

(H. B. 774)

(No. 102-2013)

(Approved August 13, 2013)

AN ACT

To amend Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of Act No. 10 of May 18, 1959, known as the “Mayagüez Port Commission Act,” in order to update the Act to reflect our social and economic reality; the current reality of the Mayagüez Port Commission; rename said Commission as the “Mayagüez Ports Commission”; and for other purposes.

STATEMENT OF MOTIVES

During recent years, the western region of Puerto Rico has been developing its economy around the tourist attractions located therein. For such purposes, Act No. 158 of December 20, 2005, known as the “Porta del Sol-Puerto Rico Tourist Destination Act,” was created in order to provide a uniform and coordinated plan between the towns that comprise it to develop the region’s tourism. Thus, the Municipality of Mayagüez put into operation the Mayagüez Port Commission, a public entity with property rights and administrative authority over the city’s port. As a result, a concentrated effort was made by the cities of Porta del Sol and the Mayagüez Port Administration to increase tourism in the western region of Puerto Rico.

Since 1991, with the approval of Act No. 81 of August 30, 1991, as amended, known as the “Commonwealth of Puerto Rico Autonomous Municipality Act of 1991,” the Legislative Assembly provided municipalities with the tools necessary to enable social, cultural, and economic development. Furthermore, Joint Resolution No. 790 of the House of Representative which declared the western region of Puerto Rico as a “Priority Attention Zone for Economic Development” was approved on

August 29, 2002, As a result, there is a clear public policy in favor of the continuous economic development of Puerto Rico's western region, and of giving the Municipality of Mayagüez all the tools necessary to fulfill said purpose, including the authority to acquire, by any legal means, any property necessary to achieve such purposes.

Moreover, Act No. 10 of May 18, 1959 is hereby amended in order to reflect the current reality of the Mayagüez Port Commission. This Commission began operations pursuant to its enabling act, through Resolution No. 81 of May 15, 2002, as amended, and Executive Order 2003-77 of December 18, 2002. The purpose of the amendments is to attune the legislation approved in 1959 to the government's current management practices. Particularly, and among other things, it is necessary to clarify that the Commission is and has always been a public entity of the Commonwealth of Puerto Rico with every power to regulate, investigate, and issue determinations in compliance with the definition of "agency" as provided in Section 1.3 of Act No. 170 of August 12, 1988, as amended, known as the "Uniform Administrative Procedures Act."

Furthermore, in order for the Commission to be able to issue bonds that are attractive to investors and provide the flexibility needed to issue its bonds from time to time without the limitations of existing restrictions in the law, this amendment eliminates the maximum limit of six percent (6%) annual interest to be earned on bonds issued by the Commission and provides for the application of the prevailing market interest rate. Moreover, for the purpose of adjusting the provisions of the Act on the cost of acquisitions or works to the current economic reality of Puerto Rico, the Act is hereby amended to increase from one thousand dollars (\$1,000) to one hundred and ninety-five thousand dollars (\$195,000) the estimated amount to purchase goods, services, and supplies without calling for bids and to one hundred and ninety-five thousand dollars (\$195,000) the estimated amount for construction

works and capital improvements without calling for bids, upon requesting three (3) estimates and selecting the one which is most beneficial for the Commission's interests.

Likewise, in the interest of providing more flexibility to the Mayagüez Port Commission, the Commissioner per diems are hereby modified for each meeting day they attend so they are prescribed by the Commission's bylaws, and it is hereby included among the powers and authorities of the Commission the power to procure insurance against losses, the power to create subsidiary corporations, and the power to exercise the authorities conferred to private corporations that are consistent with the mission and purpose of the Mayagüez Port Commission.

Lastly, the reference to the title of General Manager is hereby amended to Executive Director to make it more consistent with the other government entities that refer to said office as Executive Director.

The amendments promoted by this Act expand and add more flexibility to the powers and authorities conferred to the Mayagüez Port Commission in order to facilitate the attainment of its purposes and provide the necessary tools to promote the tourism and commercial development of the Municipality of Mayagüez and the municipalities that comprise Porta del Sol. In light of the foregoing and pursuant to the public policy of the Commonwealth of Puerto Rico, this Legislative Assembly approves the amendments of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 1 of Act No. 10 of May 18, 1959 is hereby amended to read as follows:

“Section 1.- This Act shall be known as the “Mayagüez Ports Commission Act.”

Section 2.- Section 2 of Act No. 10 of May 18, 1959 is hereby amended to read as follows:

“Section 2.- There is hereby created in the Municipality of Mayagüez a public body corporate and politic to be known as the “Mayagüez Ports Commission.” This Commission began operations in accordance with this Act by virtue of Resolution No. 81 of May 15, 2002, Series 2001-2002, approved by the Municipal Legislature of the Municipality of Mayagüez, as amended, and Executive Order 2003-77 of December 18, 2002.

