

(H. B. 2961)

**(No. 174-2010)**

(Approved November 23, 2010)

## **AN ACT**

To add a new Section 9A to Act No. 66 of June 22, 1978, as amended, known as “The Puerto Rico Medical Services Administration Act,” in order to authorize the Medical Services Administration to incur obligations up to the amount of two hundred eighty-five million dollars (\$285,000,000); 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 Medical Services Administration (“ASEM,” Spanish acronym), attached to the Department of Health, was created under Act No. 66 of June 22, 1978, as amended. The ASEM is in charge of organizing, operating, and administering the centralized services of medical hospital institutions that comprise the Puerto Rico Medical Center. The ASEM groups specialized human resources and highly complex, high-technology equipment that allow for the rendering of specialized tertiary and supratertiary services to the entire population of Puerto Rico. The services rendered by the ASEM and the Medical Center constitute the most important Health Center in Puerto Rico and the Caribbean.

However, years of poor management under previous government administrations have left the ASEM and our main health center in a precarious fiscal situation, which endangers the health of all Puerto Ricans. At the beginning of this administration, the ASEM was in a precarious fiscal situation, aggravated by the excessive increase in operating expenses.

### **Rise in Operating Expenses**

	<b>2003-2004</b>	<b>2004-2005</b>	<b>2005-2006</b>	<b>2006-2007</b>	<b>2007-2008</b>
Operating Expenses	\$127,333,110	\$141,843,015	149,951,723	157,392,636	179,233,990
Rise (\$)		\$14,509,905	\$8,108,708	\$7,440,913	\$21,841,354
Rise (%)		11%	6%	5%	14%

At the Central Government, previous administrations used unrealistic revenue projections to justify expenses in excess of actual revenues, and resorted to using nonrecurring income and conducting isolated transactions to cover manifest budget insufficiencies, which led to an unprecedented fiscal crisis. Likewise, after years of irresponsible fiscal policies, the ASEM reflects a disproportionate rise in its payroll expenses, which by no means accommodates its fiscal situation. Since Fiscal Year 2004, the ASEM's payroll expenses increased by 11%, due primarily to raises in salaries and fringe benefits under the irresponsible execution on February 15, 2007 of a new collective bargaining agreement that covers from January 1<sup>st</sup>, 2006, to December 31, 2010, without there being enough funds to meet the obligations contracted there.

The disproportionate rise in payroll expenses clashes with ASEM's fiscal reality. Since Fiscal Year 2004, the ASEM's operating deficit increased by 150%, when compared to Fiscal Year 2009.

### **Operating Deficit**

	<b>2003-2004</b>	<b>2004-2005</b>	<b>2005-2006</b>	<b>2006-2007</b>	<b>2007-2008</b>
Rise in Operating Deficit	\$25,104,047	\$37,696,101	\$45,717,407	\$44,608,417	\$42,871,423

The situation worsens because, instead of taking measures to reduce its operational deficit and in order to compensate for increasing expenses, the previous administration completely disregarded the ASEM's operation, particularly the billing and collections areas. Despite having enough human resources for the job, at the close of Fiscal Year 2008, the ASEM had \$87,294,472 in accounts receivable. The extent of the administrative neglect is evident when comparing the amounts pending to be billed during the last five Fiscal Years.

**Accounts Receivable  
(Fiscal Year)**

	2004-2005	2005-2006	2006-2007	2007-2008
Accounts Receivable pending to be billed	\$60,741,950	\$60,959,184	\$77,942,216	\$87,294,472
Rise (\$)		\$217,234	\$16,983,032	\$9,352,256
Rise (%)		0%	28%	12%

Note: Accounts receivable for the sale of services to Partner Institutions, Health Plans, and Private and Medically Indigent Patients.

As a result of the rise in expenses and the reduction in income due to serious delays in billing and collection, among others, previous administrations resorted to the irresponsible practice of postponing or moving back regular expenses by means of mechanisms such as not paying Government suppliers, including the Electric Power Authority and the Aqueduct and Sewer Authority. Likewise, they failed to pay the amounts withheld from employees' salaries to the Department of the Treasury, as required by law, and to make contributions to the Retirement System, which is also required by law. Furthermore, the ASEM has accumulated million-dollar debts to suppliers and other government agencies from past administrations.

