

“Autonomous Municipalities Act of the Commonwealth of Puerto Rico of 1991”

Act No. 81 of August 30, 1991, as amended

(Contains amendments incorporated by:

Act No. 58 of October 29, 1992
Act No. 84 of October 29, 1992
Act No. 130 of December 17, 1993
Act No. 57 of August. 11, 1994
Act No. 138 of December 14, 1994
Act No. 29 of March 16, 1995
Act No. 36 of April 13, 1995
Act No. 70 of June 29, 1995
Act No. 151 of August. 10, 1995
Act No. 217 of October 27, 1995
Act No. 260 of December 30, 1995
Act No. 17 of March 24, 1996
Act No. 23 of April 14, 1996
Act No. 26 of April 28, 1996
Act No. 28 of April 28, 1996
Act No. 37 of May 15, 1996
Act No. 45 of May 22, 1996
Act No. 73 of July 20, 1996
Act No. 91 of July 29, 1996
Act No. 97 of August 4, 1996
Act No. 120 of August 11, 1996
Act No. 152 of August 20, 1996
Act No. 199 of September 6, 1996
Act No. 13 of May 29, 1997
Act No. 67 of August 10, 1997
Act No. 68 of August 10, 1997
Act No. 71 of August 11, 1997
Act No. 72 of August 11, 1997
Act No. 100 of August 23, 1997
Act No. 116 of September 6, 1997
Act No. 153 of December 18, 1997
Act No. 178 of December 20, 1997
Act No. 181 of December 20, 1997
Act No. 191 of December 26, 1997
Act No. 101 of June 26, 1998
Act No. 63 of April 9, 1998
Act No. 121 of July 11, 1998
Act No. 130 of July 17, 1998
Act No. 169 of July 17, 1998
Act No. 253 of August 20, 1998
Act No. 254 of August 20, 1998

Act No. 281 of November 30, 1998
Act No. 323 of December 24, 1998
Act No. 331 of December 30, 1998
Act No. 343 of December 31, 1998
Act No. 28 of January 10, 1999
Act No. 30 of January 10, 1999
Act No. 35 of January 10, 1999
Act No. 42 of January 10, 1999
Act No. 112 of May 10, 1999
Act No. 128 of June 9, 1999
Act No. 279 of August 21, 1999
Act No. 291 of August 21, 1999
Act No. 336 of December 10, 1999
Act No. 349 of December 21, 1999
Act No. 357 of December 24, 1999
Act No. 359 of December 24, 1999
Act No. 24 of January 13, 2000
Act No. 28 of January 13, 2000
Act No. 51 of February 20, 2000
Act No. 101 of June 17, 2000
Act No. 135 of July 25, 2000
Act No. 181 of August 21, 2000
Act No. 219 of August 29, 2000
Act No. 222 of August 29, 2000
Act No. 237 of August 30, 2000
Act No. 263 of August 31, 2000
Act No. 279 of September 1, 2000
Act No. 317 of September 2, 2000
Act No. 344 of September 2, 2000
Act No. 360 of September 2, 2000
Act No. 379 of September 6, 2000
Act No. 385 of September 6, 2000
Act No. 397 of September 8, 2000
Act No. 360 of October 2, 2000
Act No. 17 of April 11, 2001
Act No. 18 of April 11, 2001
Act No. 19 of April 11, 2001
Act No. 27 of April 30, 2001
Act No. 154 of November 7, 2001
Act No. 22 of January 5, 2002
Act No. 32 of February 5, 2002
Act No. 44 of March 3, 2002
Act No. 66 of May 21, 2002
Act No. 137 of August 9, 2002
Act No. 160 of August 10, 2002

