

(S. B. 694)

**(No. 104)**

(Approved May 25, 2006)

## **AN ACT**

To repeal Act No. 183 of July 23, 1974, as amended, and to authorize the refinancing of the debt issued pursuant to said Act.

### **STATEMENT OF MOTIVES**

Act No. 183 of July 23, 1974, as amended, authorizes the Secretary of the Treasury, with the approval of the Governor, to take money on loan, with the collateral of matured tax debts that are pending payment, to cover recurrent regular expenses in the government budget. The approval of this Act was preceded by an Opinion of the Secretary of Justice (No. 1974-15) of May 21, 1974, which indicates, after quoting an exchange of words which took place in the Constitutional Convention, that matured taxes pending payment constitute a “resource” of the State, and that the same may serve as basis for financing that allows for the elaboration of a “balanced” budget.

Although constitutionally permissible, this mechanism has serious practical problems. On the one hand, if the Department of the Treasury has tax debts that it has been unable to collect, this could be for one of two reasons. In the first place, it could be because they are uncollectible, in which case, to take money on loan against them could worsen the fiscal situation of the government because it would not receive the money from said taxes and because, at the same time, funds destined for other purposes would have to be used in lieu thereof to pay the financing that would not be satisfied from the product of a collection that shall never be received. In the

second place, if the tax debts are absolutely collectible, it would seem to be more effective that the Department of the Treasury devote its efforts to collecting them instead of taking loans against them, since this would produce the same funds for the treasury without the aforesaid risks.

On the other hand, this financing mechanism has been used repeatedly in recent years to allow the government to maintain a rate of ascending expenses in excess of its recurrent income. As a result, the government has not taken the necessary measures in past years to control public spending and reduce government gigantism.

In recent fiscal years, the government budget has been increased through the use of debts and non-recurrent income items. In this manner, budgets that are higher than those that can be sustained by the recurrent income available have been approved. In order to prevent this practice that is not within the soundest public administration practices, this Legislature deems it necessary to prohibit the use of loans or of any other financing mechanisms for appropriations for regular expenses. To those effects, Act No. 183 of July 23, 1974, as amended, which would otherwise allow for the use of this mechanism, is hereby repealed.

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

Section 1.- The provisions of Act No. 183 of July 23, 1974, as amended, are hereby repealed.

Section 2.- Authorization for Negotiation of New Terms

The Secretary of the Department of the Treasury and the President of the Government Development Bank for Puerto Rico are hereby authorized to renegotiate the terms of the balances in effect on the date of approval of this Act regarding the following notes issued pursuant to Act No. 183 of July 23, 1974, as amended.

<b><u>Original Sum</u></b>	<b><u>Closing Date</u></b>	<b><u>Maturity Date</u></b>
\$250,000,000	June 27, 2003	June 30, 2008
\$233,000,000	June 29, 2004	July 31, 2009
\$550,000,000	October 28, 2004	June 30, 2014

Section 3.- This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 104 (S.B. 694) of the 3<sup>rd</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to repeal Act No. 183 of July 23, 1974, as amended, and to authorize the refinancing of the debt issued pursuant to said Act,

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

In San Juan, Puerto Rico, today 6<sup>th</sup> of June of 2006.

Francisco J. Domenech  
Director