

(Substitute to  
S.B. 933 and 1188)

**(No. 92)**

(Approved June 24, 1998)

**AN ACT**

To amend subsections (b) and (i), add a subsection (j) and amend and redesignate the present subsection (j) as subsection (k), amend and redesignate the present subsection (k) as subsection (l), redesignate subsection (l) as subsection (m) and add subsections (n), (o), (p), (q), (r) and (s) to Section 3; amend Section 5; amend the first paragraph of Section 6; amend subsections (e), (f) and (u) of Section 7; add new Sections 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17; amend and renumber Section 8 as Section 18; renumber Sections 9, 10, 11, 12, 13, 14 and 15 as Sections 19, 20, 21, 22, 23, 24 and 25; add Section 25-A; renumber Sections 16, 16-A, 17, 18, 19, 20 and 21 as Sections 26, 26-A, 27, 28, 29, 30 and 31, respectively; add a new Section 32 and renumber Section 22 as Section 33 of Act No. 44 of June 21, 1988, as amended, known as the "Puerto Rico Infrastructure Financing Authority Act", in order to broaden the definition of infrastructure; include the definitions of fees for benefits and special improvements districts; authorize the Authority to execute assistance contracts without requiring the authorization of the Legislature; create special improvement districts and impose fees for benefits based on the particular and substantial profits received by the properties; establish the procedures for their creation and refutation; call for a referendum among the owners regarding the establishment of the district under the circumstances provided herein; provide interpretation standards and the contents of the contracts related to the districts; establish a special fund designated as the Fund for Infrastructure Development; establish its purposes and the manner that said fund shall be capitalized and administered; repeal Act No. 65 of August 23, 1990, as amended, and Act No. 67 of August 28, 1990, as amended, and for other purposes.

**STATEMENT OF MOTIVES**

Act No. 44 of June 21, 1988, as amended, known as the "Puerto Rico Infrastructure Financing Authority Act", established the public policy of the

Government of Puerto Rico of building, rehabilitating, acquiring, repairing, preserving and replacing the Government infrastructure to improve the general welfare of the people of Puerto Rico. The Statement of Motives of said Act clearly stated that the people of Puerto Rico were urgently in need of having the infrastructure improved and developed. The improvement of our infrastructure is indispensable to promote sustainable economic development of our country and thus propitiate a better quality of life and promote the welfare of the citizenry in general. In harmony with these principles it is necessary to amend the aforementioned Act No. 44 in order to provide the Puerto Rico Infrastructure Financing Authority with greater financial resources in order to be able to finance the development of our infrastructure.

The present amendments seek to authorize the Authority to establish special improvement districts. The purpose of these districts is to delimit those geographical areas which particularly and substantially benefit from the rehabilitation, construction or improvement of the infrastructure, and to impose fees on them for benefits to the real properties included within these geographical areas to help defray the costs of the development of the infrastructure. These fees for benefits received are fees imposed on the real property in proportion to the profit or utility received by that property through the infrastructure. Thus, the fees for benefits allow those persons who benefit directly from improvements to or construction of the infrastructure to defray the same in proportion to said benefit or utility. This prevents the people of Puerto Rico from having to defray the total cost of infrastructure which exclusively benefits a group of property owners.

The development of infrastructure entails a substantial investment of financial resources. The pressing need to improve or expand our infrastructure is not always at a par with the availability of Government resources for these purposes. The purpose of this Act is to provide new mechanisms so that public

corporations or the instrumentalities of the Government of Puerto Rico that are responsible for the development, construction and rehabilitation of the infrastructure of Puerto Rico, may have greater resources available to meet its goals and objectives. This Legislature believes it is expedient to provide the Government of Puerto Rico with more alternatives to fulfill the people of Puerto Rico's need for better infrastructure in order to improve their general welfare.

The Legislature is also aware of the fact that the development and maintenance of an adequate infrastructure is essential for the economic and social development of a people. Conscious of the pressing need to modernize the infrastructure of Puerto Rico and, particularly, to rehabilitate, improve and expand the aqueduct and sewer systems including all water supply and distribution systems and waste water treatment and disposal systems, this Legislature seeks to create an Infrastructure Development Fund under the administration of the Puerto Rico Infrastructure Financing Authority and to provide for the capitalization and operation of said Development Fund. The Development Fund has been designed to ensure its perpetuity so that the benefits derived therefrom are not subject to the possible changes of government and so that said benefits may be enjoyed by the People of Puerto Rico. To such effect, the necessary mechanisms are hereby provided for the corpus of the Development Fund to be invested exclusively in sound financial instruments with the maximum possible yield within a framework of reliability. The profits obtained from these investments shall be used exclusively for the expansion, development and modernization of the infrastructure of Puerto Rico related to the aqueduct and sewer systems including all water supply and distribution systems and waste water treatment and disposal systems.