Said Resolution, also established the properties, goods, and/or facilities to be transferred and placed under the jurisdiction of the Ports Commission, and the terms and conditions for such acquisitions; provided, that the municipality gives its consent to cancel any franchise previously awarded to the municipality for business operations.

The Ports Commission may acquire and place under its jurisdiction any property, goods, and/or additional facilities including maritime, air, and/or ground transportation facilities and/or lands whose use is deemed necessary and convenient to fulfill the purposes expressed in this chapter and to contribute to the tourism and commercial development of the western region of Puerto Rico. Likewise, and if deemed necessary by the Ports Commission, any franchise previously awarded by the previous title holder of such properties, goods, and/or additional facilities shall be considered as canceled.”

Section 3.- Section 3 of Act No. 10 of May 18, 1959, is hereby amended to read as follows:

“Section 3.- The powers of the Ports Commission shall be exercised by a Board of Commissioners consisting of five (5) members appointed by the Mayor. The first five (5) Commissioners appointed shall hold office for terms of one (1), two (2), three (3), four (4), and five (5) years, respectively, from the date of their appointment; but subsequently, the Commissioners shall be appointed to hold office for a term of five (5) years. Any vacancies shall be filled by the Mayor through

appointments for the remainder of the unexpired term; provided, that all commissioners shall hold office until their successors have been appointed and take office. Three (3) Commissioners shall constitute quorum, except that any decision of the Commission shall have the affirmative vote of at least three (3) commissioners. The Board of Commissioners shall designate a chairman from among its members and may also adopt, amend, or repeal bylaws and other regulations of the Ports Commission not in conflict with this Act or other Acts, providing for the administration of the Ports Commission. The members of the Commission shall be entitled to a per diem of one hundred dollars (\$100) for each day of sessions attended, which can be increased up to a maximum of twenty-five percent (25%) once every four (4) years. Likewise, they shall be entitled to the reimbursement of expenses incurred while performing their duties, as provided in the Travel Expense Regulation or the applicable regulations.

Inefficiency or neglect of duty or malfeasance in office shall be grounds for the Mayor to remove a commissioner; but no commissioner may be removed unless he has been given an opportunity to defend himself personally or through counsel. When the charges are preferred by a person other than the Mayor, then the Mayor shall have the power to hold the hearing and decide thereon. When the charges are preferred by the Mayor, the Court of First Instance shall take cognizance thereof and decide thereon. In all cases the commissioners shall have the right to appeal before the Court of Appeals and request further appellate review to the Supreme Court of Puerto Rico. In the event of the removal of a commissioner the record of the proceedings, along with the charges and findings thereon, shall be filed with the office where the appointment of such commissioner is filed.

The Board of Commissioners shall appoint an Executive Director for such a term and at such compensation as the Board deems proper. The Board shall establish the initial salary that the Executive Director shall earn, taking into account the salary

scale established for such office in the Classification and Retribution Plan of the Ports Commission, which shall comply with the Public Service Human Resources Administration Act, as amended (or any subsequent Act). The Executive Director shall be in charge of the general supervision of all matters appertaining to the Ports Commission and shall have the powers specified in the Commission's bylaws.”

Section 4.- Section 4 of Act No. 10 of May 18, 1959, as amended, is hereby amended to read as follows:

“Section 4.- The purpose of the Ports Commission shall be to develop, approve, acquire, construct, manage, own, operate, and administrate all port businesses, and it shall have and may exercise all such rights and powers as may be necessary or convenient for the fulfillment of these purposes, including, but without limitation, the following:

(a) To have perpetual existence as a corporation.

(b) To adopt, alter, and use a corporate seal of which judicial notice shall be taken.

(c) To prescribe, adopt, amend, and repeal bylaws to govern the manner in which its general business shall be conducted and to exercise and perform the powers and duties granted to or imposed on it by law.

(d) To have full control over and intervene in any venture acquired or constructed, including the power to determine the nature of and the need to incur all expenditures and the manner in which such expenditures shall be incurred, authorized, and defrayed, and to prescribe, adopt, amend, and repeal such rules and regulations as may be necessary or proper for the exercise and performance of its powers and duties, or to regulate the rendering, sale, or exchange of port services or facilities.

(e) To sue and be sued.

(f) To enter into contracts and execute any instruments as are necessary or convenient in the exercise of any of its powers.

(g) To prepare, or cause to be prepared plans, projects, and expense budgets for the construction, reconstruction, extension, improvement, expansion, or repair of any undertaking or any part or parts thereof, and from time to time modify such plans, projects, and budgets.

(h) To acquire in any lawful manner including, but not limited to acquisition by purchase, whether by agreement or eminent domain, lease, bequest, devise, or gift, and to hold, maintain, use, and operate any undertaking or parts thereof.

(i) To produce, develop, manufacture, hold, conserve, use, distribute, deliver, exchange, sell, lease, and otherwise dispose of any and all equipment, supplies, services, goods, and such other real and personal property as the Ports Commission may deem necessary, proper, incidental, or convenient in connection with its activities.