In brief, carelessness in billing and collection procedures; the excessive rise in operating costs; and the irresponsible approval of a collective bargaining agreement without having a source of income for such purposes have adversely affected the ASEM's fiscal health and its ability to meet its obligations, including the ability to pay suppliers. This has led to a towering accumulation of bills owed to suppliers, other government agencies, and other institutions. It is well known that this kind of fiscal policies has driven Puerto Rico to the current state of fiscal emergency and to experience the most serious fiscal crisis in its history.

In order to guarantee all Puerto Ricans access to specialized tertiary and supratertiary services, we must take the necessary measures to provide the ASEM with the liquidity needed to lay the groundwork for a new management model. Thus, it shall be able to increase its income and head toward fiscal health. To such effect, this Legislative Assembly deems it necessary to authorize the ASEM to incur obligations up to the amount of two hundred eighty-five million dollars (\$285,000,000) to pay its debts to suppliers, agencies, institutions, the self-insurance (professional liability) reserve fund, and debts with the funds of the Puerto Rico Medical Services Administration, as well as provide liquidity to alleviate the fiscal situation of this instrumentality. This Legislative Assembly deems it necessary to direct the ASEM to develop and implement a plan for the aggressive collection of accounts receivable.

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

Section 1.—A new Section 9A is hereby added to Act No. 66 of June 22, 1978, as amended, known as “The Puerto Rico Medical Services Administration Act,” to read as follows:

“Section 9A.—Authorization for Financing.—

(a) The Administration is hereby authorized to incur obligations up to a principal of two hundred eighty-five million dollars (\$285,000,000) under the terms and conditions approved by the Administration’s Board of Partner Entities and the Government Development Bank, to act as the fiscal agent of the Government of Puerto Rico and its instrumentalities.

(b) The money from the obligations authorized herein shall be deposited in a special account in the Bank and may only be used:

(1) To pay debts to suppliers, agencies, institutions, the self-insurance (professional liability and debts between funds) reserve fund of the Administration;

(2) To provide operating liquidity and alleviate the ASEM’s fiscal situation during Fiscal Year 2010-2011, as may be determined by agreement with the Bank. From the savings generated through the renegotiation of debts with agencies and institutions, a fund shall be created to cover operating expenses pertaining to the maintenance, habilitation, and reconditioning of the physical facilities. 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 9A. 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 proceedings of an administrative or a 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, mortgages of collateral or assignment of any lease, liens on deposit accounts, securities accounts, or investments of any kind, any lien on personal property or real property for its fixture, 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 pertaining 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 following nine (9) fiscal years, the sum of thirty-one million, five hundred twenty-two thousand, two hundred twenty-two dollars (\$31,522,222), 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 develop and implement a plan for the aggressive collection of accounts receivable within one hundred eighty (180) days after the date of approval of this Section 9A. The Administration shall render periodic reports to the Bank on the implementation of such plan, and file annual reports with the Office of the Secretary of the Senate and the Office of the Clerk of the House of Representatives on the moneys collected under such plan. Furthermore, the Bank is hereby authorized in its role as fiscal agent, to take any necessary measures for the ASEM to operate as a financially independent instrumentality within a reasonable term. However, ASEM shall assume the remaining portion of the obligation herein provided only after the aggressive collection plan set forth herein is operating and provides such Administration with the expected, sufficient, and necessary fiscal health to operate with its own income, as determined by the Government Development Bank.

(g) The Executive Director of the Administration 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 9A.

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

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. 174-2010 (H. B. 2961)** of the **4<sup>th</sup> Session of the 16<sup>th</sup> Legislature** of Puerto Rico:

**AN ACT** to add a new Section 9A to Act No. 66 of June 22, 1978, as amended, known as "The Puerto Rico Medical Services Administration Act," in order to authorize the Medical Services Administration to incur obligations up to the amount of two hundred eighty-five million dollars (\$285,000,000); 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 17<sup>th</sup> day of May, 2013.

Juan Luis Martínez Martínez  
Acting Director