

(S. B. 2976)

**(No. 394)**

(Approved September 21, 2004)

## **AN ACT**

To add a Section 1.03(a), renumber Section 1.03 as 1.03(b), amend the second paragraph of subsection (a) and add a subsection (g) to Section 2.01 and amend Section 4 to renumber it as Section 4.01 and to add Section 4.02 to Act No. 351 of September 2, 2000, as amended, known as the “Puerto Rico Convention Center District Act”, in order to establish that it shall be the Board of Directors of the District who shall establish the public policy of the facilities, to add a Section on the transfer of the Coliseum of Puerto Rico established in Act No. 185 of August 3, 2004 and to renumber the subsection and Section as established in the Original Act; and for other purposes.

### **STATEMENT OF MOTIVES**

Act No. 185 of August 3, 2004 amended Act No. 351 of September 2, 2000, as amended, known as the “Puerto Rico Convention Center District Act.” The purpose of said amendment was to transfer the legal entitlement of the “José Miguel Agrelot Coliseum of Puerto Rico”, amend the composition of the Board of Directors and their terms and to set forth other provisions related to the Coliseum. However, Act No. 185, *supra*, did not include Section 1, on the transfer of the “José Miguel Agrelot Coliseum of Puerto Rico” in the original Act of the Puerto Rico Convention Center District Act. At the same time, Act No. 185, *supra*, contained a mistake in form which tacitly repealed some Sections of the original Act.

Furthermore, the establishment of the public policy with regard to the facilities under the control of the Convention Center District Authority

should not be assigned to the small representative group constituted by the Executive Committees. This prerogative should be assumed by the Board of Directors in full.

Therefore, this Legislature deems it meritorious to amend the “Puerto Rico Convention Center District Act” in order to establish that the Executive Committees shall recommend the public policy on the facilities of the Puerto Rico Convention Center District Authority to the Board of Directors, and that the Board in full shall decide whether to approve the same or not. At the same time, this measure shall include the transfer of the legal entitlement of the José Miguel Agrelot Coliseum of Puerto Rico, and reinstate the Sections that were repealed by Act No. 185, *supra*.

**BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:**

Section 1.- Section 1.03(a) is hereby added to Act No. 351 of September 2, 2000, as amended, to read as follows:

“The rights, deeds, obligations and interests of the Puerto Rico Industrial, Tourist, Educational, Medical and Environmental Control Facilities Financing Authority on the José Miguel Agrelot Coliseum of Puerto Rico are hereby assigned, appropriated and transferred to the Convention Center District Authority.”

Section 2.- Section 1.03 is renumbered as Section 1.03(b) of Act No. 351 of September 2, 2000, as amended.

“Section 1.03(b) – Definitions

The following words and terms when used or referred to in this Act, shall have the meaning indicated below unless the context requires otherwise...”

Section 3.- The second paragraph of subsection (a) is hereby amended and subsection (g) is hereby added to Section 2.01 of Act No. 351 of September 2, 2000, as amended, to read as follows:

“(a) Composition of the Board.-

...

Two (2) Executive Committees shall be formed as part of the Board; one to address matters related to the District and the other Committee to deal with matters related to the José Miguel Agrelot Coliseum of Puerto Rico. The Executive Committee of the District shall be composed of one (1) representative of the Government and two (2) representatives of the private sector. The Executive Committee of the José Miguel Agrelot Coliseum of Puerto Rico shall be composed of one (1) representative of the Government and the two (2) new representatives from the sports, arts or cultural sphere. These Executive Committees shall be the bodies that shall recommend the public policy of these two facilities to the Board. The Board in full shall vote to approve the public policy recommended for each of these facilities.

(b) ...

(c) ...

(d) ...

(e) ...

(g) Conflict of interests.-No member of the Board shall participate in any decision or have access to any information pertaining to the matter or matters in which he/she has a personal or financial interest as such terms are defined hereinafter. For the purposes of this subsection, the term ‘financial interest’ shall mean the direct or indirect entitlement, be it legal or in equity of an individual or a member of his family unit (as defined hereinafter), of (1) at least ten percent (10%) of the issued stock of a corporation; (2) at least

ten percent (10%) of the interest in any other entity; or (3) the ownership of enough shares or participation in an entity that grants said person effective control over the decisions of said entity.