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

Section 1.- Subsections (b) and (i) are hereby amended, a subsection (j) is added and the present subsection (j) is amended and redesignated as subsection (k), the present subsection (k) is amended and redesignated as subsection (l), subsection (l) is redesignated as subsection (m) and subsections (n), (o), (p), (q), (r) and (s) are added to Section 3 of Act No. 44 of June 21, 1988 to read as follows:

"Section 3.- Definitions.-

The following words and terms, when used or referred to in this Act, shall have the meaning indicated below unless it is otherwise clearly construed from the context:

(a) ...

(b) "Benefited Entity" shall mean every municipality, public corporation, political subdivisions or instrumentality of the Commonwealth to which financial, administrative, consulting, technical, advisory or other assistance is provided, pursuant to the provisions of this Act.

(c) ...

(i) "Infrastructure" shall mean those capital works and facilities of substantial public interest, such as aqueduct and sewer systems, including all water supply, treatment and distribution systems, and waste water treatment and disposal systems, improvements financed under the provisions of the Federal Clean Water Act and the Federal Drinking Water Act, or any other similar or related Federal legislation or regulations, solid and hazardous waste disposal systems, resource recovery systems, electric power systems, expressways, highways, pedestrian walkways, parking facilities, airports, convention centers, bridges, maritime ports, tunnels, transportation systems including mass transit systems, communication systems including telephones,

industrial facilities, land and natural resources, public housing projects and all other tourist, medical and agroindustrial infrastructure facilities.

(j) "Development Fund" shall mean the Infrastructure Development Fund created under Section 25-A of this Act, pursuant to the provisions of Act No. 54 of August 4, 1997."

(k) "Assistance Contract" shall mean any contract, including lease, sublease, loan or any other types of agreement, contracts or written instruments, executed between the Authority and a benefited entity, whereby the Authority agrees to provide to said entity financial, administrative, consulting, technical, advisory or any other type of assistance, pursuant to the provisions of this Act.

(l) "Person" shall mean any individual, corporation, partnership, joint venture, association, stock company, trust or unincorporated organization, or any agency, department, instrumentality or political subdivision of the Government of the Commonwealth of Puerto Rico, or any other entity created, organized or existing under the laws of the latter or of the United States or any of its states or of any foreign country or any combination of the above.

(m) ...

(n) "Fees for Benefits" shall mean the fees imposed on the real property of a special improvements district which is exclusively and substantially benefited by the improvement, construction or repair of infrastructure carried out or being carried out in said district, to defray the cost and maintenance of said improvement, construction or repair. The amount to be imposed on each property shall be based solely on the profit or utility said particular property receives. The fees for benefits shall constitute a tacit legal lien security for the payment of the fees for benefits described in the resolution issued by the Authority pursuant to the provisions of this Act.

(o) "Special Improvements District", "District" or "Districts" shall mean that geographical area established pursuant to the procedures provided by this Act, which benefits particularly and substantially by the improvement, construction or repair of infrastructure carried out or being carried out in said district pursuant to the provisions of this Act.

(p) "Planning Board" shall mean the Puerto Rico Planning Board created by virtue of Act No. 75 of June 24, 1975, as amended.

(q) "United States" shall mean the United States of America.

(r) "Corpus Account" shall mean the account of the corpus of the Development Fund as established in subsection (a) of Section 25-A of this Act. The capital yield generated by this account must be used exclusively to provide infrastructure facilities related to aqueduct and sewer systems, including all water supply, treatment and distribution systems and waste water treatment and disposal systems and improvements financed under the provisions of the Federal Clean Water Act and the Federal Drinking Water Act, or any other similar or related Federal legislation or regulations.

(s) "Additional Accounts" shall mean accounts created within the Development Fund, in addition to the Corpus Account, that are needed to carry out the purposes of this Act, as established in subsection (a) of Section 25-A of this Act."

Section 2.- Section 5 of Act No. 44 of June 21, 1988, as amended, is hereby amended to read as follows:

"Section 5.- Authorization to Grant Assistance.-

The Authority may grant assistance to any public corporation, government instrumentality, political subdivision or municipality authorized by law to provide infrastructure facilities."

Section 3.- The first paragraph of Section 6 of Act No. 44 of June 21, 1988, as amended, is hereby amended to read as follows:

"Section 6.- Assistance Contracts with Benefited Entities.-

Any public corporation, government instrumentality, political subdivision or municipality shall be empowered to execute assistance contracts with the Authority, and any public corporation, government instrumentality, political subdivision or municipality which executes said agreement is hereby authorized and bound to comply with the provisions of said contracts and with the actions taken by or on behalf of the Authority under said contracts, provided that said benefited entity would have been able to take such actions without violating any laws, contracts and agreements in effect.

..."

Section 4.- Subsections (e), (f) and (u) of Section 7 of Act No. 44 of June 21, 1988, as amended, is hereby amended to read as follows:

"Section 7.- General Powers.-

The Authority shall have all the necessary and convenient powers to carry out and accomplish the purposes and provisions of this Act, including but without being limited to the following:

(a) ...

