

(S. B. 1140)

**(No. 157-2014)**

(Approved September 13, 2014)

## **AN ACT**

To add subsection (h) to Section 4050.06 of Act No. 1-2011, as amended, known as the “Puerto Rico Internal Revenue Code of 2011,” in order to establish a tax financing mechanism devoting a portion of the Sales and Use Tax revenues to be used for the development of improvement projects in the Convention Center District; amend subsection (f), add a new subsection (k), and renumber subsections (k), (l), (m), (n), (ñ), and (o) as (l), (m), (n), (ñ), (o), and (p) of Section 1.03; add a new subsection (ff) and renumber subsection (ff) as subsection (gg) of Section 2.02; add a new Section 6.09 and renumber Sections 6.09, 6.10, 6.11, 6.12, 6.13, and 6.14 as Sections 6.10, 6.11, 6.12, 6.13, 6.14, and 6.15 of Act No. 351-2000, also known as the “Puerto Rico Convention Center District Act,” as amended; and for other purposes.

### **STATEMENT OF MOTIVES**

The Government of the Commonwealth of Puerto Rico created the Puerto Rico Convention Center District through Act No. 142-2001, as amended, known as the “Puerto Rico Convention Center District Authority Act,” which amended Act No. 351-2000, known as the “The Americas’ World Trade District Act,” and incorporated thereto the provisions of Act No. 400-2000, known as the “Puerto Rico Convention Center Authority Act.”

The Puerto Rico Convention Center (hereinafter, the “Center”) was inaugurated in November 2005. The Center constitutes an important asset for the economic development of Puerto Rico. However, the goals for the development of the Convention Center District (hereinafter, the “District”) have not been achieved. The Statement of Motives of Act No. 351-2000 established that “the development

of hotels, restaurants, retail, and other commercial developments is needed for the purpose of obtaining full occupancy and utilization of this Center by national and international conventions.”

In November 2009, the Sheraton Puerto Rico Hotel & Casino opened its doors and the Hyatt House San Juan is under construction and expected to open for business in October 2014. These are the only two projects in active operation or under construction in the private parcels within the District. The District has more than ninety (90) *cuerdas* of unused land that are available for development projects in accordance with the Design Guidelines approved by the Convention Center District Authority (hereinafter, the “Authority”) in December 2007.

The lack of more development projects in the District is not due to the Authority’s failure to make any efforts, because it has been diligently exploring and promoting potential developments. However, the lack of capital and financing has been the main obstacle to achieve the construction of new projects. The financing problems began with the 2008 financial crisis and have worsened with the fiscal problems of the Government of the Commonwealth of Puerto Rico which have forced the elimination, reduction, and restructuring of different government financing programs.

In view of this situation, it is the duty of the Legislative Assembly to establish incentives that promote the desired development, without affecting the fragile fiscal situation the Island is undergoing. The “Tax Increment Financing” or “TIF,” is a financing option that has been successfully implemented in several states and cities of the United States. The TIF model consists of promoting the development of projects in particular areas or districts that are not generating economic activity and, therefore, are not generating taxes for the treasury, and allowing that certain tax revenues generated by new economic development projects be used to finance new projects and other works in said districts.

TIFs have been used in the United States to help financing projects such as: the Kansas City Power & Light District and the Tiger Hotel in the State of Missouri; the Chicago Riverwalk Expansion Project and the Chicago Sports and Entertainment District in the State of Illinois; the Downtown Districts, River Districts, and Health and Science Districts in the State of Oklahoma; and the City Way Mixed-use Development in the State of Indiana.

This Act amends the Convention Center District Authority Act and the Puerto Rico Internal Revenue Code of 2011 (hereinafter, the “Code”) to provide that, with respect to every improvement project within the District whose construction begins on or after July 1, 2014 (hereinafter, “Improvement Project”), fifty percent (50%) of the State portion of the Sales and Use Tax (“State SUT”) collected by commercial establishments operating in the District, including Improvement Projects and the parcels where the same are located, be available for specific uses in the District.

