

(H.B. 1047)

(No. 44)

(Approved June 13, 2001)

AN ACT

To amend subsection (b) and to add a new subsection (e) to Section 20 of Act No. 64 of July 3, 1996, as amended, known as the "Puerto Rico Municipal Financing Act of 1996," in order to make the use of the surplus in the "Municipal Public Debt Redemption Fund" more flexible; and to establish the conditions under which the municipalities could have access to the surplus or excess of said Fund.

STATEMENT OF MOTIVES

With the approval of Act No. 81 of August 30, 1991, as amended, known as the "Autonomous Municipalities of the Commonwealth of Puerto Rico Act of 1991," the public policy of granting the municipalities the necessary mechanisms, powers, and faculties to assume a central and fundamental role in their social, economic, and urban development was established. This policy answers to the principle that the decision-making power on the matters that affect the life of the citizens shall rest on the bodies and officials that are closest to the citizenry. In our scheme of Government, the Municipal Government in said body.

Act No. 81, supra, granted the municipalities the power to impose special surtaxes (C.A.E., Spanish acronym) on properties for the payment of loans. This special surtax is imposed with the main purpose of guaranteeing the prompt payment of the municipal public debt.

The Legislature recognizes that the proceeds of the special surtax can exceed the amount needed to pay the public debt due. The legislation in force, is extremely restrictive in terms of the use allowed for the surplus in

the Municipal Public Debt Redemption Fund, since it impedes its use for other legitimate municipal purposes. Therefore, it is necessary to make the restriction imposed over the surplus originating from the CAE deposited by a municipality in the Government Development Bank, more flexible. However, before remitting the product of any tax, it is necessary to establish certain minimum guarantees for the repayment of the public debt, by establishing a reserve or preferential lien.

Pursuant to the established public policy, the legislation in force is hereby amended to confer to the municipalities a greater flexibility for the use of the surplus in the Municipal Public Debt Redemption Fund. In this way, municipal governments shall have additional sources of income that they may use to promote their economic development effectively. This amendment enables a municipality to incur new debts secured by the surplus of the Redemption Fund, or to use such surplus to pay mature, liquid and exigible statutory debts to government entities or public corporations. In the event there are no outstanding statutory debts, the municipality could request the transfer of any non-encumbered surplus, to be used in any activity that pursues a legitimate municipal purpose.

This measure is in harmony with the interest of the Commonwealth in the development of municipal autonomy. It contributes to achieve a fair and equitable distribution of Public Funds, in order to ensure a better quality of life, and excellence of the services rendered by the municipalities.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Subsection (b) is hereby amended and a new subsection (e) is hereby added to Section 20 of Act No. 64 of July 3, 1996, as amended, to read as follows:

“Section 20.- Provision for the Payment of General Municipal Obligations, First Lien, Use of the Surplus in the Municipal Public Debt Redemption Fund

(a) ...

(b) To make this guarantee effective, the Assembly shall provide through an ordinance, for the annual levying of an additional special tax, without limitation with regard to rate or amount, on all taxable property in the municipality, that is sufficient to pay principal and interest on all general municipal obligation bonds issued by the municipality, as such principal and interest mature, excluding, however, any interest that has been provided to be paid from the proceeds of the municipal general obligation bond issue. Before remitting to the municipalities any existing surplus in the Municipal Public Debt Redemption Fund, the Government Bank shall reserve such sum that will allow compliance with the maximum annual payment of principal and interest of all authorized and outstanding debt.

...

(e) Once the reserve or the portion equivalent to the payment for the subsequent twelve (12) months of principal and interest of the loan is assured, and once the payment of the municipal public debt is guaranteed, as determined by the Government Development Bank, in the event there is a surplus in the Municipal Public Debt Redemption Fund, the Government Development Bank shall be bound to place said surplus at the disposal of the

municipality. The surplus can be requested once during each fiscal year.

The surplus in the Municipal Public Debt Redemption Fund shall be used, in the first place, for the payment of mature, liquid and exigible statutory debts, including debts with the Municipal Revenues Collection Center, or debts with any government entity or public corporation. In the event that the municipality has provided for the payment of such debts, it may use the surplus of the Redemption Fund for any obligation or activity that pursues a legitimate municipal purpose.

Section 2.- This Act shall take effect immediately after its approval.