

(H. B. 1326)

(No. 7)

(Approved March 9, 2009)

AN ACT

To create the “Special Act to Declare a State of Fiscal Emergency and to Establish a Comprehensive Fiscal Stabilization Plan to Salvage the Credit of Puerto Rico,” in order to responsibly address from an integrative approach the fiscal crisis currently experienced by the Government of Puerto Rico, protect the credit of Puerto Rico pursuant to Article VI, Section 8 of the Constitution, provide for a fiscal stabilization plan, eliminate the structural deficit pursuant to the mandate under Article VI, Section 7 of the Constitution, restore the fiscal health of the Government and lay the groundwork for the Government to be able to boost the economic development of Puerto Rico by means of a comprehensive plan consisting of Revenue and Better Oversight Measures, Spending Cutback Measures, and Financial Measures; in the matter of revenues and better oversight, to amend clauses (1), (2), and (3) of subsection (b) and add a subclause (D) to clause (2) of subsection (c) of Section 1011, amend subsection (a) of Section 1018, add a new Section 1020A, amend Section 1040D, amend clause (5) of subsection (e) of Section 1040K, add a new Section 1040M, amend Section 2008, amend clause (1) of subsection (b) of Section 2011, repeal Section 2407, amend subsection (a), clauses (1) and (2) of subsection (c), and eliminate clause (3) of subsection (c) of Section 2502, amend subsections (a), (b), (c), and (d) of Section 2602, amend subsections (a) and (b) of Section 2606; subsection (e) of Section 2607; amend subsection (a) and add a new subsection (b) to Section 2704, add new Sections 3701, 3702, 3703, 3704, 3705, 3706, 3707, and 3708 to the new Subtitle CC, amend subsections (b) and (c) of Section 4002, amend subsection (a) of Section 4023, amend subsection (a) of Section 6001, amend subsection (f) of Section 6002, add a new subsection (g) to Section 6006, and amend subsection (a) of Section 6046A of Act No. 120 of October 31, 1994, as amended, better known as the “Puerto Rico

Internal Revenue Code of 1994”; to establish transitory provisions; Section 34.180 of Act No. 77 of June 19, 1957, as amended; Section 6.08 of Act No. 255 of October 28, 2002, as amended; Section 16 of Act No. 88 of June 21, 1966, as amended; Section 25 of Act No. 52 of August 11, 1989, as amended, Section 3 of Act No. 2 of January 20, 1966, as amended; subsection (c) of Section 16 of Act Number 80 of August 30, 1991, as amended; to establish the powers of the Governor, the jurisdiction of the Supreme Court of Puerto Rico, immunity as to lawsuits and forums; the severability and effectiveness; all of the foregoing, with the specific purpose, among other things, of modifying the basis to levy an Basic Minimum Tax on individual net income; to eliminate the ability to claim a Credit for Purchasing Products Manufactured in Puerto Rico to export against the credit on the sales and use tax; to increase excises on cigarettes; to include motorcycles as “automobiles” for purposes of excise tax on motor vehicles; to eliminate the resale certificate exempting vendors in relation to the sales and use tax by replacing the same with a credit for taxes paid and reschedule the deadline for paying taxes and filing monthly returns to an earlier date; to increase excise tax on certain alcoholic beverages; to modify the computation to assess alternative minimum tax on corporations; to levy a special surtax on individuals and corporations; to establish a special income tax at a rate of 5% to be levied on cooperative insurers; to establish a special income tax at a rate of 5% to be levied on cooperative savings and credit unions; to establish a special income tax at a rate of 5% to be levied on the Puerto Rico Cooperative Bank; to establish a special income tax at a rate of 5%, to be levied on International Insurers or International Insurer Holding Companies; to establish a special income tax at a rate of 5%, to be levied on international banking entities; to levy a special tax on residential real property; to establish a three (3)-year moratorium on claims over certain tax credits; exclude the UPR and the municipalities, the revenues, moneys collected, and income earned by virtue of the Special Act to Declare a State of Fiscal Emergency and to Establish a Comprehensive Fiscal Stabilization Plan to Salvage the Credit of Puerto Rico from the computation of the appropriation of funds; as to cutbacks on spending, to establish a three-phase plan to reduce the government payroll; and as to financial measures, throughout Puerto Rico as well as in its municipalities, to add a new Section 14 and renumber Section 14 as Section 15 of Act No. 2 of October 10, 1985; to amend Section 6B of Act No. 56 of June 19,

1958, as amended; amend Section 2, amend Section 3, amend Section 5, add a new Section 10, and renumber Section 10 as Section 11 of Act No. 91 of May 13, 2006, as amended; to provide on Savings Notes in Economic Cooperation with Puerto Rico; to amend Sections 2.01, 2.02, 2.04, 2.09, 2.10, 3.01, 3.02, 3.21, 3.27, 5.01, and 5.30 of Act No. 83 of August 30, 1991, as amended; Section 4 of Act No. 203 of December 14, 2007; to amend Section 4 and amend Section 16 of Act No. 64 of July 3, 1996, as amended; all of the foregoing, with the specific purpose of authorizing an additional 0.75%-increase in the portion of sales and use tax deposited into the Puerto Rico Dedicated Sales Tax Fund Corporation (*COFINA*); to authorize the Public Building Authority to issue refinancing bonds with the purpose of refinancing, in whole or in part, any payment of principal or interest on its outstanding bonds; to allow *COFINA* to issue bonds and use other financing mechanisms to generate funds to nourish the Economic Cooperation and Public Employee Options Fund; to provide that the 1%-increase on the share of the sales and use tax authorized recently, as well as the additional 0.75%-increase authorized by virtue of this Act shall take effect for Fiscal Year 2009-2010; to authorize the Government of Puerto Rico and the Public Building Authority to issue refinancing bonds to refinance any payment of principal and/or interest payable in a fiscal year; and to create the “Special Fund for Public Employee Options and Economic Construction”; authorize the Savings Notes in Economic Cooperation with Puerto Rico, authorize the issue of up to \$20,000,000 in notes over a five-year term; to increase by a tenfold factor the appraisal value of any real property appraised by the Municipal Revenue Collection Center, and make proportional adjustments in tax rates and exemptions applicable, so that the resulting property tax does not change; to allow that, for a limited-term, the municipalities may be able to take money on loans with the Government Development Bank for Puerto Rico by means of general municipal obligation notes or bonds; and for other purposes.

STATEMENT OF MOTIVES

Introduction

Puerto Rico is experiencing the worst fiscal crisis in our entire history. This crisis is the result of irresponsible fiscal policies that have caused and

subsequently aggravated an economic recession which has reached its fourth consecutive year and is on the verge of turning into a depression—the first one in Puerto Rico since the 1930's.

This recession began in 2006 as a consequence of irresponsible fiscal policies and the use of unrealistic revenue projections to justify spending in excess of actual revenues, due to which they turned to non-recurring revenues and isolated transactions in an attempt to cover the budgetary shortfalls that obviously ensued. Instead of correcting such fiscal policies in view of the contracting economy and the marked decline in revenues, the past administration continued to adopt the same policies and create a permanent structural deficit which places an enormous burden on our economy and the welfare of all Puerto Ricans. When the United States entered into recession by late 2007 and early 2008, taking the rest of the world in tow by late 2008, the impact on the economy—and consequently, on the Government's budget—was devastating. At present, the Government of Puerto Rico has to cope with a recurring structural deficit of approximately \$3.2 billion, which equals 42% of the estimated revenues for the current fiscal year, and a credit that lies on the verge of degradation to junk credit. The Government does not have the resources to cover its operating expenses.

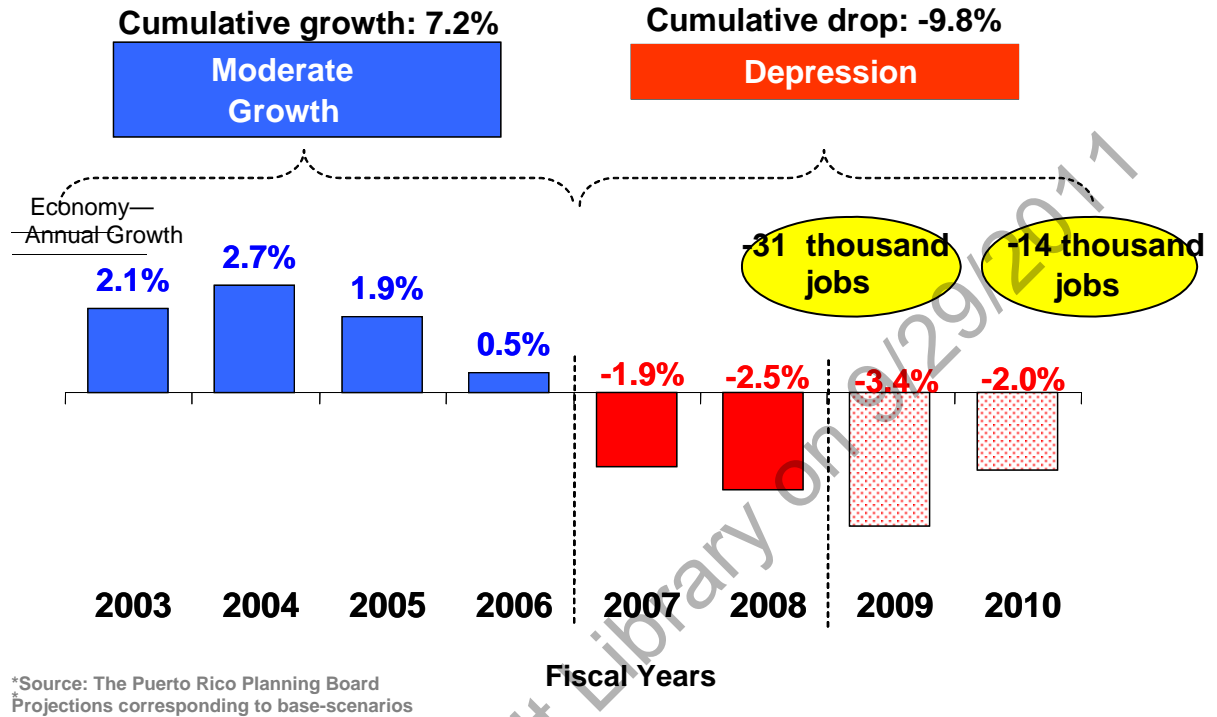
This situation constitutes a fiscal emergency for all of Puerto Rico. This Legislature is committed to facing this crisis and rescuing Puerto Rico from the precipice into which we have been thrust by irresponsible fiscal policies of the past. Article II, Sections 18 and 19, of our Constitution grants upon the Legislature ample power to protect the life, the health, and the safety of our people. In abiding by the mandate issued under Article VI, Section 8, we must protect the credit of Puerto Rico. Article VI, Section 7

imposes on the Government the obligation to maintain a balanced annual budget.

At the beginning of this Legislative Session, we adopted four measures in order to assist the Government in salvaging an immediate solvency crisis and in being able to continue operating while a plan to address our fiscal situation was designed. This Special Act to Declare a State of Fiscal Emergency and to Establish a Comprehensive Fiscal Stabilization Plan to Salvage the Credit of Puerto Rico is the first of a set of four legislative measures directed to the fiscal stabilization and the economic reconstruction of Puerto Rico. This Act seeks to restore fiscal health by laying the groundwork so that the remaining three measures—the Puerto Rican Domestic Stimulus Program, the Federal Economic Stimulus Implementation Act, and the Public-Private Partnership Act—may boost our economic development for the benefit of all Puerto Ricans.

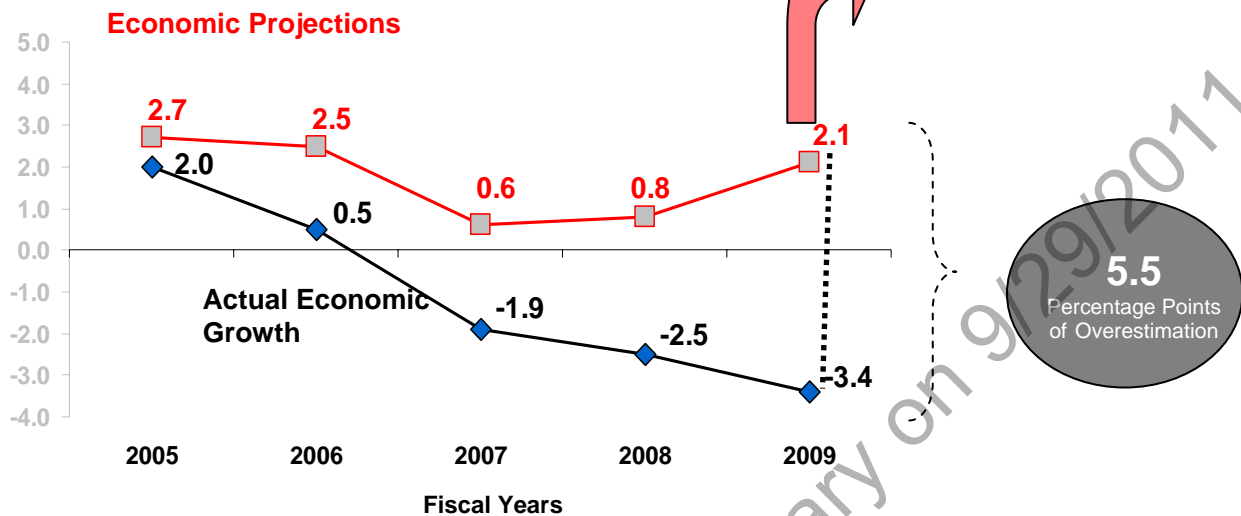
Economic Growth Overestimation

Ever since the first two quarters of 2006, Puerto Rico has been sustained a negative economic growth for three consecutive years. From July 2007 to June 2009, our economy shall have contracted at a rate of 2.6% per year. The Planning Board projects that this economic free-fall shall continue for the next fiscal year; and further estimates that the economy shall drop by at least an additional 2% in fiscal year 2010. Cumulatively, Puerto Rico would have withstood four consecutive years of recession. This four-year period would constitute an economic depression which would basically annul any growth experienced in the six years ranging from 2000 to 2006.



This economic free-fall was concealed behind unrealistic projections made by the Planning Board. For each fiscal year as of 2006, the Board overestimated the economic behavior by not less than 2% per year. For the period covering from 2007 to the present, the Board projected that the economy would sustain annual growth, but in reality, the economy was clearly undergoing a palpable recession. In fiscal year 2008, the Board estimated a growth of 0.8%, while the economy had a 2.5% contraction, for a difference of 3.3% between projection and reality. In fiscal year 2009, the Board projected a growth of 2.1%, but in reality, a 3.4% contraction is expected, for an even greater difference of 5.5%.

Comparison of economic projections for budget and the current growth rate
(Annual Growth Percentage Rate)

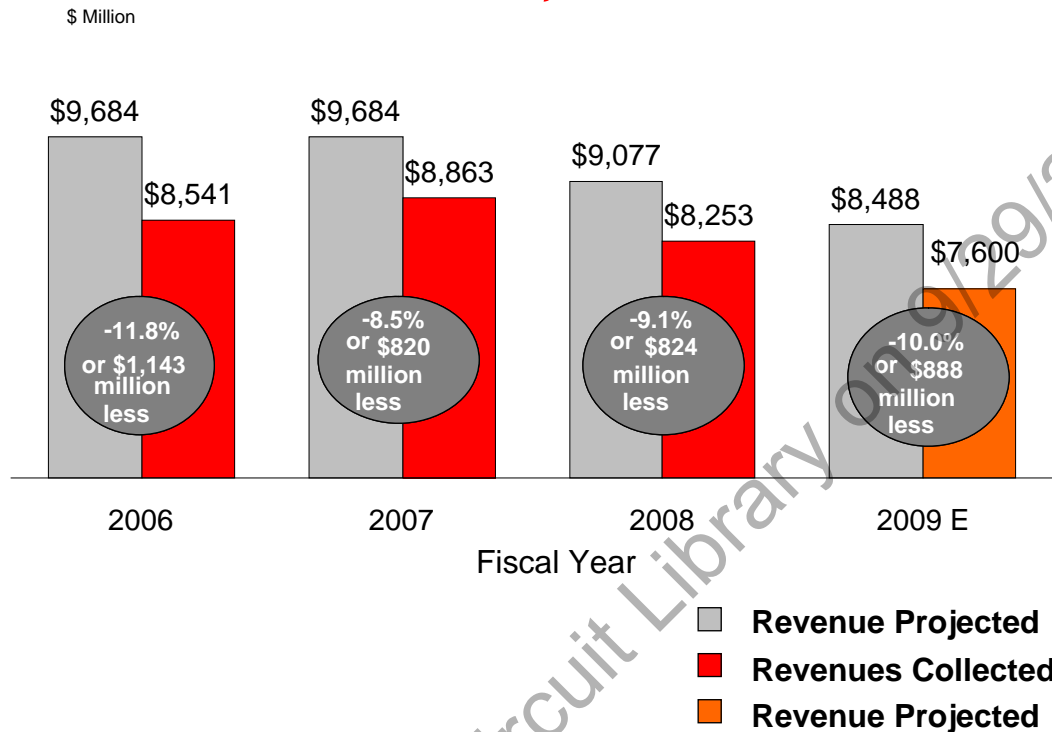


Source: The Planning Board.

Revenue Overestimation

These overestimated projections made by the Planning Board allowed for the devising of government budgets which were far removed from Puerto Rico's economic reality. The economic projections of the Board are the basis for the revenue projection made by the Department of the Treasury for purposes of the annual Government budget. Consequently, the overestimation of the economic growth made by the Board led the Department of the Treasury to overestimate the revenues of the General Fund at the time to prepare the annual budgets. From fiscal year 2006 to the present, all annual budgets have overestimated revenues by an average of \$919 million per year, or approximately, 10% of the budget. Cumulatively, during such period covering four fiscal years, annual Government budgets have overestimated the revenues by an amount of not less than \$3,675 million.

For a Total of \$3,675 million

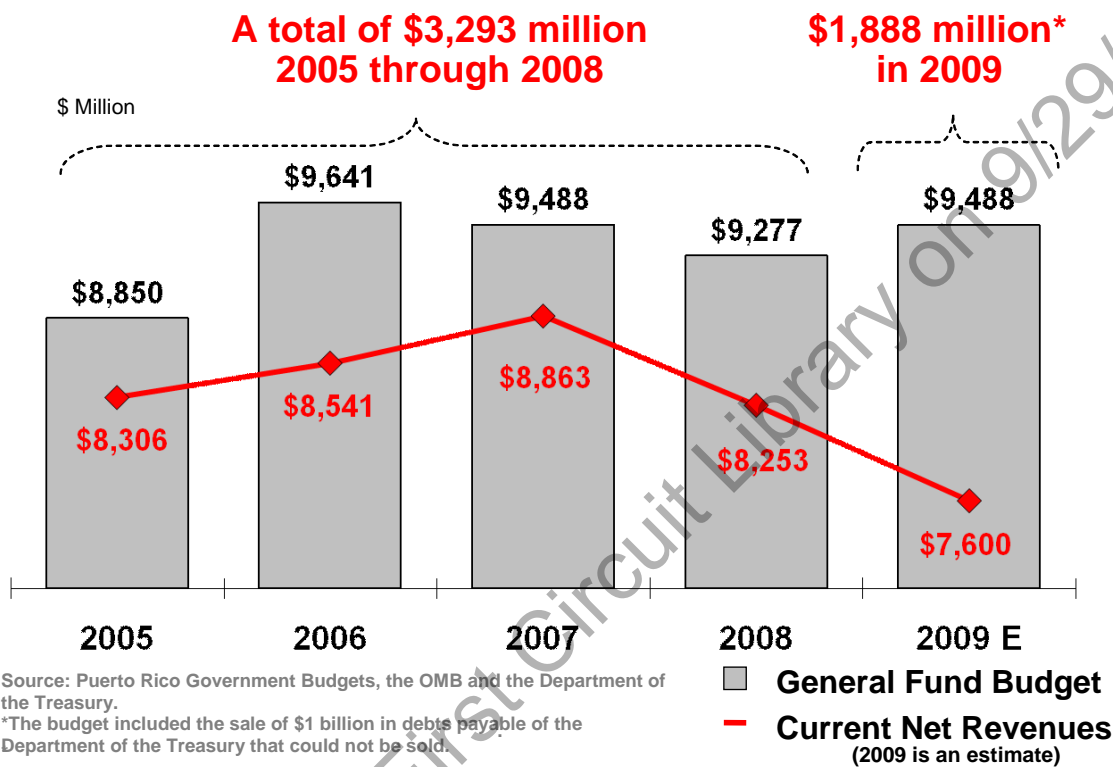


Sources: Puerto Rico Government Budgets, the OMB and the Department of the Treasury

Inflated Expenditure Budgets

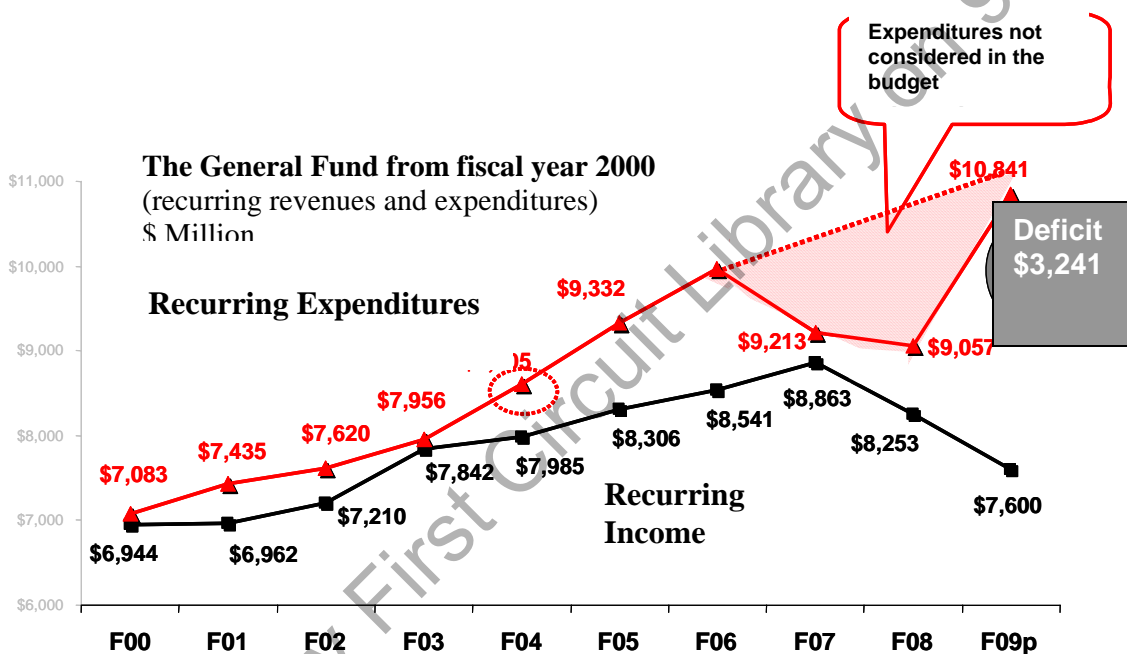
The most serious consequence of this revenue overestimation pattern was the preparation of operating expenses budgets that far exceeded the revenues and which were in clear disregard of the recessionary condition afflicting our economy. For each fiscal year from 2006 to 2008, revenues amounted to less than the expenditure budget by an average of \$916 per year, or approximately 10% of the expenditure budget. For the current fiscal year, the gap widens even more due to a substantial drop in revenues, caused by the severe economic contraction experienced in the Island. According to the most recent revenue projected made by the Department of the Treasury, the estimated difference between the revenues and the expense budget of the year 2009 amounts to \$1.888 billion, or approximately 20% of the expense

budget. During the period ranging between fiscal year 2006 and fiscal year 2009, budgeted operating expenses would have exceeded revenues by at least \$4.637 billion. This amount equals to more than half the average annual revenues for the past four fiscal years.



