

(H.B. 820)

(No. 75)

(Approved August 12, 1997)

AN ACT

To amend Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 33; and add Section 38 to Act No. 64 of July 3, 1996, known as the "Puerto Rico Municipal Financing Act of 1996," in order to make technical amendments; establish new sources of financing; and temper these processes to the reality of the financing system that governs the processes to issue bonds, notes or other financial instruments.

STATEMENT OF MOTIVES

In recognition of the fact that the contracting of loans is one of the main vehicles through which our municipalities have availed themselves of the needed resources to carry out their programs of public works and improvements, the Legislature has compiled in a single Act the statutory provisions found in several laws, with the main objective of expediting their administrative and operational processes.

Act No. 64 of July 3, 1996, known as the "Puerto Rico Municipal Financing Act of 1996," was conceived with the main purpose of compiling in a single statute all the legislation needed for municipal financing through the issue of debt instruments or through loan contracts. However, after almost one year after its implementation it is necessary to introduce a series of technical and stylistic amendments, whose objective is to reinforce the Legislature's intention as expressed in Act No. 64. These amendments are the result of the experience gained by the municipalities, the Government Development Bank for Puerto Rico and the Municipal Revenues Collection Center from the time of approval of the Municipal Financing Act of 1996. Since Act No. 64 was approved, the municipalities have encountered situations that go from searching for additional sources of financing to carry out their public works, to obtaining emergency funding to defray special expenses caused by natural disasters such as hurricanes, earthquakes and floods. Nevertheless, although Act 64 had already greatly expedited the financing activities of the

municipalities, there are still some laws from as far back as 1943, which hinder the procedures that are available for the municipalities to make effective and timely use of their authority to contract loans and issue other types of obligations.

Being aware of the fact that the practical experience gained since Act No. 64 was approved in 1996, is the best indicator of the way the municipal financing procedures authorized therein are operating, this Legislature feels that it is necessary to include additional amendments to said Act so that the intention to expedite and make the municipal financing efforts more effective, is fully met. This measure, likewise, includes a series of amendments that will provide the municipalities with the opportunity to use other financing mechanisms available in private banking, with the prior authorization of the Government Development Bank for Puerto Rico, and which had not been expressly authorized to date.

The purpose of these amendments to Act No. 64, is to further expedite the procedures for the contracting of municipal loans to the limit compatible with sound public administration principles and the supervisory role of the Government Development Bank for Puerto Rico regarding municipal borrowing activities. Thus are uniform procedures established, tempered to the financing possibilities in effect and the greatest possible yield of this important tool for municipal development.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- The second paragraph of Section 2 of Act No. 64 of July 3, 1996, is hereby amended to read as follows:

"Section 2.- Public Policy.-

The public policy of our Government and of this Legislature is to expedite the administrative and operational processes by eliminating those redundant structures, regulations, norms and procedures, as well as those laws which hinder the efforts of the public administrations that pursue efficiency. The contracting of loans to finance municipal public works and improvements requires a more dynamic process which will allow the municipalities to obtain the needed fiscal resources to carry out their municipal works.

In order to expedite and facilitate the municipal financing efforts, the statutory provisions found in other laws are hereby incorporated into a single law. With this Act, which shall be

known as the 'Puerto Rico Municipal Financing Act of 1996,' the municipal financing process is bolstered in a uniform way and tempered to the existing credit process and the existing financing mechanisms, pursuant to the basic principles stated in the Municipal Reform initiated in 1991. Thus is the interest of the People of Puerto Rico and the municipal administrations also bolstered, in order to advance the economic and social development of the community through the needed public works, and the efficient handling of municipal finances through sound public administration and the due supervision of the borrowing activity.

It is hereby declared as the public policy of the Government of Puerto Rico, that the municipalities be authorized to contract loans in advance of the basic property taxes and to issue general obligation bonds or notes, and special obligation bonds, notes or instruments, revenue bonds and refinancing bonds or notes, as provided in this Act."

Section 2.- Section 3 of Act No. 64 of July 3, 1996, is hereby amended to read as follows:

"Section 3.- Definitions.-

For the purposes of this Act, the following words and phrases shall have the meaning stated below, except when it is otherwise construed from the text:

- (a) 'Mayor,' shall have the same meaning as the term 'Mayor' is defined in Act No. 81 of August 30, 1991 as amended, or in any subsequent municipal enabling act.
- (b) 'Assembly,' shall have the same meaning as the term 'Assembly' is defined in Act No. 81 of August 30, 1991 as amended, or any subsequent municipal enabling act
- (c) 'Government Bank,' shall mean the Government Development Bank for Puerto Rico, organized under Act No. 71 of September 23, 1948, as amended.
- (d) 'Special Obligation Bonds, Notes or Instruments,' shall mean those bonds, notes, notes in advance of bonds or any other credit instruments which evidence the obligations of a municipality for the prompt payment of which only the revenues or resources derived from one or more specific sources of income authorized by this Act or by any other laws of the Commonwealth of Puerto Rico or of the United States of America, including, but without being limited to the Basic Taxes; any special tax on real or personal property within the municipal territory, except the Special Surtax and the Special Tax; the remittances of operating funds made by the Center pursuant to Section 17(e) of Act No. 80 of August 30, 1991 as amended; appropriations or grants from any agency,

instrumentality or body of the Government of the Commonwealth of Puerto Rico or the Government of the United States of America; and compensations of certain public corporations of the Commonwealth of Puerto Rico, have been encumbered.

- (e) 'Municipal General Obligation Bonds or Notes,' shall mean those bonds, notes, or notes in advance of bond which evidence the obligations of a municipality for the prompt payment of which the good faith, credit and unlimited taxing power of the Municipality have been encumbered.
- (f) 'Refinancing Bonds, Notes or Instruments,' shall mean those bonds, notes or notes in advance of bonds or any other instruments which evidence the obligations of a municipality incurred by a municipality to provide the full or partial payment of the remaining principal and/or interest on outstanding bonds, notes, notes in advance of bonds, or other instruments.
- (g) 'Revenue Bonds,' shall mean those bonds which evidence the obligations of a municipality, issued by the municipality for the prompt payment of which the revenues of a revenue generating project have been encumbered or pledged.
- (h) 'Center,' shall mean the Municipal Revenue Collection Center, established by virtue of Act No. 80 of August 30, 1991, as amended.
- (i) 'Special Surtax,' shall mean the special surtax on property that the Municipalities are authorized to impose pursuant to Section 2.02 of Act No. 83 of August 30, 1991, as amended, and which the Municipality shall impose pursuant to Section 20 of this Act, with the exclusive purpose of paying principal and interest on obligations evidenced by Municipal General Obligation Bonds or Notes and the interest on obligations evidenced by Notes in Advance of Municipal General Obligation Bonds which the Municipality may incur.
- (j) 'Basic Tax,' shall mean the basic tax on property that the Municipalities are authorized to impose pursuant to Section 2.01 of Act No. 83 of August 30, 1991, as amended.
- (k) 'Special Tax,' shall mean the special tax on property imposed pursuant to Section 2.02 of Act No. 83 of August 30, 1991, as amended, for the payment of principal and interest on the general obligations of the Commonwealth of Puerto Rico.

