

(H. B. 1067)
(Conference)

(No. 45-2013)

(Approved June 30, 2013)

AN ACT

To create the Fiscal Reconstruction Fund, under the custody of the Department of the Treasury; authorize the Government Development Bank (GDB) to transfer to such Fund two hundred forty-five million dollars (\$245,000, 000), whether from its own funds or from private financing; provide for the repayment thereof according to the terms agreed upon between the GDB and the Office of Management and Budget (OMB); provide for the use of such Fund; amend Section 8 of Act No. 164-2001, as amended, in order to suspend during Fiscal Year 2013-2014 the prohibition on financing whose sources of repayment are future budget appropriations from the General Fund.

STATEMENT OF MOTIVES

The world has been experiencing an economic recession during the past years. In Puerto Rico, however, such recession has worsened due to the significant increase in the public debt during the past few years.

To address this situation, this Administration has been implementing an innovative economic development plan, which began with the approval of initiatives such as Act No. 1-2013, known as the “Jobs Now Act,” geared toward creating 50,000 new jobs, incentivizing the permanence of existing businesses, and encouraging the creation of small- and medium-sized businesses.

The Governor has also signed two Administrative Bulletins, namely, EO-2013-002 and EO-2013-003, setting forth the public policy on fiscal responsibility and Government spending cutback. This has allowed for the monitoring of government contracting thus keeping strict control over government

spending related to contracting with third-parties. Furthermore, this Administration has introduced a series of revenue-generating measures aimed at correcting the structural deficit without affecting the people that, until now, have assumed to a great extent the burden entailed by the fiscal crisis, and achieving a balance between the sectors that shall contribute to correct our economic situation.

This Government has proactively addressed this fiscal crisis and is working hard to further our economy. Nevertheless, even with the austerity measures taken, there is still a part of the deficit that needs to be financed in the budget for Fiscal Year 2013-2014.

The recommended budget for Fiscal Year 2013-2014 has an estimate of revenues amounting to \$9.525 billion and of total expenditures amounting to \$9.770 billion. The purpose of the budget increase is to allow us to meet pre-existing obligations such as:

- Contributions to salvage the Employees Retirement System of the Government of the Commonwealth of Puerto Rico and to also cover the cash flow deficit.
- The partial payment of the \$200-million debt incurred due to the lack of financing and the payment of general obligations amounting to \$775 million, which the past Administration failed to include in the budget for Fiscal Year 2012-2013.
- Our commitment to return to the University of Puerto Rico the monies that were taken away from it by the past Administration to the detriment of our university students.
- Labor commitments in the incremental amount of \$120 million that were agreed upon without providing the resources therefor.

Increases in revenues are achieved through resolute and aggressive measures aimed at correcting the structural deficit that has prompted the stagnation of our economy, to wit:

- Broadening the base of the Sales and Use Tax (IVU, Spanish acronym).
- Imposing new taxes on corporations so as to spread contributions among sectors in order to resolve the crisis.

The foregoing shows a \$245 million gap between revenues and expenditures, which requires us to finance our operations. If the \$575 million in general obligations that will not be financed are added to this gap, the projected deficit will amount to \$775 million. This deficit is \$332 million below the projected deficit for the current budget, which included a deficit financing of \$332 million and general obligations financing of \$775 million. When compared to the actual deficit found at the beginning of this Administration that amounted to \$2.160 billion, which is mainly based on a shortage of revenues of over \$900 million, the difference between deficits is nearly \$1.4 billion.

Even though financing the deficit is not the best alternative, it is the only feasible option until fiscal control and economic stimulus measures achieve the expected results. Measures such as these were adopted by the past Administration when financing or loans were obtained so that the Government could continue operating uninterruptedly. Financing and loans were obtained with the approval of Act No. 2-2009, whereby the Legislative Assembly rendered ineffective the provisions of Section 5 of Act No. 103-2006, as amended, known as the “Commonwealth of Puerto Rico Government Fiscal Reform Act of 2006,” until June 30, 2011. Subsequently, with the approval of Act No. 95-2011 such term was extended until June 30, 2013; whereas, Act No. 130-2012 further extended such term until June 30, 2014. Likewise, Act No. 4-2009 amended Act No. 164-2001 to

increase to \$200 million the lending limit on loans offered by the Government Development Bank for Puerto Rico until June 30, 2011, whose repayment source were future budget appropriations from the General Fund.

Therefore, in order to keep providing direct services to the people, address our current economic situation, and lead our Island towards a path of fiscal recovery, until the measures taken by our Administration produce the expected results, it is necessary to create a Fiscal Recovery Fund in the Department of the Treasury, whose resources shall be used to cover budget appropriations. The GDB shall transfer \$245-million to such fund from its own funds or from funds obtained through third-party financing. To achieve the foregoing, this Legislative Assembly hereby directs the suspension of the financing prohibition charged to future budgets provided in Section 8 of Act No. 164-2001, as amended, and earmarks the repayment of the proposed financing.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 8 of Act No. 164-2001, as amended, is hereby amended to read as follows:

