

(S. B. 194)

(No. 2)

(Approved January 14, 2009)

AN ACT

To amend Section 5 of Act No. 103 of May 25, 2006, known as the “Commonwealth of Puerto Rico Government Fiscal Reform Act of 2006,” in order to suspend for two fiscal years, until June 30, 2011, the prohibition to use debts, loans, or any other financing mechanism to cover operating expenses and to balance the General Budget of the Commonwealth of Puerto Rico; to require that the Government Development Bank for Puerto Rico file a quarterly report at the Office of the Secretary of the Senate and the Clerk of the House, itemizing any financing of operating expenses during the preceding quarter.

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.

On May 25, 2006, the Legislature approved Act No. 103 of May 25, 2006, known as the “Commonwealth of Puerto Rico Government Fiscal Reform Act of 2006,” with the purpose, among others, of prohibiting the use of debts, loans or any other financing mechanism to cover the operating expenses and to balance the budget. However, the magnitude of the operational deficit of the Government for Fiscal Year 2008-2009 and the projected deficits for the three subsequent fiscal years require the provisional suspension of this restriction, as an extraordinary measure, to give the Government Development Bank for Puerto Rico the flexibility needed to grant loans to the Government so that it may continue its operations without interruption, while short, medium and long-term measures are implemented to cut expenses and to increase revenues and achieve a balanced budget.

This suspension is granted for the remainder of the present fiscal year and for the next two fiscal years, ending on June 30, 2011, to give a reasonable opportunity for the implementation of the measures directed to achieving a balanced budget. The Legislature may extend this suspension for an additional period through a joint resolution to such effect if it determines that said extension is needed to continue the efforts directed to the achievement of a balanced budget.

To oversee the responsible use of the powers authorized in this Act, it is required that the Government Development Bank for Puerto Rico file at the Office of the Secretary of the Senate and the Clerk of the House, a quarterly report itemizing any financing executed during the preceding quarter to cover the operating expenses of the Government.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.—Section 5 of Act No. 103 of May 25, 2006, is hereby amended to read as follows:

“Section 5.—Prohibition of the Use of Debts.—

The use of debts, loans or any other financing mechanism to cover operating expenses and to balance the General Budget of Expenses of the Government of the Commonwealth of Puerto Rico is hereby prohibited. Savings resulting from refinancing shall not be used to cover operating expenses and/or to balance the budget of expenses, unless otherwise provided by a Joint Resolution. This prohibition shall not include those refinancing measures that have the effect of reducing the cost of the debt, without increasing the original amount nor the debt approved by the Legislature prior to the effectiveness of this Act. This Section shall not apply to instruments issued pursuant to Act No. 1 of June 26, 1987, as amended, known as an ‘Act to Issue Notes in Advance of Income Taxes of

the Commonwealth of Puerto Rico.’ The provisions of this Section 5 are hereby suspended as of the date of approval of this Act until June 30, 2011. The Legislature may extend this suspension for an additional period through legislation to such effect if it determines that said extension is necessary to continue the efforts directed to achieving a balanced budget.”

Section 2.—Quarterly Reports.—As of the date of effectiveness of this Act, the Government Development Bank for Puerto Rico is hereby required to file a quarterly report itemizing any financing executed during the preceding quarter before the Office of the Secretary of the Senate and the Clerk of the House.

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. 2 (S.B. 194) of the 1st Session of the 16th Legislature of Puerto Rico:

AN ACT to amend Section 5 of Act No. 103 of May 25, 2006, known as the “Commonwealth of Puerto Rico Government Fiscal Reform Act of 2006,” in order to suspend for two fiscal years, until June 30, 2011, the prohibition to use debts, loans, or any other financing mechanism to cover operating expenses and to balance the General Budget of the Commonwealth of Puerto Rico; to require that the Government Development Bank for Puerto Rico file a quarterly report at the Office of the Secretary of the Senate and the Clerk of the House, itemizing any financing of operating expenses during the preceding quarter,

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