

(H. B. 2959)

(No. 173-2010)

(Approved November 23, 2010)

AN ACT

To add a new Section 2A to Article IV of Act No. 72 of September 7, 1993, as amended, known as the “Puerto Rico Health Insurance Administration Act,” in order to authorize the Health Insurance Administration to incur obligations up to the amount of one hundred eighty-seven million dollars (\$187,000,000); to provide for the way in which the obligations incurred shall be met, including the pledging of collateral; and for other related purposes.

STATEMENT OF MOTIVES

The Puerto Rico Health Insurance Administration (ASES, Spanish acronym) was created by virtue of Act No. 72 of September 7, 1993, as amended. The ASES is responsible for implementing, administering, and negotiating, through contracts with insurers and healthcare providers, a health insurance system that provides all Puerto Ricans with access to quality medical and hospital care.

However, as a result of years of making irresponsible fiscal policies, the ASES is undergoing a precarious fiscal situation that jeopardizes the access by all Puerto Ricans, especially medically indigent patients, to quality health services. For years, the ASES failed to budget for the total amount of actual expense for insured lives, which has created a recurring deficit. According to the 2008 Transition Report, the ASES deficit totaled \$481 million. This, coupled with an inadequate oversight of insurers, has placed an unbearable burden on the ASES.

This Administration has made significant advancements in reestablishing the fiscal health of the ASES. By Fiscal Year 2010-2011 such administration was appropriated a total budget of \$1,871,797,000, taking its fiscal reality into account. For the first time in three years, the ASES was able to obtain a favorable opinion from its auditors regarding audited financial statements corresponding to the Fiscal Year that closed in 2009. Furthermore, it was able to meet Federal audit requirements on time.

The ASES has taken measures to ensure the sound administration of the health plan of all Puerto Ricans, such as implementing maximum premiums by region and making certain that the budget reflects information as to the true expense for insured lives, thus putting an end to the long-held practice that has led to operating deficits in the ASES.

Despite the advancements made by this Administration, the irresponsible policies of previous administrations have adversely affected the fiscal health of the ASES and its ability to meet its obligations, including the payment of debts with insurers and health service providers, among others.

In order to guarantee that all Puerto Ricans shall have access to quality medical and hospital care pursuant to the Government of Puerto Rico's public policy on health, this Legislative Assembly deems it necessary and convenient to authorize the ASES to incur obligations up to the amount of one hundred eighty-seven million dollars (\$187,000,000) for the payment of debts with insurers and healthcare providers, as well as with other suppliers. This measure shall lay the groundwork for a new administration model directed to attaining the fiscal self-sufficiency of the ASES.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.—A new Section 2A is hereby added to Article IV of Act No. 72 of September 7, 1993, as amended, known as the “Puerto Rico Health Insurance Administration Act,” to read as follows:

“Section 2A.—Authorization for Financing.—

(a) The Administration is hereby authorized to incur obligations up to the principal of one hundred eighty-seven million dollars (\$187,000,000) under the terms and conditions approved by the Board of Directors and the Government Development Bank, which is the fiscal agent of the Government of Puerto Rico and its instrumentalities.

(b) The moneys from the obligations authorized herein shall be deposited in a special account in the Bank and may only be used for the payment of debts with insurers and health service providers, as well as with other Administration suppliers, as determined through an agreement with the Bank. The Bank, in its role as fiscal agent, shall provide the administrative mechanisms it may deem necessary to ensure that such funds are used solely and exclusively for the purposes set forth in this Section 2A. The special account mentioned in this subsection (b) and the funds deposited therein may not be attached, placed under receivership, frozen, encumbered, or otherwise affected by decisions, judgments, orders, or resolutions issued by the Courts of Justice or the public agencies and/or corporations of the Government of Puerto Rico during any adjudicative proceeding of an administrative or judicial nature, regardless of whether these were instituted by private persons or public institutions.

(c) The Administration is hereby authorized to pledge and constitute liens on any of its real or personal properties, whether tangible or intangible, to secure payment of the obligations authorized herein, as the same may be modified from time to time under such terms and conditions as may be deemed necessary and convenient, including, but not limited to, mortgages on real property, mortgage or collateral assignment of any lease contract, liens on deposit accounts, securities accounts, or investments of any kind, any lien on personal or real property for its fixtures, the pledging of any credit, account receivable, claim and/or cause of action, the posting of any bond, letter of credit or surety, and the pledging of any other income, asset, fee, cause of action, or revenue of the Administration.

(d) The Administration is hereby authorized to execute all such public or private instruments and any other documents as necessary for and/or pertinent to the obligations authorized herein, including public instruments and documents pertaining to any refinancing, moratorium, extension, modification, or amendment of the obligations authorized herein.

(e) The Government of Puerto Rico shall honor the payment of the obligations authorized herein, through budget appropriations made by the Legislative Assembly in the operating budgets of each fiscal year, starting in Fiscal Year 2012-2013 and ending in Fiscal Year 2023-2024. To such effect, for Fiscal Years 2012-2013 and 2013-2014, the Director of the Office of Management and Budget is hereby directed to consign the amount corresponding to the payment of interest in the operating budgets of the Government of Puerto Rico, submitted each year by the Governor of Puerto Rico to the Legislative Assembly and, as of Fiscal Year 2014-2015 and for the next nine (9) fiscal years, the sum of twenty million, six hundred sixty-six thousand, six hundred sixty-seven dollars (\$20,666,667), plus any applicable interest, to amortize the obligation authorized herein and to pay the interest accrued each year. If, at any time, the budget appropriations or other

income of the Administration do not suffice to pay the obligations authorized herein and the interest accrued each year, the Secretary of the Treasury shall withdraw any sums necessary to cover the deficiency in the amount required for the payment of such obligations and interest from any funds available in the General Fund of the Government of Puerto Rico, and direct that the sums thus withdrawn shall be applied to such payment and for such purpose.

(f) The Administration is hereby directed to use its own available funds to reduce the obligation authorized herein during its effective term pursuant to the terms and conditions approved by the Board of Directors and the Bank.

(g) The Executive Director shall represent the Administration in any acts and in the execution and/or delivery of all public or private instruments and documents mentioned in this Section 2A.

(h) As used in this Section, the term ‘Bank’ shall mean the Government Development Bank for Puerto Rico.”

Section 2.—If any provision of this Act or its application were to be found invalid, such finding shall not affect the remaining provisions or the application of this Act that may have effect with no need for the provisions thus found invalid, and to this end, the provisions of this Act are severable.

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. 173-2010 (H. B. 2959)** of the **4th Session of the 16th Legislature** of Puerto Rico:

AN ACT to add a new Section 2A to Article IV of Act No. 72 of September 7, 1993, as amended, known as the "Puerto Rico Health Insurance Administration Act," in order to authorize the Health Insurance Administration to incur obligations up to the amount of one hundred eighty-seven million dollars (\$187,000,000); to provide for the way in which the obligations incurred shall be met, including the pledging of collateral; and for other related purposes.

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

In San Juan, Puerto Rico, on the 17th day of May, 2013.

Juan Luis Martínez Martínez
Acting Director