limitations set forth in Act No. 1-2015, as amended, IFA has been unable to carry out a transaction that would allow it to assume and/or repay the debts of the PRHTA with the GDB, so that the latter may recover its liquidity.

The unprecedented level of indebtedness of the PRHTA with the GDB and the ensuing liquidity situation today was caused not only by the ill administration and operational and fiscal inefficiency of said public corporation, but also by the GDB's lack of adequate controls in the approval and granting of loans. There is no doubt that, as a result of GDB's ongoing pattern of financing the operating deficits of the PRHTA and other public corporations, several public corporations are currently undergoing a difficult fiscal situation given their inability to timely address their operating deficits and the GDB is facing a liquidity crisis.

Based on the foregoing, this Act incorporates technical amendments to Act No. 44 of June 21, 1988, as amended; Act No. 1-2011, as amended; and Act No. 1-2015, as amended, to eliminate the cap on the original issue discount and include new definitions, namely, the Effective Date of the Lien and the Effective Date of the Transfer; the latter will allow the transfer of a portion rather than the total debt of the PRHTA to IFA, and provide for the date on which the statutory lien on the PRHTA's income shall be effective, and for the modification of the excise tax on crude oil, partially finished, finished oil by-products, or any other hydrocarbon blend. These amendments are critical to enable successful

transactions to be carried out in capital markets, given the current market conditions and ratings of the Commonwealth of Puerto Rico general obligation bonds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Subsections (a), (b), (e), and (h) of Section 12A of Act No. 74 of June 23, 1965, as amended, are hereby amended to read as follows:

“Section 12A.-

(a) The following terms as used in this Section shall have the meaning stated below:

(1) ...

...

(4) ‘Effective Date of the Lien’ means the date on which the following three (3) requirements are met: (i) all liens on income, taxes, and fees earmarked for the Authority, including those designated under Acts No. 30-2013 and 31-2013, to collateralize the BANs of the Authority (as a result of the payment of said BANs or with the consent of the holders of said BANs) as well as any outstanding debt of the Authority with the Government Development Bank for Puerto Rico are satisfied; (ii) all outstanding loans and obligations that the Authority currently has with the Government Development Bank for Puerto Rico and the Authority’s BANs have been repaid or transferred from the Authority to the Infrastructure Financing Authority; provided that it shall not be necessary to transfer all of said loans and obligations if so agreed by the Authority and the holders of a majority in aggregate principal amount of outstanding senior bonds under the Resolution of 1998, and in accordance with the provisions of said resolution, and (iii) the Government Development Bank for Puerto Rico has received in the aggregate at least \$1 billion from one or more transactions from Refinancing Bonds (as said term is defined in Section 34 of Act No. 44 of June 21,

1988, as amended). The President of the Government Development Bank for Puerto Rico shall certify the date on which these three (3) requirements are met and said certification shall be filed with the Office of the Secretary of the Senate and the Office of the Clerk of the House of Representatives and shall be published on the website of the Government Development Bank for Puerto Rico.

(5) ‘Effective Date of the Transfer’ means the date on which the following two (2) requirements are met: (i) all liens on income, taxes, and fees earmarked for the Authority, including those designated under Acts No. 30-2013 and 31-2013, to collateralize the BANs of the Authority (as a result of the payment of said BANs or with the consent of the holders of said BANs) are satisfied, as well as any outstanding debt of the Authority with the Government Development Bank for Puerto Rico; (ii) all outstanding loans and obligations that the Authority currently has with the Government Development Bank for Puerto Rico and the Authority’s BANs have been repaid or transferred from the Authority to the Infrastructure Financing Authority; provided that it shall not be necessary to transfer all of said loans and obligations if so agreed by the Authority and the holders of a majority in aggregate principal amount of outstanding senior bonds under the Resolution of 1998, and in accordance with the provisions of said resolution. The President of the Government Development Bank for Puerto Rico shall certify the date on which these two (2) requirements are met and said certification shall be filed with the Office of the Secretary of the Senate and the Office of the Clerk of the House of Representatives and shall be published on the website of the Government Development Bank for Puerto Rico.