The gravity of this gap between revenues and budgeted expenses turns ever more precarious when the current Government expenditures are considered. Two fiscal years before the beginning of the recession in Puerto Rico in 2006, the Government was already spending amounts substantially greater than its recurring income. At the onset of recession in 2006, this gap widens significantly, and the year 2006 closes with a deficit of \$1.422 billion. After the Fiscal Reform Act of 2006, Government spending seemed to have had declined dramatically, but in reality, the administration took temporary measures which carried expenses for fiscal years 2007 and 2008 over to 2009. These measures included, among other things, not paying

Government suppliers, including the Electric Power Authority and the Aqueduct and Sewer Authority; not including debt servicing with the Government Development Bank; and refinancing debts which postponed payments to subsequent years. These measures only carried expenses over to subsequent years. Despite these schemes, from fiscal year 2006 to fiscal year 2009, the Government spent amounts which exceeded recurring income by \$5.817 billion.



Source: Puerto Rico Planning Board, Transition Reports 2008.

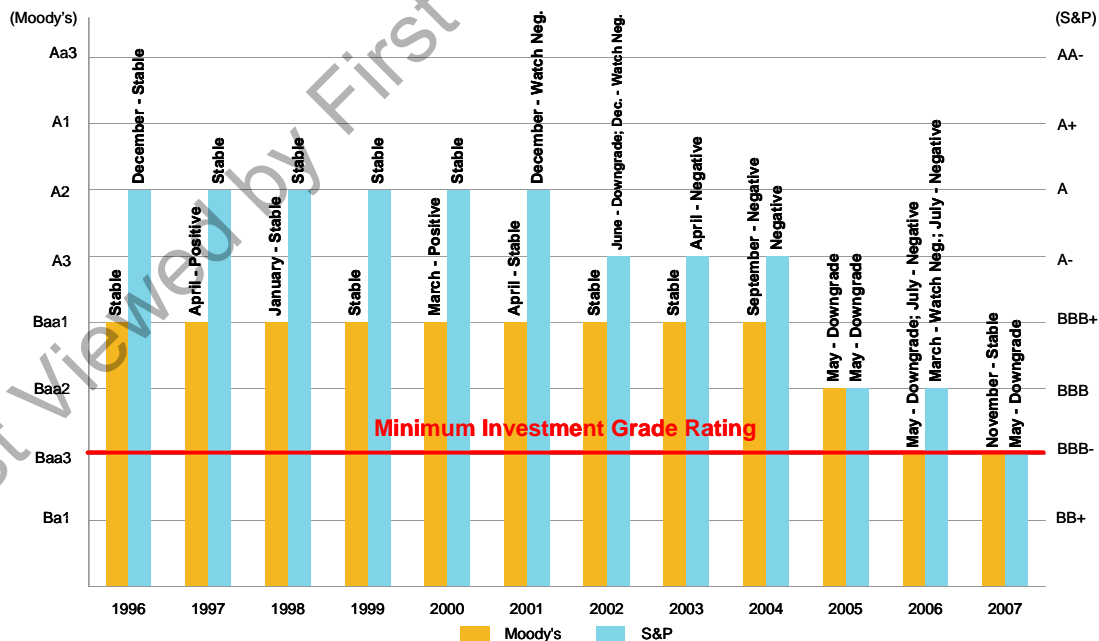
* Excludes the payment of \$1 billion in accounts receivable by the Secretary of the Treasury

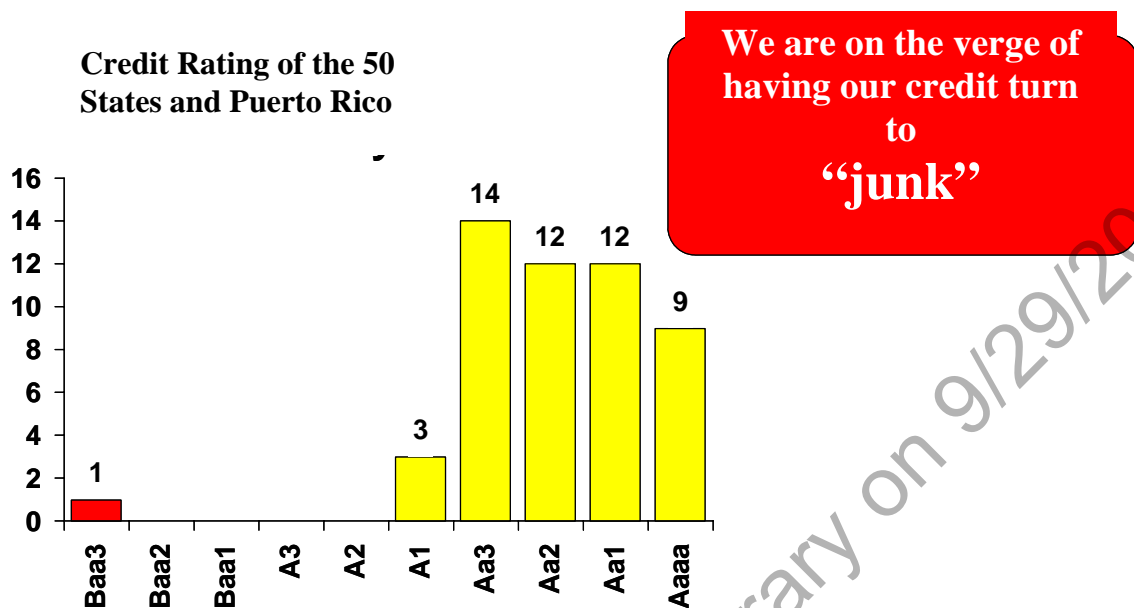
The Recurring Structural Deficit

The net result of these practices is a severe imbalance between recurring expenditures and income of the Government, coupled with a structural deficit nearing \$3.2 billion for the current fiscal year, and which is projected to continue over \$3 billion per year for upcoming fiscal years if no measures are immediately taken to stabilize our fiscal situation and to develop our economy.

The Decline of Our Credit Rating, On the Verge of Turning Into “Junk,” and the Risk of Degradation

An ominous consequence of these fiscal policies has been the accelerated degradation of our credit rating and the risk of a next degradation—to “junk” credit. In 2004, the general obligations of Puerto Rico were classified at a Baa1/A- rating by credit rating companies Moody’s and Standard & Poor’s. While our fiscal and economic situation has been worsening, our credit rating has continued its decline. In 2006, both credit rating companies degraded our credit to Baa2/BBB; in 2006, Moody’s lowered our rating to Baa3, and Standard & Poor’s followed suit by lowering the same to BBB- in 2007. At present, our rating is at Baa3/BBB-, one step away from falling into the “junk” credit rating and from losing its investment grade.





While the 50 states have a A1 or higher rating, Puerto Rico is five levels below, on the edge of the precipice.

The degradation of our credit into “junk” would be catastrophic for Puerto Rico. The immediate consequence of this degradation would be the dramatic devaluation in the order of 30% to 50% in the value of all the obligations of the Central Government and all other public instrumentalities. All individual retirement accounts, retirement plans—both public and private—and investment and savings accounts invested in Government bonds would be seriously affected. The impact would be massive at all levels of our society, from Educational IRA’s for the education of our children, to the retirement plans of our employees, to investment accounts of the Government and our private corporations. At present, there are over \$10.039 billion in Government bonds held by local owners, which would lose between \$3 and \$5 billion in value as a consequence of such degradation.

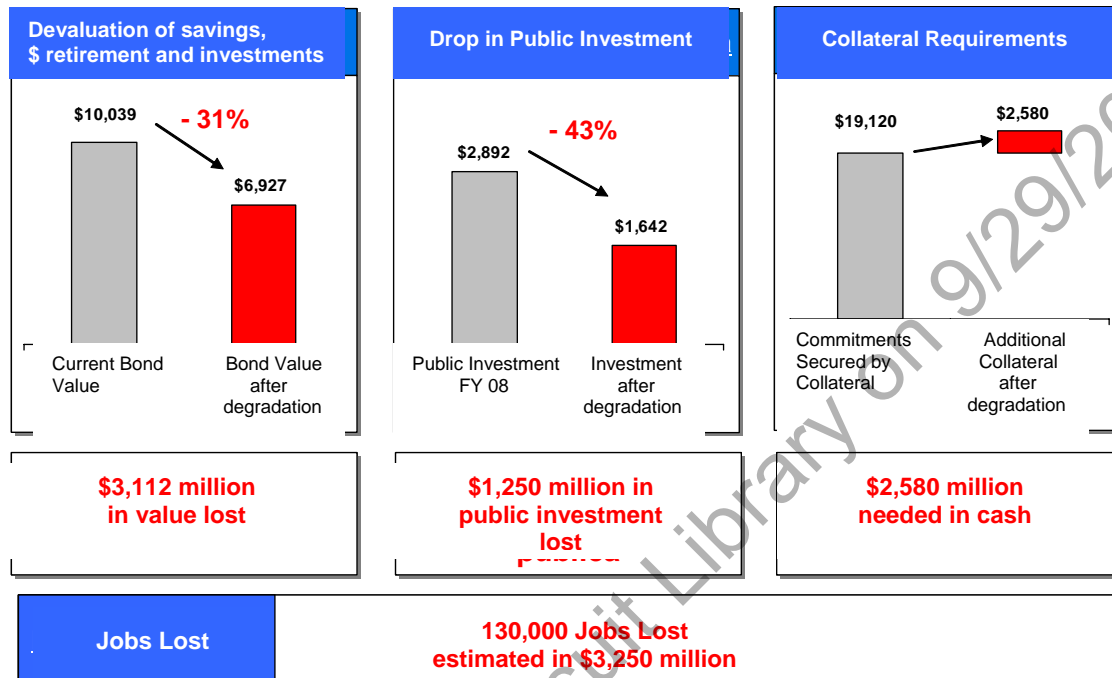
This devaluation would be coupled with the immediate need for the Government, individuals, corporations and other Government bondholders to present additional collateral in order to secure their obligations with creditors. In the case of the Government, contracts for the issue of general obligation bonds typically provide that, in the event that bonds are degraded to a rating below investment grade, the Government must present collateral in cash to secure the payment of such bonds. The Government Development Bank estimates that the Government would have to present—immediately—over \$900 million in collateral. On the other hand, all individuals, enterprises, and other entities that have loans or other credit facilities secured by bonds of the Government of Puerto Rico, would have to present additional collateral to compensate for the loss of value of such bonds. The Government Development Bank estimates that these additional collateral requirements could well amount to up to \$1.68 billion. In brief, the Government, as well as individuals, enterprises, and other entities would have to present approximately \$2.58 billion in additional collateral as a result of such degradation.

The double impact of the devaluation and the need to present additional collateral would be made even worse by the deep economic contraction that would result from the inability of the Government and its instrumentalities to resort to credit markets to finance public works and from the fact that the private sector would be severely constricted as to the generation of economic activity. On the one hand, investors who have traditionally acquired Puerto Rico bonds would be prevented from continuing to invest in Puerto Rico, due to the fact that usually “junk” bonds cannot be purchased; this would seriously limit the ability of the Government and its instrumentalities to resort to credit markets in order to

obtain financing for public works and improvements. On the other hand, vis-à-vis the devaluation of bonds and the need to present additional collateral, the ability of the private sector to generate activity would also be seriously limited. The Government Development Bank estimates that this contraction could represent a reduction of \$1.25 billion in public investments.

Lastly, the convergence of all these adverse effects would aggravate our economic recession and result in the loss, according to the Planning Board's econometric models, of approximately 130,000 jobs, for an additional impact on our economy amounting to approximately \$3.25 billion. The overall impact of the degradation to "junk" credit would be catastrophic. According to the above estimates, the overall impact would be at the very least \$10 billion—this amount equals to approximately 17% of the Gross Domestic Product of Puerto Rico, or 1.3 times the revenues projected for the Government for the current fiscal year. Without a doubt, such degradation would drag Puerto Rico into a deep economic depression never before seen in our history. If only the impact on public investment resulting from degradation is to be considered, Puerto Rico's economy would suffer an 11% contraction in the next two fiscal years and the unemployment rate could rise to 25%. If all other economic effects of such degradation are to be considered, the effect in our economy would be even more devastating.

\$ Million



Source: The Government Development Bank

The impact of this depression on the finances of the Government of Puerto Rico would be unimaginable. There would be a sudden reduction in revenues and resorting to financing options to cover budgetary shortfalls would become impossible. The Government's operating deficit would rise to proportions never before seen. The Government would simply not have the resources to continue operating; it would be unable to pay the salaries of all of its employees; it would be unable to fulfill the obligations contracted with all of its good and service supplier; it would be unable to provide all of the usual services and benefits to citizens; and it would be placing its ability to fulfill its obligations with bondholders at risk. The Government would have to dramatically curtail its operations and the services and benefits it provides

to citizens; it would have to close down some of its dependencies temporarily or even permanently; and it would have to direct its limited resources to providing the minimal essential services that citizens need the most.

This scenario would manifestly place the health, the safety, and the welfare of the People of Puerto Rico in jeopardy. This Legislature cannot allow for this outcome, for the good of all of Puerto Rico.

The Absence of Easy Solutions

Unfortunately, there are no easy solutions. The past administration resorted to temporary measures, and in some cases, to measures lacking a sense of foresight and responsibility, in an attempt to bridge the ever-widening budgetary gap between our revenues and our expenditures, instead of directly addressing the structural problem. These measures aggravated and outspread the problem, only to erupt in the current fiscal year.

A State of Fiscal Emergency

There is no longer the ability, the space or the time for measures of this sort. The risk of degradation is imminent. It is of the essence to take forceful actions which clearly indicate that the Government of Puerto Rico is committed to facing and resolving its fiscal situation. The irresponsibility behind previous fiscal policies has depleted Puerto Rico's credibility—the only way to salvage it is by taking actions which clearly show our intent.

The Governor of Puerto Rico has taken several steps to address this dire situation. By means of Executive Orders OE-2009-001 and OE-2009-004, the Governor decreed a state of fiscal emergency and established immediate measures to control Government spending, including: freezing vacant job positions; prohibiting the creation of new job positions; eliminating 30% of trust positions in agencies; cutting back on operating

expenses by 10% of half the operating expenses budgeted for fiscal year 2008-2009; prohibiting the use of credit cards; limiting the use of official vehicles; and prohibiting the use of public funds to defray expenses in connection with the use of cell phones, among other measures.

It falls now upon this Legislature to take decisive action in view of the gravity of the situation and the magnitude of the risks Puerto Rico faces. This Legislature hereby finds and declares that Puerto Rico is experiencing a **grave fiscal emergency** that calls for the use of the Police Power to take control over its fiscal affairs. Inaction is not an option.

The Puerto Rico Fiscal Stabilization and Economic Reconstruction Program

It is necessary to take action concurrently on two fronts. On the one hand, we must straighten up our budgetary situation in order to avoid the catastrophe scenario and lead the Government to a state of fiscal health with a balanced budget, as required by our Constitution. On the other hand, it is necessary to aggressively stimulate our economy to offset the contraction of the past three years and place it on the onset of the ascending curve of economic development. The first step is essential in order for the second to be successful.

The group of four measures known as the Puerto Rico Fiscal Stabilization and Economic Reconstruction Program seeks these purposes indeed. This Special Act to Declare a State of Emergency and to Establish a Comprehensive Fiscal Stabilization Plan to Salvage the Credit of Puerto Rico has the main purpose of stabilizing the finances of the Government of Puerto Rico and protecting our credit by means of a balanced plan to cut back on spending, to increase revenues and to improve oversight, as well as to provide for financial measures. The Puerto Rican Economic Stimulus

Program Act, the Federal Economic Stimulus Implementation Act, and the Public-Private Partnership Act seek to boost our economic development. The Program is designed so that any recessionary effect of fiscal control measures shall be countered by the progressive effects of the economic development measures, in order for the net effect of the program as a whole to be progressive.

The Special Act to Declare a State of Fiscal Emergency and to Establish a Comprehensive Fiscal Stabilization Plan to Salvage the Credit of Puerto Rico

The road to fiscal reconstruction requires that the structural deficit be closed by balancing control and spending cutback measures and revenue measures. In view of the fact that the Planning Board's projections foresee a negative growth of 2% for the upcoming fiscal year, the preliminary estimate of revenues collected by the Department of the Treasury for such year is \$7.4 billion, that is, \$200 million less than the revenue projection in effect for the current fiscal year. Consequently, under the current revenue and expenditure structure, the structural deficit for the next fiscal year and the following two fiscal years would not be less than the deficit of approximately \$3.2 billion for the current year. This deficit represents 42% of the revenues projection for fiscal year 2010.

A structural deficit of this magnitude cannot be eliminated only with cutbacks on spending or with taxation measures. The taxation measures that would be necessary to bridge a \$3.2 billion gap would stifle our citizenry and thrust Puerto Rico into a depression of catastrophic proportions. It would call for a total increase in taxes of at least 42% (\$3.2 billion in addition to the \$7.4 billion revenue projection) in order to be able to raise that kind of money. It would call for dramatic increases in Sales and Use

Tax (*IVU*, Spanish acronym) rates, in income tax rates, in excise tax, on automobiles, gas, oil, and other articles. To impose burdens of this magnitude during a recessionary economy would be devastating form Puerto Rico. This Legislature cannot consider such an option.

On the other hand, to cover this structural deficit merely by cutting back on Government spending could have a devastating effect on Government operations, the services provided to citizens, and the general economy. For example, a cutback of \$3.2 billion would require the layoff of approximately 110,000 employees of the Central Government (estimating a cost per employee of \$30,000). In a Central Government that has approximately 190,000 employees, this cutback would represent 58% of the Government staff. An action of this kind would render our Government inoperative and would seriously affect the services provided to citizens, thus placing the health and the safety of our People at risk. Our Government would be practically barred from assisting this large number of laid-off employees, for it would be sunken into a recession that would certainly worsen with such an action, and other sectors would not be able to absorb all of these employees. The impact would be devastating. This Legislature cannot consider such an option.

Therefore, this Legislature believes that the responsible way to act is by implementing a well-balanced combination of: (a) new revenue and better oversight measures (Chapter II); (b) control and spending cutback measures (Chapter III); and (c) financing measures (Chapter IV) to help cover budgetary shortfalls while the revenue and the spending cutback measures begin to yield effect, to finance costs associated with the implementation of spending cutback measures, and to prevent adverse

impacts to affect the General Fund in view of the precarious fiscal situation of some corporations and municipalities.

A. Revenue and Better Oversight Measures

With regard to revenue measures, this Legislature believes that Puerto Rico is overburdened by taxes and that citizens cannot withstand more taxes or more increases in public utility rates. However, in view of the fact that some revenue measures are unavoidable due to the gravity of our fiscal crisis, most of these measures should be temporary and impact primarily on those sectors of our society which have more resources, in order to help salvage Puerto Rico. The impact on our middle class and our lower-income classes should be lessened as much as possible. The bottom line is that, in order to be able to overcome this crisis, all sectors of our society must contribute in proportion to their resources.

In following these principles, this Legislature hereby establishes a plan whereby not more than 40% of the structural deficit estimated in \$3.2 billion shall be covered under new revenue or better oversight measures and under financial measures. This is the limit of what we believe to be a reasonable imposition on an overburdened citizenry in an increasingly deteriorating economy. The measures contemplated in Chapter II of this Act are directed to increasing revenues, together with aggressive oversight and collection efforts being made by the Department of the Treasury. Most of these are temporary and fall mainly on those sectors of our society with the most resources: (a) a special emergency surtax of 5% on individuals with an annual adjusted gross income over \$100,000 and on married persons who file joint returns with an annual adjusted gross income over \$150,000; (b) a special emergency surtax of 5% on corporations, including banks, insurance companies, and great retail chains; (c) an immediate moratorium on all tax

credit programs, except for credit programs for tourism, filmmaking, and industrial incentives; (d) a modification to the alternative minimum tax on corporations; (e) a special emergency tax of 5% on highly profitable international banking entities, cooperative insurers, and cooperative savings and credit unions; and (f) a special emergency tax on residential real property appraised at a value greater than approximately \$210,000 equal to the municipal tax currently paid.

Permanent revenue measures are limited: (a) an increase in excise tax on cigarettes, wine, and beer directed to financing Government health programs; (b) treating motorcycles as automobiles for purposes of excise tax on motor vehicles; (c) a modification of the alternate basic tax on individuals; and (d) eliminating the credit against the sales and use tax (IVU) for buying products manufactured in Puerto Rico for export, and eliminating the resale certificate for vendors.

In order to ensure the maximum impact of these revenue and oversight measures—whether temporary or permanent—on the reduction of the structural deficit and in addressing the situation of the General Fund, this Act hereby excludes the proceeds yielded by these new measures from the application of the formulas for funding appropriated to the University of Puerto Rico and the municipalities. In this manner, it shall be assured that these new revenues shall be expressly directed to reducing the structural deficit of the Central Government.

B. Control and Spending Cutback Measures

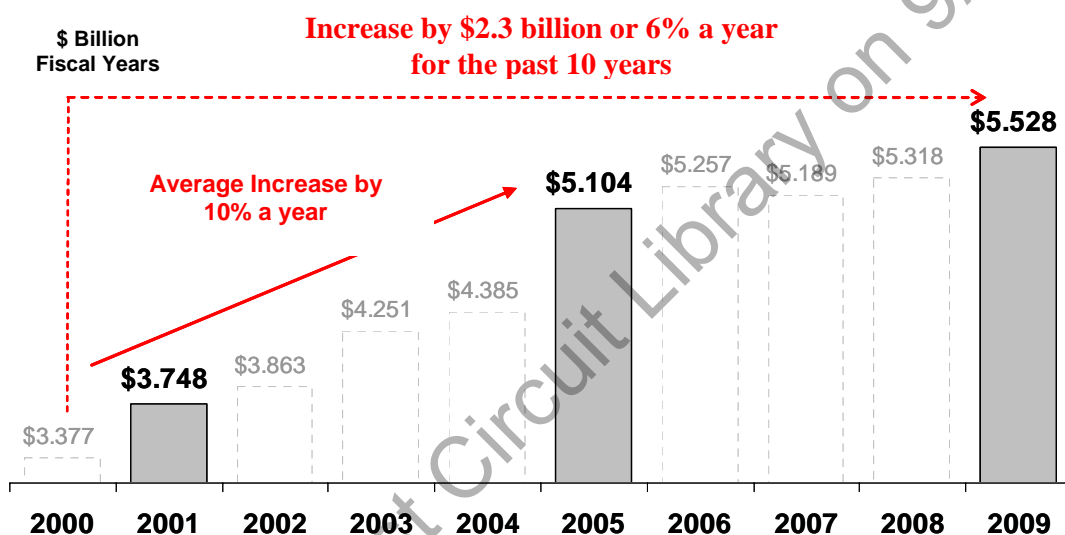
After the implementation of the taxation measures, the remaining 60% of the structural deficit—approximately \$2 billion—must be addressed by means of exercising control over and cutting back on spending. Approximately 27% of the government expense budget is committed to

servicing the debt of the Government, to the formulas for appropriations to the Judicial Branch, the University of Puerto Rico and the municipalities, and with the appropriations to the Legislature. The remainder—approximately 73%—is the expenditure base subject to discretionary control. These expenditures are constituted by two main items: (a) operating expenses that do not constitute the payroll and (b) payroll operating expenses. In the budget for fiscal year 2009, the ratio between these two items is 33% in operating expenses not constituting the payroll, \$2.7 billion, to 67% in payroll operating expenses, \$4.7 billion.