- (1) 'Cost,' shall mean the cost of acquiring, developing and/or constructing public works or the revenue generating projects, and those costs incidental to such an acquisition, development or construction, including, but not limited to the following:
- (1) purchase price and/or financing of the purchase of equipment;
 - (2) obligations incurred with contractors, developers, suppliers or other persons for work performed, and/or the acquisition of supplies related to the construction of the public work or the revenue generating project;
 - (3) purchase price, when said purchase is necessary, including the price or any purchase option, or the compensation to be paid as a result, be it judicial or extrajudicial, of the procedure to acquire through eminent domain property, rights of way, or other real rights on all or part of urban or rural lands that are necessary and convenient for the development and construction of the public work or revenue generating project;
 - (4) compensation for any damages for which the Municipality is legally liable caused by the development or construction of the public work or revenue generating project;
 - (5) fees and expenses of the fiscal agent and/or the paying agent; attorney's fees and expenses, consultant's fees and expenses; finance charges; expenses incurred for the preparation and issuing of bonds, notes or notes in advance of bonds to finance the public work or revenue generating project; premiums or other expenses that must be incurred to acquire and keep in effect any insurance or warranty related to the bonds, notes, or notes in advance of bonds issued to finance said public work or revenue generating project;
 - (6) fees and expenses of architects and engineers related to the preparation of surveys, research and tests needed for the preparation of plans, specifications and the supervision of the construction, as well as any other expense of said nature related to the design or construction of the public work or revenue generating project;
 - (7) insurance or bond premiums related to the public work or revenue generating project during the construction period;
 - (8) interest on financing to be paid during the construction or development of the public work or revenue generating project and during any additional period determined by the Municipality through an ordinance or resolution to such effects;

- (9) administrative expenses that can reasonably be charged to said public work or revenue generating project and all other expenses that have not otherwise been specified in this definition which are incidental to the acquisition, development or construction of the public work or revenue generating project; and
- (10) any obligation or expense incurred by the Municipality and any advance or contribution made by the Municipality, the Commonwealth of Puerto Rico, or any of its agencies or instrumentalities, the Government of the United States of America, or any of its agencies or instrumentalities or any other source, for any of the purposes indicated in this definition.
- (m) 'State of Emergency,' shall mean a state of emergency decreed by the Governor of the Commonwealth of Puerto Rico.
- (n) 'SGELF,' shall mean the Special Government Entities Loan Fund established by virtue of Section 11 of Act No. 465 of May 15, 1947, as amended, and which is under the management and custody of the Government Bank.
- (o) 'Redemption Fund,' shall mean the trust known as the Municipal Public Debt Redemption Fund established by the Center with the Government Bank. This trust has an account for each municipality in which the Center deposits the entire product of the Special Surtax imposed by each municipality, and any other resource from other sources, as established in Section 20 of this Act, which is needed to service the obligations evidenced by Municipal General Obligation Bonds or Notes, or Notes in Advance of General Obligation Bonds of each municipality. Every quarter, the Bank shall remit to the Municipalities the interest generated by the deposits to their accounts in the Redemption Fund.
- (p) 'Governor,' shall mean the Governor of the Commonwealth of Puerto Rico.
- (q) 'Instrument' or 'Credit Instrument,' shall mean any obligation to pay back borrowed money which is not evidenced by a bond or note. The Government Bank shall establish, through regulations, the credit instruments that shall be subject to the provisions of this Act.

- (r) 'Bidding Board' shall mean the Bidding Board constituted by each Municipality whose main responsibility is to adjudicate the auction of, among other things, the purchase of goods, lease contracts for real and personal property, and non-professional services.
- (s) 'Municipality,' shall have the same meaning as the term 'Municipality' is defined in Act No. 81 of August 30, 1991, as amended, or any succeeding municipal enabling act.
- (t) 'Notes in Advance of Bonds,' shall mean those notes which evidence Municipal obligations, the principal of which shall be paid from the product of the bond issue.
- (u) 'Notes or Instruments in Advance of Taxes and Revenues,' shall mean those notes or any other instruments that evidence obligations incurred by the Municipality in advance of the collection of the Basic Tax or other operating revenues to be collected or received after the date of said notes or instruments, and for the prompt payment of which, all or part of said tax and/or said operating revenues of the Municipality are encumbered.
- (v) 'Revenue Generating Projects,' shall mean any work, structure or project, including equipment, that the Municipality is legally authorized to acquire, develop or construct, and which shall become a source of revenue for the Municipality.
- (w) 'Refinancing,' shall mean the payment of any obligations with the product of new obligations, when or before they mature.
- (x) 'Secretary,' shall mean, as the case may be, the person or persons who hold the positions of Secretary of the Municipality, Secretary of the Assembly, or Secretary of the Bidding Board.
- (y) 'Service,' shall mean the periodic payment of principal and interest on an obligation according to the terms established in the title that constitutes the obligation."

Section 3.- A new Section 4 is hereby added to Act No. 64 of July 3, 1996, to read as follows:

"Section 4.- Contracting of Loans.-

Municipalities are authorized to borrow money through obligations evidenced by bonds, notes or any other credit instruments, pursuant to the provisions of this Act. Municipalities may incur these obligations with the Government Bank or other public or private banking or financing institutions."

Section 4.- The former Section 4 is hereby amended and is renumbered as Section 5 of Act No. 64 of July 3, 1996, to read as follows:

"Section 5.- Purposes of the Obligations Evidenced by Bonds, Notes or Other Instruments.-

Municipalities are authorized by this Act to incur obligations evidenced by bonds, notes or other instruments, for the purposes provided below:

- (a) Municipal General Obligation Bonds or Notes to provide funds to pay for the cost of acquiring any equipment, developing or constructing any public work, or any other project that the Municipality is legally authorized to undertake; and in special circumstances, for the refinancing of operating debts. The Government Bank shall establish, through regulations, the criteria for the approval of an obligation evidenced by Municipal General Obligation Bonds and Notes for refinancing operating debts.
- (b) Revenue Bonds to provide funds to pay the cost of acquiring, developing or constructing any revenue generating project.
- (c) Special Obligation Bonds, Notes or Instruments to provide funds to: pay for the cost of acquiring any equipment, developing or constructing any public work or improvement or revenue generating project, or any other project that the municipality is legally authorized to undertake; pay the operating expenses budgeted in any fiscal year and the refinancing of operating debts, including accrued budget deficits. The Government Bank shall establish, through regulations, the criteria for the approval of an obligation evidenced by Special Obligation Bonds, Notes or Instruments for the payment of budgeted operating expenses and the refinancing of operating and/or budgetary debts.
- (d) Refinancing Bonds, Notes or Instruments to provide funds for the payment, on or before maturity, of the principal of any current bonds, notes or instruments, and for the payment of any premiums for the early redemption of said bonds, notes or instruments, any interest accrued or to be accrued on the date of payment or early redemption of said bonds, notes or instruments; any expenses related to the sale and issue of the Refinancing Bonds, Notes or Instruments, and the maintenance of the reserves required by such Refinancing Bonds, Notes or Instruments. Unless otherwise provided by the Government Bank through regulations, the Municipalities may not authorize Refinancing Bonds, Notes or Instruments, unless the present value of the aggregate

principal and interest on the current Bonds, Notes or Instruments is less than the present aggregate value of the principal and interest on the current Bonds, Notes or Instruments to be refinanced. The Government Bank shall establish the method of computing the present value, though regulations.