(6) ‘Pledged Revenues’ means any income, taxes, and fees pledged under Section (b)(1), (b)(2), and (b)(3) of this Section 12A.

(7) ...

(8) ...

(9) ...

(b) Effective on or after the Effective Date of the Lien, Pledged Revenues are hereby encumbered and pledged as collateral in favor of and for the benefit of holders of bonds issued under the Resolution of 1968 and the Resolution of 1998, as follows:

...

(e) Notwithstanding the provisions of any Act to the contrary, effective on or after the Effective Date of the Lien, the rate or amount of income, taxes, and fees established to be collected on account of Pledged Revenues shall not be reduced or eliminated, nor such income shall be transferred to an entity other than the Authority; the Commonwealth of Puerto Rico hereby agrees, for the benefit of the holders of bonds issued under the Resolution of 1968 and the Resolution of 1998, not to reduce, eliminate, or transfer such income, taxes, or fees. For purposes of clarification, the agreement made under this Section shall not apply to the excise tax imposed under Section 3020.07A of Act No. 1-2011, as amended.

...

(h) The Secretary shall establish a payment mechanism whereby any Pledged Revenues (except for the revenues derived from the Excise Tax on Crude Oil allocated to the Authority, for which a payment mechanism shall be established as provided in Section 3060.11(G) of the Code) shall be paid, as soon as reasonably practicable after being collected by the Commonwealth of Puerto Rico and/or the Secretary or its authorized agents, directly to the trustee or the representative of the holders of the bonds issued under the Resolution of 1968 and the Resolution of 1998, and said mechanisms shall be effective on the Effective Date of the Lien, except that to the extent that such obligation is altered under the agreement entered into between the Authority and the holders of a majority in

aggregate principal amount of outstanding bonds under the Resolution of 1998 and pursuant to their own terms.

(i) ...”

Section 2.- Subsections (a), (c), (d), (h), and (j) of Section 34 of Act No. 44 June 21, 1988, as amended, are hereby amended to read as follows:

“Section 34.- Infrastructure Financing Authority Special Economic Assistance Fund.

(a) The following terms as used in this Section shall have the meaning stated below:

...

‘Transferred Debt’ shall mean the debt of the Highways and Transportation Authority and the Metropolitan Bus Authority incurred on or before June 30, 2015, and designated by the Authority as the ‘Transferred Debt.’

...

(c) Notwithstanding any other legal provision, including Act No. 24-2014, but subject to the provisions of Section 8 of Article VI of the Constitution of the Commonwealth of Puerto Rico, the Special Fund created under subsection (b) above and the Pledged Revenues shall belong to the Authority. The Pledged Revenues shall be deposited, by the Department of the Treasury of Puerto Rico, its authorized agent, or any other government instrumentality of the Commonwealth of Puerto Rico, (i) prior to the issue of Refinancing Bonds and any Collateralized Debt Obligations, in the Special Fund with a financial institution which shall hold said funds in trust to be used by the Authority in accordance with the provisions of this Act; (ii) once the Refinancing Bonds are issued, with a financial institution acting as the trustee or representative of holders of said bonds, in an account in favor of the holders of said bonds (and other bonds issued under the same agreement with said trustee or representative) up to the amount needed to make the

annual payments and deposits required under the trust agreement or any terms agreed upon with the holders of said bonds, (iii) after the obligations mentioned in paragraph (ii) above are met, or in the event that such bonds are not issued but other Collateralized Debt Obligations are issued, with the financial institution acting as the trustee or representative of any other Collateralized Debt Obligation up to the amount needed to make the annual payments and deposits required under the trust agreement or any terms agreed upon with the holders of said obligations; or (iv) after the obligations mentioned in paragraph (iii) above are met, in the Special Fund with a financial institution which shall hold said funds in trust to be used by the Authority in accordance with the provisions of this Act. Insofar as the Government Development Bank of Puerto Rico or any other government instrumentality of the Commonwealth of Puerto Rico becomes the holder any of the Pledged Revenues before such bonds or obligations are paid in full, the Government Development Bank of Puerto Rico or such other government instrumentality shall hold such amounts in trust and shall transfer such Pledge Revenues, (i) to the Special Fund in the financial institution designated by the Authority or (ii) if so agreed by the Authority, to the trustee or representative of the holders of Refinancing Bonds or any other Collateralized Debt Obligations, if said Pledged Revenues have been pledged to secure the issue of said debt of the Authority, in any case, free from any lien or compensation fee of the Government Development Bank of Puerto Rico or of such other government instrumentality, and said amounts shall be used solely as provided in this Act and Section 3060.11A of Act No. 1-2011.