(j) Hold, and use any property, real, personal, or mixed-use, tangible or intangible, or any interest therein, it deems necessary or convenient for carrying out the purposes of the Ports Commission, and, subject to the limitations set forth in this Act, to lease as lessor, or exchange any property or interest therein at any time acquired by it.

(k) To construct or reconstruct any undertaking or any part or parts thereof, and any additions, improvements, and extensions to any undertaking of the Ports Commission by contract or contracts, or under, through, or by means of its own officials, agents, and employees.

(l) To determine, fix, alter, impose, and collect reasonable rates, fees, rent, and other charges for the use of the facilities or services of the Ports Commission, or other commodities sold, rendered, or furnished by the Ports Commission pursuant to the procedure established in the Uniform Administrative Procedures Act, Act No.

170 of August 12, 1988, as amended (or any subsequent Act), which shall be sufficient to cover any expenses incurred by the Ports Commission for the conservation, development, improvement, extension, repair, maintenance, and operation of its facilities and properties, to pay the principal of and interest on its bonds, and for fulfilling the terms and provisions of the agreements entered into with or for the benefit of purchasers or holders of any bonds of the Ports Commission; Provided, that when fixing rates, fees, rent, and other charges the Ports Commission shall take into account such factors that promote the use of its facilities, and, furthermore, that such powers over fees may be executed through regulations or any other method consistent with the Act, and that the Ports Commission shall have quasi-judicial power and jurisdiction to address claims regarding any controversy that arises due to the imposition of fees, including, but not limited to, third-party fees related to same, as well as the power to impose administrative fines, that while in the exercise of fixing rates, fees, rent, and other charges, the Ports Commission shall assess such factors that encourage the broadest and most varied uses that are financially feasible.

(m) To appoint such officers, agents, and employees and vest them with such powers and duties, and to fix, change, and pay such compensation for their services as the Ports Commission may determine through the implementation of a Classification and Retribution Plan.

(n) To borrow money, make and issue Ports Commission bonds for any of its corporate purposes, or for the purpose of financing, refinancing, paying or redeeming any of its bonds or obligations, whether outstanding or assumed, and to secure payment of its bonds and of any and all obligations, by pledging, mortgaging, or placing any other lien on all or any of its contracts, revenues, income, or property.

(o) To make and issue bonds for the purpose of consolidating, refunding, purchasing, paying, or redeeming any of the outstanding bonds or obligations issued

or assumed by it or any bonds or obligations the principal or interest of which is payable in whole or in part from its revenues.

(p) To accept grants from, and enter into contracts, leases, agreements, or other transactions with any municipality, federal agency and/or agencies, public corporations, entities or instrumentalities of the Commonwealth of Puerto Rico; and to expend the proceeds of any such grants for any corporate purposes.

(q) To sell, or otherwise dispose of, any real, personal, or mixed-use property, or any interest therein, that in the judgment of the Ports Commission is no longer necessary for carrying on the business of the Ports Commission or for effectuating the purposes of this chapter.

(r) To enter any lands, bodies of water, or property, upon notifying the owners or holders thereof, or their representatives, for the purpose of making surveys, soundings, or examinations.

(s) To promulgate rules and regulations concerning rates, tariffs and services that are consistent with the adequate and proper development of the resources of the ports of Puerto Rico.

(t) To procure insurance against losses in the amounts and with insurers accredited by the Office of the Insurance Commissioner and the Department of the Treasury, whose insurance policies may include, without it being deemed a limitation, the civil liability insurance for directors, officers, agents, and employees, public liability insurance, and property insurance, among others. In the case of land or property leased to third parties, it shall be required that same acquire the necessary and appropriate insurance, encouraging the corresponding endorsements in favor of the Ports Commission and any other government entity that may become an interested party.

(u) To exercise any other corporate powers that are not incompatible with those expressed herein, that are granted to public and private corporations by virtue

of the laws of Puerto Rico, and exercise such powers within and without of Puerto Rico to the same extent as any natural or juridical person would or would be allowed to do so; and

(v) To take any actions or measures as are necessary or convenient to exercise the powers granted thereto under this Act and under Act No. 170 of August 12, 1988, as amended, known as the ‘Uniform Administrative Procedures Act.’”

Section 5.- Section 5 of Act No. 10 of May 18, 1959 is hereby amended to read as follows:

“Section 5.- All funds and other securities of the Ports Commission shall be deposited with qualified depositories accepted for the funds of the Government of the Commonwealth of Puerto Rico but shall be kept in a separate account or accounts in the name of the Ports Commission. The Comptroller or his representative shall from time to time examine the accounts and books of the Ports Commission, including its receipts, disbursements, contracts, leases, sinking funds, investments, and any other matters relating to its financial condition, and shall report thereon to the Governor and the Legislative Assembly.”

