

(S. B. 2271)

(No. 205-2011)

(Approved October 18, 2011)

AN ACT

To add a new Section 2B and amend Section 3 and 4 of Article IV of Act No. 72-1993, as amended, known as the “Health Insurance Administration Act,” in order to authorize the Health Insurance Administration to obtain from the Government Development Bank, or from any other private financial institution, a revolving credit line for the sum authorized by the Government Development Bank for Puerto Rico; establish that the sum authorized shall be determined by the amount of federal funds to be received according to the approval and certification of the Government of the United States of America, taking into consideration the necessary adjustments; establish that the use of the credit line shall be used exclusively to pay for the services of insurance companies or health service providers contracted to implement the *Mi Salud* Program; establish the source of repayment; modify the composition of its Board of Directors; and for other related purposes.

STATEMENT OF MOTIVES

Our administration has distinguished itself for undertaking responsible measures to eliminate the fiscal crisis it inherited after taking control of the government in January 2009. At that time, most of the services provided by the government to the people were in jeopardy due to the certified deficit exceeding \$3.3 billion.

These measures have afforded us the opportunity to stabilize public finances and develop initiatives such as *Más Dinero en tu Bolsillo*, the most comprehensive tax reform in our history; the Public-Private Partnerships, which include infrastructure projects in the fields of education, highways, and transportation; and *Mi Salud*, a health program directed to providing health services to the needy, among other programs that benefit our citizenry.

The new Integrated Health Model (*Mi Salud*) substituted what was known as the Health Reform. This plan provides its beneficiaries with greater and better access to health services by medical specialists without the need of referrals, prescriptions that do not need to be countersigned by the primary physician, and mental health services with the same Preferred Providers Network, among others.

In 2010, the federal Health Reform was approved. The same provides a greater degree of parity in the appropriation of health care funds for participants of Medicaid. The federal Health Reform entailed an appropriation of almost \$8.624 billion in Medicaid funds for Puerto Rico for the next nine years. At present, 30% of Medicaid costs are covered with federal funds; in the past, this number was 17%. This increase allowed for broadening the services offered to participants of the *Mi Salud* Program. Thus, federal funds are an important part for the operation of our health plan.

In the past months, we witnessed how differences in government philosophy between most members of our Nation's Congress and President Barack Obama almost left the federal government without the money to meet its obligations. Fortunately, Congress and the President reached a preliminary agreement that, for the moment, prevented programs nurtured with federal funds, such as *Mi Salud*, from being affected.

In view of this reality, it is our responsibility to be ready in the event that any future situation should occur which would make it difficult to transfer said funds to the state coffers. Likewise, even though these fund transfers are not at risk, the bureaucratic processes of the Federal Government sometimes cause certain delays in making the same available in the coffers of the Government of Puerto Rico. In the case of Medicaid funds, any delay in the availability thereof would affect ASES' capacity to make timely payments to the insurers that administer *Mi Salud* which, in turn, affect payments to Government Plan providers.

Failure to take action to address this situation could jeopardize the health of our People.

In view of the foregoing, it is essential to identify a mechanism that enables ASES to have sufficient funds to meet its obligations in a timely manner if delays in federal fund transfers occur without having to compromise the budget of the Government.

This measure authorizes ASES to apply for a revolving credit line from the Government Development Bank for Puerto Rico (GDB) or any other private financial institution. This line would make it possible for said corporation to have sufficient funds to meet their obligations with health service insurers or providers while ASES receives the transfers of the corresponding funds from the federal government. Repayment for this credit line shall be guaranteed by the funds transferred to the Government of Puerto Rico to provide services to the population that participates in the Island's Medicaid program. It shall be the obligation of ASES to use said funds primarily to pay the credit line awarded by the GDB.

This Legislative Assembly deems it to be in the best interests of *Mi Salud* Program participants to prevent our health plan from being affected by situations that are foreign to its normal operation. For such reason, it is deemed reasonable to allow ASES to apply for a revolving credit line from the GDB, so it may have the cash flow needed to meet its obligations, thus ensuring no interruptions in payments to providers and in rendering of health services to the beneficiaries of *Mi Salud*.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- A new Section 2B is hereby added to Article IV of Act No. 72-1993, as amended, known as the "Health Insurance Administration Act," to read as follows:

“Section 2B.- Authorization for Revolving Financing.