(d) Pledged Revenues are hereby pledged to secure the payment of (i) the Transferred Debt, (ii) Refinancing Bonds, and (iii) any other Collateralized Debt Obligations. Said pledge shall constitute a lien valid and enforceable by bondholders and bond insurers, if any, without the need to execute any additional

document whatsoever, or to file a financing statement or other document, under the ‘Commercial Transactions Act’ or any other law, with the Department of State or other government office. Pledged Revenues, including those received after the issue of Refinancing Bonds, or any other Collateralized Debt Obligation, shall be subject to said lien automatically without the need for those Pledge Revenues to be held by a trustee or representative of the holders of Bonds or any other Collateralized Debt. Said lien shall be subject to the provisions of Section 8 of Article VI of the Constitution of the Commonwealth of Puerto Rico and, subject to said provisions, said lien shall be valid as against any other party or entity having claims in tort, contract, or otherwise, against the Infrastructure Financing Authority, the Highways and Transportation Authority, or any other person or entity, irrespective of whether such party or entity have notice thereof.. Notwithstanding the foregoing, Pledged Revenues received by the Authority before the Effective Date of the Lien (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act) shall be used by the Authority only to cover debts, obligations, and/or operating expenses of the Highways and Transportation Authority or to pay the interests on or the principal of the Authority’s BANs (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), or interests on and principal of any other obligation of the Authority whose proceeds are used to repay, refinance, or replace the Authority’s BANs (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), provided, that neither the Commonwealth of Puerto Rico nor the Authority shall be required to use Pledged Revenues to cover any debts, obligations, and/or operating expenses of the Highways and Transportation Authority or to pay interest on and principal of the Authority’s BANs (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act) after September 30, 2015.

...

(h) The Commonwealth of Puerto Rico hereby guarantees the payment of the principal of and interest on Refinancing Bonds and any Collateralized Debt Obligations to be issued from time to time only when the aggregate par value does not exceed two billion nine hundred fifty million dollars (\$2.950); the maximum average nominal interest rate of such Bonds does not exceed 8.5%; and the maturity date thereof is not later than thirty (30) years after the date or dates of issue. The Government Development Bank for Puerto Rico shall resort to every reasonable alternative to ensure that the cost of this transaction for the Commonwealth of Puerto Rico and the Authority is the lowest possible. Refinancing Bonds and Collateralized Debt Obligations secured by this guarantee of the Commonwealth of Puerto Rico shall be those specified by the Secretary of the Treasury and the Government Development Bank for Puerto Rico, and such Refinancing Bonds and Collateralized Debt Obligations, shall bear on their face a statement of the Commonwealth's guarantee. The Secretary of the Treasury, with the advice of the Government Development Bank for Puerto Rico, is hereby authorized to establish the terms and conditions under which the holder of Refinancing Bonds and Collateralized Debt Obligations guaranteed herein shall be entitled to make a claim under the guarantee of the Commonwealth of Puerto Rico. If the Secretary of the Treasury prescribes such terms and conditions, the same shall be included in a guarantee executed by the Secretary of the Treasury. Subject to the terms and conditions, if any, negotiated by the Secretary of the Treasury in relation to the guarantee of the Commonwealth of Puerto Rico that are included in the guarantee executed by the Secretary of the Treasury, if at any time Revenues thus Pledged are insufficient to pay such principal and interest as the same shall become due, the Secretary of the Treasury shall withdraw from funds available in the Treasury of Puerto Rico such sums as may be necessary for making up the

deficiency in the amount required for the payment of such principal and interest, and shall direct that the sums so withdrawn be applied to such payment. The full faith and credit of the Commonwealth of Puerto Rico are hereby pledged to such payment.