Section 6.- Section 6 of Act No. 10 of May 18, 1959 is hereby amended to read as follows:

“Section 6.- Upon request from the Ports Commission, the Governor of Puerto Rico, the Secretary of Transportation and Public Works, the Municipality of Mayagüez, or any other agency of the Commonwealth of Puerto Rico with authority to do so, it shall have power to purchase, whether by agreement or eminent domain, or through any other lawful means, title in the name and on behalf of the Commonwealth, any property title or interest therein which the Ports Commission deems necessary or convenient for its purposes. The Ports Commission may make available to said officers in advance such funds as may be needed for the payment of said property, and, upon acquisition thereof, may reimburse the Government of

the Commonwealth of Puerto Rico for any amount paid which was not given in advance. Upon such reimbursement to the Government of the Commonwealth of Puerto Rico, or, if the total cost or price has been previously advanced by the Ports Commission, within such reasonable period as determined by the Governor, the title to property so acquired shall pass to the Ports Commission. The Governor, may make such arrangements as he may deem appropriate for the Ports Commission to operate and control said property on behalf of the Government of the Commonwealth of Puerto Rico during the intervening period before said title is passed to the Ports Commission. The power hereby conferred shall not limit or restrict in any manner or to any extent the power of the Ports Commission itself to acquire property. The title to any property of the Commonwealth heretofore or hereafter acquired, and which is deemed necessary or convenient for the purposes of the Ports Commission, may be transferred to the Ports Commission by the official in charge of said property or having the custody thereof, upon such terms and conditions as shall be determined by the Governor.”

Section 7.- Section 7 of Act No. 10 of May 18, 1959 is hereby amended to read as follows:

“Section 7.- Notwithstanding any other provision of law to the contrary, the Municipality of Mayagüez and the public instrumentalities of the Commonwealth of Puerto Rico are hereby authorized to acquire, grant, and convey to the Ports Commission, upon its request and with or without consideration, any property, moneys or interest therein (including property already devoted to public use) which the Ports Commission may deem necessary or convenient to effectuate the purposes of the Ports Commission. The Ports Commission shall have the right and power to construct or place any part or parts of any of its undertakings across, in, over, under, through, or along any street, public highway, or any lands which are now or may hereafter be the property of the Government of the Commonwealth of Puerto Rico

or the Municipality of Mayagüez, upon obtaining the necessary permits therefor pursuant to Section 22 of Act No. 213 of May 12, 1942, as amended. The Ports Commission shall restore any such street, highway, or lands, so they are as similar as possible to their condition or state at the beginning of the work, and shall not use the same in a manner that unnecessarily impairs their usefulness.”

Section 8.- Section 8 of Act No. 10 of May 18, 1959 is hereby amended to read as follows:

“Section 8.- All purchases made and contracts for supplies or services, except for personal services, entered into by the Ports Commission, including its capital construction contracts, shall be made by calling for bids through publications or proposals by mail sufficiently in advance of the opening of the bids so that the Ports Commission can guarantee proper knowledge thereof and attendance. Provided, that when the estimated amount for the purchase of goods, services, and supplies and for the construction of works and capital improvements do not exceed (i) the upper limit established through the Regulations for Bids approved by the Commission; (ii) up to one hundred and ninety-five thousand dollars (\$195,000) for purchases and for construction works and capital improvements may be carried out without issuing notice or calling for bids. For (i) purchases greater than five thousand dollars (\$5,000) and lower than one hundred and ninety-five thousand dollars (\$195,000) and (ii) for construction works and capital improvements whose value exceeds fifty thousand dollars (\$50,000), but are less than one hundred and ninety-five thousand dollars (\$195,000), the Commission shall request estimates from at least three (3) suppliers in order to select the one which is most beneficial for the Commission’s interests. No bidding procedures shall be required, however, when:

(1) The immediate delivery of materials, supplies, and equipment, or the performance of services is required due to an emergency, as determined by the Commission pursuant to applicable regulations thereof or due to the need to address

a situation that puts at risk the life and property within port facilities, or impairs the use of the port facilities which may cause an immediate and recurrent loss of operating income; (2) spare parts, accessories, or supplemental equipment or services are required for previously furnished or contracted goods or services; (3) when professional or expert works or services are required and the Ports Commission deems it in the best interest of good administration for such services and works to be contracted without such announcements; or (4) whenever prices are noncompetitive because there is a single supply source or because prices are regulated by law; in such cases, the purchase of materials, supplies, and equipment, or the procurement of such services, may be made through the open market according to the current business practices; (5) an open bid or contract in effect exists that includes the non-professional good or service to be acquired, in an entity of the central government or municipality up to one hundred and ninety-five thousand dollars (\$195,000). Upon comparing proposals and making adjudications, due consideration shall be given to factors (in addition to whether the bidder has complied with the specifications), such as to the ability of the bidder to carry out construction work of the nature involved in the contract under consideration; the relative quality and adaptability of the materials, goods, equipment, or services; the financial responsibility of the bidder and his expertise, experience, business integrity reputation, and ability to render repair and conservation services; and the deadline for the delivery or performance offered. The Ports Commission may approve regulations for the presentation of bids.”