Act No. 186 of August 17, 2002
Act No. 191 of August 17, 2002
Act No. 212 of August 29, 2002
Act No. 36 of January 3, 2003
Act No. 60 of January 4, 2003
Act No. 99 of March 27, 2003
Act No. 63 of February 20, 2004
Act No. 73 of March 13, 2004
Act No. 147 of June 14, 2004
Act No. 232 of August 27, 2004
Act No. 258 of September 7, 2004
Act No. 373 of September 16, 2004
Act No. 98 of August 26, 2005
Act No. 102 of August 26, 2005
Act No. 103 of August 26, 2005
Act No. 105 of August 26, 2005
Act No. 107 of August 27, 2005
Act No. 127 of October 7, 2005
Act No. 132 of October 24, 2005
Act No. 155 of December 16, 2005
Act No. 169 of December 30, 2005
Act No. 61 of February 17, 2006
Act No. 145 of August 3, 2006
Act No. 171 of August 30, 2006
Act No. 178 of September 1, 2006
Act No. 183 of September 1, 2006
Act No. 216 of September 28, 2006
Act No. 226 of October 11, 2006
Act No. 280 of December 22, 2006
Act No. 20 of March 8, 2007
Act No. 65 of July 13, 2007
Act No. 131 of July 29, 2008
Act No. 153 of August 1, 2008
Act No. 161 of August 6, 2008
Act No. 205 of August 9, 2008
Act No. 25 of June 2, 2009
Act No. 148 of November 22, 2009
Act No. 149 of November 22, 2009
Act No. 150 of November 22, 2009
Act No. 151 of November 22, 2009
Act No. 152 of November 22, 2009
Act No. 153 of November 22, 2009
Act No. 154 of November 22, 2009
Act No. 155 of November 22, 2009
Act No. 156 of November 22, 2009

Act No. 157 of November 22, 2009
Act No. 158 of November 22, 2009
Act No. 159 of November 22, 2009)

(Amendments non-incorporated:
Act No. 213 of November 29, 2009
Act No. 217 of December 29, 2009
Act No. 63 of June 21, 2010
Act No. 92 of July 26, 2010
Act No. 129 of August 13, 2010
Act No. 211 of December 21, 2010
Act No. 242 of December 30, 2010
Act No. 121 of July 12, 2011
Act No. 162 of July 29, 2011
Act No. 181 of August 11, 2011
Act No. 189 of August 11, 2011
Act No. 251 of December 16, 2011
Act No. 254 of December 16, 2011
Reorganization Plan No. 1 of January 3, 2012
Act No. 106 of June 5, 2012)

To adopt the Autonomous Municipalities Act of the Commonwealth of Puerto Rico of 1991, and provide for the constitution, organization, administration and operation of the municipal government regime; provide for the updating of systems and procedures and the establishment of better accounting and operational controls; extend the scope of the functions and powers of the municipalities, transfer the jurisdiction to plan and regulate their territory to them, and authorize the delegation of other Central Government competences to them; establish measures for the participation of the citizenry in the development of their communities; reorganize the Commission to Hear Municipal Complaints; Create the Office of the Commissioner of Municipal Affairs, define his/her functions, duties and responsibilities; authorize the creation of special corporations for the development of the municipalities; provide for transfers; appropriate funds; fix penalties, and repeal Act No. 67 of June 15, 1955, Act of March 12, 1908, as amended; Act No. 166 of May 13, 1941 as amended; Act No. 140 of May 9, 1941, as amended; Act No. 98 of June 23, 1955; Act No. 42 of August 6, 1935, as amended; Act No. 102 of May 6, 1938, as amended; Act No. 6 of May 1, 1925, as amended; Act No. 1 of January 23, 1968; Act No. 75 of June 18, 1966; Act No. 18 of August 9, 1974, as amended; Act No. 30 of April 2, 1979, as amended; and Act No. 70 of June 11, 1979, and Act No. 146. of June 18, 1980, as amended.

STATEMENT OF MOTIVES

In a democratic system of government such as ours, where its power arises from the people, government structures should be conceived to attend to the people's needs in the measure

allowed by their economic resources. To date, the delivery of basic and essential services has rested on the Central Government, which, because of its bureaucracy has not been able to fulfill our people's expectations.

This view of keeping the essential services to the citizens in the hands of the Central Government has impaired the role of our municipalities in our system of government, since they are the sociopolitical structures that are closest to, and have more knowledge of the needs of the inhabitants.

Up to now the municipalities were conceived as the purveyors of simple services, and their capacity to share the country's government and contribute to the solution of the problems generated by a society as complex as ours, seemed an unreachable goal.