(i) ...

(j) Reports to the Legislative Assembly.-

(i) On or before the fifth day following any issue related to Refinancing Bonds and Collateralized Debt Obligations, the Secretary of the Treasury and the President of the Government Development Bank for Puerto Rico shall file a joint report with the Secretary of the Senate and the Clerk of the House of Representatives stating in detail the transactions conducted and the specific use to be given to the proceeds from the sale of such bonds. Likewise, said report shall include the balance of the funds and the amounts collected as a result of the taxes imposed herein. Any modification contemplated with regard to a matter stated in said Report shall be notified before carrying out the same by filing an Amended Report by the Secretary of the Treasury and the President of the Government Development Bank for Puerto Rico.

(ii) On or before September 30th of every Fiscal Year, beginning in Fiscal Year 2016-2017, the Secretary of the Treasury and the Executive Director of the Infrastructure Financing Authority shall file an Annual Report with the Secretary of the Senate and the Clerk of the House of Representatives on the amounts collected from the excise taxes imposed under Sections 3020.07 and 3020.07A of Act No. 1-2011, as amended, and on the status of the repayment of any Refinancing Bonds, and Collateralized Debt Obligations that have been issued at the time of the Report.”

Section 3.- Subparagraph (ii) of subsection (a) is hereby amended; subsection (g) is hereby added; and subsections (g), (h), (i), (j), (k), and (l) are

hereby renumbered as subsections (h), (i), (j), (k), (l), and (m); and paragraph (1) of renumbered subsection (h) of Section 3020.07 of Act No. 1-2011 as amended, known as the “Internal Revenue Code for a New Puerto Rico,” is hereby amended to read as follows:

“Section 3020.07.- Crude Oil, Partially Finished, Finished Oil By-products, or any Other Hydrocarbon Blends-

(a) (i) ...

(ii) The excise tax provided in subsection (a) (i) of this Section shall be reduced by three dollars and twenty five cents (\$3.25), that is, from nine dollars and twenty-five cents (\$9.25), to six dollars (\$6.00) per Barrel or fraction thereof, on the Effective Date of the Transfer (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), but never before March 15, 2015.

(b) ...

...

(g) Adjustment.- On or before March 31st of each year, the Secretary of the Treasury shall determine and certify the amount collected during the calendar year immediately preceding on account of the excise tax imposed under this Section. The Secretary of the Treasury shall determine and certify the existing proportion between one hundred and eighty-five million dollars (\$185,000,000) and the amount collected, and shall multiply the excise tax rate in effect as of March 1st of the year in which the determination is made by said proportion. The new rate resulting from such arithmetic operation (which may be higher or lower than the rate in effect at the time of the determination depending on the resulting proportion) shall be effective during the Fiscal Year beginning in the next July 1st. The Secretary of the Treasury shall make the first determination on or before

March 31st, 2017 and the first adjustment shall take effect on July 1st of Fiscal Year 2017-2018.

(h) Exemptions.- The tax imposed by this Section shall not apply to:

(1) ...

(A) ...

(B) any power plant only with relation to that portion of the natural gas used to generate electricity to be sold to the Electric Power Authority or any successor entity; or

(C) ...

(2) ...

(i) ...

(j) ...

(k) ...

(l) ...

(m) ...”

Section 4.- Subparagraph (ii) of subsection (a) is hereby amended; subsection (g) is hereby added; and subsections (g), (h), (i), (j), (k), and (l) are hereby renumbered as subsections (h), (i), (j), (k), (l), and (m); and paragraphs (1) and (9) of renumbered subsection (h) of Section 3020.07A of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” are hereby amended to read as follows:

“Section 3020.07A.- Excise Tax on Crude Oil, Partially Finished, Finished Oil By-products, or any other Hydrocarbon Blend Devoted to the Infrastructure Financing Authority.-

(a) (i) ...