(e) Receive and administer any gift, grant, loan or donation of any property or money, including but without being limited to those made by the Commonwealth and the Federal Government or any agency or instrumentality thereof, and lend or expend the proceeds thereof for any of its corporate purposes and comply with all such conditions and requirements with respect thereto, including those for the administration of the Revolving Fund under the Federal Clean Water Act, created in Section 26 of this Act, and under the Federal Drinking Water Act, created in Section 26-A of this Act, and to take all steps to meet those conditions and otherwise exercise such powers as may be needed to obtain the benefits of the programs established pursuant to the

Federal Clean Water Act and the Federal Drinking Water Act, or any other similar or related Federal legislation or regulations, for the Commonwealth.

(f) Provide any type of assistance to a benefited entity which is consistent with the purposes of this Act, such as (but without being limited to):

(1) Provide funds in the form of loans, grants or assignments, interest subsidies, credit backing, reserves for losses or transfer of financial resources.

(2) Pay or provide for the payment (all at once or from time to time) of any debt of the benefited entity, in full or in part.

(3) Assume all or part of the obligations of the benefited entity.

(4) Guarantee the payment of any debt of the benefited entity.

(5) Execute lease, sublease, loan or financing contracts with a benefited entity.

(6) Provide the assistance deemed necessary to obtain financial backing or letters of credit or similar credit backing.

(g) ...

(u) Provide advisory, consulting, technical and administrative assistance to the municipalities, public corporations, political subdivisions and instrumentalities of the Commonwealth to enable them to provide, operate, maintain and improve the infrastructure."

Section 5.- Section 8 of Act No. 44 of June 21, 1988, as amended, is hereby redesignated as Section 18 and a new Section 8 is added to read as follows:

"Section 8.- Petition for the Establishment of Special Improvement Districts; Requirements.-

The benefited entity may petition the Authority to create a special improvement district in a specific geographical area. Said districts shall

constitute areas with common characteristics, interests and problems but may include adjacent or non-adjacent properties.

The benefited entity shall provide the Authority with information sustaining the need and convenience for establishing said special improvement district. Said information shall include, but not be limited to:

(a) A detailed description of the proposed infrastructure and the reasons that make it necessary and justify the creation of the district;

(b) A description of the geographical area which shall receive a specific and substantial benefit by the construction of said infrastructure, including a specific description of the benefits said area shall receive and the method used to determine said benefits;

(c) The estimated cost of the infrastructure and its maintenance,

(d) The estimated time for the termination of the proposed project;

(e) An estimate of the percentage of the fees for benefits of the total cost of the project;

(f) Other sources of financing available, if any, to defray the cost of the construction, improvement or rehabilitation of the infrastructure; and

(g) Any other information which the Authority may request from the benefited entity which may be reasonably related to the establishment of said district and the imposition of the fees for benefits.

Should the Authority accept the petition, it shall determine in the resolution issued according to the provisions of Section 10 of this Act, whether the method used to determine the benefits is a fair mechanism to determine the specific benefit which each property within the special improvement district shall receive."

Section 6.- A new Section 9 is hereby added to Act No. 44 of June 21, 1988, as amended, to read as follows:

"Section 9.- Notice of Public Hearing; Elections; Requirements and Vote.-

Should the Authority deem that the petition is meritorious, it shall call for a public hearing to be held in the area of the proposed district through an edict and shall request that the Municipal Revenues Collection Center, at least one hundred and twenty (120) days prior to the hearing, to serve notice of said hearing to all real property owners of the area by mail, to the address appearing in its records. Said edict shall be published at least two (2) times in a newspaper of general circulation at any time during the two (2) weeks prior to the date scheduled for the public hearing, but in any case before the third day prior to the date scheduled. The notices shall be mailed at least one hundred and twenty (120) days prior to the date scheduled for the hearing.

The edict and the mailed notices shall also inform the residents of the geographical area which comprises the proposed district, and that an election may be held regarding the establishment or non-establishment of the district, if a petition opposing the establishment of the district is signed by fifteen percent (15%) of the total of the real property owners and filed with the Authority within sixty (60) calendar days following the last publication of the edict.

If said petition is validly filed, the Authority shall call for a referendum among all owners of the real property included in the district so that they may decide whether the district should be established or not. The vote of the majority of the participants in favor of either one of the alternatives shall decide the election. In the event a majority vote of the participants for either of the alternatives is not reached, it shall be understood that the decision is in favor of creating the district. Every property shall entitle two (2) votes to be cast.

In case the owner is a married couple under the regime of community property, each spouse shall be entitled to cast one (1) vote, although one spouse may convey to the other spouse in writing the right to cast his/her vote.

When more than one person owns property included within the proposed district which is not community property, the owners of said property shall designate in writing which of them, up to a maximum of two (2), shall be the owners of the property for the purposes of the election mentioned in this Section.