In view of this distribution of expenses, it is practically impossible to accomplish the necessary cutbacks without affecting the government payroll. If cutbacks were to be made only on operating expenses (not including the payroll) and supposing that these expenses amount to \$2.7 billion, according to the current budget (although we are aware that the present expenses are even greater), approximately 74% of these expenses would have to be cut back. At this time, this is impossible. It is unfortunate, but necessary, to consider a substantial downsizing in the government payroll. This distressing action is the dismal legacy of the irresponsibility underlying previous fiscal policies.

The pattern described in terms of overestimation of the economic growth rate and revenues with their concurring expenditure inflation enabled the Government to continue increasing the government payroll which was not in proportion with the reality of our revenues and our economy. The Government's payroll grew at an average annual rate of 6%, for a total of \$2.3 billion, between fiscal years 2006 and 2009, while our economy sustained an average annual growth rate of 1% and has indeed contracted for the past three years. Specifically, in 2001, the Government expended

\$3.748 billion to cover its payroll, while in this year of 2009, there is an estimated payroll expenditure of \$5.528 billion. From fiscal year 2005 to fiscal year 2009, the payroll grew by \$424 million, in spite of a recession that began in fiscal year 2006. From the year 2001 to the year 2008, the Government added at least 49,000 employees to its payroll. This government gigantism is the dismal legacy of the past two administrations.



Source: Office of Management and Budget of Puerto Rico, Transition Presentation; Planning Board.

* The Executive Branch excludes appropriations by Law or Formula, Payments to Retirees, and Debt Servicing

This Legislature deems that the responsible way to act is to provide for the combined cutback in operating and payroll expenses, until the goal of an annual \$2 billion cutback is reached. In view of the magnitude of the payroll component, the greatest cutbacks shall concentrate on such item. The cutback in operating expenses other than payroll shall be addressed when preparing the budget for fiscal year 2010 and its enforcement shall be supervised by the Puerto Rico Fiscal Stabilization and Reconstruction Board that is established by virtue of this Act. The cutback on payroll expenses is addressed by means of the spending cutback plan provided for in Chapter III

of this Act. Since the problem of the structural deficit is a problem concerning the Government as a whole, it is fitting to implement a remedy for the Government as a whole, treating all public employees equally and being governed by the objective criterion of seniority in the public service.

This Act establishes a three-phase plan for the downsizing of the government payroll. The implementation of this plan lies within the Puerto Rico Fiscal Stabilization and Reconstruction Board, constituted by the Executive Director of the Office of Management and Budget, the Secretary of the Treasury, the Secretary of Labor, the Secretary of Economic Development and Commerce, and the President of the Government Development Bank for Puerto Rico.

The transition from the first to the second phase of the plan shall depend on a certification by the Office of Management and Budget (“OMB”) attesting that the objectives relative to operating expenses cutbacks have not been accomplished. All dependencies of the Executive Branch whose budget is defrayed in whole or in part by the General Fund, such as agencies, departments, boards, commissions, administrations, offices, and subdivisions shall be subject to this plan. The Judicial Branch, the public corporations, the University of Puerto Rico, the Commonwealth Elections Commission, and the Office of Government Ethics are hereby exempted from this plan. The Office of the Governor shall also be included in this Plan.

Phase I has two components. First, it provides a window so that public employees who have served for twenty or more years may be able to opt for a permanent 10% reduction in their work schedule, which equals one (1) day out of their biweekly payment. Second, it provides a program of incentivized voluntary resignations. Public employees who opt for this program shall

receive a financial incentive based on their years of service, the liquidation corresponding to their vacation and sick leaves, any accrued compensatory time, if applicable, and the payment of their health plans for one year.

Employees who opt for voluntary resignation may participate in the Public Employee Options Program established by this Act. This program provides the following options to ease the transition of these public employees into other sectors of our economy: (a) the possibility of obtaining employment in the private sector or in nonprofit corporations, having their salary subsidized by the Government for one year; or (b) an educational voucher to pursue new fields of study and to be qualified for other jobs; or (c) a voucher for retraining in vocational skills or for relocation, so that they may be able to access other job opportunities; or (d) a voucher to establish a business or for self-employment.

Once the window of time for participating in this Phase I which consists of work schedule reductions and incentivized resignations is closed, the agencies shall report to the OMB the number of employees that opted for any components of Phase I. The OMB shall then certify the savings projection through the implementation of Phase I. If the OMB were to certify that the savings projected for Phase I are not sufficient to accomplish the objectives of budgetary savings, then Phase II shall be implemented with a transition plan for public employees in agencies subject to this Act. In preparing this Plan, the Board shall take into consideration the savings objectives and the need to keep agencies operating to provide services to citizens. In order to prevent a negative impact on government services, this plan shall exclude those positions that provide essential services to citizens and which are essential to keep continuity in services. Insofar as the first Executive Order of 2009 requires the elimination of thirty percent (30%) of

all trust positions at the Agencies, these shall also be excluded from application of the layoff plan.

Phase II of the plan shall begin, in the first place, with employees who hold a transitory or an irregular appointment. Then Phase II shall evaluate employees who do not hold a transitory or an irregular appointment, observing exclusively the criterion of seniority, in order to lay off employees with less seniority, regardless of the agency or dependency to which they have been assigned. This shall assure an equitable application of the objective criterion of seniority throughout the entire Government. In order to determine the seniority of employees thus affected, all services rendered in the public service by employees so affected shall be taken into consideration. Employees affected by this second phase shall receive the corresponding liquidation of their vacation and sick leaves, if applicable, and their health plan paid shall be for a term of six months. Furthermore, they may avail themselves of the Public Employee Options Program.

This plan shall take effect gradually as of July 1, 2009, and during the entire of fiscal year 2010. The Board shall establish the order in which the transition is to be conducted, and in determining such order, it shall take into consideration the necessary measures so as to ensure that the agencies affected may continue to operate efficiently. Upon completion of Phase II, agencies shall have to submit to the OMB, individually, a report showing the savings achieved by the layoff plan. The OMB shall then certify the savings projected for Phase II.

This plan to cut back on payroll expenses shall be complemented by two additional measures in Phase III. First, by freezing all raises in salary, fringe benefits, or any other raise, compensation or benefit of a financial nature, regardless of the source thereof, for all public employees as of July 1,

2009, and for two fiscal years. This freezing is necessary to achieve the objective of cutting back on spending and of controlling payroll expenses for the next two fiscal years, while allowing for the number of employees affected by Phase II to be lesser than it would if such raises were to take effect, for the budgetary impact of the raises would have to be offset by a greater number of employees. Second, by suspending for the same lapse of time all provisions in effect, regardless of their source, in connection with promotions, transfers, personnel transactions and task distribution, so that the sole governing criterion for personnel transactions and task redistribution within an agency or between agencies be the criterion of the needs of the service. This suspension is necessary to grant the maximum flexibility to the Executive Branch in order to rebuild agencies after the impact of the transition plan under Phase II.

Employees affected by Phase II shall be registered into an eligible candidate roster, to be prepared by the Office of Human Resources of the Commonwealth (*ORHELA*, Spanish acronym), for a one (1)-year term. If the need to fill a vacancy should arise, and this could not be achieved by transferring within the agencies or between agencies, persons registered in the eligible candidate roster may be rehired if, at the time of their separation, they were performing tasks equal or similar to those of the vacant position, observing for this purpose the criterion of seniority. In these cases, employees with the most seniority shall be preferentially hired.

This plan does not contemplate a reduction in the general work schedule as a feasible option for reducing the structural deficit and keeping the Government operating for various reasons. First, the magnitude of the reduction in the work schedule that would be necessary to achieve the cutbacks needed would call for a reduction of approximately 2 or 3 days,

which is equal to a salary reduction of 40% to 60%. In addition to having an enormous impact on the income of these employees and creating general distress within and outside the Government, a work schedule reduction of 2 or 3 days would render the Government practically inoperative. Second, even if considering some combination of a transition of a lesser number of employees and a general work schedule reduction for remaining employees that do not provide essential services, the reduction in the work schedule would have to be considerable in order to generate the necessary savings—at least, by 20% of salaries or one (1) day a week, and it would have to be instituted for an indefinite term. The reduction in the work schedule would have to be maintained for the time necessary for Government revenues to be able to increase to the levels necessary so as to enable the Government to reinstitute the complete work schedule. In view of the recessionary condition of the economy of Puerto Rico and the magnitude of the structural deficit, this process could take not less than 3 fiscal years.

This Legislature deems these measures to be necessary and reasonable to assertively counter our fiscal emergency within the bounds of our body of laws and our Constitution. These are the less burdensome alternatives available to accomplish the valid public purpose of salvaging Puerto Rico from an economic and fiscal catastrophe. This Act is part of a comprehensive plan constituted by four legislative measures for fiscal stabilization and economic reconstruction. This Act pursues the main public purpose of achieving fiscal stabilization through a well-balanced plan of revenue measures, cutbacks on spending, and financial measures that unfortunately must include a component whereby payrolls are downsized significantly. All the alternatives typically used as steps preceding the reduction of personnel—transfers, relocations, retraining, leaves without

pay, and work schedule reduction, among others—are not viable within the context of the magnitude of the Government’s structural deficit and the precariousness of the situation. It is necessary to cutback on government spending dramatically and expediently. In view of the size of the payroll and the size of the deficit, none of the other alternatives are compatible with this objective or viable in terms of the impact they would have on Government operations. Transfers, relocations and retraining constitute a mere transfer of employees, and consequently, of expenditures from one place to another. The general work schedule reduction, let alone leaves without pay, are not viable alternatives inasmuch as they would have to be of such magnitude and duration that they would severely impact the governability of the Executive Branch.

Likewise, temporarily freezing all raises in salary and any economic benefit and temporarily suspending all provisions on personnel transfers, relocations and transactions and task redistribution, are not in contravention with the constitutional provisions on the impairment of contractual obligations. We find ourselves in a fiscal emergency. Our Supreme Court recognized, within the context of the fiscal crisis in the Retirement System of the University of Puerto Rico—crisis which does not come close to the magnitude of the present fiscal crisis of Puerto Rico—that “the Commonwealth should have the ability and the flexibility to make reasonable changes and amendments as necessary to further the legitimate interests” it pursues [Unofficial translation]. *Bayrón Toro v. Serra*, 119 D.P.R. 605, 623 (1987). This Legislature deems that the measures established by virtue of this Act are reasonable and necessary in view of the extremely serious circumstances that Puerto Rico faces.

C. Financial Measures

In spite of the fact that this Act would take effect immediately after its approval, the measures on revenues and cutbacks on expenses authorized herein would not have an immediate effect. The expenditure control plan would be instituted during fiscal year 2010 and would require funds to finance the transition of employees laid off from the public service. Revenue measures would have an effect—some, immediately; others, throughout the fiscal year. Chapter IV of this Act authorizes various financial measures so as to enable the Government to finance budgetary shortfalls while the measures on revenues and cutbacks on spending have their full effect and to finance the transition of public employees set forth in Chapter III, while avoiding adverse effects on the General Fund and on the effectiveness of this plan, caused by the precariousness of certain public corporations and municipalities.

An amendment to the Dedicated Sales Tax Fund Corporation Act is hereby authorized, in order to provide for an additional appropriation of 0.75% of the sales and use tax to the fund of said corporation to increase its capacity so that the proceeds of the bond issues said corporation may also help defray the costs of the Public Employee Options Program set forth in Chapter III of this Act. Certain tools are hereby established for financing and for cash flow management during this crisis, to assist the General Fund and the Public Building Authority—in the case of the latter, to prevent its dire fiscal situation from adversely affecting the General Fund. A Savings Notes in Economic Cooperation with Puerto Rico program is hereby established to encourage the direct participation of citizens in the financing of this fiscal stabilization plan.

Lastly, there are approximately 40 municipalities whose situation is precarious. If emergency tools are not granted to these municipalities to manage their situation, these could affect the General Fund and have an impact on the Central Government stabilization plan instituted by this Act. Therefore, Chapter IV of this Act amends the Municipal Financing Act, in order to open an emergency window until June 30, 2011, so that municipalities are able to take money on loan from the Government Development Bank through general municipal obligation notes and bonds to address their operating deficits. This would enable municipalities with repaying ability to take money on loan from the Bank so as to address their own fiscal crises under the Bank's supervision, thus preventing the Central Government's fiscal condition from becoming further affected. In order to render this emergency window viable until 2011, the Property Tax Act is hereby amended, to broaden the borrowing margin of municipalities by increasing by a tenfold factor the appraisal value of any real property appraised by the Municipal Revenue Collection Center. This measure shall not have a net effect on taxpayers because it is coupled with a reduction in tax rates by the same tenfold factor.

Puerto Rico is experiencing a fiscal emergency produced by irresponsible fiscal policies and by a local recession worsened by the obstinate insistence on such policies and by the local effect of a profound recession in the United States and throughout the world. We are on the verge of an abyss, and all the Branches of the Government bear the constitutional responsibility of taking firm action to salvage Puerto Rico. With this Act, the Legislature has fully exercised its Police Power to address the situation with valor, by means of a comprehensive action plan which contains the measures necessary to restore the Government's fiscal health and to lay the

groundwork for the Government to be able to boost our economic development in for the welfare of all Puerto Ricans. If now lies with all other Branches of the Government and all other citizens to do their part to contribute to the common good and the future of Puerto Rico.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

CHAPTER I

INITIAL PROVISIONS

Section 1.- Title.

This Act shall be known as the “Special Act Declaring a State of Fiscal Emergency and Establishing a Comprehensive Fiscal Stabilization Plan to Salvage the Credit of Puerto Rico.”

Section 2.- Public Policy Statement of Purpose.

An economic and fiscal state of emergency in the Government of the Commonwealth of Puerto Rico is hereby declared and an economic and fiscal stabilization plan is hereby adopted for the purpose of salvaging the credit of Puerto Rico.

The economic analyses conducted by the Government of Puerto Rico are definite proof that the implementation of measures regarding revenues, spending reductions and financial issues, in an isolated manner, exclusive and independent from one another, shall achieve the purpose of eliminating the structural deficit of over \$3.2 billion faced by Puerto Rico. As evidenced, this structural deficit is the result of incorrect public administration policies, transactions of dubious legality, among other factors, which caused the appropriations to exceed the resources of the state.

The Legislature, in the exercise of the police power of the state, is empowered to adopt those measures directed to protecting the health, safety and welfare of the people. To such effect, it is the legal authority of the Legislature to pass bills in order to address social and economic interests, as well as emergencies. Section 19 of our Bill of Rights provides that the rights set forth in Article II “shall not be construed restrictively of the power of the Legislative Assembly to enact laws for the protection of the life, health and general welfare of the people.” Likewise, Section 18 of the Bill of Rights confers on this Legislature the authority to enact laws to deal with serious emergencies that clearly imperil the public health, safety or essential public services. Furthermore, our Supreme Law authorizes the imposition of sufficient taxes when appropriations exceed resources without protecting our credit, as it happens in the present situation.

This Act addresses in a comprehensive and responsible manner the need to achieve the fiscal stabilization of the Government of Puerto Rico and protect its credit through: (a) new measures for revenues and better oversight (b) measures for control and reduction of spending; (c) fiscal and financing measures to cover budgetary insufficiencies while the measures for control and reduction of expenditures take effect, the financing of costs associated with the implementation of the spending cutback measures, and prevent adverse impacts in the General Fund due to the precarious fiscal situation of some public corporations and municipalities.

In view of the economic and fiscal situation and to safeguard the health of the credit of the Commonwealth of Puerto Rico, the urgent need to establish a comprehensive and coherent fiscal stabilization plan, the elimination of the structural deficit, the amortization of the public debt, the recovery of fiscal health and the basis for the Government to boost the

economic development of Puerto Rico is hereby established as the public policy of the Government of the Commonwealth of Puerto Rico.

Section 3.- Primacy of this Special Act.

This Act is approved in the exercise of the police power of the State, and of the constitutional power of the Legislature, recognized in Article II, Sections 18 and 19 of our Constitution, to enact laws for the protection of the life, health and general welfare of the people, as well as to address serious emergencies that clearly imperil the public health, safety or essential public services, and pursuant to Section 7 and 8 of Article VI of the Constitution of Puerto Rico.

CHAPTER II

MEASURES ON REVENUES AND BETTER OVERSIGHT

SUBCHAPTER 1.- Permanent Measures

Section 4.- Clauses (1), (2) and (3) of subsection (b) are hereby amended, and a subclause (D) is hereby added to clause (2) of subsection (c) of Section 1011 of Act No. 120 of October 31, 1994, as amended, to read as follows:

“Section 1011.- Taxes on Individuals

There shall be levied, collected and paid on the net income of every individual in excess of the exemptions provided in Section 1025 of this title and on the net income of an estate or trust in excess of the credit provided in Section 1163, a tax determined in accordance with the following tables:

(a) ...

...

(b) Alternative basic tax on individuals

(1) General rule. There shall be levied, collected, and paid for each taxable year by every individual in lieu of any other tax imposed by this

part, a tax on the net income subject to alternative basic tax determined in accordance with the following table (when the same is greater than the regular tax):

If the net income subject to:

alternative basic tax is:

The tax shall be:

From \$75,000 but not over \$125,000 10%

Over \$125,000 but not over \$175,000 15%

Over \$175,000 20%

(2) Net income subject to alternative basic tax.- For the purposes of this clause, the term “net income subject to alternative basic tax” means the gross income of the taxpayer for the taxable year, determined in accordance to the provisions of Section 1022 of this Subtitle, reduced by the deductions allowed by Section 1023 and the deductions allowed for personal exemptions and dependents provided in Section 1025, with the exception that for the purposes of determining the amount of the net income subject to alternative basic tax:

(A) The following shall not be applicable:

- (i) exclusions or income exemptions that do not arise from this Subtitle, even though the same are granted by special laws, nor
- (ii) exclusions provided in subclauses (C) to (R) of clauses (4); subclause (F) of clause (8); nor clauses (7), (9), (13), (20), (23), (24), (26), (27), (28), (29), (33), (34),

(36), (40), (43), (46), (47), (48), (50), (53), (55), and
(56) of subsection (b) of Section 1022 of this Subtitle;

(B) The shares of a partner in the profits or losses of a special partnership (subject to the limitation established in Section 1023(a)(5)) engaged in the building, installation and construction of works that cover in excess of one year shall be determined by the accounting method known as the percentage-of-completion method; and

(C) The deduction allowed pursuant to Section 1023(aa)(2)(B) shall not exceed thirty (30) percent of the adjusted gross income of the taxpayer, determined in accordance with the provisions of Section 1022(k) of this Subtitle with the adjustments described in subclauses (A) and (B) of this clause 2.

(3) Regular Tax.- . For purposes of this subsection, the term "regular tax" means the amount of the tax liability imposed by subsections (a) and (c) of this Section 1011 before the credit allowed by Section 1031 and the special taxes provided in Sections 1012, 1012A, 1012B (on special tax for variable annuities in separate accounts), 1012B (on the income accrued from basketball games of the National Basketball Association of the United States), 1013, 1013A and 1014 of this Subtitle.

(4) ...

(c) Gradual adjustment of tax rates less than the rate of thirty-three percent (33%) and the personal exemption and exemption for dependents.

(1) ...

(2) Limitation. The increase determined under clause (1) of this subsection regarding to any taxpayer:

(A) ...

(D) For taxable years beginning after December 31, 2008, it shall not exceed eight thousand four hundred ninety (8,490) dollars, plus thirty-three (33) percent of the amount of personal exemption and the exemption for dependents allowed to the taxpayer under Section 1025. In the case of a married person who lives with his/her spouse and files a separate return, the limit specified in this subclause shall be of four thousand two hundred forty-five (4,245) dollars plus thirty-three (33) percent of the amount of personal exemption and exemption for dependents allowed to the taxpayer under Section 1025, in accordance with the regulations to be established by the Secretary.”

Section 5.- Sections 1040D of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, is hereby amended to read as follows:

“Section 1040D.- Credit for the Purchase of Products Manufactured in Puerto Rico for Export

Any eligible business that purchases products manufactured in Puerto Rico for export, directly or through business-related persons, may claim a credit as provided in this section.

(a) Use of the credit. The credit provided in this section shall be applied against the taxes levied in Subtitle A.

(b) ...

(c) Limitation of credit. The credit provided under this section shall be used as follows:

(1) ...

(d) ...”

Section 6.- Section 2008 of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, is hereby amended to read as follows:

“Section 2008.- Cigarettes

An excise tax of eleven dollars and fifteen cents (\$11.15) shall be levied, paid and collected on each hundred or fraction of one hundred (100) cigarettes. For the purpose of this Subtitle, the term "cigarette" shall mean any roll of finely cut natural or synthetic tobacco or any other finely cut natural vegetable or synthetic matter, or any mixture thereof, or other finely cut solid matter or substance that is used to make products known as cigarettes, cigars, and little cigars. Handmade artisan cigars or cigarettes, as defined by the Secretary of the Treasury through regulations, are excluded.

Cigarettes manufactured, introduced, sold, conveyed, used or consumed in Puerto Rico shall have affixed upon the boxes, packages or packs in which packed, a label with the information and characteristics which are established by regulations. Each cigarette box, package or pack, shall have the word “taxable” or “tributable” stamped on a visible place and in clear and legible form. These provisions shall not be applicable to exempt cigarettes.”

Section 7.- Clause (1) of subsection (b) of Section 2011 of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, is hereby amended to read as follows:

“Section 2011.- Vehicles

- (a) ...
- (b) Definitions.- For the purposes of this section and of any other applicable provisions of this Subtitle, the following terms shall have the meaning stated below:
 - (1) Automobile. Shall mean any vehicle provided with any self-propelled means designed to transport persons, including motorcycles, hearses and wreath coaches, but excluding buses and ambulances. It shall also mean those multipurpose vehicles that due to their design, internal structure, mechanical features and physical configuration may be used to transport cargo as well as passengers. It also includes vehicles known by the generic name of “bike,” “scooters,” “vans,” “minivans” and “customized vehicles.”
 - (2) ...
 - ...
 - (c) ...”

Section 8.- Section 2407 of Subtitle BB of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, is hereby repealed.

Section 9.- Subsection (a), clauses (1) and (2) of subsection (c) are hereby amended, clause (3) of subsection (c) of Section 2502 is hereby eliminated, all from Section 2502 of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, to read as follows:

“Section 2502.- Certificate of Exemption

- (a) Any manufacturing plant or person entitled to an exemption under this part, may, subject to compliance with the requirements established by the Secretary, request a certificate of exemption of the sales and use tax. Every certificate issued shall be numbered and shall be valid for a term of three (3) years.
- (b) ...
- (c) When issuing the certificates of exemption, the Secretary must make sure of the following:
 - (1) that the person requesting said certificate is a merchant or the holder of some exemption as established in this Subtitle;
 - (2) that the person is duly registered in the Registry of Merchants.
- (d) ...”