The term ‘personal interest’ shall mean any personal, family or business relation that could be construed as to affect the objectivity of a member of the Board. The term ‘family unit’ shall mean the spouse of a person, his/her children, dependents or those persons that share his/her legal residence or whose financial affairs are under the de jure o de facto control of said person. The Authority may issue all rules, regulations or circular letters deemed necessary to implement the provisions of this subsection.

It is hereby prohibited for the company (or any of its affiliates) that at the time of the approval of this Act is administering the Coliseum or the Center, respectively, and/or company (or affiliate) that administers the same in the future, if this were the case, to be promoter or producer of public events in the facilities of the José Miguel Agrelot Coliseum or the Center.”

Section 4.- Section 4 is hereby amended and renumbered as 4.01 of Act No. 351 of September 2, 2000, as amended, to read as follows:

“Section 4.01.- Nature and Use of Benefit Assessments.-

(a) Nature.- Benefit Assessments shall constitute a charge and a statutory tacit lien levied by the Authority on Private Parcels in proportion to the benefits or utilities received or to be received from Improvement Projects, projects on Private Parcels and the Center as applicable. The procedure to establish the amount of Benefit Assessments to be imposed on each Private Parcel shall be established through Regulations.

(b) Uses.- The proceeds from the collection of the Benefit Assessments, or from Bonds secured by the Benefit Assessments shall

only be used to finance the operating and other expenses of the Authority, and the planning, development, construction, operation, repair, replacement, marketing, maintenance of the Center, and rendering of services to the same or to Improvement Projects, projects on Private Parcels and the District, as applicable.”

Section 5.- To add a Section 4.02 to Act No. 351 of September 2, 2000, as amended, to read as follows:

“Section 4.02.- Imposition of Benefit Assessments.-

(a) Benefit Assessments.- The Board is hereby authorized to impose Assessments against one or more Private Parcels in the District that are particularly and substantially benefited by the Center or any portion thereof or expansion thereto, or by one or more Improvement Projects or projects on Private Parcels conducted or to be conducted in the District. The amount of the assessments to be imposed shall be based on the benefit or utility that each Private Parcel receives or shall receive from, or from the service or improvement thereto or from said Improvement Projects or projects on Private Parcels, as determined by the Board.

(b) Adoption of Budget - The Board shall, before the commencement of each fiscal year, prepare and adopt an annual budget of the foreseeable expenses for the following fiscal year of the Center and the District, and of the development, construction, maintenance, repair, replacement, renovation, expansion, marketing and operation by the Authority, the Center, the District and of designated Improvement Projects and improvements on Private Parcels. The annual budget may be amended by the Authority from time to time as necessary to cover any increase in expenses or additional expenses of the District or of the

Authority, and to cover any increase in Benefit Assessments. The Annual budget shall include the following information:

(1) A description of the Improvement Projects and improvements on Private Parcels, or expansions thereto, to be constructed;

(2) The estimated cost of the Improvement Projects and improvements on Private Parcels, or expansions thereto, to be constructed and the estimated costs of the maintenance, repair, replacement, renovation, marketing and operation of Improvement Projects and improvements on Private Parcels, or portions thereof already in existence;

(3) The total amount to be imposed and collected as Benefit Assessments.

(4) The amount of Benefit Assessments to be imposed on every Private Parcel within the District; and

(5) The description and the cost of improvements within the Center to be constructed, replaced or renovated and of the expense of the Center to be financed by the Benefit Assessments to be imposed.

(c) Exemption from Payment of Benefit Assessments.- Any portion of the District which is exempted from the payment of property taxes by virtue of a determination by a public entity or the Governor of the Commonwealth of Puerto Rico pursuant to any government incentives program shall not be exempted from the payment of Benefit Assessments. Any part of the property within the District owned by the Authority which has not been sold, leased or subleased or otherwise transferred by the Authority as a Private Parcel, shall be exempt from the payment of Benefit Assessments. Except as otherwise provided herein, no owner or lessee of a Private Parcel shall be exempt from the Benefit Assessments of the Improvement Projects,

improvements on Private Parcels or the Center to be financed by said charges, by waiver of the use, or of the benefit received, or for abandonment of the Private Parcel so assessed.