When the property belongs to a corporation, partnership or estate, the duly authorized representative thereof shall vote as its representative after providing evidence of his/her authority to represent it.

If after the referendum has been called among all owners of the real property included in the special improvements district, the majority vote of the participants goes against the creation of the special district, the benefited entity shall pay the Municipal Revenues Collection Center the expenses incurred for the process of giving notice of the public hearing for such purpose."

Section 7.- A new Section 10 is hereby added to Act No. 44 of June 21, 1988, as amended, to read as follows:

"Section 10.- Public Hearing On the Establishing of Districts.-

On the date scheduled for the public hearing, the official designated by the Board shall preside over the hearing and the interested persons may appear and provide information or introduce proposals or objections related to the establishment of the district. Upon the conclusion of the hearing, the official shall render a detailed report on the matters taken into consideration and issue a recommendation to the Board. The Board shall make its decision on the basis of the report, the information provided by the benefited entity and any other material made available or provided during the hearing, as to whether or not the district is to be established, through a written resolution which shall be issued not later than one hundred and twenty (120) days following the conclusion of the same unless a referendum is called pursuant to the provisions of this Act. In the event a referendum should be called, the term of one

hundred and twenty (120) days shall be interrupted and resumed anew if the establishment of the district is approved in the referendum. Said resolution shall gather together all grounds on which the Authority based its decision to authorize the approval of the district and shall also establish the purpose for which the fees for benefits shall be used, the estimated cost of the infrastructure, the dates or periods on which the fees for benefits shall be paid, the total amount of the funds to be raised through the fees for benefits to be imposed, the period for which said fees are to be imposed and an addenda stating the amount to be paid annually by each real property included in the district.

Said resolution shall also clearly establish the geographic boundaries of the district, which shall be drawn on a map to be attached to the resolution. The resolution may reduce or alter the proposed boundaries of the district but never increase the area of the proposed district. In case of inconsistencies between the map and the resolution, the map shall prevail.

Said resolution shall be published together with all its addenda in a newspaper of general circulation in the week after it is issued."

Section 8.- A new Section 11 is hereby added to Act No. 44 of June 21, 1988, as amended, to read as follows:

"Section 11.- Fees for Benefits; Their Nature and Uses.-

The fees for benefits constitute a tacit legal charge and lien imposed on real property in proportion to the profits or the utility it receives or shall receive from an improvement, construction or repair of infrastructure. The fees for benefits shall never exceed the profit received by the real property.

The income proceeding from the collection of the fees for benefits, or from the bonds secured thereby, shall be used solely and exclusively to finance the infrastructure for which they were imposed, or to amortize the loan contracted to carry it out. However, the trust contract or the resolution providing for the

bond issue, may provide for the income received to be invested pending its application, under the terms and conditions established by the resolution or trust contract."

Section 9.- A new Section 12 is hereby added to Act No. 44 of June 21, 1988, as amended, to read as follows:

"Section 12.- Petition for Exclusion from the Improvements District or Reduction of the Fees Imposed for Benefits.-

Any owner or owners of real property which is totally or partially within the district established pursuant to the provisions of this Act, or their legal representatives, may file a petition with the Authority, individually or jointly, requesting that their real property be excluded from the district because the same will not benefit thereby, or that the fees for benefits be reduced because they exceed the real profits received by their property.

Said petition shall include the physical address of the property and the registry description of the same. The exact geographical location of the property shall be drawn on a map so that its location may be identified in relation to the district.

The petition shall also contain a statement setting forth the grounds sustaining said petition as well as a plea. The same must be sworn to by the owner or his/her legal representatives.

In those cases it may deem meritorious, the Authority shall summon the petitioners as well as a representative of the benefited entity to a hearing to consider the petition for exclusion or reduction. The Authority may consolidate all related cases presented individually to expedite their prompt solution."

Section 10.- A new Section 13 is hereby added to Act No. 44 of June 21, 1988, as amended, to read as follows:

"Section 13.- Hearing on the Petition for Exclusion or Reduction.-

The hearing on the petition for exclusion or reduction shall be chaired by an examining official who shall give equal opportunity to all parties to introduce evidence or arguments upholding their claim.

At the conclusion of the hearing, the examining official may: (1) deny the petition because the petitioners failed to provide irrefutable proof that their property should be excluded because it receives no benefit whatsoever, or that the fees for benefits imposed by the resolution must be reduced because they exceed the benefits their property receives; or (2) grant the petition to exclude the property from the district or reduce the fees for benefits because the petitioners provided irrefutable proof for their petition, in which case the examining official must issue one of the following orders:

(a) In case of exclusion, that the exclusion of all or part of the real property described in the petition be ordered based on the fact that the property does not benefit from the improvements made in the district.

(b) In case of reduction, that an order be issued changing the fees for benefits imposed on all or part of the property described in the petition.