The time has come to give the municipalities a greater degree of fiscal autonomy and self-government so that they can attend to their responsibilities to the fullest.

The delegation of responsibility through this legislation and placing the obligation on the people of requiring the mayors to comply with it every four years in consideration of the work they have performed, should be the frame of reference within which our municipalities should act in the future.

This Autonomous Municipalities Act grants the municipalities the fiscal authority needed to continue performing the tasks that they have been attending to up to now, to assume new functions delegated on them by the Central Government, and even more so, to use their own initiative and offer services which have not been available to their inhabitants. With its approval, a new era in public administration has been initiated in our country.

Be it enacted by the Legislative of Puerto Rico:

Chapter I. — Preliminary Provisions. [21 L.P.R.A., Subtitle 6, Chapter 201]

Section 1.001. — Title of the Act. — (21 L.P.R.A. § 4001 note)

This Act shall be known as the "Autonomous Municipalities Act of the Commonwealth of Puerto Rico of 1991".

Section 1.002. — Statement of Public Policy. — (21 L.P.R.A. § 4001 note)

A cardinal principle of democratic political thought is that the power of decision over matters that affect the lives of the citizens in a democracy should rest on specific levels, entities and people who are directly responsible to them. According to government structure, the public bodies and elected officials that are closest to our citizenry is the Municipal Government composed of the Mayor and the Municipal Legislators. Said entity is the basic unit for community administration. Its purpose is to provide the most immediate services required by the inhabitants of each municipality based on the available resources and its short, medium and long-range projections.

Notwithstanding these social and political aspirations, and deviating from the democratic principle set forth herein, our code of laws has not granted the municipal governments the powers and faculties that are essential to achieve the common welfare to which every democratic

society aspires, with the Central Government reserving for itself many of those powers and faculties that are needed by the Municipal Governments to carry out their work. This extreme centralization is the product of plans for the development of our Island which contributed significantly to it in the past, but which, in the measure that our collective political thinking has matured, have become impediments for our development. To a certain extent, this centralization was the answer to a vision of the world that conceived a uniform social and economic development for all parts of the Puerto Rican social group.

This structure of control has contributed to a great measure to the high degree of bureaucracy of our Central Government, thus affecting the quality of the services received by the citizenry.

Therefore, it is hereby declared as the public policy of the Commonwealth of Puerto Rico to grant to the municipalities the maximum degree possible of autonomy and provide them with the financial tools, as well as the powers and faculties needed to assume a central and fundamental role in their urban, social and economic development.

This Commonwealth of Puerto Rico Autonomous Municipalities Act creates the mechanisms so that the municipalities shall have the powers and faculties that are essential for an effective democratic government operation. This transfer of powers and jurisdiction, together with a reduction in the interference of the Central Government in municipal affairs, and the broadening of the municipalities' scope of action to areas which were barred, or greatly limited to them in the past, shall give a thrust to a true and effective Municipal Reform which shall result in a genuine redefinition and restructuring of the Central Government, which shall lead to a greater democratization. All this is in compliance with the eminent public interest to provide an effective government to our citizenry, which is responsive to its needs and hopes in the 21st Century.

Section 1.003. — Definitions. — (21 L.P.R.A. § 4001)

For the purposes of this Act, the following terms and phrases shall have the meanings stated below:

(a) “Public agency” — Shall mean any department, bureau, administration, office, commission, board, examining board, body, program, authority, entity, public corporation and its subsidiaries, instrumentality and institution of the Executive Branch of the Government of the Commonwealth of Puerto Rico, including the Governor's Office.

(b) “Mayor” — Shall mean the municipal government's Chief Executive.

(c) “Fiscal year” — Shall mean every period of twelve (12) consecutive months between the first day of the month of July of each calendar year and the thirtieth day of June of the following calendar year.

(d) “Legislature” — Shall mean the body that has legislative functions on municipal matters, which is duly constituted and officially denominated by this Act as the "Municipal Legislature".

(e) “Appropriation” — Shall mean any sum of money authorized by the Municipal Legislature, the Legislature or the federal government to carry out a specific activity or to achieve certain objectives.