“Section 8.- Loans to Government Entities –Prohibited.-

After the effective date of this Act, the Government Development Bank is hereby prohibited from granting a loan to any government entity, other than a subsidiary of the Bank, whose repayment source, as determined by the Board of Directors of the Government Development Bank, consists of future budget appropriations from the General Fund, without said budget appropriations having been approved by the Legislative Assembly of Puerto Rico. This prohibition shall be suspended from July 1, 2013 to June 30, 2014. Notwithstanding this prohibition, the Government Development Bank may, from time to time, lend and maintain in its portfolio up to one hundred million dollars (\$100,000,000) in one (1) or more loans whose repayment source consists of future budget appropriations from the

General Fund without these having been approved by the Legislative Assembly, provided that the Bank obtains the written approval of the Governor and the Director of the Office of Management and Budget. The budget appropriation bills for the repayment of said loans shall be submitted to the Legislative Assembly for its consideration in the next legislative session following the granting of the loan. Once the budget appropriation has been approved, the amount of said loan shall be included in the one hundred million-dollar (\$100,000,000) limit of the total number of loans lacking an approved repayment source that the Bank may have in its portfolio, from time to time. The one hundred million-dollar (\$100,000,000) limit provided in this Section is increased to two hundred forty-five million dollars (\$245,000,000) until June 30, 2014. If necessary, the Legislative Assembly may extend the effectiveness of this increase for an additional period through legislation to such effect. Notwithstanding the prohibition that appears in the first sentence of this Section and the one hundred million dollar (\$100,000,000)-limit that appears in the second sentence of this Section, the Government Development Bank is hereby authorized, under any circumstances, to grant loans to any government entity that is unable to honor the payment of the principal or the interest on its obligations to its bond holders or financial entities, other than the Government Development Bank, and to grant any type of loan to the Secretary of the Treasury, pursuant to Act No. 1 of June 26, 1987, as amended, and Act No. 183 of July 23, 1974, as amended, and any other legislation approved to authorize the Secretary of the Department of the Treasury to borrow for similar purposes.”

Section 2.- Creation of the Puerto Rico Fiscal Reconstruction Fund.-

The “Puerto Rico Fiscal Reconstruction Fund” is hereby created to be under the control and custody of the Department of the Treasury. The funds deposited therein shall be used as resources to cover the budget appropriations provided for herein.

Section 3.- The Fund shall be nourished initially by a two hundred forty-five million dollar (\$245,000,000)-loan granted by the Government Development Bank from its own funds or through third-party financing, in accordance with the determination made by the Government Development Bank as fiscal agent.

Section 4.- The loan shall constitute an obligation of the Commonwealth of Puerto Rico backed by bonds and notes. The good faith, credit, and taxing power of the Commonwealth of Puerto Rico are irrevocably pledged for the prompt payment of the principal and interest on the bonds, notes, promissory notes, or other evidence of indebtedness issued under the provisions of this Act. The Secretary of the Treasury is hereby authorized and directed to pay the principal and interest on such bonds, notes, promissory notes, or other evidence of indebtedness 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 interest on such bonds, notes, promissory notes, or other evidence of indebtedness 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.

The Secretary of the Treasury is hereby authorized and directed to include in the authorizing resolution or resolutions the commitment that the Commonwealth of Puerto Rico is herein making, and to state on such bonds that the good faith, credit, and taxing power of the Commonwealth of Puerto Rico is thus pledged.

Section 5.- All bonds, notes, promissory notes, or other evidence of indebtedness issued under the provisions of this Act, as well as any interest thereon, shall be exempt from the payment of any tax imposed by the Commonwealth of Puerto Rico and its instrumentalities.

Section 6.- The Government Development Bank may sell, transfer, or otherwise dispose of the instrument evidencing the loan herein authorized to any financial institution and/or subsidiary of the Government Development Bank or dispose of such instrument in a stock market.

Section 7.- The Secretary of the Treasury is hereby authorized, with the approval of the Governor, to negotiate and enter into with any bank, investment institution, or any other financial institution, such loan agreements, purchase agreements, or other financing agreements needed for the financing authorized under this Act under such terms and conditions as the Secretary of the Treasury may determine to be most convenient for the best interests of the Commonwealth of Puerto Rico.

Section 8.- The sum of two hundred million dollars (\$200,000,000) hereby deposited in the Fund herein created, is hereby appropriated to the Municipal Revenues Collection Center as part of the Municipal Revenues Matching Fund, known as municipal subsidy, provided in Act No. 180-1991[sic], as amended. The sum of forty-five million dollars (\$45,000,000), deposited in the Fund hereby created, is hereby appropriated to the Municipal Revenues Collections Center as part of the payment of the Exemption Fund to compensate Municipalities for any tax not collected as a result of the property tax exemption.

Section 9.- This Act shall take effect on July 1, 2013.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 45-2013 (H. B. 1067) (Conference)** of the **1st Session of the 17th Legislature** of Puerto Rico:

AN ACT to create the Fiscal Reconstruction Fund, under the custody of the Department of the Treasury; authorize the Government Development Bank (GDB) to transfer to such Fund two hundred forty-five million dollars (\$245,000, 000), whether from its own funds or from private financing; provide for the repayment thereof according to the terms agreed upon between the GDB and the Office of Management and Budget (OMB); provide for the use of such Fund; amend Section 8 of Act No. 164-2001, as amended, in order to suspend during Fiscal Year 2013-2014 the prohibition on financing whose sources of repayment are future budget appropriations from the General Fund.

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

In San Juan, Puerto Rico, on this 1st day of November, 2013.

Juan Luis Martínez Martínez
Acting Director