- (e) Notes in Advance of Bonds for any of the purposes for which bonds can be authorized.
- (f) Notes or Instruments in Advance of Taxes and Revenues so as to be able to meet the budget appropriations of the Municipality's current fiscal year without having to wait to receive the product of the taxes and other operating income corresponding to said fiscal year."

Section 5.- The former Section 5 is hereby amended and renumbered as Section 6 of Act No. 64 of July 3, 1996, to read as follows:

"Section 6.- Obligations Evidenced by Notes in Advance of Bonds.-

Every Municipality is authorized to incur obligations evidenced by Notes in Advance of Bonds. The notes shall be designated as 'Notes in Advance of Bonds' and shall contain a statement of the fact that they are in advance of a bond issue, and a general description of the purposes that the notes are intended to finance. The Notes may be authorized in the same ordinance as the bonds, or in a separate resolution. In both cases, the original notes shall be authorized by the affirmative vote of at least two thirds (2/3) of the members of the Assembly and with the Mayor's approval. The notes may be issued at any time after the ordinance that authorizes the bonds has become effective. These notes, including any renewal thereof, shall mature not later than ten (10) years after the date of the original note. The renewal of the notes may be made through new notes or in any other way, as provided by the ordinance or resolution that authorized the original notes, or by a separate resolution for the renewal of the notes. The renewals shall be carried out under those terms and conditions and at the rate or rates of interest established by the Assembly. The Assembly may delegate authority on the Mayor to carry out these renewals. It shall not be necessary to hold public hearings prior to the approval of a resolution authorizing notes in advance of bonds, but if the Municipality decides to hold a public hearing, it shall follow the procedure established in Section 8 of this Act."

Section 6.- The former Section 6 is hereby amended and renumbered as Section 7 of Act No. 64 of July 3, 1996, to read as follows:

"Section 7.- Obligations Evidenced by Notes.-

Each Municipality is authorized to incur obligations evidenced by notes. The notes, including any renewal note, may mature on a term not greater than eight (8) years from the date of the original note. In cases of Notes in Advance of Taxes and Revenues, the notes, including any renewal note thereof, shall mature not later than ninety (90) days after the close of the fiscal year in advance of which taxes or revenues the notes were issued. The notes shall be authorized through a resolution with the affirmative vote of at least two thirds (2/3) of the members of the Assembly and the approval of the Mayor. It shall not be necessary to hold a public hearing prior to the approval of the resolution authorizing these notes, but if the Municipality decides to hold a public hearing, the procedure established in Section 8 of this Act shall be followed."

Section 7.- The former Section 7 is hereby amended and renumbered as Section 8 of Act No. 64 of July 3, 1996, to read as follows:

"Section 8.- Ordinance Authorizing the Issue of Obligations Evidenced by Bonds.-

- (a) The obligations evidenced by Municipal General Obligation Bonds, Special Obligation Bonds, Revenue Bonds, and Refinancing Bonds, shall be authorized through an ordinance approved by the Assembly with the affirmative vote of at least two thirds (2/3) of its members, and the approval of the Mayor.
- (b) The ordinance may be approved in a regular session of the Assembly or in a special session called by the Mayor for this purpose. The Secretary of the Assembly shall notify each member of the Assembly by certified mail, at least seventy-two (72) hours in advance of the date, hour, place and purpose of the session, or shall otherwise serve said notice personally to each of the members at least twenty-four (24) hours before the session is to be held.
- (c) Except in case of emergency, as provided in Section 30 of this Act, the Assembly shall hold a public hearing before considering any ordinance for the purposes of this Act; said public hearing may be called by the Mayor or by resolution of the Assembly. At least ten (10) days prior to the public hearing, the Municipality shall publish a Notice of Public Hearing in a newspaper of general circulation in Puerto Rico, at least once, and shall place said notice in at least two places accessible to the public in the Municipality.

- (d) The Notice of Public Hearing shall include the date, hour and place of the public hearing, a brief description of the purpose or purposes of the bonds, and the amount to be borrowed for each purpose. The contents of the Notice of Public Hearing shall be substantially similar to the form indicated below:

NOTICE OF PUBLIC HEARING

The Municipal Assembly of _____, Puerto Rico, proposes to adopt an ordinance entitled "Ordinance to Authorize the Issue of \$_____ in (General Obligation) (Special Obligation) (Revenue) (Refinancing) Bonds of 19__ of the Municipality of _____, Puerto Rico, and the issue of \$_____ in Notes in Advance of Bonds, and providing for the payment of principal and interest on said bonds (and notes in advance of bonds)."

A Public Hearing shall be held on _____, 19__ in _____, Puerto Rico, at _____ (AM) (PM) in the _____ Hall, prior to the consideration of the ordinance. Any taxpayer or any other interested person may attend said public hearing and be heard.

The purposes to be financed and the amount to be appropriated for each purpose are the following:

PURPOSE AND AMOUNT OF THE BONDS (OR NOTES IN ADVANCE OF BONDS)

A copy of the bill of ordinance has been filed with the Office of the Secretary of the Municipal Assembly of _____, Puerto Rico.

By order of the (Mayor) (Municipal Assembly) of the Municipality of _____, Puerto Rico.

(Secretary of the Municipal Assembly)
(Secretary of the Municipality)

Municipality of _____, Puerto Rico."

Section 8.- The former Section 8 is replaced by the following text and is renumbered as Section 9 of Act No. 64 of July 3, 1996, to read as follows:

"Section 9.- Special Obligations Evidenced by Other Credit Instruments.-

Municipalities may borrow money through special obligations evidenced by credit instruments other than bonds, notes or notes in advance of bonds. The contracting of such instruments shall be governed by the provisions of this Act which apply to the issue of notes in cases of obligations for terms not greater than eight (8) years, and those applicable to the Special Obligation Bond issue in the case of obligations for terms greater than eight (8) years. In cases of Instruments in advance of Taxes and Revenues, the instruments, including any renewal thereof, shall mature not later than ninety (90) days after the close of the fiscal year in advance of which taxes or revenues were contracted."

Section 9.- The former Section 9 is hereby amended and renumbered as Section 10 of Act No. 64 of July 3, 1996, to read as follows:

"Section 10.- Provisions of Ordinances or Resolutions.-

(a) every ordinance or resolution to authorize any obligation evidenced by bonds, notes, or any other instruments, as the case may be, shall contain the following provisions:

- (1) in brief and general terms, the purpose or purposes of the bonds, notes or any other instruments;
- (2) the maximum amount of money to be borrowed through the bonds, notes or any other instruments, and if it is to be applied to more than one purpose, the maximum amount of money to be appropriated to each purpose;
- (3) the maximum rate or rates of interest to be accrued by the bonds, notes or any other instruments, which shall not exceed the maximum rate fixed by law or regulations;
- (4) the date or dates of maturity of the notes, which shall not exceed the maximum terms of maturity fixed in Sections 6 and 7 of this Act;
- (5) the date or dates of maturity of the bonds, which shall not exceed the maximum terms of maturity from the date of issue, which are fixed below:

Type of Bond	Maturity
General Obligation Bonds	25
General Obligation Bonds for the construction of affordable housing projects	40

Revenue bonds	25
Special Obligation Bonds for capital improvements	25
Special Obligation Bonds for waste collection, disposal or conversion to energy systems	25
General or Special Obligation Bonds to finance accrued budget deficits	30
Special Obligation Bonds for other purposes	15
Refinancing Bonds	(Shall not be greater than the term that applies to the type of bond to be refinanced).