(f) “Budget appropriation” — Shall mean the funds appropriated to municipal accounts, which proceed from real and personal property taxes, revenues and sales of goods and services, municipal licenses, fines and costs for infractions to ordinances, interest on investments, fees and excises imposed by ordinances, contributions and compensations from the Government of the Commonwealth of Puerto Rico and its instrumentalities, legislative appropriations for operating

expenses and to attend to the general obligations of the municipality that are included in the general expense budget each year, as well as any other revenues that the municipality should collect or receive by law and any other revenue legally received by the municipality to cover its operating expenses and general obligations.

(g) “Government Bank” — Shall mean the Government Development Bank for Puerto Rico created by Act No. 17 of September 23, 1948 , as amended.

(h) “Center” — Shall mean the Municipal Income Collection Center.

(i) “Commission” — Shall mean the Commission to Ventilate Municipal Complaints.

(j) “Commissioner” — Shall mean the official of the highest rank and hierarchy in the Office of the Commissioner of Municipal Affairs of the Commonwealth of Puerto Rico.

(k) “Commonwealth Election Commission” — Shall mean the body which is mainly responsible for the planning, organizing, structuring, directing and supervising of all the electoral proceedings in Puerto Rico, as it was created by Act No. 4 of December 20, 1977, as amended, known as "Puerto Rico Electoral Act."

(l) “Contingency contracts” — Shall mean those that provide for an obligation depending on the revenues generated as a result of the execution of contracts, including those that provide for a fixed rental rate or on the volume of sales, and any type of financial transaction which represents a fair and just return on investment for the municipality and whose compensation depends [on] the revenue thus generated.

(m) “Nonprofit entity” — Shall mean any society, association, organization, corporation, foundation, company, institution or group of persons, constituted pursuant to the laws of the Commonwealth of Puerto Rico, and registered at the Department of State, which is non-partisan and is devoted substantially or fully to the direct purveying of educational, charitable, health or social services, recreational, cultural, or for public ends or services, that operates without any lucrative purpose, and renders its services free of charge, at cost or less than their real cost.

(n) “Employee” — Shall mean any person who holds a position and job in the municipal government who is not vested with part of the sovereignty of the municipal government, and comprises regular, irregular, confidential employees, transitory appointments, and those in probatory periods.

(o) “Facility” — Shall mean any construction, structure, building, establishment, location, installation, plant, field, center and any other, including its annexes and the premises on which it is located, or where it is constructed, raised, built, reconstructed, repaired, refurbished, maintained, operated, leased, in usufruct or use by the municipality, for any end or public utility duly authorized by this Act, and any other of a like or similar nature to the above, which represents an endowment use for a private or public purpose.

(p) “Fund” — Shall mean every accounting unit where an amount of money or any other fiscal resource is consigned with the purpose of conducting a specific activity or achieving certain objectives in accordance with the laws, regulations, ordinances, resolutions, restrictions, or special limitations, and which constitute[s] an independent fiscal and accounting entity, including, without it being considered as a limitation, the accounts created to stabilize the yield of authorized bond issues and federal grants.

(q) “Municipal official” — Shall mean any person who holds an elective public office at a municipal level, the Secretary of the Legislature, and the directors of the administrative units of the Municipal Executive Branch.