A special provision of funds is hereby incorporated to Section 4050.06 of the Code whereby fifty percent (50%) of the State SUT collected by commercial establishments in the Improvement Projects and the parcels where they are located, shall be deposited into a special fund to be established by the Authority for any of the following purposes: (i) create reserves and provide a collateral security for the payment of the principal and interest on the financing granted by the Authority for District Improvement Projects; (ii) grant loans for the District Improvement Projects; and (iii) to finance construction and maintenance works in the District by the Authority.

The establishment of the TIF program for projects in the Convention Center District would provide the collateral needed to enable the Authority to finance improvement projects, which at present, it cannot finance.

This financing program which uses the State SUT revenues does not diminish the fiscal resources of the State and of the municipalities; on the contrary, fiscal resources shall be added to the State and the municipality, since none of said parcels are currently generating any tax revenues to the treasury.

Puerto Rico has at present a Convention Center with the best facilities to attract and accommodate large national and international groups that wish to hold conventions, exhibitions, trade shows, and other similar events in Puerto Rico. Nevertheless, the lack of hotels, restaurants, entertainment facilities, retail, and other commercial establishments has not allowed the maximum use of this important work that has been defrayed by the people of Puerto Rico. Stimulating the development of facilities within the District would attract more activities to the Center, which would, in turn, foster the general economic development of Puerto Rico. This would also bring about private development and investment, and provide new and better job opportunities, thus generating important benefits for the general welfare of all Puerto Ricans.

In order to achieve the aforementioned purposes and to develop this important aspect of our tourist industry, this Act is enacted to establish a tax increment financing mechanism with the SUT revenues for eligible projects in the Puerto Rico Convention Center District.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- Subsection (f) of Section 1.03 of Act No. 351-2000, as amended, known as the “Puerto Rico Convention Center District Act,” is hereby amended, a new subsection (k) is hereby added, and subsections (k), (l), (m), (n), (ñ), and (o) are renumbered as (l), (m), (n), (ñ), (o), and (p), to read as follows:

“Section 1.03.- Definitions

The following words and terms when used or referred to in this Act, shall have the meaning stated below unless the context provides otherwise:

(a) ...

...

(f) ‘Internal Revenue Code’ - Shall mean Act No. 120-1994, as amended, known as the ‘Puerto Rico Internal Revenue Code of 1994’ or Act No. 1-2011, as amended, also known as the ‘Internal Revenue Code of 2011,’ as it may apply, or any other subsequent Act that substitutes it.

...

(k) ‘District Improvement Fund’ - Shall mean the fund created in Section 6.09 of this Act, which shall be used by the Authority as provided in said Section.

(l) ...

(m) ...

(n) ...

(ñ) ...

(o) ...

(p) ...”

Section 2.- A new subsection (ff) is hereby added to Section 2.02 of Act No. 351-2000, as amended, known as the “Puerto Rico Convention Center District Act,” and subsection (ff) is hereby renumbered as (gg) to read as follows:

“Section 2.02.- Specific Powers of the Authority

The Authority shall have the following powers and rights:

(a) ...

(ff) Receive, administer, and use funds from the District Improvement Fund, as provided in Section 6.09 of this Act.

(gg) ...”

Section 3.- A new Section 6.09 is hereby added and Sections 6.09, 6.10, 6.11, 6.12, 6.13, and 6.14 are hereby renumbered as Sections 6.10, 6.11, 6.12, 6.13, 6.14, and 6.15 of Act No. 351-2000, as amended, known as the “Puerto Rico Convention Center District Act,” to read as follows:

“Section 6.09.- District Improvement Fund

(a) The District Improvement Fund is hereby created, which shall be exclusively used by the Authority for any of the following activities:

(1) To create reserves and provide a collateral security for the payment of the principal and interest on financings granted by the Authority for Improvement Projects in the District.

(2) To grant loans for Improvement Projects in the District.

(3) To finance construction and maintenance works conducted by the Authority in the District.

The Authority, at its discretion, shall determine the amounts to be allocated to the District Improvement Fund for each one of the activities listed in subsection (a).