(b) In the case of obligations evidenced by Municipal General Obligation Bonds or Notes, the ordinance or resolution shall also establish:

- (1) that the municipality has the available loan margin and the capacity to pay, certified by the Government Bank, to incur the obligation; provided, that it shall be understood, that capacity to pay shall mean that the deposits in the current account of the Municipality in the Redemption Fund and the annual proceeds of the Special Surtax, according to Government Bank projections, shall be sufficient for the service of the outstanding bonds or notes and the bonds and notes to be issued until their respective maturity; and
- (2) the provisions or agreements for the service of bonds or notes, including the levy of the Special Surtax, as provided in Section 20 of this Act.

(c) In the case of obligations evidenced by Revenue Bonds, the ordinance shall also establish:

- (1) the use and distribution of the revenues or income of the revenue generating project, including, but without being limited to the provisions for the payment of reserves, maintenance accounts and operating expenses, and for the maintenance of said project;

- (2) the provisions for the Municipality to transfer to the account or accounts of the revenue generating project, those amounts stipulated by the cost of leasing or otherwise providing the goods and services for said projects to the municipality or any of its departments or dependencies;
 - (3) the operation and maintenance of the revenue generating projects;
 - (4) the terms and conditions under which the holders of all or part of the Revenue Bonds, or the trustee of said bonds, shall have the right to have a trustee or a receiver appointed by a court of competent jurisdiction to take control of the operation and maintenance of the revenue generating project, and that the municipality may likewise do so, establish the rates, fees for services, rental rates, or any other corresponding charges or prices, and collect or manage the income of the revenue generating project;
 - (5) the terms and conditions under which the income of the revenue generating project shall be pledged for the service of the Revenue Bonds. Any pledge or assignment of said income shall be valid and effective without the need for any subsequent acts;
 - (6) the provisions for the Government Bank or a bank or trust company located in or outside the Commonwealth of Puerto Rico, to act as depository of the pledged revenues of the revenue generating projects; and
 - (7) the provisions for the Government Bank or a bank or trust company located in or outside the Commonwealth of Puerto Rico, to act as registrar, countersigning agent and paying agent for the Revenue Bonds.
- (d) In the case of obligations evidenced by Special Obligation Bonds, Notes or Instruments, the ordinance or resolution shall also establish:
- (1) the income or resources derived from one or more specific sources of income authorized by this Act or any other Acts of the Commonwealth of Puerto Rico or of the United States of America, which are encumbered for the service of the Special Obligation Bonds, Notes or Instruments; and
 - (2) the provisions for the Center to deposit the income or resources encumbered for the service of the Special Obligation Bonds, Notes or Instruments in a special trust account or accounts, separate from other accounts of the Municipality; and to

authorize the paying agent designated by the Municipality to pay said bonds, notes or instruments from the deposits in said special account or accounts.

- (e) In the case of obligations evidenced by Refinancing Bonds, Notes or Instruments, the ordinance shall also establish:
- (1) the bonds, notes or instruments to be refinanced and the total amount to be paid for principal, interest, premiums and other refinancing expenses;
 - (2) the backing or guarantee of the Refinancing Bonds, Notes or Instruments; and
 - (3) the provision that the bonds, notes or instruments to be refinanced shall not be deemed as outstanding bonds, notes or instruments for the purpose of determining the debt limits established in Section 19 of this Act.
- (f) In the case of obligations evidenced by Notes or Instruments in Advance of Taxes and Revenues, the resolution shall also establish:
- (1) the taxes, revenues or combination of taxes or revenues in advance of which the notes or instruments shall be issued or contracted; and
 - (2) the provisions for the establishment of a trust designated as the 'Special Fund for the Payment of Notes or Instruments in Advance of Taxes or Revenues,' and for the deposit in said fund of the taxes and/or revenues in advance of the receipt of which the notes or instruments shall be issued or contracted up to the amount needed to pay the principal and interest on said notes or instruments. Unless they are needed for the service or redemption of the Municipal General Obligation Bonds or Notes or of the Notes in Advance of Municipal General Obligation Bonds pursuant to Section 20 of this Act, the deposits in said fund shall be applied exclusively to the service and redemption of the obligations evidenced by notes or instruments."

Section 10.- A new Section 11 is hereby added to Act No. 64 of July 3, 1996, to read as follows:

"Section 11.- Approval by the Government Bank.-

- (a) Every obligation to be incurred under the provisions of this Act shall have the prior approval of the Government Bank.
- (b) The Government Bank shall evaluate the proposed obligation to determine if it meets the requirements of this Act, and those requirements that the Government Bank establishes

through regulations. The Government Bank shall communicate its decision to the Municipality not later than sixty (60) days after receiving the duly completed request for approval. In the evaluation of every proposed obligation, the Government Bank may require that the Municipality present its last financial statement audited by certified public accountants and any other information or document that the Government Bank deems is needed to evaluate the proposed obligation.

- (c) The Government Bank shall establish by regulations, the requirements of the request for approval, the procedure for the presentation and evaluation of requests, and the criteria that apply for the evaluation of the proposed obligations."

Section 11.- A new Section 12 is hereby added to Act No. 64 of July 3, 1996, to read as follows:

"Section 12.- Approval of Ordinances and Resolutions.-

Any provision of any law, regulation, ordinance or resolution to the contrary, notwithstanding, when considering the approval of any ordinance or resolution authorizing the Municipality to incur an obligation under this Act or any supplementary ordinance or resolution related to said obligation, it shall only be necessary for the ordinance or resolution to be presented at a session of the Assembly, read in its totality, and voted on, viva voce, by roll call at said session."

Section 12.- The former Section 10 is hereby amended and renumbered as Section 13 of Act No. 64 of July 3, 1996, to read as follows:

"Section 13.- Notice of Approval of Ordinance or Resolution.-

- (a) Except in case of an Emergency, as provided in Section 30 of this Act, after the Assembly and the Mayor have approved an ordinance or resolution authorizing the Municipality to incur an obligation under this Act, the Secretary of the Municipality shall publish a Notice of Approval of the Ordinance or Resolution at least once (1) in a newspaper of general circulation in Puerto Rico and shall affix said notice in at least two (2) public places in the Municipality. The Notice of Approval of the Ordinance or Resolution shall be substantially similar to the form provided below:

'NOTICE OF APPROVAL

Ordinance (Resolution) No. _____, Series _____, entitled "Ordinance (Resolution) to Authorize the Issue of \$ _____, in (General Obligation) (Special Obligation) (Revenue) (Refinancing) Bonds (Notes) of 19____, of the Municipality of _____, Puerto Rico, (and the Issue of \$ _____ of Notes in Advance of Bonds) and providing for the payment of principal and interest on said bonds (notes)" has been approved by the Assembly on the _____ of _____ of 19____ and approved by the Mayor on the _____ of _____ of 19____.

This ordinance (resolution) shall become effective immediately after a period of ten (10) days after the date of publication of this Notice of Approval.