(a) The Administration is hereby authorized to incur obligations through a revolving credit line in an amount to be determined by the Government Development Bank for Puerto Rico in accordance with and guaranteed by the amount of federal funds proceeding from the Federal Government Medicaid Program to be disbursed to Puerto Rico as certified by the Board of Directors of the Administration and the Puerto Rico Medicaid Program, or its equivalent. This certification shall never be greater than the grants in effect at the time of its issuance. The funds to repay the revolving credit line under this subsection shall proceed from transfers received by the Administration from the Federal Government Medicaid Program or its equivalent. The Government Development Bank shall be authorized to make the adjustments it deems necessary to the amount of federal funds approved and certified to ensure the payment of this credit line. The credit line herein authorized may be taken through the Bank or any private financial institution. It shall only be used for the payment of services to insurance companies or health service providers, as well as for any financing expense. The Administration shall have the obligation to use said funds primarily for the payment of any balance owed from this credit line.

(b) The approval of the Bank, in its role as fiscal agent, shall be necessary in order to establish the credit line herein authorized with a private financial entity. Furthermore, the Bank and the Office of Management and Budget shall establish the administrative mechanisms deemed necessary to ensure that said funds are used solely and exclusively for the purposes provided in this Section.

(c) The Administration is hereby authorized to enter into all those contracts that may be necessary to guarantee the payment of the obligations herein established, including, but not limited to, encumbering and establishing liens over any of its properties, whether real or personal, tangible or intangible, deposit accounts, securities or investment accounts of any type, as the same may be

modified from time to time, under those terms and conditions deemed necessary and convenient.

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

(e) If necessary, the Administration is hereby directed to use its own available funds to reduce the obligation herein authorized during the effective term thereof in accordance with the terms and conditions approved by the Board of Directors and the Bank.

(f) The Executive Director shall represent the Administration in all those acts and in the execution and/or surrendering of all those instruments and documents, whether public or private, as previously indicated in this Section.

(g) In the event that there is any balance owed to the Bank from the credit line authorized in this Section after applying the funds from the transfers received by the Administration from the Federal Government Medicaid Program or its equivalent, the Government of Puerto Rico shall honor the same through the budget appropriations that may be necessary. To such effects, the Director of the Office of Management and Budget is hereby directed to consign in the operating budgets of the Government of Puerto Rico, submitted annually by the Governor of Puerto Rico to the Legislative Assembly, the amount corresponding to the payment of any balance owed, as reported by the Bank. If, at any time, the federal funds transfer from the Medicaid Program or its equivalent, the budget appropriations, or other income of the Administration were insufficient to pay the obligations herein authorized and the interest accrued each year, the Secretary of the Treasury shall withdraw from any funds available in the General Fund of the Government of Puerto Rico any amount needed to cover the deficit in the amount required for the

payment of said obligations and interest, and shall direct the amounts withdrawn to be applied to such payment and purpose.

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

Section 2.- Section 3 of Article IV of Act No. 72-1993, as amended, known as the “Health Insurance Administration Act,” is hereby amended to read as follows:

“Section 3.- Board of Directors - Composition.

The Board of Directors of the Administration shall be composed of eleven (11) members. Six (6) shall be ex-officio members and five (5) shall be appointed by the Governor of Puerto Rico with the advice and consent of the Senate.”

Section 3.- Section 4 of Article IV of Act No. 72-1993, as amended, known as the “Health Insurance Administration Act,” is hereby amended to read as follows:

“Section 4.- Ex-officio Members.

The Secretaries of Health and the Treasury, the Administrator of the Mental Health and Addiction Services Administration (ASSMCA), the Director of the Office of Management and Budget, the President of the Government Development Bank for Puerto Rico, and the Insurance Commissioner, or the persons delegated by them, shall be the six (6) ex-officio members of the Board of Directors.”

Section 4.- Should any provision of this Act or the application thereof be held to be invalid, said holding shall not affect the remaining provisions or the application of this Act that could remain in effect without the need of those provisions held to be invalid, and for such purpose, the provisions of this Act are severable.

Section 5.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 205-2011 (S. B. 2271)** of the **6th Regular Session** of the **16th Legislative Assembly of Puerto Rico**:

AN ACT to add a new Section 2B and amend Section 3 and 4 of Article IV of Act No. 72-1993, as amended, known as the "Health Insurance Administration Act," in order to authorize the Health Insurance Administration to obtain from the Government Development Bank, or from any other private financial institution, a revolving credit line for the sum authorized by the Government Development Bank for Puerto Rico; establish that the sum authorized shall be determined by the amount of federal funds to be received according to the approval and certification of the Government of the United States of America, taking into consideration the necessary adjustments; etc.

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

In San Juan, Puerto Rico, on this 17th day of November, 2015.

Juan Luis Martínez Martínez
Director