Section 10.- Subsections (a), (b), (c) and (d) of Section 2602 of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, are hereby amended to read as follows:

“Section 2602.- Monthly Sales and Use Tax Return

- (a) In general.—In order to determine the amount of the sales tax to be paid under this Subtitle, all merchants must file a Monthly Sales and Use Tax Return and, with the exception of the provisions of the regulations in accordance with Section 2606 of this Subtitle, shall remit to the Secretary the sales tax not later than the tenth (10th) day of the month following the month on which said taxes were collected, using the forms prepared and supplied by the latter. Said return shall

show, separately for each municipality, the leases, admissions, gross sales or purchases, as the case may be, that may arise from all taxable leases, admissions, sales or purchases, deposits of the sales tax, credits during the preceding month and any other information the Secretary may require through regulations.

(b) Any person who has purchased taxable items subject to the use tax shall file a Monthly Sales and Use Tax Return and remit to the Secretary the tax not later than the tenth (10th) day of the month following that in which the transaction object of the tax occurred in the forms prepared and supplied by the latter.

(c) The Secretary shall accept all returns as filed on time if postmarked not later than the tenth (10th) day of the month following that in which said taxes are collected or the month following that in which the transaction object of the tax occurred, as the case may be. Should the tenth (10th) day fall on a Saturday, Sunday or Federal or Commonwealth Holiday, the returns shall be accepted if they are postmarked the following working day. Those returns that the Secretary may require through regulations to be filed through electronic means must be received not later than the tenth (10th) day of the month following that in which said taxes are collected or the month following that in which the transaction object of the tax occurred, as the case may be.

(d) The Secretary may require, through regulations, that all merchants required to remit the sales tax through electronic transfer of funds, file the Monthly Sales and Use Tax Return through electronic means. The acceptable transfer method, regarding the form and contents of the electronic information exchange, the circumstances

under which an electronic information exchange shall serve as substitute for the filing of the tax form and the means, if any, through which taxpayers shall receive confirmation, shall be established by the Secretary. The Secretary shall accept said returns as if having been filed on time if said transmission is initiated and accepted not later than the tenth (10th) day of the month following the month in which said taxes are collected.

(e) ...

...”

Section 11.- Subsections (a) and (b) of Section 2606 of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, are hereby amended to read as follows:

“Section 2606.- Time for Remittance of the Sales and Use Tax

(a) In general.—The taxes fixed in this Subtitle shall be payable to the Secretary by the person responsible for issuing the payment not later than the tenth (10th) day of the month following the month in which the transaction object of the tax occurred, or in that other date or manner, as established in the regulations to be promulgated by the Secretary in relation to the manner, time and the conditions that shall govern the payment or deposit of said withheld taxes.

(b) Electronic Deposit or in Excess of Thirty Thousand (30,000) Dollars.—In the case of merchants whose deposits of the tax fixed in this Subtitle for the preceding taxable year exceed thirty thousand (30,000) dollars, or those who are required by the Secretary, through regulations, to deposit said tax through electronic transfer, such tax shall be payable not later than the tenth (10th) day of the month following the month in which the transaction object of the tax occurred, or on that other date or manner, as

established in the regulations to be promulgated by the Secretary in relation to the manner, time and the conditions that shall govern the payment or deposit of said withheld taxes.”

Section 12.- Subsection (e) of Section 2607 of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, is hereby amended to read as follows:

“Section 2607.- Form of Payment

(a) ...

...

(e) The Secretary shall accept all payments as remitted on time if they are postmarked not later than the tenth (10th) day of the month following the month in which said taxes are collected, or the month following the month in which the transaction object of the tax occurred, as the case may be. Should the tenth (10th) day fall on a Saturday, Sunday or Federal or Commonwealth Holiday, the payments shall be accepted if their postmark is dated the following working day. Those payments that the Secretary requires that they be sent through electronic means shall be received not later than the tenth (10th) day of the month following the month in which said taxes are collected, or the month following the month in which the transaction object of the tax occurred, as the case may be, or on the date established by the Secretary through regulations pursuant to Section 2606 of this Subtitle, when applicable.

Section 13.- Subsection (a) is hereby amended and a subsection (b) is hereby added to Section 704 of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, is hereby amended to read as follows:

“Section 2704.- Credit for Taxes Paid by the Merchant

- (a) Every merchant who has purchased taxable items for resale and has paid the sales tax may claim a credit for the amount paid for sales tax in the Monthly Sales and Use Tax Return for the period in which said tax was paid.
- (b) Carryover.- If the credit provided by this Section exceeds the tax on sales and use to be paid in the Monthly Sales and Use Tax Return of the period that the tax which allows the credit granted is paid, said excess may be carried over to subsequent Monthly Sales and Use Tax Returns until it is used in its totality.

Section 14.- Subsections (b) and (c) of Section 4002 of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, are hereby amended to read as follows:

“Section 4002.- Tax provision

An internal revenue tax shall be levied, collected and paid at one time on the following products that are in a warehouse or that have been or may be, in the future, distilled, rectified, produced, manufactured, imported or introduced to Puerto Rico at the following rate:

(a) ...

(b) Wines

- (1) On those substandard quality wines whose alcohol content through fermentation has been complemented through exclusive fortification with distilled spirits obtained through the fermentation and distilling of products derived from sugarcane, (excluding champagne and sparkling and carbonated wines, or imitation thereof) or any substitutes thereof, whose alcohol

content does not exceed twenty-four percent (24%) per volume, a tax of one dollar and sixty-five cents (\$2.00) per gallon measure and a proportional tax at an equal rate on every fraction of gallon measure.

For wines manufactured outside of the United States or Puerto Rico and obtained from concentrated must or from tropical fruit to qualify as substandard wines for the purposes of this Act, it shall be an indispensable requirement that their manufacturer or importer file with the Bureau of Alcoholic Beverages and Licenses of the Department of the Treasury a certification of the formula of said wines issued by a government agency or entity with a rank or standing similar to that of the Alcohol and Tobacco Tax and Trade Bureau (TTB) or the Bureau of Alcoholic Beverages and Licenses of the Department of the Treasury. The manufacturer or importer must also file with the Bureau of Alcoholic Beverages and Licenses a certification from the TTB approving the label of the product. The Secretary of the Treasury or the official designated by him/her shall be authorized to order chemical tests or analyses of any other nature to verify the correctness of any information regarding the formula registered with the Bureau of Alcoholic Beverages and Licenses.

- (2) On wine (excluding champagne and sparkling and carbonated wines) and cider, both imported, whose alcohol content does not exceed twenty-four percent (24%) per volume, a tax of twelve dollars and five cents (\$12.05) per gallon measure and a

proportional tax at an equal rate on every fraction of gallon measure.

- (3) On all simple or carbonated tropical fruit wines whose alcohol content through fermentation has been complemented through exclusive fortification with distilled spirits obtained through the fermentation and distilling of products derived from sugarcane and whose alcohol content does not exceed twenty-four percent (24%) per volume, a tax of ninety-seven (97) cents per gallon measure shall be paid, and a proportional tax at an equal rate on every fraction of gallon measure.
- (4) On concentrated must wines (excluding champagne and sparkling and carbonated wines) whose alcohol content through fermentation does not exceed twenty-four percent (24%) per volume, a tax of four dollars and forty-eight (\$4.48) cents per each gallon measure and a proportional tax at an equal rate on every fraction of gallon measure.
- (5) Champagne and Sparkling Wine.-
 - (A) On champagne and sparkling, carbonated wines whose alcohol content does not exceed twenty-four percent (24%) per volume, a tax of fourteen dollars and forty-five (\$14.45) cents shall be paid per each gallon measure and a proportional tax at an equal rate on every fraction of gallon measure.
 - (B) On champagne and sparkling or carbonated concentrate must wines whose alcohol content does not exceed twenty-four percent (24%) per volume, a tax of five dollars and eighty-five (\$5.85) cents shall be paid per

each gallon measure and a proportional tax at an equal rate on every fraction of gallon measure.

- (C) On champagne and substandard, sparkling or carbonated wines whose alcohol content does not exceed twenty-four percent (24%) per volume, a tax of two dollars and fifty-five (\$2.55) cents shall be paid per each gallon measure and a proportional tax at an equal rate on every fraction of gallon measure.

(c) Beer

- (1) On all beers, malt extract and other fermented or unfermented analogous products, whose alcohol content is half of one percent ($\frac{1}{2}$ of 1%) per volume, and which does not exceed one and half percent ($1\frac{1}{2}$ %) per volume, a tax of one dollar (\$1.00) shall be paid per each gallon measure and a proportional tax at an equal rate on every fraction of gallon measure.
- (2) On all beers, malt extract and other fermented or unfermented analogous products, whose alcohol content exceeds one and half percent ($1\frac{1}{2}\%$) per volume, a tax of four dollars and thirty-five cents (\$4.35) cents shall be paid per each gallon measure and a proportional tax at an equal rate on every fraction of gallon measure, except as provided in Section 4023 of this Subtitle.
- (3) On all beers, malt extract and other fermented or unfermented analogous products, whose alcohol content exceeds one and half percent ($1\frac{1}{2}\%$) per volume, and is sold in containers of (5) five or more gallons measure, a tax of four dollars and

forty-two cents (\$4.42) cents shall be paid per each gallon measure and a proportional tax at an equal rate on every fraction of gallon measure, except as provided in Section 4023 of this Subtitle.”

Section 15.- Subsection (a) of Section 4023 of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, is hereby amended to read as follows:

“Section 4023.- Special Exemption

(a) In lieu of the tax fixed in clauses (2) and (3) of subsection (c) of Section 4002 of this Act on all beer, malt extract and other fermented or unfermented analogous products whose alcohol content exceeds one and half percent (1½%) per volume referred to in clauses (2) and (3) of subsection (c) of said Section that are produced or manufactured by persons whose total production, if any, of said products during their most recent taxable year has not exceeded thirty-one million (31,000,000) gallons measured, a tax shall be collected in a staggered manner for each gallon measure produced, imported, or introduced, as follows:

1. The first nine million (9,000,000) gallons measure - two dollars and fifty-five cents (\$2.55);
2. Two dollars and seventy-six cents (\$2.76) per gallon measure in excess of nine million (9,000,000) and up to ten million (10,000,000);
3. Two dollars and ninety-seven cents (\$2.97) per gallon measure in excess of ten million (10,000,000) and up to eleven million (11,000,000);

4. Three dollars and eighteen cents (\$3.18) per gallon measure in excess of eleven million (11,000,000) and up to twelve million (12,000,000);
5. Three dollars and thirty-nine cents (\$3.39) per gallon measure in excess of twelve million (12,000,000) and up to thirty-one million (31,000,000).

(b) ...
...”

Section 16.- Transitory Provisions

- (a) Every bonded warehouse that on the effective date of this Act has in stock distilled spirits, wine, champagne, sparkling wine and beer subject to the payment of the tax provided in this Act, shall be bound to declare and pay the rates provided in this Act prior to removing said alcoholic beverages from the bonded warehouse.
- (b) All distilled spirits, wine, champagne, sparkling wine and beer that on the effective date of this Act are in stock in Puerto Rico for sale and over which the internal revenue taxes prescribed prior to the approval of this Act have been paid, an additional tax equal to the difference between the tax paid and the new tax imposed by this Act.
- (c) The Secretary of the Treasury shall establish through regulations, circular letter or other administrative order of a general nature, the necessary norms for the application of these transitory provisions.

[Reserved]

SUBCHAPTER 2.- Temporary Measures

Section 18.- Subsection (a) of Section 1018 of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, is hereby amended by adding a new clause (6) to read as follows:

“Section 1018.- Adjustments in computing alternative minimum net income

(a) Adjustments.-

(1) ...

...

(6) Deductions for expenses for services rendered outside of Puerto Rico.- In determining the alternative minimum tax, no deductions shall be allowed for expenses incurred or paid for services rendered outside of Puerto Rico if said payments for services are not subject to income tax pursuant to this Code.

(b) ...

...”

Section 19.- Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, is hereby amended by adding a new Section 1020A to read as follows:

“Section 1020A.- Imposition of Special Surtax for each of the Taxable Years Beginning after December 31, 2008 and before January 1, 2012. A special surtax of five percent (5%) over the total tax determined under Sections 1011, 1012, 1012B (on special tax on variable annuities in separate accounts), 1013, 1013A, 1014, 1015, 1016, 1017, 1018A shall levied, collected and paid in the case of corporations, partnerships, estates, trusts, as well as single individuals, heads of family, married persons not

living with their spouses or married persons living with their spouses who file separate returns, and whose gross adjusted income exceeds one hundred thousand (100,000) dollars or married persons living with their spouses who file joint returns, whose gross adjusted income exceeds one hundred fifty thousand (150,000) dollars, and in the case of individual residents of Puerto Rico, over the total tax determined under Sections 1012A and 1012B of this Subtitle. Notwithstanding any other provision of law, including those in Subchapter C of this Subtitle, the special surtax shall constitute a separate tax against which only the credits provided in Sections 1030, 1031, 1032, 1033, 1035, 1037, 1038, 1039 and 1040 of this Subtitle may be claimed.

Section 20.- Clause (5) of subsection (e) of Section 1040K of Subtitle A of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, is hereby amended to read as follows:

“Section 1040K.- Newly Built Housing Acquisition Tax Credit Program.-

(a) ...

...

(e) Assignment, Sale or Transfer of Credit.-

(1) ...

...

(5) In the event that a financial institution, on the closing of any of its taxable years beginning after December 31, 2007, cannot use the tax credit provided by this Section against its tax obligation, if any, and has not assigned, sold, or transferred the same, it may claim said credit in its income tax return as a refundable credit for each one of the three taxable years beginning after December 31, 2010. A refund

applied for under this provision shall not be subject to the payment of interest.

(f) ...

(g) ...”

Section 21.- Subchapter C of Subtitle A of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, is hereby amended by adding a new Section 1040M to read as follows:

“Section 1040M.- Moratorium on Tax Credit

(a) Notwithstanding the provisions of this Subtitle and the provisions listed in subsection (b) of this Section, for each one of the taxable years beginning after December 31, 2008 and before January 1, 2012, no credit shall be claimed against any taxes levied by this Subtitle for credits subject to moratorium listed in subsection (b) of this Section generated or granted prior to January 1, 2009. This moratorium shall not apply to any natural or juridical person that acquired the credits subject to moratorium from the person to whom they were granted or issued prior to March 4, 2009. At the request of the Secretary, the former shall present attesting evidence of the date of acquisition of said credit.

(b) Credits subject to moratorium:

- (1) Section 1040E of this Subtitle;
- (2) Subsection (b) of Section 21 of Act No. 70 of June 23, 1978, as amended, known as the Puerto Rico Solid Waste Authority Act;”
- (3) Subsection (a) of Section 14 of Act No. 46 of January 28, 2000, as amended, known as the “Puerto Rico Investment Capital Fund Act of 1999;”

- (4) Subsection (a) of Section 11 of Act No. 178 of August 12, 2000, as amended, known as the Special Act for the Creation of the Santurce Theater District, whose parameter shall cover from Bolivar Street to Ernesto Cerra Street in Santurce;
 - (5) Subsection (a) of Section 17 of Act No. 183 of December 27, 2001, as amended, known as the Puerto Rico Conservation Easement Act;
 - (6) Paragraph (E) of Section 4.03 of Act No. 212 of August 29, 2002, as amended, known as Urban Centers Revitalization Act;
 - (7) Subsection (a) of Section 3 of Act No. 140 of October 4, 2001, as amended, known as the Tax Credits for Investment in New Construction and Rehabilitation of Affordable Housing Act; and
 - (8) Subsection (a) and (b) of Section 4 of Act No. 98 of August 10, 2001, as amended, known as the Tax Credits for Special Investments in Housing Infrastructure Act.
- (c) Any expiration term or period established to claim any of the credits listed in subsection (b) of this Section shall be understood to be suspended during the moratorium period and shall resume as of January 1, 2012.
- (d) Informative Return.- In order to be entitled to claim any credit of those listed in subsection (b) of this Section in taxable years beginning on or after January 1, 2012, it shall be an indispensable requirement for the holder of said credit to submit, under penalty of perjury, an informative return in the

form and with those details that the Secretary prescribes, notifying the amount of the previously granted credits to the Secretary on or before May 30, 2009.

Section 22.- A Subtitle CC is hereby added to Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, to read as follows:

“SUBTITLE CC – SPECIAL TAX ON REAL PROPERTY USED FOR RESIDENTIAL PURPOSES

Section 3701.- Imposition of Tax.-

(a) As of fiscal year 2009-10 and for every subsequent year beginning before July 1, 2013, a special tax is hereby levied on all real property used for residential purposes, which tax shall be equal to one hundred percent (100%), that is, a sum equal to the amount of the tax fixed and appraised for said property by the Municipal Revenues Collection Center (hereinafter “CRIM,” Spanish acronym), pursuant to the Municipal Property Tax Act of 1991, Act No. 83 of August 30, 1991, as amended, after taking into consideration the exonerations provided in Sections 2.02 and 2.03 of said Act, as well as in Section 4 of Act No. 203 of December 14, 2007, as amended, but without taking into consideration any discount whatsoever under Section 3.43 thereof. This special tax shall be in addition to any other tax levied by virtue of any other law in effect.

It is hereby provided that the special tax levied on real property as established in the present Act, shall not be extended to those newly built housing units that have not been optioned or sold or delivered to the buyer.

(b) The Secretary of the Treasury is hereby empowered and directed to collect the special tax provided in subsection (a) of this Section

every year. The Secretary shall appraise and collect the special tax following the same procedure and subject to the same limitations and rights set forth in the Municipal Property Tax Act of 1991, Act No. 83 of August 30, 1991, as amended for the assessment and collection of property tax in Puerto Rico.

(c) When the tax rate on the basis of which the concerned municipality has imposed the taxes is higher than the one used by the CRIM to compute the property tax, the taxpayer shall be responsible for the payment of the resulting difference and, if he/she fails to do so, the Secretary shall proceed to collect such tax in accordance with the law. If, on the contrary, the tax rate is less than the one used by the CRIM to compute the property tax, the Secretary shall then refund or credit the amount, if any, that has been collected in excess to the taxpayer.

Section 3702.- Definitions.- For the purposes of this Subtitle, excepting any provision to the contrary, the terms used herein shall have the meanings set forth in the Municipal Property Tax Act of 1991, Act No. 83 of August 30, 1991, as amended.

Section 3703.- Date for the payment of taxes; late fees; cases in which the tax may be collected prior to due date.

(a) The tax levied by this Subtitle shall be payable each semester to the Secretary or his/her representative, in advance, on the first day of September and of March of every year.

(b) The tax levied by this Subtitle shall become delinquent if it is not paid within ninety (90) days after its due date, and the collectors or authorized representatives shall collect, in addition to said delinquent tax and as part thereof, the surcharges and interests provided in Subtitle F of this Code.

- (c) The part of the bill corresponding to the second semester shall not be collected nor paid if the amount of the first semester has not been paid, and in the case that a taxpayer is delinquent in his/her taxes on the same property corresponding to more than one financial year and wishes to pay part of the same, the payment made shall be applied by the collector or authorized representative to the taxes corresponding to previous years in strict order of due date. When the property has been passed on to a third party, this order in payment shall be applied to the taxes that said third party is bound to pay for said property. This provision shall not be construed in the sense of repealing, limiting or otherwise modifying any of the provisions of law by virtue of which the payment of the property tax has been deferred.
- (d) Notwithstanding the provisions of subsection (a) of this Section, in those cases in which the tax assessment of the real property used for residential purposes is made in advance pursuant to Section 3.41 of the Municipal Property Tax Act of 1991, Act No. 83 of August 30, 1991, as amended, the special tax provided in Section 3701 of this Subtitle shall become payable immediately without the need for additional notification to the taxpayer other than that made by the CRIM, subject to the right to review provided in the Municipal Property Tax Act of 1991, Act No. 83 of August 30, 1991, as amended.

Section 3704.- Discounts.-

The following discounts shall be granted on the semestral total amount of the special tax levied by this Subtitle if the payment is made in the corresponding form and term.

- (a) Ten percent (10%) of the total amount of the semester if the payment is made within thirty (30) days of its due date.
- (b) Five percent (5%) of the total amount of the semester if the payment is made after thirty (30) days but before exceeding sixty (60) days.

Section 3705.- Notice of Delinquent Tax.- The Secretary shall remit, by mail, a notice to every taxpayer on the imposition of the special tax on real property used for residential purposes. No other notice or warning regarding the imposition of the tax shall be necessary, and for the purpose of the payment thereof, the publication of notices provided in Section 3.26 of the Municipal Property Tax Act of 1991, Act No. 83 of August 30, 1991, as amended, in the manner provided therein shall constitute, with respect to every taxpayer, full notice of the imposition of the tax.

Section 3706.- Preferential Lien.- The tax levied under this Subtitle on every real property or plot thereof used for residential purposes, and inclusively, on any improvement made therein or that is made subsequently, shall constitute, *pari passu* and jointly with real property tax levied by the Municipal Property Tax Act of 1991, Act No. 83 of August 30, 1991, as amended, the first lien on said property, which shall have precedence over any other lien on said property or plot, of whatever nature that encumber the same prior to or after the lien fixed by said taxes. Said lien on every property or plot of land or real estate shall only respond to the taxes that encumber the same and on the improvement made therein. Each notice of

attachment for delinquent taxes, be it on real or personal property, shall produce the same effect as a judicial order against any attached property of the delinquent taxpayer, and any lien herein created shall have the force and effect of a duly executed attachment. In all cases where real estate is attached and sold for the payment of taxes, the Secretary shall notify the registration of said sale to all persons who have a mortgage or lien over said property by consigning in the notice the date of the sale, the amount for which the property was sold and any other data deemed pertinent.

Section 3707.- Access to CRIM work and files. The CRIM is hereby directed to make available to the Secretary the list of taxes on real property, as well as the receipts, assessment cards or forms and any other report or work performed, or that is being performed directly or indirectly connected, with the purposes of this Subtitle.

Section 3708.- Administration of the special tax.- The Secretary is hereby authorized to subcontract with CRIM, or with any entity that the Secretary designates to administer the assessment and collection of the special tax or any process or measures related to said administration, provided that in the case of subcontracting with CRIM, the same shall be without cost to the public treasury.”

Section 23.- Subsection (a) of Section 6001 of Subtitle F of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, is hereby amended to read as follows:

“Section 6001.- Definitions

- (a) Tax. For the purposes of this Subtitle and unless otherwise provided in the Code, the term "tax" means any tax, license fee or levy as provided in Subtitles A, B, BB, C, CC, and D of this Code.

(b) ...

...”

Section 24.- Subsection (f) of Section 6002 of Subtitle F of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, is hereby amended to read as follows:

“Section 6002.- Procedure Generally.-

(a) ...

...

(f) Restricted Additional Deficiencies.- If the Secretary had mailed to the taxpayer notice of a deficiency with respect to taxes, license fees or levies as provided in Subtitles A, B, BB, C, CC, and D of this Code, as provided in subsection (a) of this section and the taxpayer had appealed to the Court of First Instance within the term and in the manner established in this Subtitle, the Secretary shall not be entitled to determine any additional deficiency whatsoever with respect to the same tax class for which the deficiency was notified and with respect to the same tax year, except in case of fraud and except as provided in subsection (e) of this section (in reference to the authority of the Court of First Instance to determine deficiencies) and subsection (c) of Section 6003 of this Code (in reference to the assessment of the tax in jeopardy).”