No action or recourse based on the nullity of said ordinance (resolution) shall be set forth, nor the validity of said ordinance (resolution) or of any of its provisions, including provisions for the payment of such (bonds or notes or other instruments) nor the validity of (the bonds or notes or other instruments) authorized by said ordinance (resolution) shall be questioned under any circumstances in any court, except through an action or proceeding initiated in a court with jurisdiction within ten (10) days following the date of publication of this Notice of Approval.

Secretary
Municipality of _____.

(b) Except in cases of Emergency, as provided in Section 30 of this Act, no ordinance or resolution authorizing the municipality to incur an obligation pursuant to this Act, shall be effective before a period of ten (10) days following the publication of the Notice of Approval."

Section 13.- The former Section 11 is hereby amended and renumbered as Section 14 of Act No. 64 of July 3, 1996, to read as follows:

"Section 14.- Validity of Ordinance or Resolution.-

(a) No action or recourse based on the nullity of an ordinance or resolution that authorizes an obligation approved by the Government Bank; nor the validity of an ordinance or resolution or of any of its provisions, including the provisions for the payment of bonds, notes or instruments; nor the validity of the bonds, notes or instruments authorized by the

ordinance or resolution, shall be questioned under any circumstances in any court, except in an action or proceeding initiated in a court with jurisdiction within ten (10) days following the date of this Notice of Approval required by Section 13 of this Act.

- (b) Unless an action or proceeding has been filed before the term of ten (10) days established in this Section has expired, it shall be undisputedly presumed that the ordinance or resolution to authorize an obligation, approved by the Government Bank has been duly and regularly adopted and approved by the Municipality in compliance with the provisions of this Act and of any other applicable law. Neither the validity of said ordinance or resolution or any of its provisions, including the provisions for the payment of bonds, notes or instruments; nor the validity of the bonds, notes or instruments authorized by the ordinance or resolution; nor the validity of the bonds, notes or instruments authorized by the ordinance or resolution, shall be questioned by the Municipality, any taxpayer of the Municipality or any interested party, regardless of the provisions in conflict with any provision of this Act or of any other Act or regulation.
- (c) No ordinance shall be declared null for the mere fact that it has been adopted as an ordinance when it should have been adopted as a resolution and no resolution shall be declared null for the mere fact that it has been adopted as a resolution when it should have been adopted as an ordinance."

Section 14.- The former Section 12 is hereby amended and renumbered as Section 15 of Act No. 64 of July 3, 1996, to read as follows:

"Section 15.- Terms of Bonds, Notes and Any Other Instruments.-

- (a) The bonds and notes authorized under the provisions of this Act shall be of such nature, whether they are registered, with coupons, or electronic entry registry; shall be dated; shall accrue interest at such rate or rates or shall provide the formula or formulas to determine such rate or rates of interest; shall be payable on such date or dates; shall be of such denomination or denominations; may be subject to prior redemption on said date or dates and prices; their principal and interest shall be payable in such place or places, that may be located in or outside the Commonwealth of Puerto Rico; may be countersigned by that countersigning agent that may be located in or outside of the Commonwealth of Puerto Rico; and shall be payable in legal tender of the United States of America, which

upon said date is used for the payment of public and private debts, as provided in the ordinance or resolution that authorizes the bonds or notes or in a subsequent resolution of the Assembly. The Assembly is empowered to delegate, through ordinance or resolution, on the Mayor or on the Government Bank, the authority to establish the terms of the bonds or notes including, without being limited to, the determination of the rate or rates of interest or the formula or formulas to determine the rate or rates of interest and the dates of maturity of the principal and interest on bonds or notes to be issued.

- (b) The other credit instruments authorized pursuant to the provisions of this Act, shall be in the nature and under the terms and conditions established by the Assembly in the ordinance or resolution that authorizes said instruments or in a subsequent resolution; or in the nature and under the terms and conditions established by the person(s) on whom the Assembly delegates the contracting of said instrument through an ordinance or resolution to such effects which shall contain the instructions for said delegation. In the case of delegation, the actions of the agent shall be ratified by the Assembly with the approval of the Mayor."

Section 15.- The former Section 13 is hereby amended and renumbered as Section 16 of Act No. 64 of July 3, 1996, to read as follows:

"Section 16.- Signature of the Bonds, Notes or Any Other Instruments.-

The bonds, notes or any other instruments authorized pursuant to the provisions of this Act shall be signed by, or shall bear the facsimile of the signature of the person who holds the office of Mayor at the time of the signing thereof; the Corporate Seal of the Municipality or a facsimile thereof shall be printed thereon; and shall be signed by, or shall bear a facsimile of the signature of the person who holds the office of Secretary of the Municipality at the time of the signing thereof or of any other official designated by the Assembly to attest to and authenticate the signature of the Mayor and the printing of the Corporate Seal on bonds, notes or instruments. At least one of the signatures shall be handwritten by the signer. In the case of coupon bonds, every coupon shall be signed by or shall bear the signature in facsimile of the Mayor. In the event that any official whose signature or facsimile thereof appears in any of the bonds, notes or any other instruments is not in office prior to the delivery of said bonds, notes or instruments, said

signature or facsimile shall nevertheless be valid and sufficient for all legal purposes as if said official were in office until said delivery."

Section 16.- The former Section 14 is hereby amended and renumbered as Section 17 of Act No. 64 of July 3, 1996, to read as follows:

"Section 17.- Replacement of Mutilated, Destroyed or Lost Bonds and Notes.-

Replacement of mutilated, destroyed or lost bonds or notes shall be carried out pursuant to the procedure established by the Government Bank through regulations."

Section 17.- The former Section 15 is hereby amended and renumbered as Section 18 of Act No. 64 of July 3, 1996, to read as follows:

"Section 18.- Negotiability of Bonds, Notes or Any Other Instruments.-

Except otherwise provided through an ordinance or resolution, the bonds, notes and other instruments authorized pursuant to this Act, shall be considered negotiable instruments pursuant to the general negotiable instruments act in effect at the time the ordinance or resolution is adopted."

Section 18.- The former Section 16 is hereby amended and renumbered as Section 19 of Act No. 64 of July 3, 1996, to read as follows:

"Section 19.- Limitations on the Amount of Indebtedness to be Incurred: Bonds, Notes or Other Instruments.-

(a) Municipal General Obligation Bonds or Notes.- No Municipality shall incur an obligation evidenced by Municipal General Obligation Bonds or Notes for a total principal sum that, together with the principal to be paid for all other obligations evidenced by Municipal General Obligation Bonds or Notes of the Municipality in effect at that time, exceeds ten (10) percent of the total appraisal value of the non-exempt taxable property and of exempt property of the Municipality.

In determining the loan margin of a Municipality, the principal to be paid for obligations evidenced by Municipal General Obligation Bonds or Notes in effect at that time, shall be reduced by that part of the deposits in the Municipality's account in the Redemption Fund that is not encumbered for the payment of interest accrued, but not paid, on said obligations. The Government Bank shall establish through regulations the formula to determine the loan margin.