Regarding those cases set forth in subsections (a) and (b), a copy of the resolution shall be forwarded to the Municipal Revenues Collection Center so that the corresponding changes may be made."

Section 11.- A new Section 14 is hereby added to Act No. 44 of June 21, 1988, as amended, to read as follows:

"Section 14.- Collection of Fees by the Municipal Revenues Collection Center (CRIM, Spanish acronym); Lien on Property Subject to the Payment of Fees.-

Once the amount of the fees for benefits to be imposed on each of the properties included in the district has been determined through a resolution to that effect, a certified copy of the latter shall be forwarded to the Municipal

Revenues Collection Center, which shall proceed to impose, serve and collect the fees for benefits and remit the same to the Authority within the term provided in this Section. All the provisions of Act No. 83 of August 30, 1991, as amended, known as the "Municipal Property Tax Act of 1991", applicable to taxes on real property shall apply to the fees for benefits, except those provisions regarding exemptions, exonerations, discounts for prompt payment, dates of payment and penalties, and the provisions of Section 3.30.

The Municipal Revenues Collection Center shall have up to a maximum of one hundred and eighty (180) days from the date it receives the resolution of the Authority to notify to all owners of real property included in the district by regular mail, the amount of the fees for benefits to be paid and their due date. In subsequent years, and until the term during which the fees for benefits provided in the resolution of the Authority shall be imposed is concluded, the Municipal Revenues Collection Center shall annually notify all owners by regular mail the amount of the fees for benefits to be paid that year and their due date. Every notice shall inform the owners of all consequences should they fail to make the payment on the date provided for the payment of the fees for benefits.

A Special Fund in the Government Development Bank for Puerto Rico is hereby created, denominated "Special Districts Improvement Fund". The Municipal Revenues Collection Center shall deposit the fees for benefits collected pursuant to this Act in said fund, pending their forwarding to the Authority; provided that said Center shall forward the funds to the Authority within a term not greater than ninety (90) days from the date of their receipt.

The Municipal Revenues Collection Center shall withhold five percent (5%) of all fees for benefits collected, to cover the costs it incurs for the imposition, notification and collection of the fees for benefits.

The fees for benefits imposed on a property pursuant to the provisions of this Act and the resolution to that effect, shall constitute a tacit legal lien on said property, which shall have priority over any other lien on the property, regardless of its nature, whether they are imposed on the property before or after the lien determined by the fees for benefits and on any other third acquirer even though the latter may have filed its rights in the Property Registry, except that it shall be less than (a) the fiscal lien securing the tax debts in arrears transferred pursuant to the terms of Section 6 of Act No. 21 of June 26, 1997; (b) the lien related to the property taxes imposed by Act No. 83 of August 30, 1991, as amended, known as the "Municipal Property Tax Act of 1991", or any successorial or related Act; and (c) any liens constituted prior to the effectiveness of this Act. Said tacit legal lien on fees for benefits received shall only guarantee the payment of the fees for benefits described in the resolution. In case an infrastructure project financed through fees for benefits is not executed, the entity shall return to the owners of the real property included in the special improvement district, the amount they have paid as fees for benefits."

Section 12.- A new Section 15 is hereby added to Act No. 44 of June 21, 1988, as amended, to read as follows:

"Section 15.- Date for the Payment of Fees for Benefits; Penalties for Delinquency; Maximum Amount of Fees for Benefits.-

The fees for benefits imposed according to the terms of this Act shall be payable annually to the Municipal Revenues Collection Center or its representative, on the date provided by the former in the notice it shall issue annually to that effect pursuant to the provisions of Section 14 of this Act. Said fees for benefits shall be deemed delinquent if they are not paid within the thirty (30) days following their due date. After said thirty (30) days have elapsed, the collectors or authorized representatives of the Municipal Revenues

Collection Center shall collect, in addition to said late fees for benefits and as part thereof, the interest on the amount thereof, computed as of the date fixed for their payment at the rate of ten percent (10%) per annum.

Said additional sum for interest shall be collected together with the principal on the fees for benefits that originated the same, as well as the legal collection charges, if any. As soon as the fees for benefits become delinquent, the Municipal Revenues Collection Center, through its agents, shall proceed to attach real assets and chattels of the owner of the real property subject to the payment of the fees for benefits in arrears, in an amount sufficient to answer for their payment and shall immediately notify the owner of the encumbered real property of the attachment.

The owner of the real property may request a review before the competent Superior Part of the Court of First Instance of Puerto Rico if it believes that there has been some irregularity in the notice of the fees for benefits or in the attachment by the Municipal Revenues Collection Center. Should the owner of the property fail to request the aforementioned review, the Municipal Revenues Collection Center shall proceed, as soon as possible, to conduct a public auction of the attached assets in order to collect the fees for benefits, including honorariums, costs and interest, on the thirty-first day of the date of the notice of attachment. The sale shall be conducted in the manner prescribed in Sections 4.03 and 4.05 of Act No. 83 of August 30, 1991, as amended.