Section 25.- A new subsection (g) is hereby added to Section 6006 of Subtitle F of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, to read as follows:

“Section 6006.- Exceptions to the period of prescription

(a) ...

...

(g) Special tax levied by Section 3701.- The prescriptive periods for the assessment and collection of the special tax provided in Section 3701 of this Code shall be those provided in the Municipal Property Tax Act of 1991, Act No. 83 of August 30, 1991, as amended, for the assessment and collection of real property tax.

Section 26.- Subsection (a) of Section 6046A of Subtitle F of Act No. 120 of October 31, 1994, as amended, known as the Puerto Rico Internal Revenue Code, is hereby amended to read as follows:

“Section 6046A.- Exoneration from Penalties or Additions to the Tax Attributed to Erroneous Written Notice Sent by the Secretary.-

(a) In general. The Secretary shall exonerate any party from any penalty or addition to the tax, license fee or levy established in Subtitles A, B, BB, C, CC, and D of this Code attributable to erroneous information or advice furnished in writing to the taxpayer by an official or employee of the Department, acting as such official or employee.

(b) ...
...”

Section 27.- Section 34.180 of Act No. 77 of June 19, 1957, as amended, known as the Insurance Code of Puerto Rico, is hereby amended to read as follows:

“Article 34.180.- Tax Exemption

1. Every cooperative insurer duly organized under this Code shall be exempted from all real and personal property taxes the belonging to said cooperative insurer; provided, that said exemption shall in no case exceed the assessed value of one million dollars (\$100,000.000).

2. ...
3. Such cooperative insurers that wish to avail themselves of the tax exemption may request from the Director of the Municipal Revenues Collection Center exemption from the payment of taxes, accompanying with the application a statement of their assets and stock and the valuation thereof, the articles of incorporation, and all such data as the Director of the Municipal Revenues Collection Center may require of the cooperative in order to issue the exemption resolution. Once the resolution is issued, the insurers shall proceed to publish the same in a newspaper of general circulation in Puerto Rico.
4. (a) General Rule.- Except as provided in clause b of this subsection 4, cooperative insurers organized pursuant to this Code, being non-profit associations, shall not be subject to the payment of income tax.
(b) Taxable years beginning after December 31, 2008 and before January 1, 2012.- Notwithstanding the provisions of Subtitle A of the Puerto Rico Internal Revenue Code of 1994, as amended, and this Code, during each of these taxable years beginning after December 31, 2008 and before January 1, 2012, cooperative insurers organized pursuant to this Code shall be subject to a special five percent (5%) tax on the amount of their net income for the taxable year, to be computed in accordance with the provisions of Subchapter G of Subtitle A of the Puerto Rico Internal Revenue Code of 1994, as amended, regardless of the provisions of Section 1101 of said

Subtitle or this Code, but only in the measure that said net income exceeds two hundred fifty thousand dollars (\$250,000).”

Section 28.- Section 6.08 of Act No. 255 of October 28, 2002, as amended, known as the “Cooperative Savings and Credit Unions Act of 2002,” is hereby amended to read as follows:

“Section 6.08.- Tax Exemption

(a) General Rule.- Except as provided in subsection (b) of this Section:

- (1) Cooperatives, their subsidiaries or affiliates, as well as the income from all their activities or operations, all their assets, capital, reserves and surpluses, and those of their subsidiaries or affiliates, shall be exempted from all types of taxation on income, property, excise taxes, license fees or any other tax imposed or to be imposed in the future by the Commonwealth of Puerto Rico, or any political subdivision thereof.
- (2) All stocks and securities issued by cooperatives and by any of their subsidiaries or affiliates shall be exempted for their total worth, as well as the dividends or interest paid by virtue thereof, from all types of taxes on income, excise tax, property taxes, license fees, or any other tax imposed or to be imposed in the future by the Commonwealth of Puerto Rico or any political subdivision thereof.
- (3) Cooperatives and their subsidiaries or affiliates shall be exempted from the payment of state or municipal fees,

duties or tariffs, including the payment of fees for licenses, patents, permits and registrations; the payment of charges, fees, internal revenue stamps or vouchers related to the granting of all types of public and private documents, the payment of charges, fees, or internal revenue stamps or vouchers with regard to the registration thereof in the Property Registry or any other public registry or government office, and the payment of charges, fees internal revenue stamps or vouchers regarding the issue of certificates by said registries or any other government office. The cooperatives and their subsidiaries or affiliates shall also be exempted from the payment of charges, fees, internal revenue stamps or vouchers, excise taxes, or tariffs required in the General Court of Justice of Puerto Rico, or by any agency, instrumentality, public corporation of the Commonwealth of Puerto Rico, or any political subdivision thereof.

(4) Exemptions granted under this Section to the subsidiaries or affiliates of cooperatives shall apply while said subsidiaries or affiliates are subject to the control of one or more cooperatives.

(b) Taxable years beginning after December 31, 2008 and before January 1, 2012.- Notwithstanding the provisions of Subtitle A of the Puerto Rico Internal Revenue Code of 1994, as amended, and this Code, during each of the taxable years beginning after December 31, 2008 and before January 1, 2012, cooperative savings and credit unions, its subsidiaries and affiliates covered

by this Act, shall be subject to a special five percent (5%) tax on the amount of their net income for the taxable year, to be computed in accordance to the provisions of Subtitle A of the Puerto Rico Internal Revenue Code of 1994, as amended, regardless of the provisions of Section 1101 of said Subtitle or this Act, but only in the measure that said net income exceeds two hundred fifty thousand dollars (\$250,000).”

Section 28A.- Section 16 of Act No. 88 of June 21, 1966, as amended, is here by amended to read as follows:

“Section 16.- Tax Exemption

(a) General Rule.- Except as provided in subsection (b) of this Section:

- (1) It is hereby declared that the Cooperative Bank complies with a purpose consistent with the public policy of the Commonwealth of Puerto Rico in matters related to the cooperative movement. Therefore, the Bank, its operational and financial subsidiaries and affiliates, as well as the revenues from all its activities or operations, all its assets, capital, reserves and surpluses shall be exempt of any type of taxation on income and property, excise taxes, licenses or any other tax levied or to be levied by the Commonwealth of Puerto Rico or any of its political subdivisions.
- (2) All shares and securities issued by the Bank and by any of its operational and financial subsidiaries and affiliates shall be exempt, both in their total value as well as in the dividends and interest paid pursuant to the same, from

any type of taxes on income, property, excise taxes, licenses or any other tax levied or to be levied by the Commonwealth of Puerto Rico or any of its political subdivisions.

- (3) Furthermore, the Bank and its operational and financial subsidiaries and affiliates shall be exempt from the payment of fees, excise taxes or Commonwealth or municipal tariffs or duties, including the payment of fees for licenses, patents, permits and registers, and from the payment of charges, fees, internal revenue stamps and vouchers relative to the issue of all types of public and private documents, from the payment of charges, fees, internal revenue stamps and vouchers relative to their registration in the Property Registry or any other public registry or government office and from the payment of charges, fees, internal revenue stamps and vouchers relative to certifications issued by said registries or by any other government office. The Bank and its operational and financial subsidiaries and affiliates shall be also exempt from the payment of charges, fees, internal revenue stamps and vouchers and excise taxes, tariffs and duties required by the courts of Puerto Rico or by any agency, instrumentality or public corporation of the Commonwealth of Puerto Rico or any of its political subdivisions.

- (4) The obligations incurred by the Bank and its operational and financial subsidiaries and affiliates evidenced by

instruments or securities, including but not limited to notes, capital obligations, commercial paper, bonds, certificates of deposit or other certificates, investment securities, promissory notes or any other evidence of debt or obligations, be they secured by collateral or not, and the interest or dividends paid on the same shall be exempt from the payment of any type of taxes on income and property, excise tax, licenses or any tax levied or to be levied by the Commonwealth of Puerto Rico or any of its political subdivisions.

- (5) The exemptions granted under this chapter to the operational and financial subsidiaries and affiliates of the Bank, shall apply while said operational and financial subsidiaries and affiliates are subject to the control of the Bank.
- (b) Taxable years beginning after December 31, 2008 and before January 1, 2012.- Notwithstanding the provisions of Subtitle A of the Puerto Rico Internal Revenue Code of 1994, as amended, and this Act, during each of the taxable years beginning after December 31, 2008 and before January 1, 2012, the Cooperative Bank of Puerto Rico, its subsidiaries and affiliates shall be subject to a special five percent (5%) tax on the amount of their net income for the taxable year, to be computed in accordance to the provisions of Subtitle A of the Puerto Rico Internal Revenue Code of 1994, as amended, regardless of the provisions of Section 1101 of said Subtitle or this Act, but only

in the measure that said net income exceeds two hundred fifty thousand dollars (\$250,000).”

Section 29.- Section 25 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” is hereby amended to read as follows:

“Section 25.- Income Tax Exemption

(a) ...

(b) (1) General Rule.- Excess net income derived in the taxable year by every international banking entity subject to taxation, as said term is defined in subclause (A), shall be subject to the tax rates established in the “Puerto Rico Internal Revenue Code of 1994,” as amended, for corporations and partnerships. For the purposes of this subsection (b), the following terms shall mean:

(A) “Taxable international banking entity” - means an international banking entity that operates as the unit of a bank organized under the Puerto Rico Banking Act, whose net income derived from activities described in subsection (a) of Section 12 of this Act exceeds twenty percent (20%) of the net income derived in the taxable year by said bank (including income derived by said unit). Said net income shall be computed pursuant to the provisions of Subchapter B of Chapter 2 of Subtitle A of the “Puerto Rico Internal Revenue Code of 1994,” as amended.

- (B) Excess net income.- means the net income, computed pursuant to the provisions of Subchapter B of Chapter 2 of Subtitle A of the “Puerto Rico Internal Revenue Code of 1994,” as amended, derived by the taxable international banking entity from the activities described in subsection (a) of Section 12 of this Act, which exceeds twenty percent (20%) of the total net income derived in the taxable year by the bank of which it operates as a unit (including the income derived by said unit).
- (2) The income generated by the international banking entities that, as determined by the Commissioner, function as an affiliated unit or entity of a business that operates under the industrial incentive laws, as said terms are defined in Act No. 135 of December 2, 1997, as amended, known as the “Tax Incentives Act of 1998,” or any preceding or successor act thereof, shall not be included in the gross income of said entities and shall be exempt from the tax imposed in clause (1) of this subsection (b) and in Act No. 120 of October 31, 1994, as amended, known as “Puerto Rico Internal Revenue Code of 1994.”
- (3) Taxable years beginning after December 31, 2008 and before January 1, 2012.- Notwithstanding the provisions of Subtitle A of the Puerto Rico Internal Revenue Code of 1994, as amended, and this Act, during each of the taxable years beginning after December 31, 2008 and before January 1, 2012, every international banking

entity shall be subject to a special five percent (5%) tax on the amount of its net income for the taxable year, to be computed in accordance to the provisions of Subchapter B of Chapter A of the "Puerto Rico Internal Revenue Code of 1994," as amended, but only in the measure that said net income does not constitute an excess net income for the purposes of clause (1) of this subsection (b)."

- (c) The interest, finance charges, dividends or shares in partnership profits received by international banking entities duly authorized by this Act shall not be deemed gross income from sources in Puerto Rico for the purposes of Section 1123(a)(1) and (2) of the "Puerto Rico Internal Revenue Code of 1994," as amended, or of any analogous provision from any preceding or subsequent Act.
- (d) The provisions of Section 1147 of the "Puerto Rico Internal Revenue Code of 1994," as amended, or of any analogous provision from any preceding or subsequent Act, which imposes the obligation to withhold income taxes at source in the case of payments made to nonresident individuals, shall not apply to interest, finance charges, dividends or shares in partnership profits received from international banking entities duly authorized by this Act.
- (e) The provisions of Section 1150 of the "Puerto Rico Internal Revenue Code of 1994," as amended, or of any analogous provision from any preceding or subsequent Act, which imposes an obligation to withhold income taxes at source in the case of payments made to resident or foreign corporations and

partnerships which have not received income actually connected with a trade or business in Puerto Rico, shall not apply to interest, finance charges, dividends or shares in partnership profits received from international banking entities duly authorized by this Act.

- (f) Income derived by a nonresident foreign individual consisting of interest, finance charges, dividends or shares in partnership profits received from international banking entities duly authorized by this Act, shall not be subject to the tax levied by Section 1221(a)(1) of the “Puerto Rico Internal Revenue Code of 1994,” as amended, or by any analogous provision from any preceding or subsequent Act.
- (g) Income derived by a foreign corporation or partnership consisting of interest, finance charges, dividends or shares in partnership profits received from international banking entities duly authorized by this Act, shall not be subject to the tax levied by Section 1231(a)(1)(A) of the “Puerto Rico Internal Revenue Code of 1994,” as amended, or by any analogous provision from any preceding or subsequent Act.
- (h) The provisions of Section 1232 of Act No. 120 of October 31, 1994, as amended, known as the “Puerto Rico Internal Revenue Code of 1994,” or any analogous provision from any preceding or subsequent Act, shall not be applicable to international banking entities duly authorized by this Act.
- (i) ...
- (k) None of the provisions of this section shall be construed as a limitation to the power of the Secretary of the Treasury to apply

to the international banking entity or to any other person the provisions of Act No. 120 of October 31, 1994, as amended, known as the “Puerto Rico Internal Revenue Code of 1994,” or of any analogous provision from any preceding or subsequent Act.”

Section 29A.- Section 61.240 of Act No 77 of June 19, 1957, as amended, is hereby amended to read as follows:

“Section 61.240.- Tax Treatment

- (1) With the exception of the provisions of subsection sixteen (16) of this Section, the income derived by the International Insurer or by an International Insurer Holding Company that complies with Section 61.040 of this Chapter shall not be included in the gross income of such entities and shall be exempted from the taxes levied pursuant to Section 1001 et seq. of the “Puerto Rico Internal Revenue Code of 1994,” as amended. Income derived by the International Insurer or by an International Insurer Holding Company that complies with Section 61.040 of this Chapter by reason of the liquidation and/or dissolution of its operations in Puerto Rico shall be considered as income derived from the operations allowed by this law, thus shall have the same treatment, and shall not be included in the gross income of such entities.

(2) ...

...

- (4) Except during each of the taxable years beginning after December 31, 2008 and before January 1, 2012, the International Insurer or International Insurer Holding Company

that complies with Section 61.040 of this Chapter shall not have the obligation to file corporate or partnership tax returns, as provided by Section 1052 of “Puerto Rico Internal Revenue Code of 1994,” as amended. An International Insurer or an International Insurer Holding Company that complies with Section 61.040 of this Chapter that organizes itself as a corporation of individuals pursuant to Puerto Rico Internal Revenue Code, as amended, shall not have the obligation to file the returns and reports required by Section 1054(e) of said Code. However, an International Insurer Holding Company that complies with Section 61.040 of this Chapter shall submit to the Commissioner and to the Secretary of the Treasury of Puerto Rico the certification required by Section 61.040(6) of this Chapter.

...

- (16) Notwithstanding the provisions to the contrary in Subtitle A of the Puerto Rico Internal Revenue Code of 1994, as amended, and this Code, during each of the taxable years beginning after December 31, 2008 and before January 1, 2012, every International Insurer or an International Insurer Holding Company shall be subject to a special five percent (5%) tax on the amount of its net income for the taxable year, to be computed in accordance to the provisions of Subtitle B of the Puerto Rico Internal Revenue Code of 1994, as amended, regardless of the provisions of this Code.”

Section 30.- Moratorium on the Granting of Tax Credit Under Certain Special Laws.-

(a) As of the effectiveness of this Act and for taxable years beginning after December 31, 2008 and before January 1, 2012, no tax credit shall be granted, therefore, no agency, public corporation, instrumentality, municipality or dependency of the Commonwealth of Puerto Rico shall assess, process, grant or concede any tax credit nor authorize any project or transaction that results or could result in the generation of tax credits, pursuant to the provisions detailed hereinbelow:

- (1) Section 1040E of Puerto Rico Internal Revenue Code of 1994;
- (2) Subsection (b) of Section 21 of Act No. 70 of June 23, 1978, as amended, known as the "Puerto Rico Solid Waste Authority Act;"
- (3) Subsection (a) of Section 14 of Act No. 46 of January 28, 2000, as amended, known as the "Puerto Rico Investment Capital Fund Act of 1999;"
- (4) Subsection (a) of Section 11 of Act No. 178 of August 12, 2000, as amended, known as a "Special Act to Create the Santurce Theater District," whose parameter shall cover from Bolivar Street to Ernesto Cerra Street in Santurce;
- (5) Subsection (a) of Section 17 of Act No. 183 of December 27, 2001, as amended, known as the "Puerto Rico Conservation Easement Act;"

- (6) Paragraph (E) of Section 4.03 of Act No. 212 of August 29, 2002, as amended, known as “Urban Centers Revitalization Act;”
- (7) Subsection (a) of Section 3 of Act No. 140 of October 4, 2001, as amended, known as the “Tax Credits for Investment in New Construction and Rehabilitation of Affordable Housing Act;”
- (8) Subsection (a) and (b) of Section 4 of Act No. 98 of August 10, 2001, as amended, known as the “Tax Credits for Special Investments in Housing Infrastructure Act.”
- (b) The Secretary of the Treasury is hereby directed to:
 - (1) Establish, prior to December 1, 2009, a Tax Credit Registry in which all the information compiled pursuant to subsection (c) of Section 1040M of the Puerto Rico Internal Revenue Code of 1994, as amended, shall be consigned; and
 - (2) Conduct a detailed analysis of all legislation that grants tax credits to the effect of assessing its impact on the collections for the public treasury and its effectiveness in generating economic activity, and to submit a report on this particular with his/her recommendations to the Legislature.

SUBCHAPTER 3.- Effect on other Laws

Section 31.- Section 3 of Act No. 2 of January 20, 1966, as amended, is hereby amended to read as follows:

“Section 3.- Appropriation of Funds

- (a) Beginning with fiscal year 1997, there shall be appropriated to the University of Puerto Rico, a sum equal to nine point sixty percent (9.60%) of the average total amount of annual revenues obtained under the provisions of the Laws of the Commonwealth of Puerto Rico and covered into the General Fund of the Commonwealth Treasury in the two (2) fiscal years immediately preceding the current fiscal year, and of the total amount covered into any special funds created through legislation on and after July 1, 1993, that are nourished from resources generated by taxation; with the exception of the money deposited in the Dedicated Sales Fund, as provided by Section 3 of Act No. 91 of May 13, 2006, as amended. Provided, that zero point twenty-seven percent (0.27%) shall be apportioned to the financing of the Agricultural Experiment Station and the Agricultural Extension Service of the Mayagüez University Campus, without this constituting a limitation to the appropriation of funds for these dependencies. The programs of these dependencies shall be framed in the public policy of the agricultural development program for Puerto Rico which is established in close coordination with the Department of Agriculture. For years beginning after June 30, 2009.- Beginning with fiscal year 2009-10.[sic]
- (b) For the purposes of these computations, those revenues, collections or incomes received through the operation of the Special Act Declaring a State of Fiscal Emergency and

Establishing a Comprehensive Fiscal Stabilization Plan to Salvage the Credit of Puerto Rico, shall be excluded.”

Section 32.- Subsection (c) of Section 16 of Act No. 80, of August 30, 1991, as amended, is hereby amended to read as follows:

“Section 16.- Transfer of Funds for Municipalities

The funds set forth below are hereby transferred to the municipalities during fiscal year 1991-92 and in each subsequent fiscal year:

(a) ...

...

(b) An amount equal to two and two hundredths percent (2.02%) computed on the basis of the net internal revenues of the General Fund until fiscal year 1999--2000; two and one tenth percent (2.1%) for fiscal year 2000--2001; two point two percent (2.2%) for fiscal year 2001—2002; two point three percent (2.3%) for fiscal year 2002—2003; two point four percent (2.4%) for fiscal year 2003—2004; and two point five percent (2.5%) for subsequent fiscal years, provided that for fiscal years beginning after June 30, 2009:

(1) the amount of net revenues of the General Fund for purposes of this computation shall not include those revenues, collections or incomes received through the implementation of the Special Act Declaring a State of Fiscal Emergency and Establishing a Comprehensive Fiscal Stabilization Plan to Salvage the Credit of Puerto Rico.

(2) The distribution among the municipalities of the appropriation provided in this subsection (a) shall be

adjusted so that those municipalities for which said appropriation has represented fifty (50) percent or more of its income for fiscal year 2007-2008, shall receive an amount not less than that received for fiscal year 2007-2008. The total amount of the adjustments shall be distributed among the remaining municipalities in an inversely proportional basis to the percent that the participation of each of said remaining municipalities in the appropriation provided in this subsection (a) for fiscal year 2007-2008 represented of its total revenues for said years.

(d) ...”

CHAPTER III

SPENDING CUTBACK MEASURES

Section 33.- Definitions

- (a) “Agencies” shall include all bodies, instrumentalities and entities of the Executive Branch of the Government of Puerto Rico, such as departments, boards, commissions, administrations, offices and subdivisions that are under the control of the Executive Branch and that are Individual Administrators pursuant to Article 5, Section 5.2 of Act No. 184 of August 3, 2004, as amended. It shall also include the “Office of the Governor.”
- (b) “GDB” means the Government Development Bank.
- (c) “CASARH” (Spanish acronym) means the Appeals Commission of the Public Service Human Resources Administration System, created pursuant to Section 13 of the

“Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico,” Act No. 184 of August 3, 2004, as amended.

- (d) “Commission” means the Public Service Labor Relations Commission.
- (e) “Phase” shall mean one of the three (3) particular stages in which certain measures are initiated directed to achieving the Objective.

Provided, that unless otherwise established in this Chapter, the Phases do not necessarily follow a chronological or progressive order, but rather form part of a comprehensive effort to achieve said Objective.

- (f) “JREF” (Spanish acronym) means the Fiscal Restructuring and Stabilization Board created pursuant to Section 37.04(b)(5) of this Act, which is created to achieve the objectives of Chapter 3 of this Act, and which is entrusted with taking all the necessary actions for compliance with the same.
- (g) “Objective” means the establishment of an emergency plan directed to reducing the operating expenses and payroll payable from the General Fund in \$2,000 million for fiscal year 2009-2010, after excluding the servicing of the debt, the appropriation by formula of the University of Puerto Rico, the Judicial Branch and the Municipalities, and the appropriations of the Legislative Branch, attuned to the government interest of ensuring quality and continuity in the offering of services to the citizenry.

- (h) “OMB” means the Office of the Management and Budget in the Office of the Governor.
- (i) “ORHELA” (Spanish acronym) means the Office of Human Resources of the Commonwealth of Puerto Rico.
- (j) “Emergency Plan for the Reduction of Spending Measures” means the expenses reduction measures set forth in this Chapter III.
- (k) “Precept” means laws, article or section of a law; collective bargaining agreement or provisions contained in collective bargaining agreements, agreements, supplementary agreements, policies, employment manuals, circular letters, contractual letters, certifications, addenda, employment regulations, rules and terms, normative letters, classification plans and/or compensation plans.