(d) Collection of Benefit Assessments.- Upon adoption of the annual budget or any amendment thereto, the Board shall notify, levy and collect the Benefit Assessments from each owner or lessee of Private Parcels. The Benefit Assessments imposed against each Private Parcel shall be payable in equal monthly installments or as otherwise determined by the Board, on the first day of each month, or at such other times as determined by the Board. Any payments received by the Board after the tenth (10<sup>th</sup>) day of each month or after such other period of time as determined by the Board, shall be delinquent and the total amount of the Benefit Assessment shall thereafter be subject to a late payment fee and shall bear interest in an amount to be determined by the Board pursuant to the applicable law from the date due until paid. Any payment received by the Board shall be applied first to any interest accrued on the unpaid Benefit Assessment, then to any late payment fee imposed by the Board, then to any costs and attorney's fees incurred by the Board in the collection process, and then to the payment of the delinquent Benefit Assessment. After the tenth (10<sup>th</sup>) day of each month, or after such other period of time as determined by the Board, the Authority shall demand from the delinquent owners or lessees of Private Parcels by certified mail with acknowledgment of receipt, the payment of all amounts then due to the Authority. If said owners or lessees fail to pay all delinquent amounts due by them within fifteen (15) days after the mailing of the Authority's demand for payment, the Authority may demand payment of all amounts then due in court. The delinquent Benefit Assessments plus any penalties, interest and late payment fees may be judicially claimed pursuant

to the provisions of Rule 60 of the Rules of Civil Procedure of 1979, as amended, or any successor provision of law, regardless of the amount of the delinquent Benefit Assessments.

In the event where the delinquent amounts are payable by a lessee of a Private Parcel owned by the Authority, or any part thereof, the Court may order such lessee to deposit in Court in favor of the Authority, all the rents, proceeds or products received by such lessee in relation to said Private Parcel, until the delinquent Benefit Assessments and any penalties, late payment fees or interest thereon have been totally satisfied.

(e) Statutory Tacit Lien.- The Benefit Assessments imposed on Private Parcels pursuant to the provisions of this Act shall constitute a statutory tacit lien on said Private Parcels, which shall have priority over any other liens on said property regardless of their nature, whether imposed upon it before or after the statutory tacit lien determined by the Benefit Assessments, except that it shall be subordinated to:

- (1) the fiscal lien that secures the payment of the delinquent tax debt transferred pursuant to Section 6 of Act No. 21 of June 20, 1997, as amended;
- (2) the lien for property tax imposed by Act No. 83 of August 30, 1991, as amended, known as the 'Municipal Property Tax Act of 1991,' or any successor statute; and
- (3) any lien constituted before September 2, 2000.

The Benefit Assessment's statutory tacit lien shall only guarantee the payment of the Benefit Assessments described in this Act pursuant to the applicable annual budget approved by the Board, as the same may be amended. The statutory tacit lien created hereby shall be in favor of the Authority and shall only guarantee the payment of all payable Benefit



Assessments, any late payment fees, interest and all reasonable costs and expenses and attorney's fees incurred by the Board incidental to the collection process.

(f) Lump Sum Payment in Advance.- Benefit Assessments may be in the discretion of the owner or lessee, paid in one lump sum in advance for the year for which it was imposed, and the Authority may grant, in return, the discount it deems appropriate as provided in its rules and regulations, which shall be uniform for all owners or lessees.”

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. 394 (S.B. 2976) of the 7<sup>th</sup> Session of the 14<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to add a Section 1.03(a), renumber Section 1.03 as 1.03(b), amend the second paragraph of subsection (a) and add a subsection (g) to Section 2.01 and amend Section 4 to renumber it as Section 4.01 and to add Section 4.02 to Act No. 351 of September 2, 2000, as amended, known as the “Puerto Rico Convention Center District Act”, in order to establish that it shall be the Board of Directors of the District who shall establish the public policy of the facilities, to add a Section on the transfer of the Coliseum of Puerto Rico established in Act No. 185 of August 3, 2004 and to renumber the subsection and Section as established in the Original Act; and for other purposes,

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

In San Juan, Puerto Rico, today 16th of February of 2006.

Francisco J. Domenech  
Director

