

(H. B. 600)

(No. 3)

(Approved January 14, 2009)

AN ACT

To amend subsection (r) of Section 3 and Section 25-A of Act No. 44 of June 21, 1988, as amended, known as “Puerto Rico Infrastructure Financing Authority Act,” to authorize the sale of the securities deposited in the Corpus Account of the Infrastructure Development Fund, establish the portion of the net product of said sale that shall remain deposited in the Corpus Account; authorize the investment of said funds in an investment contract with the Government Development Bank for Puerto Rico; authorize that a portion of the net product of said sale be used to cover operating expenses of the Commonwealth of Puerto Rico corresponding to fiscal year 2008-09 and that another portion be used to make a contribution of capital to the Government Development Bank for Puerto Rico.

STATEMENT OF MOTIVES

The Commonwealth of Puerto Rico is undergoing one of the worst fiscal crises in its history. The budgetary deficit for the present fiscal year amounts to approximately \$3.2 billion. One of the most serious consequences of this budgetary deficit is the lack of monetary resources available to the Central Government to continue offering services to the citizenry, to cover the payroll of public employees and honor the financial commitments with its goods and services providers. In view of the seriousness of this situation, the Governor signed an Executive Order declaring a state of fiscal emergency on January 8, 2009.

This situation requires the implementation of certain urgent measures to obtain the additional resources that shall enable the Central Government

to cover the payroll and other operating expenses and thus prevent an interruption in the services rendered to the People of Puerto Rico while permanent measures are established to increase recurrent revenues and to reduce expenses in order to operate with a balanced budget.

One of the measures available to raise funds immediately consists of making use of the securities deposited in the Corpus Account of the Infrastructure Development Fund, created by Act No. 92 of June 24, 1998, to take advantage of a temporary unhinging in the financial markets, which has produced a significant appreciation in the value of said securities.

This transaction consists of making use of the securities deposited in the Corpus Corps, of repaying the bonds issued by the Puerto Rico Infrastructure Financing Authority that are backed by said assets, and of using the net product of said sale after such repayment, estimated in \$650 million to (i) maintain \$300 million deposited in the Corpus Account; (ii) use two-thirds of the remainder to cover part of the budgetary deficit of the Commonwealth of Puerto Rico for fiscal year 2008-09; and (iii) use one-third of the remainder to capitalize for the Government Development Bank for Puerto Rico. The money deposited in the Corpus Account shall be reinvested under an investment plan that would enable said principal to increase to approximately \$1.2 billion in 2040.

This measure is consistent with the original purpose of said Act No. 92, since they both share the objective of protecting the Corpus Fund so that in 2040, said Fund shall have \$1.2 billion for the benefit of the People of Puerto Rico. Lastly, by making a contribution for the recapitalization of the Bank, this measure shall also strengthen its financial situation and credit rating.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.—Subsection (r) of Section 3 of Act No. 44 of June 21, 1988, as amended, is hereby amended to read as follows:

“(r) *Corpus Account*.—Shall mean the account of the corpus of the Development Fund as established in subsection (a) of Section 25-A of this Act. The capital yield generated by this account must be used *as established in Section 25-A of this Act*.”

Section 2.—Section 25-A of Act No. 44 of June 21, 1988, as amended, is hereby amended to read as follows:

“Section 25-A.—Infrastructure Development Fund.—

(a) ...

The Authority shall create within the Development Fund, an account to be known as the Corpus Account, whose principal may be used as provided in subsection (j) of Section 25-A of this Act; provided, that any income (including interest income) received from the investment of money deposited in said account may be covered into any of the additional accounts, as defined in this Act.

...

Pending its use for the purposes of, and subject to, the conditions specified in this Act, any amount of money deposited to the credit of the Development Fund up to one billion dollars, shall be invested in: (1) direct obligations of the United States, or (2) obligations whose principal and interest are unconditionally secured by the United States, or (3) certificates of deposit of any bank, national banking association or trust company organized and existing under the laws of Puerto Rico, the United States or any of its states and which are totally secured up to the amount not secured by federal deposit insurance for direct obligations of, or obligations whose

principal and interest are unconditionally secured by the United States, or (4) tax-exempt obligations of any state, instrumentality, agency or political subdivision of Puerto Rico or the United States, or (5) investment contracts or agreements with the Government Development Bank for Puerto Rico or with any institution approved thereby. The moneys of the Development Fund may be invested in any obligation or instrument approved by the Government Development Bank pursuant to Act No. 113 of August 3, 1995 (7 L.P.R.A §§1261 et seq.). Any amount of money deposited to the credit of the Development Fund in excess of one billion dollars shall be invested in the abovementioned financial instruments or in any other financial instruments (including, but not limited to, common or preferred stock quoted in the national or international stock markets); provided, that the money deposited to the credit of the Development Fund may not be invested in any stock or transaction expressly prohibited by any investment guidelines applicable to the Authority, promulgated by the Government Development Bank pursuant to Act No. 113 of August 3, 1995.

(b) (1) The following shall be deposited to the credit of the Development Fund:

(i) The portion of the net product of the sale of the assets of the Puerto Rico Telephone Authority, which the Legislature of Puerto Rico authorizes for deposit to secure the permanent capital base of the Development Fund, which shall be deposited in the Corpus Account.

(ii) ...

(iii) ...

(iv) ...

(v) ...

- (2) ...
- (c) ...
- (d) ...
- (e) ...
- (f) ...
- (g) ...
- (h) ...
- (i) ...

(j) During the period comprising from the date of approval of this Act to June 30, 2009, the Authority may make use of the assets deposited in the Corpus Account if the market value of said assets is higher than their par value. The net product of said sale, after the payment of the bonds backed by said assets, the expenses related to the sale and any other payment required by the Internal Revenue Service of the United States of America, shall be applied in the following manner: (i) \$300 million shall be deposited in the Corpus Account; (ii) two-thirds of the remainder shall be transferred to the Secretary of the Treasury to be used to defray operating expenses of the Commonwealth of Puerto Rico related to the budget for fiscal year 2008-09; the balance, which represents one-third of the remainder, shall be transferred to the Government Development Bank for Puerto Rico as a contribution of capital. When making use of the assets of the Corpus Account, the Authority shall be under the obligation to satisfy all obligations assumed with the holders of Authority bonds secured with the assets of the Corpus Account.”

Section 3.—Should any provision of this Act or the application thereof be declared invalid, said ruling shall not affect the remaining provisions nor the application of this Act that could be in effect without the

need for the provisions that were declared invalid, and to this end, the provisions of this Act are separable.

Section 4.—This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 3 (H.B. 600) of the 1st Session of the 16th Legislature of Puerto Rico:

AN ACT to amend subsection (r) of Section 3 and Section 25-A of Act No. 44 of June 21, 1988, as amended, known as “Puerto Rico Infrastructure Financing Authority Act,” to authorize the sale of the securities deposited in the Corpus Account of the Infrastructure Development Fund, establish the portion of the net product of said sale that shall remain deposited in the Corpus Account; authorize the investment of said funds in an investment contract with the Government Development Bank for Puerto Rico; authorize that a portion of the net product of said sale be used to cover operating expenses of the Commonwealth of Puerto Rico corresponding to fiscal year 2008-09 and that another portion be used to make a contribution of capital to the Government Development Bank for Puerto Rico,

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

In San Juan, Puerto Rico, today 21st of January of 2009.

Kevin Miguel Rivera-Medina, Esq.
Deputy Director