Section 9.- Section 9 of Act No. 10 of May 18, 1959, is hereby amended to read as follows:

“Section 9.- (a) The Ports Commission is hereby authorized to issue, at one time or from time to time, revenue bonds of the Ports Commission for the purpose of acquiring or constructing any property that promotes the zone’s business

development and/or improves or expands the existing infrastructure or any new acquisition. The bonds of each issue shall bear such date, shall mature at such time or times not exceeding forty (40) years from their respective dates of issue, and shall bear interest at such rate or rates prevailing in the market, as determined by the Board of Commissioners and may be paid before the maturity date thereof, at the discretion of the Board of Commissioners, at such price or prices and under such terms and conditions as may be fixed by the Board of Commissioners prior to the issuance of the bonds. The Board of Commissioners shall determine the form and manner of the execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places for the payment of principal and interest, which might be at the office of the Secretary of the Treasury or at any bank or trust company within or without the Commonwealth of Puerto Rico. Whenever a bond or coupon bears the signature or facsimile signature of any officer who has ceased in his duties before the delivery of said bonds, such signature or facsimile shall, nevertheless, be valid and sufficient for all purposes as if such officer had remained in office until such delivery. Notwithstanding any other provision of this Act or recital of any bonds issued pursuant to the provisions of this Act, all these bonds shall be considered negotiable instruments under the laws of Puerto Rico. The bonds may be issued as coupon bonds, registered bonds, or both, as determined by the Board of Commissioners, and provision shall be made for the registering of any coupon bonds as to the principal as well as to the principal and interest, and for the reconversion of any registered bonds into coupon bonds as to the principal and interests. The Board of Commissioners may sell such bonds in such manner, either at public or private sale, and at such price, as it may determine most desirable to the best interests of the Ports Commission, but such sale shall not be done at a price so low as to require the interest paid on the money so received to be at a rate higher than that prevailing in the market,

computed in relation to the absolute maturity or maturities of the bonds according to the normal bond amortization schedule, excluding, however, from such computations, the amount of any premium payable upon the redemption of any bonds before maturity.

(b) The proceeds of each bond issue shall be used exclusively for the purpose for which such bonds were authorized, and shall be disbursed in such form and under such restrictions, if any, as the Board of Commissioners may provide in the resolution authorizing the issuance of such bonds or in the trust contract securing the same. Unless otherwise provided in the resolution authorizing the bonds or in any trust contract securing such bonds, if the proceeds of said bonds are, by an erroneous computation or for any other cause, less than said cost, additional bonds may be issued in an identical manner to provide the amount of such deficit and the same shall be considered as of the same issuance and shall be payable from the same fund without preference or priority with regard to the bonds originally issued for the same purpose.

(c) The resolution providing for the issuance of revenue bonds, and any trust contract securing said bonds, may further contain such limitations on the issuance of additional revenue bonds as the Board of Commissioners may determine, and said additional bonds may be issued under such restrictions and limitations as said resolution or trust contract may specify.

(d) Before the preparation of the definitive bonds, the Ports Commission may, under similar restrictions, issue interim receipts or provisional bonds with or without coupons, exchangeable for definitive bonds when said bonds have been issued and are ready for delivery. The Board of Commissioners may provide for the replacement of any bonds that may be mutilated, destroyed, stolen, or lost.

(e) The revenue bonds issued in accordance with the provisions of this Act shall not constitute a debt of the Commonwealth of Puerto Rico nor shall pledge the

good faith and credit of the Commonwealth of Puerto Rico, and said bonds shall be payable solely from the funds provided therefor, and a recital to that effect shall be included in the text of the bonds.

(f) The Board of Commissioners may fix and revise from time to time the rentals and other charges for the services or facilities to be furnished by any undertaking for which any bonds are issued pursuant to the provisions of this Act, or for the right of use of any undertaking, or for receiving any of said services. Any rentals and other charges pledged for the payment of any such bonds shall be fixed and revised so that the revenues therefrom received by the Ports Commission, jointly with any other funds available, will be at least sufficient at all times to meet the maintenance, repair and operation cost of said undertaking whose revenues are pledged in accordance with these provisions, including reserves for such purposes, and to pay the principal of and interest on the bonds for whose payment said revenues are pledged, and to provide the pertinent reserves.

