

(S.B. 206)

**(No. 28)**

(Approved May 4, 2001)

## **AN ACT**

To amend subsection (i), add a new subsection (n) and redesignate subsection (n) through (y) as subsections (o) to (z), respectively, of Section 3 of Act No. 64 of July 3, 1996, as amended, known as the "Puerto Rico Municipal Financing Act of 1996", to amend subsection (c) of Section 2.02 and subsection (c) of Section 2.04 of Act No. 83 of August 30, 1991, as amended, known as the "Municipal Property Tax Act of 1991", in order to allow the municipalities to use the excess in the Municipal Public Debt Redemption Fund for the purposes specified in this Act.

### **STATEMENT OF MOTIVES**

Joint Resolution No. 355 of August 9, 1998, created a Special Commission chaired by the Secretary of the Treasury, which is constituted by the Chairmen of the Mayors' Association and of the Mayors' Federation, among others. This Commission had as its main task to assess the implementation of the Municipal Reform of 1991 and to analyze the financial situation of the Municipalities of the Commonwealth of Puerto Rico, to make recommendations to broaden and diversify the sources of revenues, and to design strategies that shall contribute to the administrative and financial betterment of the municipalities, among others. One of the Commission's findings concerns the debts of the municipalities with the Municipal Revenues Collection Center (CRIM, Spanish acronym), since in the last five (5) fiscal years, CRIM remitted funds to the municipalities that

exceeded their final liquidations. The excesses accrued in the abovementioned period of time exceeds one hundred fifty million (150,000,000) dollars.

In the past, the Legislature approved several measures to address said situation. The first of these was Act No. 234 of August 12, 1998, which empowered the CRIM and its Board of Directors to authorize payment plans for the municipalities with terms ranging from three (3) to five (5) years so that the municipalities can settle their debts with said body. Act No. 190 of July 30, 1999, was also approved to grant the municipalities a two-year moratorium to pay their debts with CRIM, provided the situation regarding the cash flow allowed it.

Finally, on January 26, 2000, Act No. 42 was approved to authorize CRIM to borrow up to the sum of two hundred million (200,000,000) dollars to compensate said body for the amounts owed by the municipalities as the result of the funds remitted by CRIM in excess of the final liquidations. This Act further provided the mechanism through which the Government Development Bank for Puerto Rico or any other financing entity may grant financing for the repayment, by the municipalities, of the abovementioned debt and the specific use of the funds by the municipalities. Through the approval of this Act, the abovementioned Acts No. 234 and 190 were repealed.

When formulating the solutions proposed by these Acts, the fact that said Acts affect the prospective availability of funds accessible to the municipalities to carry out their governing works since they constitute financing to be paid from operating funds, was not taken into consideration. Nor the fact that some municipalities have funds in excess in the Municipal Public Debt Redemption Fund, and that they are unable to use these funds

because they do not have borrowing margin, was taken into consideration. Prior to the approval of the abovementioned Act, it was considered that the excesses could be used by the municipalities to repay the debt contracted with the Municipal Revenues Collection Center for reimbursements that were allegedly remitted by said body in excess of the final liquidations. If there are no debts on this account or if it has availed itself of the loans allowed by Act No. 42 of January 26, 2000, this excess could be used for the payment of any other statutory debt, or in its defect, for any other municipal purpose.

The limitation on the use of said funds arose from the modification of Section 17 of Act No. 64 of July 3, 1996, which originally allowed the use of the excess in the Municipal Public Debt Redemption Funds to refinance other debts and obligations contracted to be paid with operating funds. It is necessary to amend the legislation in effect to grant the municipalities greater flexibility for the use of this excess that is in the custody of the Government Development Bank. This flexibility shall provide the municipalities a source of additional resources that could be devoted to the payment of debts contracted with the Municipal Revenues Collection Center, for the payment of other statutory debts and for any other municipal purpose when the Municipality has provided other resources for the payment of said debts.

**BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:**

Section 1.- Subsection (i) is hereby amended, a new subsection (n) is added, and subsections (n) through (y) are redesignated as (o) through (z), respectively, of Section 3 of Act No. 64 of July 3, 1996, as amended, to read as follows:

"Section 3.- Definitions

- (a) ...
- (i) "Surtax" means the special additional property tax that the municipalities are authorized to impose by Section 2.02 of Act No. 83 of August 30, 1991, as amended, and that the municipalities shall impose pursuant to Section 20 of this Act in order to pay, first and foremost, the principal and interest on obligations evidenced by General Obligation Municipal Bonds or Notes and the interest on obligations evidenced by General Obligation Municipal Notes in Advance of Bonds that the municipalities may incur. In the case of the portion that constitutes "Excess in the Redemption Fund" it can be used for the purposes authorized in subsection (n) of this Section.
- (n) "Excess in the Redemption Fund" means that portion of the annual yield of the surtax and deposits in the Municipal Public Debt Redemption Fund that is not directly encumbered for the servicing of the General Obligation Municipal Bonds or Notes in effect and which for said reason is available for early redemption of General Obligation Municipal Bonds or Notes that could be issued by the municipality, and in second instance, for the payment of any statutory debt, or debt with the Municipal Revenues Collection Center and, in the case that the municipality has provided for the payment of said debts, for any other municipal purpose."

Section 2.- Subsection (c) of Section 2.02 of Act No. 83 of August 30, 1991, as amended, is hereby amended to read as follows:

"Section 2.02.- Special tax for the amortization and redemption of general obligations of the Commonwealth and the Municipalities;  
Exemptions

(a) ...

(c) A special tax of one point zero three (1.03) per annum on the appraised value of all personal and real property in Puerto Rico not exempted from taxes is hereby levied for the 1992-93 fiscal year and for each subsequent year, for the amortization and redemption of the general obligations of the Commonwealth. Furthermore, the municipalities are authorized and empowered to levy another additional surtax subject to the requirements established in the Puerto Rico Municipal Financing Act of 1996, and whose first and foremost purpose shall be the servicing and redemption of the general obligations of the municipalities as evidenced by bonds and notes issued pursuant to said Act. The latter surtax shall be in addition to all other taxes imposed by virtue of other laws in effect. The Municipal Revenues Collection Center is hereby empowered and directed to annually collect these and any other property taxes authorized by law."

Section 3.- Subsection (c) of Section 2.04 of Act No. 83 of August 30, 1991, as amended, is hereby amended to read as follows:

"Section 2.04.- Collection and Entry of Taxes in Funds and  
Application of the Proceeds of Taxes

(a) ...

(b) The proceeds of the surtax on property authorized under Section 2.02, shall be entered, in turn, to a trust established by the Municipal Revenues Collection Center with the

Government Development Bank for Puerto Rico, known as the Municipal Public Debt Redemption Fund. With the exception of the portion that constitutes "Excess in the Redemption Fund", the proceeds of these surtaxes shall remain in said Fund and shall be applied by the Government Development Bank for Puerto Rico first and foremost for the payment of the principal and interest on the existing and future general obligations of the municipalities evidenced by bonds or notes or the early redemption of said obligations, including the payment of any premium required for said early redemption."

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

June 10, 2002

Rolando Quevedo-Motta, Esq., Director of the Office of Legislative Services of the Legislature of Puerto Rico, hereby certifies to the Secretary of State that she has duly compared the English and Spanish texts of Act No. 28 (S.B. 206) of the 1st Session of the 14<sup>th</sup> Legislature of Puerto Rico, entitled:

**AN ACT** to amend subsection (i), add a new subsection (n) and redesignate subsection (n) through (y) as subsections (o) to (z), respectively, of Section 3 of Act No. 64 of July 3, 1996, as amended, known as the "Puerto Rico Municipal Financing Act of 1996", to amend subsection (c) of Section 2.02 and subsection (c) of Section 2.04 of Act No. 83 of August 30, 1991, as amended, known as the "Municipal Property Tax Act of 1991", etc.,

and finds the same are complete, true and correct versions of each other.

Rolando Quevedo-Motta