- (b) Notes in Advance of Municipal General Obligation Bonds.- No Municipality shall incur an obligation to be evidenced by Notes in Advance of Municipal General Obligation Bonds which requires a total payment of interest that, together with the principal to be paid for all other obligations evidenced by Municipal General Obligation Bonds and Notes of the Municipality outstanding, and the interest to be paid on all obligations evidenced by Notes in Advance of Bonds of the Municipality outstanding at that time, exceeds ten (10) percent of the total appraisal value of the non-exempt taxable property and of exempt property of the Municipality. This limitation shall not be applicable to the issue of Notes in Advance of Municipal General Obligation Bonds when the interest on said notes is paid from the proceeds of the Municipal General Obligation Bond issue.
- (c) Special Obligation Bonds, Notes or Instruments.- No Municipality shall incur an obligation evidenced by Bonds, Notes or Instruments if the annual payment of the principal and interest on said bonds, notes or instruments, together with the annual payment of the principal and the interest on all other obligations evidenced by Special Obligations Bonds, Notes or Instruments of the Municipality outstanding at that time, exceeds five percent (5%) of the average recurrent operating income of the Municipality of the two (2) fiscal years immediately preceding the current fiscal year.
- (d) Notes or Instruments in Advance of Taxes and Revenues.- No Municipality shall incur an obligation evidenced by Notes or Instruments in Advance of Taxes and Revenues if the payment of the interest on said notes or instruments, together with annual payment of the principal and the interest on all obligations evidenced by Special Obligations Bonds, Notes or Instruments of the Municipality outstanding at that time, exceeds five percent (5%) of the average recurrent operating income of the Municipality of the two (2) fiscal years immediately preceding the current fiscal year.

The funds obtained by the Municipality from Notes or Instruments in Advance of Taxes and Revenues shall only be used to make appropriations for the budget of the fiscal years for which they are authorized. The funds obtained by the Municipality from these notes or instruments shall not be used to readjust the operating budget of the Municipality. No Municipal tax or revenue corresponding to a fiscal year which follows

the fiscal year in which advanced taxes or revenues are issued or used to contract the notes and instruments, may be used to pay for said notes or instruments."

Section 19.- The former Section 17 is hereby amended and renumbered as Section 20 of Act No. 64 of July 3, 1996, to read as follows:

"Section 20.- Provision for the Payment of General Municipal Obligations; First Lien.-

- (a) The good faith, credit and the power of the Municipality to levy unlimited taxes are hereby committed for the prompt payment of the principal and interest on all obligations evidenced by General Obligations Bonds or Notes and the interest on Obligations evidenced by Notes in Advance of Municipal General Obligation Bonds which the Municipality may incur.
- (b) To make this guarantee effective, the Assembly shall provide, through an ordinance, the annual levy of a Special Surtax, without limitation with regard to the rate or amount, on all property subject to taxation in the Municipality, which is sufficient to pay the principal and interest on all Municipal General Obligation Bonds or Notes and the interest on all Notes in Advance of Municipal General Obligation Bonds issued by the Municipality, as such principal and interest mature, excluding, however, any interest which is to be paid from the proceeds of the Municipal General Obligation Bond issue.
- (c) In general terms, the first lien shall operate in the following manner: The Center shall collect the proceeds of the Special Surtax and any other taxes on the value of the property levied by the Municipality. The Center shall deposit the proceeds of the Special Surtax in the account of the Municipality in the Redemption Fund. If the Government Bank determines that the deposits in said account in the Redemption Fund are not sufficient to cover any payment of the principal or interest on any outstanding Municipal General Obligation Bonds or Notes or any payment of the interest on any outstanding Note in Advance of Municipal General Obligation Bonds, the Government Bank shall notify the Center and the Center shall deposit in said account an amount proceeding from other income subject to the first lien established by this Section that, together with the deposits in said fund, shall be sufficient to make said payment. The Government Bank, in consultation with the Center, shall establish, through regulations, the specific procedure for the operating of this first lien.

(d) The Government Bank, as trustee of the Redemption Fund, shall pay the principal and interest on Municipal General Obligation Bonds or Notes and the interest on all the Notes in Advance of the Municipal General Obligation Bonds of the Municipality from the resources deposited in the account of the Municipality in the Redemption Fund. The Government Bank shall make those payments on behalf of the Municipality and through its paying agents designated on said bonds or notes."

Section 20.- The former Section 18 is hereby amended and renumbered as Section 21 of Act No. 64 of July 3, 1996, to read as follows:

"Section 21.- Self-Liquidating Revenue Generating Projects.-

The Assembly of every Municipality that issues obligations evidenced by Revenue Bonds by virtue of the provisions of this Act to pay for the cost of revenue generating projects, shall fix and collect reasonable rates, fees, charges or rental payments for the use of the services or facilities provided by said revenue generating projects, and shall review the rates, fees, charges or rental payments from time to time so that said revenue generating projects shall remain self-liquidating. The rates, fees, charges and rental payments shall be in amounts sufficient to produce resources to at least:

- a. pay all operating and maintenance expenses of said revenue generating projects and provide the needed reserves for such a purpose; and
- b. pay the principal and the premiums, if any, and the interest on the Revenue Bonds for the payment of which the income from the revenue generating project has been committed, or otherwise encumbered, and to provide the corresponding reserves."

Section 21.- The former Section 19 is hereby amended and renumbered as Section 22 of Act No. 64 of July 3, 1996, to read as follows:

"Section 22.- Disposal of Income of Revenue Generating Projects.-

(a) Income generated by a revenue generating project financed by obligations evidenced by Revenue Bonds shall be used in the order of priority and for the purposes indicated below:

- (1) to pay all operating and maintenance expenses of the revenue generating project;
- (2) to provide reserves for the operation and maintenance and the repair and replacement of the revenue generating project;

- (3) to pay the principal, and the premium, if any, and the interest on the Revenue Bonds for the payment of which the income of the revenue generating project has been committed or otherwise encumbered, and to provide for the corresponding reserves;
 - (4) to pay the principal, the premium, if any, and the interest on any other obligation which is not backed by an encumbrance or other lien on the income of the revenue generating project, but was issued to provide resources to pay the cost of said project; and
 - (5) any surplus from the income of the revenue generating project, after complying with the preceding items, may be transferred to the General Fund of the Municipality and used for any other legal purpose of the Municipality.
- (b) In case that the income generated by a revenue generating project financed by obligations evidenced by Revenue Bonds are not sufficient, or for any other reason were not assigned for the payment of the principal, the premium, if any, and the interest on said Revenue Bonds, the Center shall withhold from the monthly income remittance to the Municipalities the amounts needed to make said payments."

Section 22.- The former Section 20 is hereby amended and renumbered as Section 23 of Act No. 64 of July 3, 1996, to read as follows:

"Section 23.- Validity of the Pledging of the Income of Revenue Generating Projects.-

The pledging or assignment of the income of a revenue generating project granted under the provisions of this Act, shall be valid and effective without the need for any subsequent action. The operating and/or lease contracts executed by the Mayor or other duly authorized official with operators or lessees of revenue generating projects shall be valid even if the executing officials have ceased their function, provided the execution has met the requirements of the applicable laws."

Section 23.- The text of the former Section 21 is hereby substituted by the following text and renumbered as Section 24 of Act No. 64 of July 3, 1996, to read as follows:

"Section 24.- General Obligations of the Municipalities.-

- (a) The obligations evidenced by Municipal General Obligation Bonds or Notes of a Municipality constitute the general obligations of the Municipality for the prompt payment of which the good faith, credit and power of the Municipality to impose

unlimited taxes are committed. The holders of Municipal General Obligation Bonds or Notes shall have the right to compel the Municipality to exercise its power to levy taxes for the payment of the principal, interest and premiums of early redemption, if any, of said bonds or notes.