At no time shall property included in a district or in several districts, be imposed fees for benefits that, together with any other fees for benefits it is bound to pay, will amount to an annual sum greater than two percent (2%) of the appraised value for tax purposes of the real property located in residential and agricultural areas, or greater than four percent (4%) of the appraised value for tax purposes, of the real property located in commercial and industrial areas."

Section 13.- A new Section 16 is hereby added to Act No. 44 of June 21, 1988, as amended, to read as follows:

"Section 16.- Term to File Lawsuits; Procedure to Refute the Validity or Legality of the Establishment of the District; Refutability Clause.-

Any lawsuit or procedure to refute, question or deny the validity or legality of the establishment of a special improvements district, a bond issue executed pursuant to this Act, or any procedure related thereto, must be initiated within sixty (60) days following the publication of the resolution creating the district; in a newspaper of general circulation; otherwise, the establishment of the district, the bond issue and any other procedure related thereto shall be in all aspects valid, legal and irrefutable. None of the provisions of this Section shall affect the term provided in Section 15 of this Act for the owner of the real property to request the review of the notice of the fees for benefits or any attachment initiated in the competent Superior Part of the Court of First Instance of Puerto Rico."

Section 14.- A new Section 17 is hereby added to Act No. 44 of June 21, 1988, as amended, to read as follows:

"Section 17.- Contents of Deeds or Contracts.-

Any sales contract or deed, land assignment or donation, of any type of building or apartment which is part of a special improvements district, shall contain a statement indicating that the purchaser, assignee or donor fully knows and observes the precepts of this Act and of the resolution which establish and impose the fees for benefits, as applicable."

Section 15.- Section 8 of Act No. 44 of June 21, 1988, as amended, is hereby renumbered as Section 18 and amended to read as follows:

"Section 18.- Bonds of the Authority.-

The Authority is hereby authorized to issue bonds from time to time for such principal amounts which, in the opinion of the Authority, are necessary to

provide sufficient funds to finance infrastructure including, but not limited to, all costs of developing and designing infrastructure projects, for the repayment of obligations of, or provide financial assistance to public corporations, municipalities, political subdivisions and instrumentalities of the Commonwealth which provide infrastructure, to pay interest on its bonds for such a period as the Authority may determine, and to pay such other expenses of the Authority or such other benefited entities, including, but not limited to, working capital, which are incidental, necessary or convenient to execute its or their corporate purposes and powers, and to pay any costs for their issue and to establish reserves to secure such bonds. The Authority may also issue bonds to acquire or refinance obligations of any benefited entity.

(a) ...

(b) The bonds may be authorized by a resolution or resolutions of the Board. They may be serial bonds, bear such date or dates, mature at such a term or terms not to exceed fifty (50) years from the respective dates of issue and may accrue interest, if any, at such interest rate or rates (which may be fixed or variable) that do not exceed the maximum allowable legal rate at the time. The bonds may be payable in such place or places, whether within or outside the Commonwealth, may be of such a denomination or denominations, and in such a form, as coupon bonds or registered bonds, may have such registration or conversion privileges, may be issued in book-entry form, may be executed in such a manner, may be payable by such means of payment, may be subject to such redemption terms, with or without premiums, may provide for the replacement of mutilated, destroyed, stolen or lost bonds, may be authenticated in such a manner and upon compliance with such conditions, and contain such terms and conditions, and be issued in temporary form, pending the execution and delivery of final bonds as may be provided in the resolution or resolutions or the terms provided in the trust agreement. The bonds may be

exchanged for obligations of the benefited entity or may be sold at public or private sales at the price or prices the Authority may determine; provided, however, that refinancing bonds may be sold or exchanged for outstanding bonds of the Authority or the benefited entity on such terms as the Authority may deem are in its best interest.

(c) ..."

Section 16.- Sections 9, 10, 11, 12, 13, 14 and 15 of Act No. 44 of June 21, 1988, as amended, are hereby redesignated as Sections 19, 20, 21, 22, 23, 24 and 25, respectively.

Section 17.- A Section 25-A is hereby added to Act No. 44 of June 21, 1988, as amended, to read as follows:

"Section 25-A.- Infrastructure Development Fund.-

(a) A special, irrevocable and permanent public trust fund is hereby created within and under the control of the Authority, for the continued benefit of the people of Puerto Rico, to be known as the Infrastructure Development Fund. The Authority shall be empowered to make disbursements from said Development Fund according to the purposes of this Act and the provisions of Section 5 of Act No. 54 of August 4, 1997 and of this Section. The Authority may grant assistance according to the provisions of this Section to any public corporation, government instrumentality, political subdivision or municipality authorized by law to provide infrastructure facilities related to the aqueduct and sewer systems, including all water supply, treatment and distribution systems and waste water treatment and disposal systems and improvements financed under the provisions of the Federal Clean Water Act and the Federal Drinking Water Act, or any other similar or related Federal legislation or regulations.