- (r) “Central Government” — Shall mean the Government of the Commonwealth of Puerto Rico, its public agencies, instrumentalities and political subdivisions, excluding the Legislative Branch and the Judicial Branch.
- (s) “Federal government” — Shall mean the Government of the United States of America and any of its agencies, departments, offices, administrations, bureaus, commissions, boards, bodies, programs, public corporations, subsidiaries, instrumentalities and political subdivisions.
- (t) “Bidding Board” — Shall mean the Board that has the main responsibility of adjudicating the bids for the purchase of goods and services of the municipality, and the leasing contracts of real and personal property, and non-professional services of the municipality.
- (u) “Municipality or Autonomous municipality” — Shall mean a geographic demarcation with all its wards, which has a specific name and is governed by a local government composed of a Legislative Power and an Executive Power.
- (v) “Obligation” — Shall mean any valid legally-contracted commitment which is represented by a purchase order, contract or similar document, which is pending payment, duly signed and authorized by the officials who are competent to encumber the appropriations and which is or can become an exigible debt.
- (w) “Ordinance” — Shall mean all duly-approved legislation of the municipal jurisdiction, whose content is of a general or specific nature and has indefinite effectiveness.
- (x) “Fiscal organization” — Shall mean the group of municipal units that are related to or intervene with the processing, control and accounting of municipal funds and property.
- (y) “Compulsory Training and Continuing Education Program” — Shall mean the courses of a compulsory nature for directors of administrative units to be designed by the Office of the Commissioner of Municipal Affairs.
- (z) “Municipal property” — Shall mean any real or personal property belonging to, or of value to the municipality, acquired by purchase, gift, barter, transfer, assignment or any other legal means.
- (aa) “Regulations” — Shall mean any norm, or group of norms of general or specific application, that execute or interpret public policy or the law, or which regulate the requirements of the administrative procedures, systems or practices of the municipality or a public agency.
- (bb) “Resolution” — Shall mean any municipal jurisdiction legislation which shall lose its effectiveness when its purpose ends, and any measure, provision or order which governs the internal operations of the Municipal Legislature.
- (cc) “Construction excise tax” — Shall mean that tax imposed by the municipalities through a municipal ordinance approved by two-thirds of the votes for this purpose, which rests on the right to carry out a construction activity and/or construction work within the territorial limits of the municipality. This tax shall be considered as an act that is separate and distinct from an object or activity or any item of the object or activity, that in no way deprives or limits the power of the municipalities to impose taxes, excise taxes, duties, license, assessments, rates and tariffs. The municipality's imposition of construction excise taxes shall also constitute a separate and distinct act from any tax imposed by the State, therefore both taxing acts shall be compatible.
- (dd) “Construction activity” — Shall mean the act or activity of constructing, reconstructing, extending, repairing, demolishing, removing, transferring or relocating any building, works, structure, house or construction of a similar fixed and permanent nature, public or private, performed within the territorial limits of a municipality and for which a construction permit issued by the Regulations and Permits Administration or by an autonomous municipality having

such authority may or may not be required. It shall also mean the paving or repaving, construction or reconstruction of parking lots, bridges, streets, walkways, roads, sidewalks and curbs, in either public or private property within the territorial limits of a municipality and in which any compactable, aggregate or bituminous material occurs, which creates or allows for the construction of a uniform surface for pedestrian or vehicular traffic. It includes any excavation works performed for the installation of any type of piping or cabling of any nature which requires the digging of holes or ditches through which the piping or cabling shall be installed within the territorial limits of a municipality.

Works performed for administrative purposes by an agency of the Central Government or its instrumentalities, a public corporation, a municipality or a federal government agency are exempted from the payment of construction excise taxes. However, this exemption does not apply to construction works performed by a natural or juridical private person acting on behalf or in representation of, or by contract or subcontract executed with an agency or instrumentality of the Central or Municipal Government. Neither does said exemption apply in the case of construction works performed by a natural or juridical private person acting on behalf or in representation of, or by contract or subcontract executed with an agency of the federal government when so allowed by the applicable federal laws or regulations.

(ee) “Taxpayer” — Shall mean a natural or juridical person who is bound to pay the construction activity excise tax when:

(1) He/she is the owner of the work and personally perform the administrative duties and the physical an intellectual activities inherent to the construction activity.

(2) He/she is contracted to perform the duties described in clause (1) of this subsection, for the benefit of the work's owner, whether this is a private person or a government entity. The excise tax shall be part of the work's cost.

(ff) “Emergency” — Shall mean a situation, event or combination of circumstances that cause unexpected and unforeseen public needs and that require immediate action by the municipal government, due to danger to the lives, health or safety of the citizens, or to the risk of suspending or affecting public services or municipal property, and when the ordinary procedure for the timely purchase and acquisition of goods and services is not possible, due to the urgency of the action that needs to be taken. The emergency may be caused by an act of God or force majeure, such as a natural disaster, a catastrophic accident, or any other situation or event which, due to its unexpected and unforeseen occurrence, and its impact and magnitude, places the lives, health, safety, tranquility or wellbeing of the citizens in imminent danger, or noticeably affects the municipal community services, projects or public purpose programs.

