

(S. B. 242)

(No. 55)

(Approved August 18, 2005)

AN ACT

To amend subsections (a), (b), (c), and (d) of Section 19 of Act No. 64 of July 3, 1996, as amended, in order to update its provisions regarding the loan margin of the municipalities of the Commonwealth of Puerto Rico.

STATEMENT OF MOTIVES

Section 2 of Article VI of the Constitution of the Commonwealth of Puerto Rico, in its pertinent part, grants the Legislature the power to fix the limits for the issue of direct obligations by any municipality of Puerto Rico for money borrowed directly by such municipalities evidenced by bonds or notes for the payment of which the good faith, credit and taxing power of such municipality shall be pledged. Likewise, it specifies as maximum top for the exercise of this lending power that the total amount of the bonds and notes issued by the municipalities and outstanding in no case shall exceed the percent determined by the Legislature. This top shall not be less than five (5) percent nor more than ten (10) percent of the total appraisal value of the property located in said municipality.

On the other hand, Section 19 of Act No. 64 of July 3, 1996, as amended, "Puerto Rico Municipal Financing Act of 1996," establishes that the maximum limit of municipal general obligation bonds or notes in effect shall not exceed ten (10) percent of the total appraisal value of the non-exempt taxable property and of exempt property of the Municipality; and

five (5) percent in the case of special obligation bonds, notes or instruments, or notes or instruments in advance of taxes and revenues.

In accordance with increase in the payment capacity of the municipalities, the additional controls introduced by the Municipal Reform for the protection of the municipal fiscal health, and the existence of supervision to promptly detect and prevent the indebtedness of municipal governments without guaranty of payment, this Act is hereby approved. It provides for the fixing of the maximum top of municipal obligation on the basis of the total appraisal value of the property located in the municipality, without limiting it to the non-exempt valuation and the payment capacity of the municipalities.

All of this is in consideration of the recommendations of the Municipal Reform that, by consensus, are included in the Puerto Rico Committee on the Autonomous Municipalities Act Evaluating Report of April 30, 2002.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Subsections (a), (b), (c), and (d) of Section 19 of Act No. 64 of July 3, 1996, as amended, known as the "Puerto Rico Municipal Financing Act of 1996," are hereby amended to read as follows:

"Section 19,- Limitations on the amount of indebtedness to be incurred.-

- (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 (10) percent of the total appraisal value of the property within 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.

- (b) Notes in Advance of Municipal General Obligation Bonds.- No Municipality shall incur an obligation to be evidenced by Notes in Advance of Municipal General Obligation Bonds which requires a total payment of interest that, together with the principal to be paid for all other obligations evidenced by outstanding Municipal General Obligation Bonds and Notes of the Municipality, and the interest to be paid on all obligations evidenced by Notes in Advance of Bonds of the Municipality outstanding at that time, exceeds ten (10) percent of the total appraisal value of property within the Municipality. This limitation shall not be applicable to the issue of Notes in Advance of Municipal General Obligation Bonds when the interest on said notes is paid from the proceeds of the Municipal General Obligation Bond issue.
- (c) Special Obligation Bonds, Notes or Instruments.- No Municipality shall incur an obligation evidenced by Bonds, Notes or Instruments if the annual payment of the principal and interest on said bonds, notes or instruments, together with the annual payment of the principal and the interest on all other obligations evidenced by Special Obligations Bonds, Notes or Instruments of the Municipality outstanding at that time, exceeds ten percent (10%) of

the average recurrent operating income of the Municipality of the two (2) fiscal years immediately preceding the current fiscal year.

(d) Notes or Instruments in Advance of Taxes and Revenues.- No Municipality shall incur an obligation evidenced by Notes or Instruments in Advance of Taxes and Revenues if the payment of the interest on said notes or instruments, together with annual payment of the principal and the interest on all obligations evidenced by Special Obligations Bonds, Notes or Instruments of the Municipality outstanding at that time, exceeds ten percent (10%) of the average recurrent operating income of the Municipality of the two (2) fiscal years immediately preceding the current fiscal year.

The funds obtained by the Municipality from these Notes or Instruments in Advance of Taxes and Revenues shall only be used to make appropriations for the budget of the fiscal years for which they are authorized. The funds obtained by the Municipality from these notes or instruments shall not be used to readjust the operating budget of the Municipality. No Municipal tax or revenue corresponding to a fiscal year which follows the fiscal year in which advanced taxes or revenues are issued or used to contract the notes and instruments may be used to pay for said notes or instruments."

Section 2.- The Government Development Bank for Puerto Rico, within sixty (60) days following the effectiveness of this Act shall update the determination of the loan margin of the municipalities and shall notify the reviewed computation to the municipal governments.

Section 3.- This Act shall take effect sixty (60) days after its approval.