(ii) The excise tax provided in subsection (a)(i) of this Section shall be increased by three dollars and twenty five cents (\$3.25), that is, from six dollars

and twenty-five cents (\$6.25) to nine dollars and fifty cents (\$9.50) per Barrel or fraction thereof, on the Effective Date of the Transfer (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), but never before March 15, 2015.

(b) ...

(g) Adjustment.- On or before March 31st of each year, the Secretary of the Treasury shall determine and certify the amount collected during the calendar year immediately preceding on account of the excise tax imposed under this Section. The Secretary of the Treasury shall determine and certify the proportion existing between three hundred twenty-five million dollars (\$325,000,000) and the amount collected, and shall multiply the excise tax rate in effect as of March 1st of the year in which the determination is made by said proportion. The new rate resulting from such arithmetic operation (which may be higher or lower than the rate in effect at the time of the determination depending on the resulting proportion) shall be effective during the Fiscal Year beginning in the next July 1st. The Secretary of the Treasury shall make the first determination on or before March 31st, 2017 and the first adjustment shall take effect on July 1st of Fiscal Year 2017-2018.

(h) Exemptions.- The tax imposed under this Section shall not apply to:

(1) Crude oil, partially finished, finished oil by-products, or any other hydrocarbon blend (including natural gas) used to generate electricity by:

(A) ...

(B) any power plant only with relation to that portion of the natural gas used to generate electricity to be sold to the Electric Power Authority or any successor entity; or

(C) ...

(2) ...

(9) Crude oil, partially finished, finished oil by-products, or any other hydrocarbon blend subject to the excise tax on diesel oil imposed under subsection (a)(3) of Section 3020.06; provided, that on or after the Effective Date of the Transfer (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), this exemption shall not apply to the three-dollar and twenty-five cent (\$3.25)-increase established in subsection (a)(ii) of this Section 3020.07A, thus, said articles also subject to the excise tax on diesel oil shall be subject to a single excise tax of three dollars and twenty-five cents (\$3.25) under this Section 3020.07A.

For purposes of this paragraph, ‘diesel oil’ shall be understood as that used in Puerto Rico by: (i) establishments engaged in the business of selling at retail fuel for motor vehicles, which is stored in underground storage tanks authorized by the Environmental Quality Board; (ii) establishments engaged in the business of selling fuel to the persons described in subparagraph (i) of this paragraph, or to other persons for use in motor vehicles used in the business of transporting persons or merchandise, or (iii) persons, for use in motor vehicles used to transport merchandise.

The exemption provided for in this paragraph applies to importers of diesel oil who sell it to any person described in subparagraphs (i), (ii), and (iii) of this paragraph. In order for the exemption provided for in subparagraphs (ii) and (iii) of this paragraph to apply, the person described in said subparagraphs shall have the previous acknowledgement and authorization of the Secretary.

(i) ...

(j) ...

(k) ...

(l) ...

(m) ...”

Section 5.- Paragraph (1) of subsection (a) of Section 3060.11 of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” is hereby amended to read as follows:

“Section 3060.11.- Disposition of Funds.-

(a) The revenues derived from taxes and license fees collected by virtue of this Subtitle shall be deposited in the General Fund of the Treasury of Puerto Rico, except as provided below and in Section 3060.11A:

(1) ...

(A) ...

...

(G) Notwithstanding any other legal provision, including Act No. 24-2014, but subject to the provisions of Section 8 of Article VI of the Constitution of Puerto Rico, on or after the Effective Date of the Lien (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), the special deposit established in subsection (a)(1) of this Section 3060.11 and the revenues derived from the Excise Tax on Crude Oil allocated to the Authority (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act) shall belong to the Highways and Transportation Authority for the benefit of the holders of the bonds issued under the Resolution of 1968 (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), and the Resolution of 1998 (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), as applicable, and the Revenues derived from the Excise Tax on Crude Oil allocated to the Authority (as such term is defined in Section 12A of Act No. 74 of