(gg) “Municipal easement” — Shall mean the right acknowledged to the municipalities to impose the payment of a license or permit on private entities for the use of air, land and underground easement areas, within the municipal jurisdiction and located on municipal public roads.

(hh) “Access easement” — Shall mean all areas over, under or above streets, curbs, sidewalks, ditches, bridges, walkways, parking areas or entrances at present and future property or to become the property of the municipality and acquired, established, specialized or destined for purposes of utility services or telecommunications facilities.

(ii) “Thoroughfare” — Shall mean all roads, streets, alleys, bridges, pavement and grounds, residential roads, connector roads, arterial roads, easements or other access easement within the

municipal territory, but under the jurisdiction and direction of a government entity other than the municipality.

Section 1.004. — Standards for the Interpretation of this Act. — (21 L.P.R.A. § 4002)

The powers and faculties conferred on the municipalities by this Act or any other act, except for any provision to the contrary, shall be liberally construed in harmony with sound fiscal and administrative public policy practices, in order to propitiate the development and implementation of the public policy set forth in this Act, to guarantee the necessary juridical, fiscal and administrative powers to the municipalities and to effectively address to [sic] the needs and the welfare of the inhabitants thereof.

Section 1.005. — The Municipality. — (21 L.P.R.A. § 4003)

The municipality is the juridical entity of local government, subordinated to the Constitution of the Commonwealth of Puerto Rico and to its laws, whose purpose is the local common welfare and within it, primarily, the handling of the affairs, problems and collective needs of the inhabitants thereof.

Each municipality has legal capacity, independent and separate from the Government of the Commonwealth of Puerto Rico, with perpetual succession and legislative, administrative and fiscal capacity in all matters of a municipal nature.

The municipalities existing on the effective date of this Act, and those that may be created in the future, shall be constituted and governed by the provisions of this Act and any other statute that grants powers and obligations to them.

The territory, population and organization are the essential elements of a municipality:

(a) Territorial limits — The territorial limits of a municipality shall be those that are fixed on the effective date of this act, unless they are modified by virtue of any law to such effects. The law approved to such effects shall be processed at the request of the legislature of the municipality or municipalities whose limits are affected, or in the alternative, it shall have the consent of the municipal legislative body concerned prior to its approval.

(b) Population of the Municipality — The population of a municipality shall be constituted by those persons who have established their residence therein.

(c) Organization — The municipal government shall be constituted of the Legislative and the Executive Branches.

The power conferred to the municipalities to legislate on municipal issues shall be exercised by a municipal legislature which shall be elected and constituted as established in this Act.

The executive power shall be exercised by a mayor, elected in each general election by the direct vote of the electors of the corresponding municipality.

Section 1.006. — General Principles of Municipal Autonomy. — (21 L.P.R.A. § 4004)

(a) The juridical, economic and administrative autonomy of each municipality is hereby recognized. Their autonomy is subordinated and shall be exercised in accordance with the Constitution of the Commonwealth of Puerto Rico and to this Act.

Municipal autonomy shall essentially comprise the election of local authorities by the direct vote of the qualified electors of the municipality, the free administration of its property and issues of its competence or jurisdiction, and the disposition of its revenues and the manner of collecting and investing the same.

(1) The funds under the control of a municipality, or in custody of a trustee by virtue of the trust contract executed by the Municipal Revenue Collection Center, shall not be seized.

(2) The municipal ordinances, resolutions and regulations shall not be suspended nor rendered ineffective except by order of a competent court.

(3) Municipalities shall not be prevented from executing works, physical development plans or services that have been duly approved, authorized and financed according to the applicable laws.

(4) The members of legislature, the mayors and other municipal officials and employees shall not be impeached, separated or dismissed from office except for the causes and pursuant to the provisions of this Act.

(5) No public agency or entity of the Government of the Commonwealth of Puerto Rico shall take over any real or personal property of a municipality, unless it complies with the procedure established by law.