(g) Any or each revenue bond issue authorized in accordance with the provisions of this Act may, in the discretion of the Board of Commissioners, be secured by a trust contract by and between the Ports Commission and a corporate trustee, that may be any trust company or bank having the powers of a trust company within or without of the Commonwealth. The resolution authorizing the issuance of the bonds or said trust contract may pledge all or any part of the revenues to be received by any undertaking, and any other funds at any time received by the Port Commission, which the Board of Commissioners may determine are available therefor, and may contain such provisions for the protection and exercise of the rights and remedies of the bondholders as are reasonable and proper and not in violation of the law, including stipulations setting forth the duties of the Ports Commission in relation to the acquisition or construction of such undertaking, and in relation to the maintenance, repair, operation, and insurance of the undertaking,

the establishing and revising of rentals and other charges, the custody, protection and application of all moneys, and the employ of consulting engineers and architects in relation to said acquisition, construction or operation. Such resolution or trust contract may recite the rights and remedies of the bondholders and the trustee, if any, and may limit the individual right of action of the bondholders. Such resolution or trust contract may contain such other provisions which, in addition to the foregoing, the Board of Commissioners may consider reasonable and proper for the security of the bondholders.

(h) The Board of Commissioners is hereby authorized to dispose of the proceeds of the sale of the bonds and to provide for the manner of payment of the bonds from the revenues of any undertaking and from any other funds available to any official, board or depository that the Board of Commissioners may have designated for the custody of such funds, and shall further have authority to set the disbursement procedure, fixing such protection and restrictions as it may deem convenient. Expenses incurred to carry out the provisions of said resolution or trust contract may be considered as part of the operation cost.

(i) All pledges made on the rentals and other funds pursuant to the provisions of this Act shall be valid and binding from the time such pledges are made. All such rentals and other funds thus pledged and hereafter received by the Ports Commission shall immediately be subject to the lien on such pledges without any physical delivery thereof or additional action, and the lien on said pledges shall be valid and binding against other parties having civil claims of whatever nature for damages, or contractual or of any other nature, against the Ports Commission or the Board of Commissioners, regardless of whether said parties have been notified.

(j) All moneys received pursuant to the power conferred in this Act shall be considered as trust funds to be withheld and applied solely as provided in this Act. The resolution authorizing the bond issue or trust contract securing said bonds

shall provide that any officer, bank, trust company, or fiscal agent to whom or to which said moneys are paid shall act as trustee of said moneys and shall withhold and apply same for the purposes set forth, subject to the regulations provided by the resolution or trust contract.

(k) Any holder of revenue bonds issued pursuant to the provisions of this chapter, or of any coupons pertaining thereto, and the trustee under any trust contract, except to the extent the rights herein conferred may be limited by the resolution authorizing the issuance of said bonds or a trust contract, may, in law or equity, sue, bring action, institute a mandamus or any other proceeding to protect and enforce any and all the rights under the laws of the Commonwealth of Puerto Rico or conferred by the provisions of this Act or according to said resolution or trust contract, and may enforce performance of all the duties required by this Act or by said resolution or trust contract to be performed by the Ports Commission or the Board of Commissioners, or by any officer thereof, including the fixing, imposition, and collection of rentals and other charges.

(l) The Board of Commissioners is hereby authorized to issue from time to time convertible revenue bonds of the Ports Commission for the purpose of funding any revenue bonds of the Ports Commission heretofore or hereafter issued in connection with any undertaking, including the payment of any redemption premium therefor and any interest accrued or to be accrued up to the redemption date of such bonds. The Board of Commissioners is hereby further authorized to issue, from time to time, convertible revenue bonds of the Ports Commission for the combined purpose of: (a) funding any revenue bonds or refunding bonds of the Ports Commission heretofore or hereafter issued in connection with any undertaking, including the payment of any redemption premium and any interest accrued or to be accrued up to the redemption date of such bonds, and (b) to pay in full or in part the cost of acquisition or construction of any additional undertaking. The issuance of

such bonds, the maturity thereof and other pertinent details, the rights and remedies of bondholders, and the rights, powers, privileges, duties and obligations of the Ports Commission and of the Board of Commissioners with regard thereto, shall be governed by the abovementioned provisions of this Act insofar as they are applicable.

(m) The Board of Commissioners is hereby authorized to accept, in the name of the Ports Commission, grants of money or materials or property of any kind for any undertaking, from the Commonwealth of Puerto Rico, the United States of America or any agency thereof, or from any private agency, corporation or individual, under the terms and conditions that may be imposed by the Commonwealth of Puerto Rico, the United States of America or any agency thereof, or by said private agency, corporation, or individual. The bonds issued pursuant to the provisions of this Act and the income derived therefrom shall at all times be exempt from the payment of income tax.”

Section 10.- Section 10 of Act No. 10 of May 18, 1959 is hereby amended to read as follows:

“Section 10.- (a) In the event that the Ports Commission defaults in the payment of principal of or interest on any of its bonds after the same become due, whether it be a default in the payment of principal and interests or of interest only at maturity or upon call for redemption, and such default continues for a period of thirty (30) days, or in the event that the Ports Commission or the Board of Commissioners, agents or employees thereof default in any agreement made with the bondholders, any holder or holders of such bonds (subject to any contractual limitation as to a specific percentage of such holders), or trustee therefor, shall have the right to apply in an appropriate judicial proceeding to any court of competent jurisdiction in Puerto Rico for the appointment of a receiver of the undertakings or parts thereof, the income or revenues of which are pledged to the payment of the bonds so in default,

whether or not all the bonds have been declared due and payable and whether or not such holder, or trustee therefor, is seeking or has sought to enforce any other right or to exercise any remedy in connection with such bonds. Upon such application the court may appoint a receiver of such undertaking; but if the application is made by the holders of twenty-five percent (25%) of the principal amount of such outstanding bonds, or by any trustee for holders of bonds in such principal amount, then the court shall be under the obligation to appoint a receiver of such undertakings.

