

(S. B. 195)

(No. 4)

(Approved January 14, 2009)

AN ACT

To amend Section 8 of Act No. 164 of December 17, 2001, in order to increase to two hundred million (200,000,000) dollars, up to June 30, 2011, the limit of loans that the Government Development Bank for Puerto Rico may grant, whose repayment sources are future budget appropriations from the General Fund, without these appropriations having been approved by the Legislature; to require that the Government Development Bank for Puerto Rico file a quarterly report itemizing the loans granted pursuant to this Act at the Office of the Secretary and of the Clerk of both Legislative Bodies.

STATEMENT OF MOTIVES

The Commonwealth of Puerto Rico is undergoing one of the worst fiscal crises in its history, with a budgetary deficit for Fiscal Year 2008-2009 that is estimated will amount to approximately \$ 3.2 billion. Under the present revenues and expenses structure, the next three fiscal years shall also show budgetary deficits of approximately \$ 3 billion per year. These deficits represent almost forty percent (40%) of the recurrent revenues. This situation is the aftermath of the eight years during which the Executive Branch failed to take the necessary measures to establish a balanced budget. In view of the seriousness of the situation, the Governor signed an Executive Order declaring a state of fiscal emergency on January 8, 2009.

Due to the magnitude of the budgetary deficit for Fiscal Year 2008-2009, the projected deficits for the subsequent three fiscal years and in order to prevent Government operations from being adversely affected, it is likely

that at some point the Department of the Treasury and/or some government entities would have to obtain some type of financing or loan from the Government Development Bank for Puerto Rico to cover their operating expenses. Any financing of this sort would be made jointly with the implementation of a series of executive, legislative and administrative measures directed to cutting expenses, restoring fiscal controls, increasing revenues and preventing the agencies, instrumentalities, departments and entities of the Commonwealth of Puerto Rico from spending in excess of their budgetary items and the available resources, all of this with the objective as of Fiscal Year 2011-2012, recurrent expenses are equal to or lesser than recurrent revenues. Once said short, medium and long-term measures have been implemented and a budgetary balance has been obtained between recurrent expenses and recurrent revenues, it shall not be necessary to resort to loans or to other types of financing to cover recurrent expenses of the Government and its instrumentalities.

Act No. 164 of December 17, 2001, established certain restrictions to the capacity of the Government Development Bank for Puerto Rico to grant loans to government entities, if the same are to be paid from future legislative appropriations. Specifically, Act No. 8 of said Act provides that the Bank may lend and maintain in its portfolio up to one hundred million (100,000,000) dollars in one or more loans whose repayment source consists of future budget appropriations from the General Fund without these having been approved by the Legislature, provided the Bank obtains the written approval of the Governor and the Director of the Office of Management and Budget.

In view of the possibility that it may be necessary to resort to loans against future budget appropriations as part of the efforts to address the

fiscal crisis of the Government and its instrumentalities, it is necessary to increase the limit established in said Section 8 to two hundred million (200,000,000) dollars up to June 30, 2011, in order to grant the Bank greater flexibility in the granting of loans so that the departments, agencies, instrumentalities and public corporations of the Commonwealth of Puerto Rico may continue their operations while short, medium and long term solutions are implemented to cut spending and to increase revenues in order to achieve a balanced budget.

To oversee the responsible use of the powers authorized in this Act, it is required that the Bank shall file at the Office of the Secretary and of the Clerk of both Legislative Bodies, a quarterly report itemizing the loans granted during the preceding quarter pursuant to the provisions of this Act.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Section 8 of Act No. 164 of December 17, 2001, is hereby amended to read as follows:

“Section 8.—Loans to Government Entities.— Prohibition

After the effective date of this Act, the Government Development Bank is hereby prohibited from granting a loan to any government entity, other than a subsidiary of the bank, whose repayment source, as determined by the Board of Directors of the Government Development Bank, consists of future budget appropriations from the General Fund, without said budget appropriations having been approved by the Legislature of Puerto Rico. Notwithstanding this prohibition, the Government Development Bank may, from time to time, lend and maintain in its portfolio up to one hundred million (100,000,000) dollars in one or more loans whose repayment source consists of future budget appropriations from the General Fund without these having been approved by the Legislature, provided the Bank obtains

the written approval of the Governor and the Director of the Office of Management and Budget. The budget appropriation bills for the repayment of said loans shall be submitted to the Legislature for its consideration in the next legislative session following the granting of the loan. Once the budget appropriation has been approved, the amount of said loan shall be included in the one hundred million (100,000,000)-dollar limit of the total number of loans lacking an approved repayment source that the Bank may have in its portfolio, from time to time. The one hundred million (100,000,000)-dollar limit provided in this Section is increased to two hundred million (200,000,000) dollars up to June 30, 2011. If necessary, the Legislature may extend the effectiveness of this increase for an additional period through legislation to such effect. Notwithstanding the prohibition that appears in the first sentence of this Section and the one hundred million (100,000,000)-dollar limitation that appears in the second sentence of this Section, the Government Development Bank is hereby authorized, under any circumstances, to grant loans to any government entity that is unable to honor the payment of the principal or the interest on its obligations to its bond holders or financial entities, other than the Government Development Bank, and to grant any type of loan to the Secretary of the Treasury, pursuant to Act No. 1 of June 26, 1987, as amended, [13 L.P.R.A. sec. 63 et. seq.], and to Act No. 183 of July 23, 1974, as amended, [13 L.P.R.A. sec. 57 et. seq.], and any other legislation approved to authorize the Secretary of the Department of the Treasury to borrow for similar purposes.”

Section 2.- **Quarterly Reports.** It is hereby required that the Government Development Bank for Puerto Rico shall file at the Office of the Secretary and of the Clerk of both Legislative Bodies, a quarterly report,

counting from the approval of this Act, itemizing the loans granted during the preceding quarter pursuant to the provisions of this Act.

Section 3.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 4 (S.B. 195) of the 1st Session of the 16th Legislature of Puerto Rico:

AN ACT to amend Section 8 of Act No. 164 of December 17, 2001, in order to increase to two hundred million (200,000,000) dollars, up to June 30, 2011, the limit of loans that the Government Development Bank for Puerto Rico may grant, whose repayment sources are future budget appropriations from the General Fund, without these appropriations having been approved by the Legislature; to require that the Government Development Bank for Puerto Rico file a quarterly report itemizing the loans granted pursuant to this Act at the Office of the Secretary and of the Clerk of both Legislative Bodies,

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