(6) No natural or juridical person shall be exempted from the payment of taxes, municipal license fees and municipal imposts, in whole or in part, unless such exemption is expressly authorized by law.

(7) The fiscal system of the Commonwealth and, especially, that which fixes taxes, shall grant participation in the collections at the municipal government level, to ensure resources and fiscal stability to the same.

(b) The public policy of the Commonwealth of Puerto Rico of promoting the autonomy of the municipal governments maintaining a fair and equal balance between the appropriation of fiscal resources and the imposition of economic obligations is hereby reaffirmed.

To ensure compliance with the public policy set forth in this subsection:

(1) The Municipal Revenues Collection Center and the Office of the Commissioner of Municipal Affairs, upon prior invitation or summons to such effects from any of the Legislative Bodies or any of their committees, shall issue their opinion with respect to the economic impact that any proposed legislation may have on the finances of the municipal governments. Such opinion shall be contained in a report to be entitled "Municipal Fiscal Impact" which shall be part of the text of the proposed legislation or of the report rendered to such effects by any legislative committee with jurisdiction.

(2) Every legislative committee that files a report to propose the approval of a measure shall include in the same a provision entitled "Municipal Fiscal Impact" which shall certify the estimated fiscal impact of the measure on the budgets of the municipal governments, if any shared measure be approved. Said report shall define specific recommendations to make up for any negative impact which may result from the approval of a legislative measure.

(3) Any legislative measure intended for approval that imposes economic obligations or that affects the fiscal revenues of the municipal governments shall identify and appropriate the resources to be used by the affected municipalities in order to attend such obligations. The finance directors of the municipalities shall include as evidence, among others, at least the single audit financial statements for the last two (2) fiscal years issued pursuant to the provisions of Federal Public Law 98-502 (Single Audit) prior to the approval of the measure;

the bank reconciliations certified by the corresponding banking institution; the budgetary account statements certified by the corresponding banking institution; and the budget account statements certified by the external auditor of the municipality.

(4) Provided, That municipal autonomy entails fiscal autonomy, reason for which the Central Government Fiscal System shall adapt to a fiscal system for the municipalities. The municipalities, in turn, are hereby vested with authority to impose taxes on matters in which there is no preemption by the Central Government, pursuant to Section 2.002 of this Act. The Central Government shall adopt a tax system according to the municipal tax system.

(5) The proposed legislative measure shall establish that when the report from the corresponding legislative committees has estimated that the approval of said measure has no significant fiscal impact on the municipal governments, it shall be interpreted that the legislative intent in such case is to not create additional obligations in excess of the revenues available to the municipal governments.

(c) Notwithstanding the above, in compliance with municipal purposes, the Central Government shall have the duty to:

(1) Oversee to the correct and efficient municipal administration.

(2) Address the consultations and petitions for opinions, advice or technical assistance remitted by the municipalities to any public agency for the best performance of their functions.

(3) Request the Office of the Comptroller of Puerto Rico to conduct an audit of the activities, transactions or operations of a municipality at any time.

(4) Report any action that could constitute an administrative fault or public crime to the competent authorities.

Section 1.007. — Creation of New Municipalities. — (21 L.P.R.A. § 4005)

The creation of new municipalities shall be executed pursuant to the enabling act which is approved to such effects. In creating new municipalities, the population and territorial limits that the municipality will have, the effect of the new municipality on the normal development of the neighboring municipalities, and whether the resulting municipality and those that are affected by the creation of the new municipality will have sufficient economic capacity to defray the operating expenses of its administration and to render public services of a municipal nature, shall be taken into account.

It is necessary for the creation of a municipality to respond to its possibilities of fiscal and administrative self-sufficiency, based on the number of inhabitants, the expansion and levels of urban, commercial and industrial development, among others; and on the primary sources of income, to wit, property taxes, municipal licenses, the lottery, other local revenues and the contributions and benefits from the federal government.

Section 1.008. — Suppression and Consolidation of Municipalities. — (21 L.P.R.A. § 4006)

The suppression and consolidation of municipalities shall be performed pursuant to Section I of Article VI of the Constitution of the Commonwealth of Puerto Rico, and by the law approved for such purposes.