(b) The receiver so appointed shall forthwith, on his own or through his agents and attorneys, enter into and take possession of such undertakings and each and every part thereof, and may exclude the Ports Commission, its officers, agents, and employees and all persons claiming under them, wholly therefrom, and shall have, hold, use, operate, manage, and control the same and each and every part thereof; and, in the name of the Ports Commission or otherwise, as the receiver may deem best, shall exercise all the rights and powers of the Ports Commission with respect to such undertakings as the Ports Commission itself might do. Such receiver shall maintain, restore, insure, and keep insured, such undertakings and from time to time shall make all such necessary or proper repairs as such receiver may deem expedient, and shall establish, levy, maintain, and collect such rates, fees, rentals, and other charges in connection with such undertakings as such receiver may deem necessary, proper, and reasonable, and shall collect and receive all income and revenues and deposit the same in a separate account and apply the income and revenues so collected and received in such manner as the court shall direct.

(c) Whenever all that is due upon the bonds and interest thereon, and upon any other notes, bonds, or other obligations and interests thereon, having a charge, lien, or encumbrance on the revenues of such undertakings and under any of the terms of any covenants or agreements with bondholders has been paid or deposited as provided therein, and all defaults in consequence of which a receiver may be

appointed have been cured and made good, the court may, in its discretion and after such notice and public hearing as it deems reasonable and proper, direct the receiver to surrender possession of such undertakings to the Ports Commission; the same right of the holders of the bonds to obtain the appointment of a receiver to exist upon any subsequent default as hereinabove provided.

(d) Such receiver shall act, in the performance of the powers herein conferred upon him, under the direction and supervision of the Court and shall at all times be subject to the Court's orders and decrees and may be removed thereby. Nothing herein contained shall limit or restrict the jurisdiction of the Court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any functions specifically set forth in this Act.

(e) Any provision to the contrary in this Section notwithstanding, such receiver shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of whatever kind or character belonging to the Ports Commission and useful for such undertakings, but the powers of any such receiver shall be limited to the operation and maintenance of such undertakings, and the collection and application of the income and revenues therefrom, and the court shall not have jurisdiction to issue any order or decree requiring or permitting said receiver to sell, mortgage, or otherwise dispose of any such assets.”

Section 11.- Section 11 of Act No. 10 of May 18, 1959 is hereby amended to read as follows:

“Section 11.- (a) Any holder of bonds or any trustee therefor, subject to any mandatory contractual obligations of holders of bonds or trustees therefor, including, but not limited to, the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, shall have the right for the equal benefit or

protection of every holder of bonds similarly situated, may be entitled and empowered:

(1) By mandamus or any other suit, action or proceeding at law or in equity, to enforce any and all rights against the Board of Commissioners and the Ports Commission and its officers, agents, and employees, to compel any of the latter to perform and carry out duties and obligations under this Act, and to honor its agreements and covenants with bondholders.

(2) By action or suit in equity, to require the Board of Commissioners and the Ports Commission to account as if they were the trustees of an express trust.

(3) By action or suit in equity, enjoin any acts or things that may be unlawful or in violation of rights of bondholders.

(4) Bring action upon the bonds.

(b) No remedy conferred by this Act to any holder of bonds or trustee therefor, is intended to be exclusive of any other remedy, but each remedy is cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by this Act or any other law. A waiver of any default or breach of duty or contract by any bondholder or his trustee shall not apply to or affect any subsequent default or breach of duty or contract, nor impair any rights or remedies in connection therewith. The delay or omission of any bondholder or his/her trustee to exercise any right or power with regard to a breach shall not impair the right or power and is not a waiver of the default or acquiescence in it. Any substantive right and remedy conferred upon bondholders may be enforced or exercised from time to time and as often as it is deemed expedient. If any suit, action, or proceeding to enforce any right or exercise any remedy is abandoned or determined adversely to the bondholder or his/her trustee, then in each of these cases, the Ports Commission and such bondholder or

trustee shall be restored to their former positions, rights, and remedies as if such suit, action, or proceeding had not been brought.”

Section 12.- Section 12 of Act No. 10 of May 18, 1959 is hereby amended to read as follows:

“Section 12.- The Ports Commission shall submit to the Mayor, the Office of the Comptroller, and the Governor, as soon as practicable after the close of each fiscal year, but prior to the end of the calendar year or December 31st of each year: (1) a financial statement and complete report of the businesses of the Ports Commission for the preceding fiscal year, and (2) a complete report on the status and progress of all its undertakings and activities since the creation of the Ports Commission or the date of its last such report. The Ports Commission shall also submit, at such other times as may be required, official reports of its businesses and activities under this Act.”