Section 34.- Applicability.

This Chapter III shall be applicable to all agencies whose budget is defrayed, in whole or in part, with charge to the General Fund on the effective date of this Act. The Judicial and Legislative Branches shall be exempted from the application of this Act, as well as the government agencies and government instrumentalities excluded by Article 5, Section 5.3 of Act No. 184 of August 3, 2004, as amended, known as the Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico; provided, however, that the Office of the Governor itself, shall be subject to the application of this Act.

The OMB shall prepare and publish a list of the affected agencies using the criteria established in this Act, within a term of five (5) calendar days as of the effective date of this Act.

Section 35.- Implementation of the “Emergency Plan for the Reduction of Spending Measures

The spending cutback measures established in this Chapter III shall provide for the execution thereof in three phases, one of which, Phase II, shall take effect in a progressive manner, while the Objective established as public policy in Section 33(g) of this Act has not been achieved.

Section 36.- Phase I

A Voluntary Permanent Workday Reduction Program and a Voluntary Incentivized Resignation Program are hereby established available to the eligible employees of the agencies.

Section 36.01.- Voluntary Permanent Workday Reduction Program

- (a) Every employee of the agencies to which this Chapter III applies, and who has twenty or more years of employment in the public service is eligible for this Voluntary Permanent Workday Reduction Program.
- (b) The Voluntary Permanent Workday Reduction Program shall consist in the reduction of one regular workday of the employee every fifteen days; that is to say, one day every fifteen days.
- (c) The OMB is hereby directed to notify all agencies, by means of a circular letter, the procedure to be followed so that the employees of the agencies may avail themselves of the Voluntary Permanent Workday Reduction Program, no later than March 20, 2009. The appointing authorities or authorized representatives of the Agencies shall, in turn, notify their employees of the circular letter, and in the case of those members of an appropriate unit, to the labor union that is certified as exclusive representative of said appropriate unit for

the purposes of collective bargaining (the “labor union”), in a term not greater than seven (7) calendar days as of the date of notification of the OMB circular letter.

- (d) Those employees who are interested in participating in the Voluntary Permanent Workday Reduction Program shall have a term of thirty (30) calendar days that cannot be extended, counting from the date of the notification of the OMB circular letter, to avail themselves of the Program. The employees interested in availing themselves of the Voluntary Permanent Workday Reduction Program, on their own and also, if the case, through their labor union, shall complete an election form to be provided by the Agency, and shall hand deliver the same to the Human Resources Office of the Agency. The form shall contain a summary of the Program.
- (e) The reduction of the workday provided in Section 36.01, as well as the consequent reduction in pay shall be of a permanent nature.
- (f) The JREF shall evaluate all petitions for the Voluntary Permanent Workday Reduction Program in order to approve or reject the same. In the evaluation and decision making regarding its approval or rejection, the JREF shall take into consideration if the Objective set forth in Section 2 shall be achieved through it by harmonizing the same with the interest in assuring the quality and continuity in the offering of services to the citizenry.

Section 36.02.- Voluntary Incentivized Resignation Program

- (a) All employees of the agencies to which this Chapter III is applicable are eligible for the Voluntary Incentivized Resignation Program.
- (b) The OMB is hereby directed to notify all agencies, by means of a circular letter, the procedure to be followed for the employees of the agency to avail themselves of the Voluntary Incentivized Resignation Program no later than March 20, 2009. The appointing authorities or authorized representatives of the agencies shall, in turn, inform their employees of the circular letter, and in the case of those members of an appropriate unit, to the labor union, in a term not greater than seven (7) calendar days as of the date of the notification of OMB circular letter.
- (c) Those employees who wish to participate in the Voluntary Incentivized Resignation Program shall have a term of thirty (30) calendar days, which cannot be extended, counting from the date of notification of OMB circular letter to avail themselves of the Program. The employees interested in availing themselves of the voluntary resignation program shall, on their own, and if the case, through their labor union, complete the election form to be provided by the agency, and shall hand deliver the same to the Human Resources Office of the agency. The form shall contain a summary of the Program and shall advise the employee that the signing thereof constitutes a total and absolute release, and a waiver of the rights for present or potential claim based on: (i) his/her employment relationship and/or the termination thereof under

any applicable law and/or (ii) an action, if any, that could be taken as a consequence of the implementation of this Chapter III.

- (d) The resignation referred to in subsection (c) shall have the effect of a total transaction of all actions or rights, whether present or potential, known or unknown, that the employee has, could have, or has had; provided further, that the effect of the resignation regarding what is indicated in subsections (c) and (d) of this Section shall be matter judged.

Section 36.03.- Incentives

- (a) Every employee who avails him/herself of the Voluntary Incentivized Resignation Program provided by Section 36.02, shall receive an economic incentive in accordance to the following formula:

Term of employment in the public service	Gross sum to be received
Up to one year	1 month of salary
From 1 year and 1 day to 3 years	2 months of salary
From 3 years and 1 day or more	3 months of salary

The term of employment shall be determined by the Agencies on the basis of all the periods worked and credited by the employee in public service.

The payment of the economic incentive described in the above subsection (a) shall be exempted from the payment of income tax, and no deductions shall be made for savings and

contributions to the retirement systems of government employees or for income taxes, but it shall be subject to other deductions authorized by law, such as those in which the employee or officer has voluntarily incurred for loans with the Employee's Association, with the retirement system of the Government or with public employees credit cooperatives, deductions for membership fees to employee associations authorized by law, and deductions for federal Social Security and Medicare.

- (b) The employees who avail themselves of the Voluntary Incentivized Resignation Program shall also receive the liquidation of their regular vacation leave within a term of thirty (30) calendar days upon presentation of the documents required for said liquidation. The same term shall apply for those employees who are entitled to receive liquidation for sick leave and for accumulated overtime. The employees who avail themselves of the Voluntary Incentivized Resignation Program may choose to receive training, retraining and employment search services through the Department of Labor and Human Resources and its operational components.
- (c) The employees who avail themselves of the Voluntary Incentivized Resignation Program shall be paid their health insurance premium for a maximum term of twelve (12) months or until they are eligible for health insurance coverage in another employment.
- (d) The employees who avail themselves of the Voluntary Incentivized Resignation Program shall be eligible for the

Public Employees Options Program as provided in Section 39 of this Chapter III.

- (e) The employees who avail themselves of the Voluntary Incentivized Resignation Program may choose the liquidation of their accumulated leaves as a retirement benefit, or the transfer thereof, or the adoption of any other option provided by and in accordance with the law, regulations and/or corresponding plan that regulates their retirement.

Section 36.04.- Certification

- (a) Upon the conclusion of the thirty (30) calendar day term to avail to the Voluntary Incentivized Resignation Program and the Voluntary Permanent Workday Reduction Program, pursuant to the provisions of Sections 36.01 and 36.02 of this Chapter III, the agencies shall have a term of not more than seven (7) calendar days to present to OMB a report indicating the amount of economy achieved through said programs in their respective agencies. Since the effectiveness of Phase III of Article 38 of this Act concurs with that of Phase I, the agencies shall likewise certify the projected economy through the temporary suspension plan of Section 38.02 (a) of this Act during the abovementioned term.
- (b) In a term not greater than ten (10) calendar days as of the deadline for the remittance of the reports from the agencies, the OMB shall certify the projected economy as a result of the implementation of Phase I to the JREF and to the Presiding Officers of the Legislative Houses, as well as the certification of the projected economy of Phase III, Section 38.02. After the

analysis of the previously mentioned results of Phase I and Phase III, the OMB shall indicate if the objective was achieved; if not, it shall recommend the enforcement of Section 37, Phase II, and shall notify the JREF and the Presiding Officers of the Legislative Houses.

Section 37.- Phase II.

An involuntary layoff plan is hereby established as Phase II for the elimination of positions, which shall apply to all the agencies and to all employees who are not excluded by Section 37.02 of this Chapter III.

Section 37.01.- Layoff Plan

This layoff plan shall take effect once the OMB issues its certification pursuant to the provisions of Section 36.04 of this Chapter III, concluding that the objective established as public policy in Section 2 of this Act has not been achieved.

Section 37.02.- Exclusion from the Application of Phase II.-

In order to prevent a negative impact in the services rendered by the Government, and in compliance with the provisions of Section 2 of this Act, the following employees of the agencies included in this Act, which perform essential functions for the protection of security, education, health and welfare shall be excluded from the provisions of Section 37 of this Chapter III:

- (a) police officers and firefighters;
- (b) corrections officers and juvenile officers;
- (c) teachers assigned to a classroom;
- (d) school librarians;
- (e) health professionals (physicians, paramedics, nurses, pharmacists and laboratory technicians);

- (f) social workers;
- (g) 911 emergency call system operators; and
- (h) pathologists of the Institute of Forensic Sciences.

Those employees who have a transitory or irregular appointment on the effective date of this Act, even if they perform the functions comprised in Section 37.02 shall not be excluded.

Likewise, Phase II shall not apply to: (i) employees of agencies who work in federal programs defrayed with federal funds and which program conditions the granting and receipt of federal funds to the retention of said employees; or (ii) employees that are part of the United States Armed Forces; Army, Navy, Marine Corps, Air Force, Coast Guard, and the Reserves of said Armed Forces, as well as of the Army National Guard, and the Air National Guard who render military services and are under military license pursuant to the “Uniformed Services Employment and Reemployment Rights Act,” (USERRA), as amended, 38 U.S.C.A. Section 4301, et seq.

The employees in positions of trust shall also be excluded from the application of this Phase II.

Section 37.03.- Date for the Beginning of Phase II.

Should the certification issued by OMB pursuant to Section 36.04 of this Chapter III conclude that the objective set forth in Phase I has not been achieved, this Phase II shall take effect immediately.

Section 37.04.- Procedure.

The procedure to carry out Phase II shall be as provided in this Section.

- (a) Temporary Suspension. With the immediate implementation of Phase II, all clauses, precepts and/or provisions applicable to

employees and/or positions subject to the provisions of this Chapter III, contained in laws, collective bargaining agreements, agreements, supplementary agreements, policies, employment manuals, circular letters, contractual letters, addenda, certifications, employment regulations, rules and terms, normative letters, classification plans and/or compensation plans regarding:

- (1) promotions, demotions, relocations and/or transfers;
- (2) retentions and layoffs that are in conflict with what is adopted in this Act;
- (3) downsizing of the workforce or layoffs, as well as any other provision that requires compliance with certain necessary measures prior to the implementation of any downsizing of the workforce or layoffs;
- (4) reinstatement and adoption of a register for eligible persons;
- (5) any provision that prevents assigning the corresponding tasks to a group of employees, employment classifications, grades, labor union, or appropriate union;
- (6) any provision that prevents the outsourcing of tasks assigned to a group of employees, employment classifications, grades, labor union, or appropriate union;
- (7) any provision that prevents the consolidation of tasks in positions, employment classifications or grades,;
- (8) provisions on the limitations of managerial or administrative rights of the agencies, excepting that which is not in conflict with this Chapter III;

- (9) provisions or clauses through which the agency is bound to faithful compliance with what is agreed or pacted upon, regarding the aspects that are in conflict with the provisions of this Chapter III;
- (10) requirements on the use of seniority, to the extent that the seniority provisions are contrary to the provisions of this Chapter III or that constitute a limitation to make changes in the functions, promotions, demotions, relocations, transfers, assignments or other transactions that are necessary to prevent that services be affected;
- (11) procedures for the resolutions of controversies, review and/or appeals that are in conflict with the provisions that, with respect to such areas, are provided in this Chapter III.

The suspension of the clauses and provisions described in subsection (a) of this Section shall be for a term of two (2) years, being the Governor able to reduce this period through an Executive Order, should the OMB certify that the economies resulting from the implementation of the mechanisms provided in this Section are enough to cover the objectives.

(b) Layoffs.

- (1) In view of the situation of fiscal emergency, the scarcity of fiscal resources, the seriousness of the problems we face, and the urgency to correct the fiscal problems, the agencies are hereby exempted from exhausting measures such as relocation of personnel, retraining of employees, enjoyment of accrued vacation leaves, enjoyment of

leave without pay, and the reduction or work days or demotions, prior to the implementation of layoffs.

- (2) The agencies shall notify the termination to all employees who, on the effective date of this Act, have a transitory or non-regular appointment; therefore it shall not be necessary to observe the seniority criteria with respect to the same. The written notification to such effects that the agencies shall deliver shall advise the employees of their right to request review of the decision of the Agency before CASARH, pursuant to the provisions of Article 13, Section 13.14 of Act No. 184 of August 3, 2008, and its regulations. The notification shall be hand delivered or by certified mail with acknowledgment of receipt to the address that appears in the record of the Agency.
- (3) The layoff of employees with a permanent or career appointment shall be implemented by exclusive observance of the seniority criteria, so that those who have less seniority shall be the first ones to be laid off;
- (4) In order to determine the seniority of the affected employees, all services rendered by the same in the public service shall be taken into consideration, regardless of the provisions of collective bargaining agreements, regulations, circular letters and other normative documents.
- (5) The JREF is hereby created, which shall be constituted by the President of the GDB, who shall direct the Board,

the Secretary of Labor, the Secretary of the Department of Economic Development and Commerce of Puerto Rico, the Secretary of the Department of the Treasury and the Executive Director of OMB. Its members, in the performance of this task, shall not receive additional remuneration to that received for the discharge of their duties in their agencies or departments.

- (6) In addition to the powers granted by this Chapter III, the JREF shall have all the powers necessary and convenient to undertake the task entrusted to it by this Act, including but without being limited to conduct or direct the agencies or departments that are in its charge, to conduct the needed studies; require of the agencies the information needed to perform its task; advise the Governor and the agencies in all that pertains employees to be dismissed; evaluate, approve or reject petitions from employees for the reduction of workdays in the positions they hold; conduct meetings between themselves and with the heads of agencies; hire, temporarily and through assignment, the personnel needed to carry out its task. Its Chairperson shall also be empowered to assign and/or make available to JREF all the resources of the GDB that are needed to discharge its obligations under this Chapter III. The task of the JREF and its duration shall conclude once the objective of the Act is achieved.

- (7) The JREF shall determine the total number of employees to be laid off, pursuant to the provisions of Section 2 of this Act, and in harmony with the need to assure the continuity and quality of government services, within a term not greater than five (5) calendar days after the beginning of Phase II.
- (8) The agencies shall identify and certify the seniority of each of its employees to the JREF within a term not greater than fifteen (15) calendar days after the beginning of Phase II.

In that same term, the agencies shall certify, in writing and individually, the date of seniority as it appears in their records, to their affected employees. In the case of employees who are members of an appropriate unit represented by a labor union, the latter shall also be notified. Said certification shall be notified to the employees, and if the case, to the labor organization, delivered by hand or by certified mail with receipt acknowledgment, to the address that appears in the records of the agencies and advising the employees of their right to state and express, in writing, the basis of their version as to their seniority date. The date of the notification shall be that of its delivery or remittance.

- (9) The employee, and if the case, through his/her labor union, shall have a term not greater than thirty (30) calendar days as of the date of notification, to present in writing to the agency, documentary evidence issued by

the competent authority or government entity (attesting documentary evidence) which refutes the certified seniority. For this, the form provided for such purposes by the respective agency shall be used, and shall be completed and submitted to the agency with copy of the attesting documentary evidence that refutes the seniority date notified by the agency.

(10) In the event that the affected employee does not refute or does not present within the term herein provided, attesting documentary evidence that supports his/her position, the seniority to be used shall be that which was notified by the agency. Said seniority shall be conclusive for all purposes pertaining to this Chapter III.

(11) In the event that the affected employee presents, within the term herein provided, attesting documentary evidence that disputes the seniority that has been notified, the agency shall not make a final determination as to the seniority without first granting him/her the opportunity of a hearing.

(12) The agency shall notify the employee of its final determination regarding the seniority and, if the case, to the labor union, in a term not greater than thirty (30) calendar days, advising him/her of the right to request a review of said determination pursuant to the provisions for said purposes in clauses (13) and (14) of Section 37.04 of this Act. Said notification shall be made to the employees, and if the case to the labor union, delivered

by hand or by certified mail with receipt acknowledgment, to the address that appears in the records of the agencies. The date of the notification shall be the date of delivery or remittance. However, the filing of the review recourse shall not stay the layoffs; provided however, that in the case that the employee should prevail, he/she shall be reinstated to his/her position, effective on the date of layoff.

- (13) The affected employee may request the review by CASARH of the final determination made by the agency, solely as to his/her seniority, pursuant to the provisions of Article 13, Section 13.14 of Act No. 184 of August 3, 2004, and its regulations.
- (14) Those employees who are members of an appropriate unit, whether affiliated or not to a labor union, may review the final determination of the agency, solely as to his/her seniority, by means of a petition presented to such effect to the arbitrators of the Commission created pursuant to Act No. 45 of February 25, 1998, in a term not greater than thirty (30) calendar days as of the receipt of the notification from the agency.
- (15) The agency shall notify the layoffs at least thirty (30) calendar days prior to its effective date by means of a written communication directed to the employee, and if the case, to the labor union, indicating the effective date thereof. The notification shall be executed in accordance to Section 37.04(b), clause (12) of this Chapter III.

- (16) The layoffs to be implemented under this Phase II shall be in a staggered manner, starting on July 1, 2009, and during fiscal year 2009-2010. The JREF shall establish the order in which the layoffs shall be implemented and when determining said order, it shall take into account the necessary measures to ensure that the affected agencies shall continue to operate properly after the layoffs.
- (17) The fact that an affected employee has presented, on a date prior to the effective date of this Act, a complaint, claim or contest questioning his/her classification shall not be an obstacle for his/her layoff by using said objected or contested classification. However, if the complaint, claim or contest is resolved favorably for the employee and thus, there is a change in classification to one in which essential functions are performed in accordance with the provisions of Section 37.02, the agency shall render the layoff ineffective retroactive to the date of the same.

Section 37.05.- Benefits

- (a) The employees dismissed pursuant to the provisions of Section 37 of this Chapter III shall receive the liquidation of the regular vacations leave once they present the documents required for such liquidation. Likewise, those eligible employees shall receive the liquidation of accumulated sick leave and overtime.
- (b) The employees dismissed pursuant to the provisions of Section 37, shall be paid the premium of the health insurance for an

uninterrupted term of six (6) months or until he/she is eligible for health insurance in another employment.

- (c) The employees dismissed pursuant to the provisions of Section 37 of this Chapter III shall be considered eligible for the Public Employees Option Program, as provided in Section 39 of this Chapter III.
- (d) Layoffs by virtue of the provisions of Section 37 shall not be considered that the employee was terminated for improper conduct for the purpose that an insured employee is not disqualified from receiving the benefits provided by Act No. 74 of June 21, 1956, as amended, known as the "Employment Security Act of Puerto Rico" (unemployment), if eligible.

Section 37.06.- Certification.

Upon the conclusion of Phase II pursuant to the provisions of Section 37.04, the agencies shall have a term not greater than seven (7) calendar days to submit a report to OMB showing the economies achieved by the layoffs.

In a term not greater than ten (10) calendar days as of the deadline for the presentation of the reports by the agencies, the OMB shall certify to the JREF and to the Presiding Officers of the Legislative Houses, the projected economy resulting from the implementation of Phase II, and shall also indicate its conclusions as to whether the objective has been achieved. The OMB and the Department of the Treasury shall submit a joint report every ninety (90) days on the progress of the collections and the reduction of spending resulting from the implementation of Phase II to the Presiding Officers of the Legislative Houses.

Section 38.- Phase III

A plan for the temporary suspension of laws, collective bargaining agreements, precepts and agreements is hereby established in accordance with Sections 38.01 and 38.02 of this Chapter III.

Section 38.01.- Date for the Beginning of Phase III.

Phase III shall take effect immediately after the effective date of this Act.

Section 38.02.- Temporary Suspension Plan

(a) Scope – With the beginning of Phase III, every clause, precept and/or provision contained in any law, collective bargaining agreement, agreement, supplementary agreement, policy, employment manual, circular letter, contractual letter, addendum, certification, employment regulation, rules and terms, normative letter, classification plan and/or compensation plan applicable to employees subject to the provisions of this Chapter III, is hereby temporarily suspended for a term not greater than that provided in subsection (b) of this Section 38.02 of this Chapter III, and with respect to:

- (1) raises in salary and fringe benefits, except in those circumstances in which they are extremely necessary and upon identification of the funds by the agency and express authorization of OMB;
- (2) training, skill building and development plans except in those circumstances in which they are extremely necessary and upon identification of the funds by the agency and express authorization of OMB;

- (3) leaves with pay for study, courses, seminars and workshops;
- (4) payment of tuition for employees and/or families;
- (5) scholarship programs for employees and/or families;
- (6) Payment of differential in salaries for extraordinary conditions or for holding temporary positions;
- (7) Bonuses such as those granted for productivity, performance, attendance, punctuality, and retirement;
- (8) granting of days and hours with pay and not chargeable to any leave;
- (9) additional retribution for abilities or competence;
- (10) raises for years of service;
- (11) raises for meritorious services;
- (12) general raises;
- (13) annual monetary liquidation of the excess of accumulated sick leave; provided that in this case, as a temporary alternate measure, the annual monetary liquidation of the sick leave not used during the year that exceeds eighteen (18) days subject to its enjoyment, shall be made.
- (14) annual monetary liquidation of the excess of accumulated vacation leave when the employee has not been able to enjoy the same due to the needs of the service; provided, that in this case, as an alternate temporary measure, the employee shall be compelled to enjoy the accumulated leave at the soonest date possible and should he/she fail to do so, he/she shall lose the right to monetary liquidation and to the enjoyment thereof.

- (15) promotions, demotions and/or transfers.
- (16) norms for retention and layoffs that contravene with what is adopted in this Act.
- (17) downsizing of the workforce or layoff plans, as well as any provision that requires the observance of certain necessary measures prior to the implementation of any downsizing in the workforce or layoff.
- (18) norms for reinstatement and for the adoption of the registry of eligible persons;
- (19) any provision that prevents assigning tasks corresponding to employees, group of employees, employment classifications, grades or appropriate unit;
- (20) any provision that prevents the outsourcing of tasks assigned to a group of employees, employment classifications, grades, labor union, or appropriate union;
- (21) any provision on the limitations of managerial or administrative rights of the employer, excepting that which is not in conflict with this Chapter III;
- (22) any provision or clause through which the employer is bound to faithful compliance with what is agreed or pacted upon regarding the aspects that are in conflict with the provisions of this Chapter III;
- (23) requirements on the use of seniority, to the extent that the seniority provisions are contrary to the provisions of this Chapter III or that constitute a limitation to make changes in the functions, promotions, demotions, relocations,

transfers, assignments or other transactions that are necessary to prevent that services be affected;

- (24) procedures for the resolutions of controversies, review and/or appeals that are in conflict with the provisions that, with respect to such areas, are provided in this Chapter III;
- (25) raises in the amount to be received as Christmas Bonus and Summer Bonus;
- (26) raises in the amount of employer contribution to the health and welfare plans;
- (27) payment of days off on account of birthday or funeral leave.

The effectiveness of all regulatory provisions or of those that are contained in documents such as policies, certifications, circular letters, addenda, employment rules and terms or employment manuals of any nature that provide for leaves with pay, other than those established by statute, is hereby suspended.