June 23, 1965, as amended by this Act), shall be deposited, by the Department of the Treasury of Puerto Rico, its authorized agent, or any other government instrumentality of the Commonwealth of Puerto Rico collecting the same, (i) with the fiscal agent under the Resolution of 1968 (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), and the Resolution of 1998 (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), as applicable, or (ii) after the bonds and obligations of the Highways and Transportation Authority issued under the Resolution of 1968 (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), and the Resolution of 1998 (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), as applicable, are fully repaid, with the Government Development Bank of Puerto Rico for the benefit of the Highways and Transportation Authority. Insofar as, on or after the Effective Date of the Lien (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), the Government Development Bank of Puerto Rico or any other government instrumentality of the Commonwealth of Puerto Rico becomes the holder any of the revenues derived from the Excise Tax on Crude Oil allocated to the Authority (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), or other amounts pledged to secure the bonds or other obligations of the Highways and Transportation Authority under the Resolution of 1968 (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), or the Resolution of 1998 (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), as applicable, before such bonds or obligations are paid in full, the Government Development Bank of Puerto Rico or such other government instrumentality shall hold such revenues derived from the Excise Tax on Crude Oil allocated to the Authority (as such term is defined in Section 12A of Act No. 74 of June 23, 1965,

as amended by this Act), in trust for the benefit of the Highways and Transportation Authority free from any lien in favor of the Government Development Bank of Puerto Rico or compensation fee, and shall transfer such amounts to the fiscal agent or representative of the holders of the bonds and obligations of the Highways and Transportation Authority issued under the Resolution of 1968 (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), insofar as such amounts secure obligations under such Resolution and the Resolution of 1998 (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), insofar as such amounts secure obligations under said Resolution, to be used exclusively for the repayment of obligations under the Resolution of 1968 (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), and the Resolution of 1998 (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), as applicable.

The Secretary is hereby authorized to establish a collections mechanism whereby the revenues derived from the Excise Tax on Crude Oil allocated to the Authority (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act) to be deposited as part of the aforementioned special deposit shall be paid directly by the taxpayer to the financial institution acting as fiscal agent of the holders of the bonds issued under the Resolution of 1998.

(2) ...

...

(5) ...

The Secretary shall transfer from time to time, as agreed on with the Authority, the amounts covered into the special deposit, deducting

therefrom the reimbursable amounts in accordance with the provisions of Sections 3030.19 and 3030.20 of this Subtitle.”

Section 6.- Subsections (b) and (f) of Section 3060.11A of Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico,” are hereby amended to read as follows:

“Section 3060.11A.- Disposition of Funds in Favor of the Infrastructure Financing Authority.-

(a) ...

(b) In accordance with Section 34 of Act No. 44 of June 21, 1988, as amended, and subject to the conditions established therein, the revenues derived from the excise tax imposed under Section 3020.07A are pledged to secure the repayment of the ‘Refinancing Bonds,’ ‘Collateralized Debt Obligations,’ and the ‘Transferred Debt,’ as such terms are defined in said Section. The Puerto Rico Infrastructure Financing Authority is hereby authorized, after covering in any Fiscal Year, the repayment of the principal of and interest on and any other obligation related to such Refinancing Bonds, Collateralized Debt Obligations, and the Transferred Debt payable during said Fiscal Year, to pledge or encumber the revenues derived from said excise tax to be deposited in the Infrastructure Financing Authority Special Economic Assistance Fund for the payment of the principal of and interest on other bonds or obligations or to secure the obligations and operations of the Highways and Transportation Authority. Such pledge or encumbrance shall be subject to the provisions of Section 8 of Article VI of the Constitution of Puerto Rico. The revenues derived from such collections shall only be used for the payment of interest and amortization of the public debt as provided in Section 8 of Article VI of the Constitution of Puerto Rico, insofar as all other available resources mentioned in said Section are insufficient for such purposes. On the contrary, the revenues derived from such collections, in the necessary