- (b) The obligations evidenced by Special Obligation Bonds, Notes or Instruments, Revenue Bonds and Notes or Instruments in Advance of Taxes and Revenues do not constitute general obligations of the Municipality and, therefore, the good faith, credit and power of said Municipality to levy unlimited taxes are not committed for the payment of the principal and interest on said obligations. The holders of Special Obligation Bonds, Notes or Instruments, Revenue Bonds or Notes or Instruments in Advance of Taxes or Revenues shall not have the right to compel the Municipality to exercise its power to levy taxes for the payment of the principal, interest and premiums of early redemption, if any, of said bonds, notes or instruments.
- (c) Every bond, note or instrument authorized under the provisions of this Act, with the exception of Municipal General Obligation Bonds or Notes and the Notes in Advance of Municipal General Obligation Bonds, shall include a statement to the effect that they do not constitute general obligations of the Municipality and that their principal, interest and early redemption premiums, if any, shall be payable only from the revenues, income, taxes or any other resources that were specifically encumbered or pledged for the payment thereof."

Section 24.- The former Section 22 is hereby substituted by the following text and renumbered as Section 25 of Act No. 64 of July 3, 1996, to read as follows:

"Section 25.- Sale and Negotiation of Bonds, Notes or Any Other Instruments.-

- (a) The bonds or notes issued under the provisions of this Act may be sold as established hereinbelow:

- (1) In case the Assembly decides to sell bonds or notes in a public sale, the Assembly shall delegate on the Bidding Board the holding of the public sale. The Assembly shall fix the sales price or delegate on the Bidding Board the fixing of the sales price. Each bidder who appears at a public sale shall deliver, together with his/her bid, a certified check drawn to the order of the Municipality, for an amount of not less than

two percent (2%) of the principal of the bonds or notes he/she intends to buy, in order to compensate the Municipality for any loss that could be caused by noncompliance with the terms and conditions of this bid. This deposit shall not be required when the bidder is the Government Bank, the Commonwealth of Puerto Rico, the Government of the United States of America, or any of the agencies or instrumentalities of the latter two. The Bidding Board shall adjudicate the bonds or notes to the highest bidder who meets the terms and conditions of the sale. The Bidding Board may, however, reject all bids submitted for its consideration. The actions of the Bidding Board, including the fixing of the sales price in those cases in which the adjudication of the bonds or notes is delegated on it, shall be ratified through a resolution adopted by the Assembly and approved by the Mayor.

- (2) In case the Assembly decides to sell the bonds or notes in a private sale, the Assembly may authorize the sale directly or delegate on the Bidding Board or on the Mayor the adjudication of the private sale. Those actions of the Mayor or of the Bidding Board shall be ratified through a resolution adopted by the Assembly. Each intended buyer in a private sale shall deliver, together with the purchase offer, a certified check drawn to the order of the Municipality, for an amount of not less than two percent (2%) of the principal of the bonds, notes or instruments he/she intends to buy, in order to compensate the Municipality for any loss that could be caused by noncompliance with the terms and conditions of the offer. This deposit shall not be required when the bonds or notes are to be sold in a private sale to the Government Bank, the Commonwealth of Puerto Rico, the Government of the United States of America, or any of the agencies or instrumentalities of the latter two.
- (b) In the case of Special Obligations and Notes or Instruments in Advance of Taxes and Revenues, the Assembly may authorize the private contracting or negotiation thereof and may delegate on the Mayor its contracting or negotiations. The actions of the Mayor shall be ratified through a resolution of the Assembly."

Section 25.- The former Section 23 is hereby substituted by the following text and renumbered as Section 26 of Act No. 64 of July 3, 1996, to read as follows:

"Section 26.- Use of the Product of Bonds, Notes or Other Instruments.-

- (a) The product of the bonds, notes and other instruments shall be used for the purpose or purposes authorized in the ordinance or resolution, as the case may be, up to an amount which does not exceed that provided for each purpose in the ordinance or resolution.
- (b) If the amount used for any of the purposes specified in an ordinance or resolution authorizing an obligation evidenced by Municipal General Obligation Bonds or Notes or Notes in Advance of Municipal General Obligation Bonds is less than the amount appropriated for such a purpose in said ordinance or resolution, the Assembly may, with the approval of the Government Bank, use any remainder in any of the following manners through a resolution to such effects:
- (1) for any of the other purposes specified in the ordinance or resolution which authorizes bonds or notes; or
 - (2) for any purpose or purposes for which Municipal General Obligations Bonds or Notes may be issued, as provided in Section 5 of this Act; or
 - (3) for the payment of the principal and interest on any Municipal General Obligation Bonds or Notes or interest on any Notes in Advance of Municipal General Obligation Bonds of the Municipality.
- (c) If the amount used for any of the purposes specified in an ordinance or resolution authorizing an obligation evidenced by Special Obligation Bonds, Notes or Instruments is less than the amount appropriated for such a purpose in said ordinance or resolution, the Assembly may, with the approval of the Government Bank, dispose of the remainder in any of the following manners through a resolution to such effects:
- (1) for any of the other purposes specified in the ordinance or resolution which authorizes special obligations; or
 - (2) for any purpose for which Special Obligations may be incurred, as provided in Section 5 of this Act; or
 - (3) for the payment of the principal and interest on any Special Obligation Bonds, Notes or Instruments outstanding in the Municipality.
- (d) When the remainders referred to in subsections (b) and (c) of this Section exceed forty thousand (40,000) dollars, the Assembly shall hold a Public Hearing in accordance to the

procedure established in Section 8 of this Act prior to adopting the resolution authorizing the use of the remainder.

- (e) If the amount used for any of the purposes specified in an ordinance or resolution authorizing an obligation evidenced by Revenue Bonds is less than the amount appropriated for such a purpose in said ordinance or resolution, the remainder shall be applied to the payment of the principal, the interest and the premiums, if any, of the Revenue Bonds object of the issue.
- (f) The Municipality may desist of one or more purposes specified in an ordinance or resolution authorizing an obligation evidenced by Municipal General Obligation Bonds or Notes, Notes in Advance of Municipal General Obligation Bonds and Special Obligation Bonds, Notes or Instruments, and apply to other purposes that part of the product appropriated for the purpose or purposes from which the Municipality intends to desist, provided that the Assembly, with the approval of the Government Bank, complies with the following procedure:
 - (1) in cases of obligations evidenced by Municipal General Obligation Bonds, Special Obligation Bonds, or other instruments with maturity greater than eight (8) years, the Assembly shall follow the procedure of Notice of Public Hearing, the holding of a public hearing, the adoption and approval of an ordinance and the publication of a Notice of Approval established in Sections 8, 11 and 13 of this Act; or
 - (2) in cases of obligations evidenced by Municipal General Obligation Notes, Notes in Advance of Municipal General Obligation Bonds, Special Obligation Notes or other special obligation instruments with maturity of less than eight (8) years, the Assembly shall follow the procedure of adoption and approval of a resolution and the publication of a Notice of Approval established in Sections 6, 7, 11 and 13 of this Act."