Likewise, the payment of any special leave that concurs with, and that grants compensation when the employee has availed him/herself of the leaves provided by the “Temporary Disability Benefit Act” (SINOT, Spanish acronym), the “Work Accident Compensation System Act” (State Insurance Fund), the “Chauffeurs and other Employees Social Security Fund” (Chauffeur’s Social Security), and the “Automobile Accidents Social Protection Act,” (ACAA, Spanish acronym) is also suspended; provided that the payment or compensation to be received shall be strictly limited to what is provided by said statute and its regulations.

- (b) Term of Temporary Suspension – The suspension of the clauses and provisions described in subsection (a) of this Section shall be for a two (2) year term counting from the effective date of this Act. The Governor, however, may reduce this period through Executive Order, should the OMB certify that the economies resulting from the implementation of the mechanisms established by this Chapter III are enough to cover the objectives.

Section 39.- Public Employees Options Program

Every employee who avails him/herself of the voluntary incentivized resignation plan, as provided by Section 36 of this Chapter III, or those who are terminated by virtue of the provisions of Section 37 of this Chapter III, shall be eligible for the Public Employees Options Program.

The Public Employees Options Program shall consist of three (3) options or alternatives:

- (a) One (1) educational voucher for a total amount of five thousand dollars (\$5,000);
- (b) One (1) vocational/technical or relocation voucher for a total amount of two thousand five hundred dollars (\$2,500); or
- (c) A fifty (50%) percent subsidy of the salary of transition to an employment in the Private Sector or in the Third Sector applicable to a gross salary of up to a maximum of thirty thousand dollars (\$30,000). Therefore, the maximum benefit to be granted by virtue of this subsection is fifteen thousand dollars (\$15,000). The subsidy to be granted shall be applicable only in those cases in which the employment in the sector to be subsidized is additional to those existing within the entity of the

private or Third sector. In the cases in which the entity of the private or Third sector hires terminated employees under the provisions of this subsection (c), a one (1) year probationary period shall be applicable to the latter in accordance with Act No. 80 of May 30, 1976, as amended. The layoff of employees in entities of the private sector for the purpose of employing persons through the subsidy authorized in this subsection is hereby prohibited. Any layoffs made in entities of the private sector that receive the subsidy authorized in this subsection shall comply with the provisions of Act No. 80 of May 30, 1976, as amended.

- (d) One (1) voucher for a sum of five thousand dollars (\$5,000) for the establishment of his/her own business or for self-employment subject to the instructions to be established to such effects by JREF.

Upon choosing and thus benefiting from any of the four (4) options described above, the employee waives all rights to claim any of the other three (3) options.

The above described options do not consist of payments or benefits to be received directly by the employee, the same shall be processed or channeled to the educational or vocational technical institution or to the new employer subject to the instructions to be established to such effects by JREF.

The JREF shall establish through guidelines all that pertains to the eligibility criteria, requirements, forms to be completed, documents to be submitted and any other consideration needed so that an eligible public

employee may qualify to receive the aid described in the preceding subsections and benefits from the same.

The Department of Labor and Human Resources shall promote the hiring of laid off employees in the entrepreneurial and private employer sector in areas in which there is a work demand through the existing programs and mechanisms deemed necessary.

With respect to public employees terminated by virtue of the provisions of Section 37 of this Chapter III, the Public Employees Options Program shall preempt and prevail over any other existing program applicable to terminated employees.

The JREF shall identify the resources needed to make this Program feasible.

Section 40.- Negotiation of expired bargaining agreements.

The collective bargaining agreements which have expired on the effective date of this Act or that expire during the effectiveness thereof, shall not be extended nor negotiated for a term of two (2) years as of the effectiveness of this Act.

Section 41.- Transfers.

During Phases I, II, and III of this Chapter III, and in order to ensure the continuity and quality of government services, the JREF may authorize the transfer of employees between positions, employment classifications, grades of positions, groups of employees, appropriate units, from unionized labor units to non-unionized labor units and vice versa, within the same agency or among agencies; provided that the transferred employee shall comply with the minimum requirements of academic studies and experience necessary to hold said position. The transferred employee shall be subject to the probationary period required for the position. During the effectiveness

of Phases I, II, and III, all provisions of law, regulations, collective bargaining agreements, agreements or precept that are contrary to what is indicated in this Chapter III shall be stayed; provided that there shall be total flexibility to conduct the transfers.

Section 42.- Outsourcing.

During Phases I, II, and III of this Chapter III, and in order to ensure the continuity and quality of government services, the JREF may authorize the transfer and outsourcing of the work performed by employees, appropriate units and unionized labor units.

During the effectiveness of Phases I, II, and III, all provisions of law, regulations, collective bargaining agreements, or precept that are contrary to what is indicated in this Chapter III shall be stayed.

In all contracts executed by the agencies pursuant to this Section, the contractor shall be required to hire for the rendering of the contracted services, those available and terminated employees who have the skills and experience needed to render the contracted service, in accordance to the list of candidates for reinstatement that ORHELA shall prepare pursuant to the provisions of Section 43 of this Chapter III.

Section 43.- Norms for reinstatement and contracting of terminated employees.

- (a) Terminated employees shall be included in the register of eligible persons to be prepared by ORHELA, for a term of one (1) year as of the date of termination. The name of the employee, the position held at the time of termination and his/her seniority shall appear in said register.
- (b) If upon the implementation of Phase II there is a need to fill a vacant position, and it cannot be done through transfer, those

persons who appear in the register of eligible persons and who, at the time of their termination were performing the same or work similar to that of the vacant position may be reemployed, following the seniority criteria. In these cases, these employees shall be reemployed giving preference to those of greater seniority.

Section 44.- Unlawful Practices

The adoption of any measure authorized by this Chapter III, be it by JREF, OMB, GDB, ORHELA, the agencies, their appointing authorities, the Governor or by any of their representatives shall not constitute a violation to the existing collective bargaining agreements. This shall neither be an unlawful practice.

Section 45.- Establishment of a Website and Call Center

ORHELA shall establish a website with information on Phases I, II, and III. It shall also establish a call center to answer the questions of affected employees and provide information on the implementation of the above described Phases.

Section 46.- Public Interest and Forum to Settle Controversies.

Even though the issues herein contained are of great public interest, it is also important to watch over the rights of the employees affected by the actions to be taken pursuant to the provisions of this Chapter III, and thus offer them the opportunity of achieving a prompt and just solution to their claims.

- (a) CASARH shall have jurisdiction to hear appeals that arise as consequence of the actions or decisions taken pursuant to this Chapter III in all that is not in conflict with the same, submitted by those employees not covered by the provisions of the

“Public Service Labor Relations Act,” Act No. 45 of February 25, 1998, as amended. It shall likewise have voluntary appellate jurisdiction over employees of those agencies excluded from the application of the provisions of the “Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico of 2004,” who are not members of a labor union, with respect to appeals arising from actions or decisions made pursuant to this Chapter III in all that is not in conflict with the same. The proceedings before CASARH shall be governed by the provisions of Act No. 184 of August 3, 2004, as amended, and its regulations.

- (b) The Commission created under Section 11 of the “Public Service Labor Relations Act,” Act No. 45 of February 25, 1998, as amended, shall keep its jurisdiction to try charges for unlawful practices and to render arbitration services with respect to actions or decisions covered by Act No. 45 of February 25, 1998, as amended, in accordance with the provisions of this Act. The proceedings before said Commission shall be governed by the provisions of Act No. 45 of February 25, 1998, as amended, and its regulations. Provided that in accordance with the provisions of this Act, no action carried out pursuant to its provisions shall constitute a violation to the existing collective bargaining agreements, or a refusal to negotiate in good faith or an unlawful practice.
- (c) In view of the possibility of an increase in the number of claims before the Commission, and to assure a due process of law and a fair and speedy solution in the proceedings before said bodies,

the composition of the Commission is increased to one (1) Chairperson and five (5) associate members. The appointment, removal, salary, duties and other conditions for the appointment of the additional associate members shall be governed by the provisions of the "Public Service Labor Relations Act," as amended. The appointment of new associate members shall be for a term of six (6) years.

The Chairperson of the Commission is also authorized to appoint the arbitrators that are necessary to perform the tasks entrusted by this Chapter III.

- (d) The Chairperson of CASARH is hereby authorized to appoint and designate the Examining Officers that are necessary to perform the tasks that the "Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico of 2004," and its regulations empower them to carry out. The Chairperson and the CASARH Commissioners are hereby authorized to hold hearings and conduct those adjudicative proceedings compatible with those of an Examining Officer, as the same are defined in the Procedural Regulations of CASARH. The Chairperson may delegate on the Commissioners the duties compatible to those of an Examining Officer.

CHAPTER IV

FINANCIAL MEASURES

Section 47.- A new Section 14 is hereby added to Act No. 2 of October 10, 1985, and the present Section 14 is hereby renumbered as Section 15, to read as follows:

“Section 14.- Bonds for the payment of principal or interests of the public debt of the Commonwealth of Puerto Rico. The Secretary of the Treasury is hereby authorized to issue refinancing bond of the Commonwealth of Puerto Rico in order to refinance, in whole or in part, any payment of principal or interest of its outstanding bonds and to pay any expenses related with the sale or issue of said refinancing bonds. Any refinancing bond issued by the Secretary of the Treasury as empowered by this Section shall comply with the provisions of this Act, with the exception that it shall be exempted from compliance with the requirements of Section 3(f)(3) of this Act. The refinancing bonds may be issued, at the discretion of the Secretary of the Treasury, at any time on or before the date of the payment or payments of the principal or interests of the bonds. The Secretary of the Treasury shall have the power provided by this Section as of the date of approval of this Act and up to June 30, 2012. The Legislature may extend the power granted to the Secretary of the Treasury in this Section for an additional period by means of a joint resolution to such effects if it determines that said extension is necessary to continue with the efforts directed to achieving a balanced budget.

Section 15...”

Section 48.- Section 6B of Act No. 56 of June 19, 1958, as amended, is hereby amended to read as follows:

“Section 6B.- Convertible and reimbursement bonds. The Authority is hereby authorized to issue Authority refinancing bonds in order to (i) refinance, in whole or in part, any payment of principal or interest on its outstanding bonds and for the payment of any expenses related to the sale and issue of said refinancing bonds, (ii) refinance those bonds in effect and outstanding at the time and which have been issued under the provisions of

this Act, including the payment of any redemption premium with respect thereto, and any interest accrued or which is accrued as of the date of redemption or expiration of such bonds and, if the Authority deems it advisable, (iii) for any of the purposes for which it may issue bonds. The issue of such bonds, the maturity and other details with respect thereof, the rights of the bondholders of said bonds, and the rights, duties and obligations of the Authority with respect thereto, shall be governed by the provisions of this Act regarding to the issue of bonds, provided, said provisions are applicable.

Refinancing bonds issued pursuant to this Act may be sold or exchanged for bonds in effect issued under this Act, and if sold, the product of such a sale may be set aside, in addition to any authorized purpose, for the purchase, redemption or payment of such bonds in effect and outstanding, and may be invested pending such an application. Refinancing bonds may be issued at the discretion of the Authority, at any time on or before the date of payment or payments of the principal or interest of its bonds, the maturity thereof, or the date selected for the redemption of the bonds to be refinanced.”

Section 49.- Section 2 of Act No. 91 of May 13, 2006, as amended, is hereby amended to read as follows

(a) ...

(b) COFINA is created for the purpose of issuing bonds and utilizing other financing mechanisms for the following purposes: (i) to pay or refinance, directly or indirectly, all or part of the extraconstitutional debt of the Commonwealth of Puerto Rico outstanding as of June 30, 2006, and the payable interest thereon, (ii) to pay all or part of the debt of the

Secretary of the Treasury with the Government Development Bank for Puerto Rico in the amount of \$1 billion, used to finance the budgetary deficit of fiscal year 2008-2009, (iii) to pay all or part of the financings granted to the Secretary of the Treasury until December 31, 2008, by the Government Development Bank for Puerto Rico, payable from future general obligation bond issues of the Commonwealth of Puerto Rico, and any debt with no repayment source or which is payable from budget appropriations of the Commonwealth of Puerto Rico, existing on December 31, 2008, (iv) to pay all or part of the accounts payable to suppliers of the Commonwealth of Puerto Rico, (v) to pay or finance operating expenses of the Government of the Commonwealth of Puerto Rico corresponding to fiscal years 2008-2009, 2009-2010, and 2010-2011, (vi) to pay or finance operating expenses of the Government of the Commonwealth of Puerto Rico corresponding to fiscal year 2011-2012, which shall be included in the annual budget of the Government of Puerto Rico, (vii) to generate funds to nourish the Puerto Rico Economic Stimulus Fund established under Section 6 of this Act, and (viii) to nourish the Emergency Fund of the Commonwealth of Puerto Rico to meet expenses arising as a result of a catastrophic event, such as hurricanes or floods; and (ix) to generate funds to nourish the Economic Cooperation and Alternatives Fund for Public Employees.

(c) ...
...”

Section 50.- Section 3 of Act No. 91 of May 13, 2006, as amended, is hereby amended to read as follows:

“Section 3.—Creation of the Special Fund.—

A special fund is hereby created, to be known as the *Fondo de Interés Apremiante* (hereinafter, ‘FIA’), whose name in English shall be the “Dedicated Sales Tax Fund,” to be administered by GDB. The FIA and all the funds deposited therein on the effective date of this Act and all the future funds that must be deposited in the FIA pursuant to the provisions of this Act are hereby transferred to, and shall be the property of COFINA. This transfer is made in exchange for, and in consideration of COFINA’s commitment to pay, or establish mechanisms to pay, all or part of the extraconstitutional debt existing as of June 30, 2006, and the payable interest thereon, and for the other purposes established in Section 2(b) of this Act, with the net proceeds of the bond issues or funds and resources available to COFINA.

The FIA shall be nourished each fiscal year from the following sources, the proceeds of which shall be directly deposited in the FIA at the time of receipt and shall not be deposited in the Treasury of Puerto Rico, nor shall it constitute resources available to the Commonwealth of Puerto Rico, nor shall it be available for use by the Secretary of the Treasury of the Commonwealth of Puerto Rico (hereinafter, the ‘Secretary’):

- (a) The first collections of the sales and use tax (hereinafter, ‘Tax’) approved by the “Taxpayers Justice Act of 2006,” Act No. 117 of July 4, 2006, corresponding to the Commonwealth of Puerto Rico up to the amount of:
 - (i) the proceeds of the amount of the tax collected during such fiscal year, multiplied by a fraction whose

numerator shall be two point seventy-five percent (2.75%) and whose denominator shall be the rate of such tax, such fraction being hereinafter denominated 'the two point seventy-five percent (2.75%) of the Tax,' or

- (ii) the applicable Fixed Income, whichever is greater.
- (b) For purposes of Section 3(a) of this Act, there shall be no Fixed Income for Fiscal Year 2006-2007. The Fixed Income for each fiscal year shall be equal to the sum of the Original Fixed Income and the Additional Fixed Income. The Original Fixed Income for Fiscal Year 2007-2008 shall be one hundred eighty-five million (185,000,000) dollars. The Original Fixed Income for each subsequent fiscal year shall be equal to the Original Fixed Income for the prior fiscal year plus four percent (4%), up to a maximum of one billion, eight hundred and fifty million (1,850,000,000) dollars. The Additional Fixed Income for fiscal years 2006-2007, 2007-2008, and 2008-2009 shall be equal to zero (0) dollars. The Additional Fixed Income for fiscal year 2009-2010 shall be equal to three hundred million, one hundred sixty-eight thousand (350,168,000)[sic] dollars. The Additional Fixed Income for each subsequent fiscal year shall be equal to the Additional Fixed Income for the preceding fiscal year plus four percent (4%), up to the fiscal year in which the sum of Original Fixed Income and the Additional Fixed Income equals one billion, eight hundred and fifty million (1,850,000,000) dollars ('Peak Year'). The Additional Fixed Income for each fiscal year following the Peak Year shall be reduced to the amount necessary so that the sum of the Original Fixed Income

and the Additional Fixed Income is equal one billion, eight hundred and fifty million (1,850,000,000) dollars. The Fixed Income for any fiscal year shall be funded from the first collections of the Tax corresponding to the Commonwealth of Puerto Rico.”

Section 51.- Section 5 of Act No. 91 of May 13, 2006, as amended, is hereby amended to read as follows:

“Section 5.—Deposits and Disbursements.—

- (a) ...
- (b) Each month during each fiscal year, the Secretary shall determine if the two point seventy-five percent (2.75%) of the Tax for the current fiscal year is greater than the Fixed Income applicable to such fiscal year. Once the Secretary determines that the two point seventy-five percent (2.75%) for such fiscal year exceeds the Fixed Income applicable for such fiscal year, all revenues from the Tax received after such determination, up to an amount equal to the excess of said point seventy-five[sic] percent (2.75%) of the Tax over the Fixed Income, shall be deposited in the FIA. Furthermore, on or prior to October 1 of each fiscal year, the Secretary shall determine if the two point seventy-five percent (2.75%) of the Tax for the prior fiscal year is greater than the Fixed Income applicable to such prior fiscal year. The revenues from the Tax that represent the excess amount of the two point seventy-five percent (2.75%) of the Tax corresponding to the prior fiscal year over the Fixed Income applicable to such fiscal year shall be the property of the FIA.

(c) ...
..."

Section 52.- Section 10 is hereby renumbered as Section 11 and a new Section 10 is hereby added to Act No. 91 of May 13, 2006, as amended, to read as follows:

"Section 10.- Transitory Provisions. It is hereby provided that for fiscal year 2008-2009, ending on June 30, 2009, the fraction described in Section 3(a)(i) of this Act shall be a fraction whose numerator shall be one percent (1%) and whose denominator shall be the rate of such tax, and every reference in this Act to "two point seventy-five percent (2.75%) of the Tax, shall be considered as a reference to the "one percent (1%) of the Tax." This transitory provision shall be rendered ineffective for fiscal year 2009-2010, which begins on July 1, 2009, and for subsequent fiscal years.

"Section 11.- ..."

Section 53.- Savings Notes in Economic Cooperation with Puerto Rico.

Section 53.1.- The Secretary of the Treasury is hereby authorized to issue and sell, all at once or from time to time, through resolution to such effect and with the approval of the Governor, Savings Notes in Economic Cooperation with Puerto Rico, for a total sum of twenty million dollars (\$20,000,000).

Section 53.2.- Form and date of payment; maturity; denominations; negotiable instruments; price

The notes authorized to be issued under the provisions of this Act shall be payable to or in favor of the designated beneficiary, shall be dated at the time of their sale and shall mature on a date or dates that shall not exceed five (5) years from its date or dates of sale, shall accrue interest at an annual

rate of six (6) percent accrued on a monthly basis, they may be redeemable before maturity at the option of the holder of said bonds, and may contain such other terms and conditions as provided in the resolution that authorizes each particular issue. With the approval of the Governor, the Secretary of the Treasury shall determine in said resolution or resolutions the form of said notes, how they shall be executed, and shall fix the denomination or denominations of the notes and the place or places in which the principal of, and the interest accrued on said notes shall be paid. When any official whose signature or facsimile thereof appears on any note ceases to hold office before the delivery of said bonds, said signature or facsimile shall, nevertheless, be valid and sufficient, it being deemed for all purposes as if such official had remained in office until such delivery. The notes issued pursuant to the provisions of this Act shall be deemed to be negotiable instruments under the laws of the Commonwealth of Puerto Rico. The Secretary of the Treasury, with the approval of the Governor, may sell said notes all at once, or from time to time, in public or private sale, as he/she determines to be most convenient to the best interests of the Commonwealth of Puerto Rico and for such price or prices not lower than the price legally established at the time of the sale.

Section 53.3.- Payment of principal and interest; Date; Interest rate

The principal and interests on the savings note authorized by this Act shall be payable on the maturity thereof or on the redemption date if they are presented for payment before their maturity. The interests shall be accrued on the basis of compound interests until their maturity or the redemption date if the notes are redeemed prior to their maturity at an interest rate of six percent (6%) accrued on a monthly basis.

Section 53.4.- Payment of Principal and Interests; Prompt Payment; Available Funds; Continuous Appropriation; Transfer of Funds.

The good faith, credit and taxing power of the Commonwealth of Puerto Rico are irrevocably pledged for the prompt payment of the principal and interests accrued on the notes issued under the provisions of this Act. The Secretary of the Treasury is hereby authorized and directed to pay the principal and interests accrued on such notes as they mature, from any funds available for such purposes in the Treasury of the Commonwealth of Puerto Rico in the fiscal year in which such payment is required, and the provisions of this Act concerning the payment of the principal and interests accrued on such notes. It shall be deemed a continuing appropriation for the Secretary of the Treasury to make such payments even if no specific appropriations are made for such purpose. Said payments shall be made pursuant to the provisions of the laws of the Commonwealth of Puerto Rico which regulate the disbursement of public funds.

Furthermore, the Secretary of the Treasury is hereby authorized to transfer, from time to time, to the fund denominated "Special Fund for the Amortization and Redemption of General Obligations Evidenced by Bonds and Notes," an amount which shall be sufficient for the payment of the principal and interest accrued on the savings notes whose issue is authorized by this Act, plus a reasonable amount as a reserve for the redemption of savings notes that are presented for payment prior to their maturity.

Section 53.5.- Creation of the Economic Cooperation and Options Fund for Public Employees; provision on the product from the sale of notes; application of surplus money.

A special fund is hereby created, separate from any other fund of the Commonwealth of Puerto Rico, which shall be known as the "Special

Economic Cooperation and Options Fund for Public Employees,” in which the funds to be collected from the issue and sale of the notes issued pursuant to this Act shall be deposited.

- (a) This fund shall be administered by the Fiscal Restructuring and Stabilization Board and shall be used for the payment of the benefits established in Chapter III of this Act for public employees who have been laid off pursuant to the same, in accordance with the statutory provisions that regulate the disbursement of public funds.
- (b) Any surplus in the fund after making said payments shall be deposited in the “Special Fund for the Amortization and Redemption of general Obligations Evidenced by Bonds and Notes,” and shall be used for the removal of any debt of the Commonwealth of Puerto Rico, or to carry out any public capital improvement approved by the Legislature that is still pending.

Section 53.6.- Payment of Expenses Incurred

The amount that is necessary to be applied to the payment of expenses incurred for the issue and sale of savings notes is hereby appropriated from the product of the sale of the notes issued pursuant to the provisions of this Act.

Section 53.7.- Tax Exemptions

The notes issued under the provisions of this Act, as well as the interests accrued by them shall be exempted from the payment of any tax levied by the Commonwealth of Puerto Rico and its municipalities.

Section 53.8.- Deductions from salaries for the purchase of notes

The employees may authorize, through a signed document, their employers or officer to regularly deduct from their wages or salaries the amounts that they have authorized to be used for the purchase of Savings Notes for Economic Cooperation with Puerto Rico. Said deducted amounts shall be applied by the employers or officers as established by the Secretary of the Treasury through regulations.

Section 53.9.- Certificates

The Secretary of the Treasury of the Commonwealth of Puerto Rico is hereby authorized to issue provisional certificates representing the Savings Note, which shall be delivered to the buyers of said notes. Said certificates shall be issued pending the final version of the notes for the amount corresponding to the denominations of each one of the notes to be purchased or for the total sums, as requested by the buyer thereof. The notes may be issued in electronic format or on paper, as requested by the buyer, and shall have the effective date of the original issue of each certificate, as well as the interest rate and other conditions authorized as established in said certificates.