amount, shall be used annually to: (1) before the Effective Date of the Transfer (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), cover the debts, obligations, and/or operating expenses of the Highways and Transportation Authority or to pay interest on and principal of the BANs of the Authority (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act) or the interest on and principal of any obligation of the Authority whose proceeds are used to repay, refinance, or replace the BANs of the Authority (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), provided that neither the Commonwealth of Puerto Rico nor the Infrastructure Financing Authority shall be required to use Pledged Revenues to cover any debts, obligations, and/or operating expenses of the Highways and Transportation Authority or to pay interest on and principal of the BANs of the Authority (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act) or the interest on and principal of any obligation of the Authority whose proceeds are used to repay, refinance, or replace the BANs of the Authority (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act) after September 30th, 2015, and (2) on or after the Effective Date of the Transfer (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act) or on September 30th, 2015, whichever is the earliest, (A) to make the payments and deposits required under the trust agreement of such Refinancing Bonds, Collateralized Debt Obligations, and the Transferred Debt, and to fulfill any agreements entered into by and between the Infrastructure Financing Authority and the holders of said Refinancing Bonds, Collateralized Debt Obligations and Transfer Debt, and after meeting the obligations mentioned in subparagraph (A) above; (B) to pay any debt of the Highways and Transportation Authority with the Government Development Bank for Puerto Rico other than a Transferred Debt;

and (C) to pay any other bonds and obligations of any government entity payable to the Government Development Bank for Puerto Rico that the Government Development Bank for Puerto Rico has determined are payable from Pledged Revenues (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act).

(c) ...

...

(f) On or after the Effective Date of the Transfer (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), the amounts deposited each Fiscal Year in the Infrastructure Financing Authority Special Economic Assistance Fund in excess of the necessary amounts to, during said Fiscal Year, (1) pay the principal of and interest on Refinancing Bonds, Collateralized Debt Obligations, and the Transferred Debt or any other bonds or obligations issued by the Authority after the repayment of such Refinancing Bonds, Collateralized Debt Obligations, and the Transferred Debt, (2) meet obligations incurred under the bond issue documents, (3) make any other payment related to any other obligation incurred by the Authority, including payments under interest-rate swap agreements and other obligations in relation to borrowed money or bonds issued by said instrumentality payable from Pledged Revenues, or (4) cover those debts and/or obligations of the Highways and Transportation Authority as required by the Resolution of 1998 (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act), and that the Infrastructure Financing Authority has agreed to cover, shall be transferred to the General Fund of the Commonwealth of Puerto Rico. In order to make such transfer, the Board of Directors of the Authority shall certify that the transferred amounts are not necessary to comply with the Resolution of 1998 (as such term is defined in Section 12A of Act No. 74 of June 23, 1965, as amended by this Act). Any amount

to be transferred shall be used as provided by a Joint Resolution of the Legislative Assembly.

(g) ...”

Section 7.- Severability.-

If any article, section, subsection, paragraph, subparagraph, clause or part of this Act were held to be null or unconstitutional by a competent court, such holding shall not affect, impair, or invalidate the remaining provisions and parts of this Act.

Section 8.- Effectiveness.-

This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 29-2015 (S. B. 1301) (Conference)** of the **5th Regular Session** of the **17th Legislative Assembly of Puerto Rico**:

AN ACT to amend subsections (a), (b), (e), and (h) of Section 12A of Act No. 74 of June 23, 1965, as amended; amend subsections (a), (c), (d), (h), and (j) of Section 34 of Act No. 44 of June 21, 1988, as amended; amend paragraph (ii) of subsection (a); add a subsection (g), renumber subsections (g), (h), (i), (j), (k), and (l) as subsections (h), (i), (j), (k), (l), and (m) and amend paragraph (l) of renumbered subsection (h) of Section 3020.07; amend paragraph (ii) of subsection (a), add subsection (g) and renumber subsections (g), (h), (i), (j), (k), and (l) as subsections (h), (i), (j), (k), (l), and (m); and amend paragraphs (1) and (9) of renumbered subsection (h) of Section 3020.07A; etc.

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

In San Juan, Puerto Rico, on this 15th day of April, 2015.

Juan Luis Martínez Martínez
Acting Director