The Authority shall create within the Development Fund, an account to be known as the Corpus Account, whose principal shall never be reduced for any reason; provided, that any income (including interest income) received from

the investment of moneys deposited in said account may be covered into any of the Additional Accounts, as defined in this Act.

The Authority is also empowered to: (i) create within the Development Fund any other accounts needed to carry out the purposes of this Act, henceforth to be known as the "Additional Accounts", and segregate a portion of the moneys deposited to the credit of the Development Fund in said accounts, (ii) grant loans or concessions or provide any other financial assistance, as provided in subsections (c) to (f) of this Section 25-A, (iii) issue, for the purpose of providing funds to cover all or part of the cost of any necessary infrastructure development project, bonds or other obligations of the Authority, under the same terms and conditions and with the same rights and benefits provided in other provisions of this Act and, with regard to the above, (x) pledge, with the same effect as provided in other Sections of this Act, all or part of the moneys segregated in any of the Additional Accounts thus created for the payment of the principal of and interest on such bonds or other obligations, (y) pledge, with the same effect as provided in other Sections of this Act, all or part of the moneys segregated in any of the Additional Accounts thus created for the payment (including the provision for payment until the expiration or resolution) or the refinancing of bonds or other obligations of the Authority or any other public corporation, municipality, political subdivision or government instrumentality, or (z) use said moneys thus segregated in any of the Additional Accounts thus created, for any other legal purpose of the Authority.

Pending its use for the purposes of, and subject to the conditions specified in this Act, any amount of the money deposited to the credit of the Development Fund up to \$1,000 million, shall be invested (1) in direct obligations of the United States or (2) in obligations whose principal and interest are unconditionally secured by the United States or (3) in certificates of

deposit of any bank, national banking association or trust company organized and existing under the laws of Puerto Rico, the United States or any of its states and which are totally secured up to the amount not secured by federal deposit insurance for direct obligations of, or obligations whose principal and interest are unconditionally secured by the United States or (4) in tax-exempted obligations of any state, instrumentality, agency or political subdivision of Puerto Rico or the United States whose corresponding principal and interest payments are totally secured by obligations such as those described in clauses (1) and (2) of this paragraph. The moneys of the Development Fund may be invested in any obligation or instrument approved by the Government Development Bank pursuant to Act No. 113 of August 3, 1995. Any amount of money deposited to the credit of the Development Fund in excess of \$1,000 million shall be invested in the abovementioned financial instruments or in any other financial instruments (including, but not limited to common or preferred stock quoted in the national or international stock markets); provided, that the money deposited to the credit of the Development Fund shall not be invested in any stock or transactions expressly prohibited by any investment guides applicable to the Authority, promulgated by the Government Development Bank pursuant to Act No. 113 of August 3, 1995.

(b) (1) The following shall be deposited to the credit of the Development Fund:

(i) The portion of the net product of the sale of the assets of the Puerto Rico Telephone Authority, which the Legislature of Puerto Rico authorizes for deposit to secure the permanent capital base of the Development Fund, which shall be deposited and maintained intact in the Corpus Account;

(ii) All receipts, including principal and interest payments, of any loan agreement related to any loan made by the Authority with money

deposited to the credit of the Development Fund, not belonging to the Corpus Account;

(iii) The total product of the assets of any nature received by the Authority as a result of noncompliance or delinquency with regard to loan agreements related to loans made with moneys deposited to the credit of the Development Fund, including the product of the sale, disposal or lease of real estate or chattels which the Authority may receive as a result of said noncompliance or delinquency;

(iv) Any appropriations of the Legislature of Puerto Rico or other appropriations, assignments, donations or contributions made by any person to the Development Fund; and

(v) Any income (including income from interest) received from the investment of moneys covered into the Development Fund. However, any income of the Development Fund shall be used in the first place, to pay the principal, the premiums and the interest on any bonds issued or to be issued, as provided in subsection (a) of this Section and that any surplus income which is not needed to cover the total amount of said payments be deposited in the Corpus Account up to the amount needed to preserve intact the capital base of the Corpus Account at its present value to the year 1999.

(2) Except for the provisions of subsection (b)(1)(i) of this Section 25-A, the Authority, subject to any legal or contractual obligation in effect at the time, shall determine into which accounts of the Development Fund shall all or part of said deposits be made.

(c) The Authority is hereby authorized to grant loans or concessions to, or in behalf of any public corporation, municipality, political subdivision or government instrumentality for the purpose of financing or facilitating the financing of infrastructure development projects, including loans and concessions to, or in behalf of infrastructure development projects with the

purpose of providing access to or reducing the financing costs of other sources of financing whether by borrowing money from diverse sources, obtaining credit backing, shares or subsidies to cover financing costs.