Section 26.- The former Section 24 is hereby amended and renumbered as Section 27 of Act No. 64 of July 3, 1996, to read as follows:

"Section 27.- Provisional Receipts.-

The Assembly may authorize the delivery of provisional receipts to the purchasers of bonds or notes until the definite bonds or notes are prepared through an ordinance or resolution to that effect."

Section 27.- The former Section 25.- Notes in Advance of Taxes and Revenues, of Act No. 64 of July 3, 1996, is hereby eliminated.

Section 28.- The former Section 26 is hereby amended and renumbered as Section 28 of Act No. 64 of July 3, 1996, to read as follows:

"Section 28.- Tax Exemption.-

All Municipal General Obligation Bonds or Notes and all Notes in Advance of Municipal General Obligation Bonds and the interest thereon shall be exempted from the payment of any taxes levied by the Commonwealth of Puerto Rico and its Municipalities."

Section 29.- The former Section 27 is hereby substituted by the following text and renumbered as Section 29 of Act No. 64 of July 3, 1996, to read as follows:

"Section 29.- Loans from Special Funds.-

- (a) The Municipalities are authorized to borrow money from the FEPEG (Spanish acronym), through obligations evidenced by notes or other instruments. These notes or instruments shall be deemed as Special Obligation Notes or Instruments under the provisions of this Act. The procedure for their authorization shall be governed by Sections 7, 8 and 13 of this Act in accordance with the type of obligation. The limitation contained in Section 10 of this Act notwithstanding, the notes or instruments which evidence loans made with FEPEG may mature up to a maximum of twenty (20) years after their date of issue. The Municipalities shall pay the principal and the interest on these notes or instruments from funds budgeted for regular expenses that are not expressly encumbered for other purposes and/or from the product of the issue of bonds, notes or other instruments pursuant to the provisions of this Act for refinancing said notes or instruments.
- (b) The Government Bank shall establish, through regulations, everything regarding the application, granting, disbursement, payment and supervision of the loans with FEPEG, including, but without being limited to, the procedure for application, the criteria for

evaluation and approval of applications and the terms and conditions of the loans to be granted."

Section 30.- The former Section 28 is hereby substituted by the following text and renumbered as Section 30 of Act No. 64 of July 3, 1996, to read as follows:

"Section 30.- Financing for Emergencies.-

- (a) When the Governor decrees a State of Emergency in one or more Municipalities and for the duration of said State of Emergency, the Assemblies of the Municipalities declared to be in a State of Emergency shall not be under the obligation to comply with the requirement of a public hearing provided in Section 8 of this Act nor with the requirement to publish a Notice of Approval provided in Section 13 of this Act, in order to incur obligations evidenced by bonds, notes or any other instruments whose purpose is to obtain funds to attend to the needs resulting from said State of Emergency. If the Assembly decides to waive compliance with one or both of these requirements, the ordinance or resolution shall refer to the State of Emergency and indicate that those requirements are not complied with for such a reason.
- (b) When the Governor decrees a State of Emergency and for the duration of said State of Emergency, the Assemblies of the Municipalities declared to be in a State of Emergency may, through an ordinance approved after the holding of a public hearing and with the approval of the Government Bank, assign all or part of the product from Special Obligations, or the General Obligation Bonds or Notes already incurred, for purposes not specified in the ordinances or resolutions that authorized said obligations, but that are needed to attend to the needs resulting from said State of Emergency in the Municipality.
- (c) When the Governor decrees a State of Emergency and for the duration of said State of Emergency, the Government Bank shall have the authority to approve Special Obligations that do not comply with the restriction established in Section 19 of this Act, provided the product of said obligations is used only to attend to the needs resulting from the State of Emergency and the Municipality has no other alternative available to take money on loan to attend to such needs."

Section 31.- The former Section 29 is hereby amended and renumbered as Section 31 of Act No. 64 of July 3, 1996, to read as follows:

"Section 31.- Fiscal Agent.-

- (a) Notwithstanding any other provision of this Act, regulations, ordinance or resolution to the contrary, the Government Bank shall be the Fiscal Agent of the Municipalities with the responsibility for ensuring faithful compliance with this Act and the sound administration of the loan activity of the Municipality. No Municipality may incur an obligation evidenced by bonds, notes or any other instruments under the provisions of this Act without the previous approval of the Government Bank.
- (b) The Government Bank shall establish, pursuant to the provisions of this Act, through regulations, all the procedures, rules, norms and measures needed for its implementation and operation. These regulations shall provide, to the extent possible, a uniform, feasible and speedy procedure for the authorization, handling, disbursement and supervision of the municipal obligations authorized by this Act. Until the promulgation of these Regulations, the Government Bank shall take the provisional measures it deems necessary for the implementation and operation of this Act."

Section 32.- The former Section 30 is hereby amended and renumbered as Section 32 of Act No. 64 of July 3, 1996, to read as follows:

"Section 32.- Covenant of the Commonwealth of Puerto Rico.-

The Commonwealth of Puerto Rico hereby commits itself and agrees with any person or persons who subscribe or acquire Bonds, Notes or Instruments authorized under the provisions of this Act, not to limit or alter the rights, obligations and faculties which are hereby conferred on the Municipalities, the Center and the Government Bank, in such a way as to constitute a violation of the rights of the holder of the bonds, notes or instruments, until said bonds, notes or instruments issued on any date, together with the interest thereon, have been totally redeemed."

Section 33.- The former Section 31 is hereby amended and renumbered as Section 33 of Act No. 64 of July 3, 1996, to read as follows:

"Section 33.- Severability.-

The provisions of this Act are severable and if any of them were to be declared null or unconstitutional by any court with jurisdiction, the decision of said court shall not affect nor alter any of the other provisions of this Act."

Section 34.- A new Section 38 is hereby added to Act No. 64 of July 3, 1996, to read as follows:

"Section 38.- Transitory Provisions.-

All bonds and notes issued by the municipalities prior to the effective date of this Act for any of the purposes for which bonds and notes may be issued by the municipalities, all procedures followed for the authorization, issue and sale of said bonds and notes, and for the execution, sale, and delivery of said bonds or notes, are hereby ratified pursuant to this Act, notwithstanding any lack of authority of the municipalities, their Mayors, Municipal Assemblies or any other municipal body to authorize and issue, or to execute, sell, exchange or deliver said bonds and notes, and notwithstanding any defect or deficiency of form or substance in the procedure for the authorization, issue, sale, exchange or delivery of said bonds or notes; and said bonds and notes are and shall constitute valid and demandable obligations of the municipalities and shall be governed, as of the effective date of this Act, by the provisions of this Act, including the provisions on the payment of bonds and notes."

Section 35.- Sections 32, 33, 34, 35 and 36 are hereby renumbered as Sections 34, 35, 36, 37 and 39, respectively, of Act No. 64 of July 3, 1996.

Section 36.- This Act shall take effect immediately after its approval and its effect shall be retroactive to July 3, 1996. All obligations evidenced by bonds, notes or any other credit instruments incurred by the Municipalities between July 3, 1996, and the date of approval of this Act, are hereby ratified and shall constitute valid and demandable obligations of the municipalities which shall be governed by Act No. 64 of July 3, 1996, as herein amended, regardless of any defect or deficiency of form or substance in the procedure for the authorization, issue, sale, exchange or delivery of said bonds, notes or instruments.