

(H. B. 3509)

(No. 81)

(Approved July 29, 2007)

AN ACT

To amend Section 2; to add a new subsection (r) and rename subsections (r), (s), (t), (u), (v), (w), (x), (y), and (z) as subsections (s), (t), (u), (v), (w), (x), (y), (z), and (aa), respectively, in Section 3; and to add a new Section 29a to Act No. 64 of July 3, 1996, as amended, known as the "Municipal Financing Act of 1996."

STATEMENT OF MOTIVES

As part of the changes introduced to Act No. 120 of October 31, 1994, as amended, known as the "Puerto Rico Internal Revenue Code of 1994," by Act No. 117 of July 4, 2006, as amended, and in the recognition by the Government of Puerto Rico, the Legislature, and the entities that group the Mayors of the Municipalities of Puerto Rico, of the need to provide mechanisms aimed at solving the fiscal problems confronted by the municipalities, a municipal tax on retail sales and use was levied by Act No. 117. To that effect, it is hereby provided that municipalities shall be authorized to use the resources to be obtained from said new levy, to secure the obligations authorized under Act Number 64 of July 3, 1996, as amended, known as the "Puerto Rico Municipal Financing Act of 1996," subject to the parameters, limitations, conditions and requirements established under said statute.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.—Section 2 of Act No. 64 of July 3, 1996, as amended, known as the “Municipal Financing Act of 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 reducing the unnecessary duplication of structures, regulations, norms and procedures, as well as those laws which hinder the efforts of the public administrations that pursue efficiency. In order to facilitate the municipal financing efforts, statutory provisions are hereby incorporated into a single law. Furthermore, the municipalities of Puerto Rico are hereby authorized to contract loans in the form of bonds and notes, as provided in this Act. With this Act, which shall be known as the ‘Puerto Rico Municipal Financing Act of 1996,’ the debenture issue process is facilitated and expedited in a uniform way and updated to conform to the credit process and financing mechanisms, thus attempering this Act to Municipal Reform laws. Thus is the interest of the People of Puerto Rico and the municipal administrations 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.

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, to contract obligations secured by the product of the income or resources derived from the municipal retail sale and use tax, and to issue general obligation bonds or notes, revenue bonds, special obligation bonds, and refinancing bonds, as provided in this Act.”

Section 2.—Section 3 of Act No. 64 of July 3, 1996, as amended, known as the “Municipal Financing Act of 1996,” is hereby amended by adding a new subsection (r) and renaming subsections (r), (s), (t), (u), (v), (w), (x), (y), and (z) as subsections (s), (t), (u), (v), (w), (x), (y), (z), and (aa), respectively, 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) ...

...

...

(r) **Municipal Retail Sale and Use Tax.**—Means the retail sale and use tax levied by municipalities and collected by the Secretary of the Treasury, deposited in the Government Development Bank for Puerto Rico into the Municipal Development Fund and the Municipal Redemption Fund established and defined in Sections 2707 and 2708, respectively, of Act No. 120 of October 31, 1994, as amended, known as the ‘Puerto Rico Internal Revenue Code of 1994,’ available for the granting of loans pursuant to what is set forth in said provisions.

(s) **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.

(t) **Bidding Board.**—Shall mean the Bidding Board constituted by each Municipality whose main responsibility is to adjudicate the bids for,

among other things, the purchase of goods, lease contracts for real and personal property, and non-professional services contracts.

(u) Municipality.—Shall have the same meaning as the term ‘municipality’ is defined in Section 4001 of this title or any succeeding municipal enabling act.

(v) 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.

(w) 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 or said operating revenues of the municipality are encumbered.

(x) 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.

(y) Refinancing.—Shall mean the payment of any obligations with the product of new obligations, when or before they mature.

(z) 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.

(aa) 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 Section twenty-nine-a (29a) is hereby added to Act No. 64 of July 3, 1996, as amended, known as the “Municipal Financing Act of 1996,” to read as follows:

“Section 29a.—Obligations Secured by the Municipal Retail Sale and Use Tax.—

Municipalities are hereby authorized to take money on loan, to be secured and taking as base the product of the income or resources derived from the municipal retail sale and use tax, as defined in this Act. Payment of these loans by the municipalities shall be chargeable to funds received on account of the Municipal Retail Sale and Use Tax. Loans authorized under this Section shall not be subject to the limitations on borrowing margins contained as part of this Act.

The procedure for issuing these loans shall be governed by the provisions of Sections 7, 10 and 11 of this Act, provided these are not incompatible with what is established in this Section and in Act No. 120 of October 31, 1994, known as the ‘Puerto Rico Internal Revenue Code of 1994,’ as amended, in which case, the provisions contained in said Act shall prevail.”

Section 4.—Rulemaking Authority.—

The President of the Government Development Bank for Puerto Rico is hereby authorized to prepare and approve, within a term not greater than 30 days after the date of approval of this Act, all regulations needed in relation to the loans to be conferred pursuant to this Act for its implementation, without being subject to the provisions of Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico.”

Section 5.—Severability Clause.—

If any section or provision of this Act were to be found null or unconstitutional by a court with competence and jurisdiction, the ruling pronounced shall neither affect nor invalidate the remaining provisions of this Act, and its effect shall be limited to the paragraph, section, part or provision thus found null or unconstitutional.

Section 6.—Effectiveness.—

This Act shall take effect immediately after its approval.