Section 13.- Section 13 of Act No. 10 of May 18, 1959 is hereby amended to read as follows:

“Section 13.- It is hereby resolved and declared that the Commission is created and shall exercise its powers for the purpose of promoting the general welfare, commerce, and prosperity, including tourism in the western part of Puerto Rico, which are all public purposes for the benefit of the People of the Commonwealth of Puerto Rico. Therefore, the Commission shall not be required to pay taxes, excise taxes, or duties on the property or equipment acquired by it or under its jurisdiction, control, possession, and supervision, or on its activities in the operation and maintenance of any undertaking, or on the income derived from any of its undertakings and activities.

Likewise, the Commission shall be exempt from the payment of all kinds of fees, tariffs, and taxes heretofore or hereafter required by law for the processing of judicial proceedings, the issuance of certificates in all offices and dependencies of the Commonwealth of Puerto Rico, and for the execution of public documents and their registration in any public register of Puerto Rico.

Finally, and in order to facilitate the procurement of funds by the Commission to enable it to achieve its corporate purposes, the bonds issued by the Commission and the income therefrom shall be and remain at all times exempt from any type of taxation, including the payment of income tax.”

Section 14.- Section 14 of Act No. 10 of May 18, 1959 is hereby amended to read as follows:

“Section 14.- For the purposes of subsection (h) of Sections [sic] 4 and Section 6 of this Act, all works, projects, and property and the accessories thereof, which the Ports Commission deems necessary and convenient to fulfill the purposes expressed in this Act, are hereby declared of public use.”

Section 15.- Section 15 of Act No. 10 of May 18, 1959 is hereby amended to read as follows:

“Section 15.- The Commonwealth of Puerto Rico hereby pledges to and agrees with any person, firm, corporation, or any federal or state agency, subscribing to or acquiring bonds of the Ports Commission to finance in whole or in part any undertaking or any part thereof, that it will not limit or restrict the rights or powers hereby vested in the Ports Commission until all such bonds at any time issued, together with the interest thereon, are fully met and discharged. The Commonwealth of Puerto Rico does further pledge to and agree with any federal agency that in the event that any federal agency shall construct, extend, improve or enlarge, or contribute any funds for the construction, extension, improvement, or enlargement of any project of the Ports Commission or any portion thereof, the Commonwealth

Government shall not alter or limit the rights or powers of the Ports Commission in any manner which would be inconsistent with the continued maintenance and operation of the said project or the extension, improvement, or enlargement thereof, or which would be inconsistent with the due performance of any agreements between the Ports Commission and any such federal agency; and the Ports Commission shall continue to have and may exercise all rights and powers herein granted so long as the same shall be necessary or desirable to achieve the purposes of this Act and the purpose of any federal agency in constructing, extending, improving or enlarging, or contributing funds for the construction, extension, improvement, or enlargement of said project or any portion thereof.”

Section 16.- Section 16 of Act No. 10 of May 18, 1959 is hereby amended to read as follows:

“Section 16.- No injunction shall be granted in order to prevent the application of this Act or any part thereof.”

Section 17.- Section 17 of Act No. 10 of May 18, 1959 is hereby amended to read as follows:

“Section 17.- Insofar as the provisions of this Act are inconsistent with the provisions of any other Act of the Commonwealth of Puerto Rico, the provisions of this Act shall be controlling and no law heretofore or hereafter enacted to govern the administration of the Commonwealth of Puerto Rico or any parts, offices, bureaus, departments, commissions, dependencies, municipalities, branches, agents, officers, or employees thereof, shall be construed to apply to the Ports Commission unless so specifically provided. However, the affairs and businesses of the Ports Commission shall be administered as provided in this Act.”

Section 18.- Section 18 of Act No. 10 of May 18, 1959 is hereby amended to read as follows:

“Section 18.- The following terms, whenever used or referred to in this Act, shall have the following meanings, except where the context clearly indicates otherwise:

(a) Ports Commission. — Shall mean the Mayagüez Ports Commission created pursuant to Section 2 of this Act.

(b) Bonds. — Shall mean the bonds, interim bonds, refunding bonds, obligations, debentures, interim notes, receipts or certificates, notes payable or other evidences of indebtedness of the Ports Commission which are not obligations incurred in the normal course of its current expenses.

(c) The term “businesses” shall mean any property, whether real, personal or mixed, owned, managed, controlled or used by the Ports Commission, or intended to be owned, operated, managed, controlled, or used in connection with any of its activities, including, without limitation, projects consisting of one (1) or more ports, airports, quays, docks, retaining walls, basins, levees, vehicle roads, rails, piping, buildings, warehouses, or other facilities necessary or expedient for accommodating boats, airplanes, and other vessels with their freight and passengers.

Section 19.- This Act shall take effect immediately after its approval.