(b) The District Improvement Fund shall be nourished from the appropriation set forth in Article 4050.06(h) of the Internal Revenue Code for each fiscal year, with respect to the Sales and Use Tax established in Sections 4020.01 and 4020.02 of the Internal Revenue Code.

(c) For purposes of the District Improvement Fund, the term ‘District Improvement Projects’ shall mean the Improvement Projects in the lands of the former Navy Base in Miramar designated as parcels A, B (with its sub-parcels), C, D, E (with its sub-parcels), F, G, H, I, and J in the Guidelines for the Design of the Convention Center District dated December 2007, whose construction begins after June 30, 2014.”

Section 4.- Subsection (h) is hereby added to Section 4050.06 of Act No. 1-2011, as amended, to read as follows:

“Section 4050.06.- Special Disposition of Funds

(a) ...

...

(h) For periods beginning as of July 1, 2014, and ending before July 1, 2064, fifty percent (50%) of the Sales and Use Tax imposed under Sections 4020.01 and 4020.02 of the Code that is not encumbered by Act No. 91-2006, as amended, also known as the ‘Dedicated Sales Tax Fund Act,’ or by Act No. 18-2014, also known as the ‘Municipal Administration Fund Act,’ or by any other lien secured by the Sales and Use Tax, collected by merchants in the District’s Improvement Projects, as said term is defined in Section 6.09 of Act No. 351-2000, as amended, known as the ‘Puerto Rico Convention Center District Act,’ shall be deposited in the District Improvement Fund created under Section 6.09 of Act No. 351-2000, and transferred to the Puerto Rico Convention Center District Authority. As of July 1, 2014, the Secretary shall transfer to the District Improvement Fund the amounts to be distributed quarterly pursuant to this Section, once the revenues of the Sales and Use Tax set forth in Sections 4020.01 and 4020.02 of the Code, encumbered by Act No. 91-2006, as amended, known as the ‘Dedicated Sales Tax Fund Act,’ by Act No. 18-2014, as amended, known as the ‘Municipal Administration Fund Act,’ or by any other lien secured by the Sales and Use Tax have been satisfied; and only then the fifty percent (50%) of the Sales and Use Tax established in Sections 4020.01 and 4020.02 of the Code, collected during the fiscal year by merchants in the District Improvement Projects shall be transferred to the District Improvement Fund. The income of the District Improvement Fund created in Article 6.09 of Act No. 351-2000 shall be transferred quarterly by the Secretary of the Treasury and deposited in a separate fund, and shall not be part of the total annual revenues of the General

Fund. The Secretary shall prescribe by regulations the mechanisms to determine the amounts to be deposited quarterly in the District Improvement Fund.”

Section 5.- Severability Clause

If any part, paragraph, or section of this Act were held to be invalid, null, or unconstitutional by a court with jurisdiction, the holding to such effect shall be limited to the part, paragraph, or section thereof thus held to be invalid, null, or unconstitutional.

Section 6.- Effectiveness

This Act shall take effect immediately after its approval.



## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 157-2014 (S. B. 1140)** of the **4<sup>th</sup> Regular Session** of the **17<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to add subsection (h) to Section 4050.06 of Act No. 1-2011, as amended, known as the “Puerto Rico Internal Revenue Code of 2011,” in order to establish a tax financing mechanism devoting a portion of the Sales and Use Tax revenues to be used for the development of improvement projects in the Convention Center District; amend subsection (f), add a new subsection (k), and renumber subsections (k), (l), (m), (n), (ñ), and (o) as (l), (m), (n), (ñ), (o), and (p) of Section 1.03; add a new subsection (ff) and renumber subsection (ff) as subsection (gg) of Section 2.02; add a new Section 6.09 and renumber Sections 6.09, 6.10, 6.11, 6.12, 6.13, and 6.14 as Sections 6.10, 6.11, 6.12, 6.13, 6.14, and 6.15 of Act No. 351-2000, also known as the “Puerto Rico Convention Center District Act,” as amended; and for other purposes.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 12<sup>th</sup> day of February, 2018.

Orlando Pagán-Ramírez  
Acting Director