Section 53.10.- Banks or other financial institutions, prohibition to acquire notes.

The savings notes issued pursuant to the provisions of this Section may not be acquired by any bank or financial institution of a depository nature.

Section 53.11.- Regulations; Penalties.

The Secretary of the Treasury is hereby empowered to adopt, in coordination with the Government Development Bank for Puerto Rico, the regulations that are necessary and convenient for the best administration of

this Section 53, including those applicable to the collections from the deductions authorized thereby. Any violation to the provisions of Section 53 or of the regulations promulgated shall constitute a misdemeanor that shall entail a penalty of not less than \$50 nor greater than \$500, or imprisonment for a term which shall not exceed six (6) months, or both penalties, at the discretion of the court.

Section 53.12.- Application to other laws.

All provisions of law or laws that authorize the issue of bonds of the Commonwealth of Puerto Rico shall be applicable to the savings notes to the extent that they are not in conflict with the provisions of this Section.

Section 53.13.- Interpretation with other laws.

This Section 53 shall not be considered to repeal or amend any other previous law of the Legislature of Puerto Rico authorizing the issue of obligations of the Commonwealth of Puerto Rico.

Section 54.- Subsection A of Section 2.01 of Act No. 83 of August 30, 1991, as amended, is hereby amended to read as follows:

“Section 2.01.- Basic Tax, Property not exempted and not exonerated

(A) The municipalities are hereby authorized, through municipal ordinances approved to that effect, to levy for fiscal year 1992-93 and for each subsequent fiscal year, a basic tax of up to four percent (4%) per annum on the appraised value of all personal property and of up to six percent (6%) per annum on the appraised value of all real property not exempted or exonerated from taxes, located within their territorial limits, which will be in addition to any other tax levied by virtue of other laws in effect. Notwithstanding the above stated, for fiscal years 2009-10, 2010-11, 2011-12 and

2012-13, the basic tax to be levied by the municipalities on real property shall not exceed point six percent (0.6%) per annum.

The municipalities are hereby authorized to levy, by ordinance, property tax rates lower than those provided previously when the type of business or industry to which the property is dedicated, or its geographical location, dictates the convenience of doing so for the development of commercial activity or of any rehabilitation and development zone defined or established through a municipal ordinance. This authorization includes the power to promulgate sequential or progressive rates within the maximum or the minimum, as well as to establish lower rates and even to exonerate from payment of property taxes, when it is desired to promote investment in the development and rehabilitation of deteriorated or decaying urban areas of the municipality, all of which is subject to compliance with the conditions and formalities established by the municipality through ordinances, and to the person or business being up to date in the payment of Commonwealth and municipal taxes. The levy of lower rates and/or the exoneration from payment of property taxes shall be uniform for businesses of the same nature within each industrial and commercial sector. Until a municipality adopts new tax rates, the rates corresponding to each municipality shall be the sum of the rates adopted by each municipality pursuant to the provisions of law in effect up to

the date of approval of this Act, plus one percent (1%) per annum on the appraised value of all personal property in the municipality and three percent (3%) on the appraised value of all real property in the municipality, which is not exempted or exonerated from taxes that had been covered into the Special Fund of the Commonwealth of Puerto Rico up to the date of approval of this Act.

(B) ...
..."

Section 55.- Section 2.02 of Act No. 83 of August 30, 1991, as amended, is hereby amended to read as follows:

“Section 2.02.- Special tax for amortization and redemption of general obligations of the Commonwealth and municipalities; Exonerations

A special tax of one point zero three percent (1.03%) per annum on the appraised value of all personal and real property in Puerto Rico not exempted from taxes is hereby levied for fiscal year 1992-93 and for each subsequent year, for the amortization and redemption of the general obligations of the Commonwealth. Furthermore, the municipalities are authorized and empowered to levy another additional surtax subject to the requirements established in Act No. 4 of April 25, 1962, as amended. This surtax shall be in addition to all other taxes imposed by virtue of other laws in effect. The Municipal Revenues Collection Center is hereby empowered and directed to annually collect these taxes. Notwithstanding the stated above, for fiscal years 2009-2010, 2010-2011, 2011-12 and 2012-13, the special surtax for the amortization and redemption of the general obligations of the Commonwealth applicable with respect to the real property shall be determined on the basis of a rate of point one zero three (0.103) percent per

annum. Furthermore, for fiscal years 2009-2010, 2010-2011, 2011-2012 and 2012-2013, the special surtax on real property shall be reduced to one tenth (1/10) of the tax rate that has been adopted by the municipality by municipal ordinance for the levying of said tax for each one of these fiscal years.

The owners of property for residential purposes are hereby exonerated from the payment of the special tax and the basic tax levied by virtue of Sections 2.01 and 2.02 of this Act and the property taxes levied by the municipalities of Puerto Rico corresponding to fiscal year 1992--93 and to each subsequent fiscal year in an amount equivalent to the tax levied on said properties up to fifteen thousand (15,000) dollars of the appraised value of the property subject to the provisions of Section 2.07 of this Act. In the case of properties partially devoted to residential use, the exoneration from payment of said taxes which would otherwise be payable, shall be recognized only as to that portion of the property devoted to such purposes for up to an amount equal to fifteen thousand (15,000) dollars of the appraised value. For fiscal years 2009-2010, 2010-2011, 2011-2012 and 2012-2013, the exemption applicable to the owners of properties for residential use shall increase to one hundred fifty thousand (150,000) dollars. For said fiscal years, in the case of properties partially devoted to residential use, the exoneration from the payment of said taxes, which would otherwise be payable, shall be recognized only as to that portion of the property devoted to such purposes for up to an amount equal to one hundred fifty thousand (150,000) dollars of its appraised value.

...

Any structure shall be understood to be devoted to "residential use" when on the 1st day of January of the corresponding year it is being used as residence by its owner or his/her family, or any new structure, built to be

sold and appraised for tax purposes in the name of the entity or person who built it, if on the date of issue of the tax receipt it is being used or is available for use by the purchaser as his/her dwelling or that of his/her family, provided the owner did not receive rent for its occupancy; including, in the case of properties located in the urban zone, the lot where said structure is located, and in the case of properties located in the rural and suburban zones, the land where such a structure is located, for up to a maximum capacity of one *cuerda*. When a taxpayer acquires a new structure built after the 1st of January of any year and submits the certification as evidence that he/she uses it as a dwelling for him/her/self or his/her family, the mortgage creditor shall withhold the tax corresponding to the excess of the appraised value over fifteen thousand (15,000) dollars or the tax corresponding to that part of the property not being used as a dwelling by the owner or his/her family. For fiscal years 2009-2010, 2010-2011, 2011-2012 and 2012-2013, the mortgage creditor shall withhold the tax corresponding to the excess in appraised value over one hundred fifty thousand (150,000) dollars or the tax corresponding to that part of the property not being used as a dwelling by the owner or his/her family.

...”

Section 56.- Subsection (b) of Section 2.04 of Act No. 83 of August 30, 1991, as amended, is hereby amended to read as follows:

“Section 2.04.- Collection and entry of taxes in funds and application of tax proceeds

The proceeds from the taxes levied by Sections 2.01 and 2.02 of this Act shall be covered into the general trust established by the Collection Center and the Government Development Bank, pursuant to subsection (c) of Section 4 of the “Municipal Revenues Collection Center Act.”

- (a) ...
- (b) The Collection Center is bound to deposit in the Commonwealth Debt Redemption Fund the product of the one point zero three percent (1.03%) property tax (0.103% for fiscal years 2009-2010, 2010-2011, 2011-2012 and 2012-2013) no later than the fifteenth (15th) working day after payment has been made by the taxpayer.
- (c) ...”

Section 57.- Section 2.09 of Act No. 83 of August 30, 1991, as amended, is hereby amended to read as follows:

“Section 2.09.- Appropriation to the Fund for the Matching of Municipal Revenues

An amount equal to the uncollected tax on residences whose exoneration had been requested by January 1, 1992, as provided by this Act, resulting from the tax exoneration provided by Section 2.02 of this Act, plus the equivalent of the amount of twenty hundredths of one percent, (2 hundredths of 1 percent (0.02%) on property tax for fiscal years 2009-2010, 2010-2011, 2011-2012 and 2012-2013) for which the municipalities are compensated by Act No. 16 of May 31, 1960, is hereby appropriated to the Collection Center from available funds in the Commonwealth Treasury for 1992-93, and for each subsequent fiscal year, for deposit in the Government Development Bank for Puerto Rico as trustee, pursuant to the provisions of Section 2.04 of this Act.

Section 58.- Section 2.10 of Act No. 83 of August 30, 1991, as amended, is hereby amended to read as follows:

“Section 2.10.- Payment in lieu of taxes

The payment in lieu of taxes made by public corporations to the municipalities shall include the property taxes corresponding to them

according to the applicable provisions of law up to the date of approval of this Act, plus the rate increase adopted by each municipality pursuant to this Act.

The tax corresponding to one (1) percent and to three (3) percent (point three percent (0.3%)) for fiscal years 2009-10, 2010-11, 2011-12 and 2012-13) per annum of the appraised value of the real and personal property, respectively, that was covered into the General Fund in accordance with the provisions of law in effect on the date of approval of this Act, is hereby excluded from said computation.

...”

Section 59.- Section 3.01 of Act No. 83 of August 30, 1991, as amended, is hereby amended to read as follows:

“Section 3.01.- Survey, classification and appraisal of property

The Collection Center is hereby empowered, subject to applicable provisions of law and except as otherwise provided in this Section, to perform a cadastral survey of all real property in Puerto Rico, and to classify and appraise all real and tangible personal property and establish valuation and assessment norms so scientifically accurate and detailed that adequate and equitable property valuation rates may be set for tax purposes.

...

Furthermore, the Collection Center is hereby empowered to execute written final payment agreements or commitments with any person with regard to the responsibility of said person, or of the person in whose behalf he/she acts, for the payment or repayment of the principal, interest, surcharges and penalties on the real property taxes levied by this Act corresponding to any taxable year.

Provided that for the purposes of this Act, the appraised value of all real property on January 1, 2009, January 1, 2010, January 1, 2011, and January 1, 2012, including the external plant and central offices used for line telecommunications service, personal cellular phone telecommunications and personal pager or beeper telecommunication shall be the appraised value on January 1, 2009, determined pursuant to the precepts established in this Act and in any other applicable law multiplied by ten (10).”

Section 60.- Section 3.02 of Act No. 83 of August 30, 1991, as amended, is hereby amended to read as follows:

“Section 3.02.- New Appraisal

The Collection Center may only perform a new appraisal of property in Puerto Rico when the conditions and requirements set forth in this Section are met.

...

Once the resolution ordering a new appraisal is approved and ratified, the Collection Center shall classify and appraise all real property in its real and current value using any of the recognized methods and factors for the appraisal or valuation of property, so that the appraisal of each of the different types of property yields uniform results.

Provided, that for purposes of this Act, none of the provisions of this Section shall apply to the appraisal of all real property as of January 1, 2009, January 1, 2010, January 1, 2011, and January 1, 2012.

Section 61.- Section 3.21 of Act No. 83 of August 30, 1991, as amended, is hereby amended to read as follows:

“Section 3.21.- Personal and real property--Changes in the appraisal; notification; appeal by the municipality

Whenever the Collection Center makes a review of the appraisal of a taxpayer's property, or makes an appraisal of a taxpayer's property that has not been previously appraised, or makes any change in the list and appraisal form of the property presented by any taxpayer which form has been returned for such purposes, the Collection Center shall notify within thirty (30) days its resolution in writing with a description of the appraised property to the mayor of the municipality in which the same is located, and if several municipalities are involved, to the mayor of each one of such municipalities. Provided, that the Collection Center shall not be bound to notify the increase in the appraised value of a property with regard to the appraisal of the property as of January 1, 2009, January 1, 2010, January 1, 2011, and January 1, 2012, pursuant to the provisions of Section 3.01 of this Act. Said increase in the appraised value of the property shall appear in the notice of the imposition of tax issued by the Collection Center pursuant to Sections 3.26 and 3.27 of this Act.

...

Section 62.- Section 3.27 of Act No. 83 of August 30, 1991, as amended, is hereby amended to read as follows:

“Section 3.27.- Personal and real property--Changes in the appraisal and notification

When any change is made in the current appraisal of the property of any taxpayer or when the property of a taxpayer which has not been previously appraised is appraised, or when the taxpayer has requested the reappraisal of his/her property, the Collection Center or its authorized representative shall notify said taxpayer of the appraisal and the tax levied by mailing said notice by regular mail, addressed to the taxpayer at the last address appearing in the records of the Collection Center. This notice,

together with its publication shall constitute sufficient notice to each taxpayer of the taxation and the taxpayer shall be bound to pay the tax in the manner and within the term provided in Section 3.41 of this Act. The taxpayer may challenge the tax thus levied and notified as provided in this Act. Provided, that the Collection Center shall not be bound to notify the increase in the appraised value of a property with regard to the appraisal of the property as of January 1, 2009, January 1, 2010, January 1, 2011, and January 1, 2012, pursuant to the provisions of Section 3.01 of this Act. Said increase in the appraised value of the property shall appear in the notice of the imposition of tax issued by the Collection Center pursuant to Sections 3.26 and 3.27 of this Act.

Section 63.- Clause (1) of subsection (u) of Section 5.01 of Act No. 83 of August 30, 1991, as amended, is hereby amended to read as follows:

“Section 5.01.- Property exempted from taxation

(a) ...

...

(u) Properties built or under construction on the effective date of this Act, and which are devoted to the rental housing market under Section 515 or Section 521, Plan II of the Federal Rural Housing Act of 1949, as amended, Public Law 81-171, pursuant to the following norms:

- (1) The tax exemption shall not exceed fifteen thousand (15,000) dollars (one hundred and fifty thousand (150,000) dollars for fiscal years 2009-10, 2010-2011, 2011-2012 and 2012-2013) of the appraised value of housing unit pursuant to the criteria for the classification

and appraisal of property for tax purposes as provided in Title III of this Act;

(2) ...

...

(4) ...

(v) ...”

Section 64.- Section 5.30 of Act No. 83 of August 30, 1991, as amended, is hereby amended to read as follows:

“Section 5.30.- Exemption of assets of persons displaced from their residences due to urban renewal, housing or public improvement project or any government action – In general

The property tax corresponding to fiscal year 1992-93 and subsequent fiscal years levied on any property whose appraisal for tax purposes does not exceed ten thousand dollars (\$10,000) (one hundred thousand (100,000) dollars for fiscal years 2009-10, 2010-2011, 2011-12 and 2012-13) and which was acquired or constructed to be used as a home by any person displaced from his/her residence in a zone in decay or in a slum as the result of the development of any urban renewal and housing, public improvements project or any government action, shall be reduced by seventy-five percent (75%) of its total, for a term of ten (10) years, and by fifty percent (50%) of its total for a term of five (5) additional years as of the date it is registered in the Property Registry in the name of said person or when said person's ownership is registered.

...”

“Section 64A.- While these temporary provisions regarding Act No. 83 of August 30, 1991, as amended, known as the “Municipal Property Tax

Act,” are in effect, the municipalities shall not increase the rate imposed over the rate in effect on January 1, 2009.”

Section 65.- Section 4 of Act No. 203 of December 14, 2007, as amended, is hereby amended to read as follows.

Section 4.-Rights Granted by the Bill of Rights of the Puerto Rican Veteran for the 21st Century

The following rights are granted for the benefit of the veteran:

A. Rights Regarding the Acquisition of Property:

...

C. Rights Regarding Tax Obligations:

First: Income Tax.

...

Second: Property Taxes

(a) Exemption applicable to all veterans and/or their surviving spouses:

(1) The dwelling that a veteran and/or his/her surviving spouse builds or acquires in good faith as main residence shall be permanently exempt from the imposition and payment of property taxes and for up to five thousand (5,000) dollars, fifty thousand (50,000) for fiscal years 2009-2010, 2010-2011, 2011-2012, and 2012-2013 of its appraised value, and if the building has more than one dwelling, the appraised value, for the purpose of the exemption, shall be the proportional part which corresponds to the dwelling

occupied by the veteran of the total value of the building and the lot as determined by the Executive Director of the Municipal Revenues Collection Center.

(2) ...

...

(5) ...

...

(b) ...

(c) Exemption applicable to veterans with service-related disabilities.

(1) Any veteran who receives disability compensation of fifty percent (50%) or more from the Veterans Administration shall be entitled to a property tax exemption on the first fifty thousand (50,000) dollars, five hundred thousand (500,000) dollars for fiscal years 2009-2010, 2010-2011, 2011-12, and 2012-13), of the appraised value of the property for taxable purposes.

(2) ...

...

(6) The partial disability exemption shall be granted in addition to the regular exemption of five thousand (5,000) dollars, fifty thousand (50,000) for fiscal years 2009-2010, 2010-2011, 2011-2012, and 2012-

2013 granted to all veterans and in addition to any other exemption granted by the Commonwealth of Puerto Rico to taxpayers.

(7) ...

Third: Automobiles of disabled veterans.

...”

Section 66.- A new subsection (h) is hereby added to Section 4 of Act No. 64 of July 3, 1996, as amended, to read as follows:

“The Municipalities are authorized by this chapter to incur obligations evidenced by bonds, notes or other instruments, for the purposes provided below:

(a) ...

...

(h) Up to June 30, 2011, the municipalities are authorized to take money on loan from the Government Bank by means of municipal general obligation bonds or notes whose purpose is to obtain funds to pay operating expenses budgeted in any fiscal year including accumulated budgetary deficits. In order to take money on loan from the Government Bank pursuant to this subsection (h), it shall be a requirement that the municipality has established a spending cutback plan and/or has approved an ordinance or resolution to increase its revenues that is acceptable to the Government Bank, and the latter shall certify that the municipality has a budgetary deficit and sufficient loan margin available to incur said obligation with the Government Bank pursuant to the requirements of Section 16(a) of this Act. The municipal legislatures shall not be bound to comply with

the public hearing requirement of Section 8 of this Act, nor with the requirement to publish a notice of approval of Section 13 of this Act with respect to municipal general obligation bonds or notes issued to the Government Bank pursuant to this subsection (h). The principal and interests on all municipal general obligation bonds or notes issued by a municipality under this subsection (h) shall be payable from resources deposited in the account of the municipality in the Redemption Fund, provided that the payment of the principal and interests on said bonds or notes shall be subordinated in all respects, including payment priority, to the municipal general obligation bonds or notes of said municipality that have been issued and are outstanding prior to said issue. The Government Bank shall withhold one hundred percent (100%) of the funds product of the loan and shall make the payments directly to the creditors of the municipality in accordance with the certifications of debt presented by the municipality.”

Section 67.- Subsection (a) of Section 16 of Act No. 64 of July 3, 1996, as amended, is hereby amended to read as follows:

“(a) Municipal general obligation bonds or notes. No municipality shall incur an obligation evidenced by municipal general obligation bonds or notes for a total principal sum that, together with the principal to be paid for all other obligations evidenced by municipal general obligation bonds or notes of the municipality in effect at that time, exceeds ten percent (10%) of the total appraised value of the property located in the municipality.

In determining the loan margin of a municipality, the principal to be paid for obligations evidenced by municipal general obligation bonds or

notes in effect at that time, shall be reduced by that part of the deposits in the municipality's account in the Redemption Fund that is not encumbered for the payment of interest accrued, but not yet paid, on said obligations. The Government Development Bank for Puerto Rico shall establish, through regulations, the formula to determine the loan margin. It is thus clarified that for the purpose of determining the loan margin of a municipality, the Government Bank shall use the total appraised value of the property located in the municipality as said appraisal values are determined by the Municipal Revenues Collection Center pursuant to the provisions of Section 3.01 of Act No. 83 of August 30, 1991, as amended.

(b)...

..."

CHAPTER V

FINAL PROVISIONS

Section 68.- Powers of the Governor.

The Governor is hereby empowered to take all measures that are necessary and convenient, in addition to those provided by this Act, to cutback expenses through Executive Order; to promote economy in the Executive Branch to the maximum extent compatible with the efficient operation of the Government; to maintain efficiency in the operations of the Executive Branch to the greatest extent possible; and to group, coordinate and consolidate functions in all Agencies; all of this in accordance with the objectives of this Act. Provided, however, that the Governor shall not create, consolidate nor reorganize executive departments, nor eliminate bodies created by law. Those reorganizations requiring legislation or amendments to statutes in effect shall be presented before the Legislature for consideration.

The powers granted under this Act shall not limit all others that the Governor may have and take, if the objective set forth by Section 33(g) is not achieved.

Section 69.- Jurisdiction of the Supreme Court.

The Supreme Court of the Commonwealth of Puerto Rico shall issue a writ of certification by petition to immediately bring before it and resolve any matter pending before the Court of First Instance or before the Court of Appeals when the issue is the validity or constitutionality of this special Act or any challenge thereof on any grounds.

Section 70.- Immunity as to lawsuits and forums.

This Act shall not affect the immunity of the State and its officers and officials regarding lawsuits and forums. Nothing of the herein provided authorizes actions for damages against the State, its officers or officials for actions or omissions of the latter resulting from compliance with this Act. Nothing of the herein provided shall be construed to constitute a waiver of the sovereign immunity of the Commonwealth of Puerto Rico. It is hereby reaffirmed that the JREF, the OMB, the GDB and all Agencies subject to this Act are and shall be considered agencies or branches of the State and as such, arms of the State.

Section 71.- Severability Clause.- If any clause, paragraph, subparagraph, article, provision, section or part of this Act is annulled or ruled unconstitutional, the ruling to such effect shall not affect, impair, nor invalidate the remainder thereof. The effect of said ruling shall be limited to the clause, paragraph, subparagraph, article, provision, section or part thereof that has thus been annulled or ruled unconstitutional.

Section 72.- Effectiveness.-

This Act shall take effect immediately after its approval; provided that the provisions of Section 4 shall be in effect for the taxable years beginning after December 31, 2008; the provisions regarding Subtitles B, BB and D of this Code shall take effect as of April 1, 2009; provided that the provisions of Sections 14, 15 and 16 shall take effect on the tenth (10th) day of the month after this Act takes effect; the provisions of Sections 18 and 19 shall only be in effect for the taxable years beginning after December 31, 2008 and before January 1, 2012; and the provisions of Sections 28 and 28A shall take effect as of July 1, 2009.

Last Viewed by First Circuit Library on 9/29/2017

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 7 (H.B. 1326) of the 1st Session of the 16th Legislature of Puerto Rico:

AN ACT create the “Special Act to Declare a State of Fiscal Emergency and to Establish a Comprehensive Fiscal Stabilization Plan to Salvage the Credit of Puerto Rico,” in order to responsibly address from an integrative approach the fiscal crisis currently experienced by the Government of Puerto Rico, protect the credit of Puerto Rico pursuant to Article VI, Section 8 of the Constitution, provide for a fiscal stabilization plan, eliminate the structural deficit pursuant to the mandate under Article VI, Section 7 of the Constitution, restore the fiscal health of the Government and lay the groundwork for the Government to be able to boost the economic development of Puerto Rico by means of a comprehensive plan consisting of Revenue and Better Oversight Measures, Spending Cutback Measures, and Financial Measures; etc,

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

In San Juan, Puerto Rico, today 1st of April of 2009.

Solange I. De Lahongrais
Director