(d) The Authority is hereby authorized to grant interest subsidies to any public corporation, municipality, political subdivision or government instrumentality which has successfully requested the financing of loans for infrastructure development projects from other Federal and Puerto Rican financing intermediaries and programs. The Authority shall only grant interest subsidies to, or in behalf of an infrastructure development project when it has been determined that the interest subsidy is justified to permit the total financing of the project.

(e) The Authority is hereby authorized to grant loans and credit backing concessions to any public corporation, municipality, political subdivision or government instrumentality. Loans and credit backing concessions may be granted to public intermediaries of infrastructure financing in order to acquire letters of credit and other forms of credit backing to allow the recipient to expand the financing resources or reduce the cost of financing, available to any public corporation, municipality, political subdivision or government instrumentality to finance the necessary infrastructure development projects.

(f) The Authority is hereby empowered to grant reserves of funds in order to facilitate the access to, and the financing of costs through funds available by means of other public intermediaries of infrastructure financing. Said concessions may be granted only to public intermediaries of infrastructure financing authorized to provide financing to any public corporation, municipality, political subdivision or government instrumentality for the necessary infrastructure development projects. The product of said concessions may only be used by public intermediaries of infrastructure financing to establish reserves of funds for losses whose intention is to

diversify the access and financing of infrastructure costs. The reserves of funds for losses shall be established according to a trust agreement granted for such a purpose by the grantee financing intermediary. The trust agreement shall limit the uses of the reserve of funds to pay for the losses which occur in the infrastructure financing program of the public intermediary of infrastructure financing, as specified in the concession agreement and to pay the fees and other administrative costs of the reserve funds for losses trust.

(g) The application for funds shall be done in the form and manner prescribed by the Authority. The Authority is hereby authorized to promulgate the necessary regulations in the opinion of the Authority that are not inconsistent with any of the provisions of this Act, to govern the application process and establish the criteria that the Authority deems necessary for each application to meet.

(h) The infrastructure loans and concessions granted by the Authority are subject to the following conditions:

(1) The financial assistance provided through loans and concessions must be used for the purposes specified in subsections (c) to (f) of this Section 25-A.

(2) For infrastructure loans the Authority must determine the interest rates, if any, including interest rates below those of the loan market. The Authority shall fix the terms and conditions for paying the loans.

(3) The payment of the principal and interest on the loans made and any funds received by the Authority as a result of noncompliance of the terms and conditions of a loan shall be covered into the Development Fund.

(i) The Authority is hereby authorized to take any action that is necessary or appropriate to protect the interests of the Development Fund in case of default, execution, or noncompliance with the terms and conditions of the loans or concessions granted under this Act, including the power to sell,

dispose of or lease real property or chattels that the Authority may receive in said cases, under the terms and conditions the Authority deems appropriate.

(j) The Authority may use the revenues from the investment of the funds proceeding from the sale of the Puerto Rico Telephone Authority solely for aqueduct and sewer infrastructure projects."

Section 18.- Sections 16, 16-A, 17, 18, 19, 20 and 21 of Act No. 44 of June 21, 1988, as amended, are hereby renumbered as Sections 26, 26A, 27, 28, 29, 30 and 31, respectively.

Section 19.- A new Section 32 is hereby added to Act No. 44 of June 21, 1988, as amended, to read as follows:

"Section 32.- Norms for the Interpretation of this Act.-

The powers and faculties conferred upon the Authority by this Act shall be interpreted liberally so as to propitiate the development and implementation of the public policy enunciated in this Act."

Section 20.- Section 22 of Act No. 44 of June 21, 1988, as amended, is hereby redesignated as Section 33.

Section 21.- Act No. 65 of August 23, 1990, as amended and Act No. 67 of August 28, 1990, as amended, are hereby repealed.

Section 22.- Any provision of law or portion thereof which contravenes what is provided herein is hereby repealed. Likewise, should any part, paragraph or Section of this Act be declared null and void by a Court of competent jurisdiction, the judgment issued to that effect shall only affect that part, paragraph or Section which has been declared null and void.

Section 23.- This Act shall take effect immediately after its approval, with the exception of Sections 6, 7, 8, 9, 10, 11, 12, 13 and 14 which shall take effect ninety (90) days after the approval of this Act.

July 20, 1999

Luis G. Hidalgo, Director of the Office of Legislative Services of the Legislature of Puerto Rico, hereby certifies to the Secretary of State that he has duly compared the English and Spanish texts of Act No. 92 (Substitute to S.B. 933 and 1188) of the 3rd Session of the 13th Legislature of Puerto Rico, entitled:

**AN ACT** to amend subsections (b) and (i), add a subsection (j) and amend and redesignate the present subsection (j) as subsection (k), amend and redesignate the present subsection (k) as subsection (l), redesignate subsection (l) as subsection (m) and add subsections (n), (o), (p), (q), (r) and (s) to Section 3; amend Section 5; amend the first paragraph of Section 6; amend subsections (e), (f) and (u) of Section 7; add new Sections 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17; etc.,

and finds the same are complete, true and correct versions of each other.

Luis G. Hidalgo