In addition to complying with the above stated constitutional requirements, every law to suppress or consolidate municipalities shall take into account the population, geographic, and economic criteria, and whether said measure shall serve to manage the administration and rendering of public services of a municipal nature with greater efficiency.

When two (2) or more municipalities are consolidated into one (1), they shall be dissolved as a matter of law and the organization of the new municipality shall proceed pursuant to its Enabling Act and to the provisions of this Act.

When a municipality is suppressed, its territory and assets shall be annexed to the abutting municipality or municipalities. The municipality or municipalities favored by said annexation shall be reorganized in accordance with the provisions of the Act that provides for the suppression of the municipality in question, and in the manner provided by this Act.

The annexation of a part of the territory of one municipality to another shall only be conducted as authorized by the law to such effects, and when the social and economic circumstances and the rendering of municipal services advise it.

When part of the territory of one municipality is incorporated to another, all the assets of the municipality thus affected that are located on the portion of the annexed territory shall then belong to the latter, as a matter of law.

Any controversy on territorial limits between the municipalities shall be submitted before the Court of First Instance corresponding to the judicial district where they are located. When different judicial districts are involved, the controversy may be presented in any of said judicial districts. The municipality affected by the decision of the Court of First Instance may resort to the Supreme Court of Puerto Rico within thirty (30) days from the date of notice thereof.

Section 1.009. — Name of the Municipalities. — (21 L.P.R.A. § 4007)

The names of the municipalities existing on the date of approval of this act shall not be changed or modified, except as authorized by this Act. When a municipality is suppressed, the name of the municipality to which the territory of the abolished municipality is attached shall prevail.

When a municipality is created, its enabling act shall not change the proper name of the place where the new municipality is constituted, unless there are cultural, historic or traditional circumstances that justify a different name.

Section 1.010. — Tax Exemption. — (21 L.P.R.A. § 4008)

The municipalities shall not have to pay any type of taxes to the Commonwealth of Puerto Rico, and shall be exempted from the payment of fees and costs for the handling of any type of matter before the General Court of Justice and the Property Registry, and for the notarial documents that must be issued which would have to be paid by the municipality. They shall also be entitled to be issued any certificate for official purposes requested by them from any body, agency or official of the Commonwealth of Puerto Rico, free of charge.

Chapter II. — Powers and Faculties of the Municipal Government. [21 L.P.R.A. , Subtitle 6, Chapter 203]

Section 2.001. — Powers of the Municipalities. — (21 L.P.R.A. § 4051)

The municipality shall have the necessary and suitable powers for exercising all the authorities corresponding to a local government and for achieving its purposes and functions. In addition to what is provided in this Act or in any other law, the municipalities shall have the following powers:

- (a) Adopt, alter and use an official seal of which judicial cognizance shall be made, and shall affix it on all official documents of the municipality, and adopt a shield, a banner and an official hymn of the municipality.
- (b) To sue and be sued, file charges, complain and defend itself in any general court of justice and administrative body.
- (c) Exercise the power of expropriation, within their respective territorial boundaries, on their own or through the Governor of Puerto Rico, subject to the applicable general laws and the special executive orders in effect. Provided, That the only mechanism available for a municipality to acquire property whose title holders are the Government of Puerto Rico, its instrumentalities or public corporations, shall be provided in Section 9.003.
- (d) Acquire property by any legal means, within and outside of its territorial limits, including tax collection procedures.
- (e) Possess and administer real property and chattels and lease it pursuant to this Act.
- (f) Sell, encumber and alienate any of its properties subject to applicable legal provisions or ordinances.
- (g) Cede to and acquire title from any public agency, to any real assets or chattels, either gratuitously or by purchase, subject to the provisions of this Act.
- (h) Contract loans in the form of advances from the various sources of municipal revenues, and incur debts in the form of borrowings, bond issues or notes, under the corresponding statutory provisions, federal laws, special laws that rule the same, and the regulations approved by the Government Development Bank to such effects.
- (i) Accept and receive gifts of goods and services from any public agency of the Central Government and the federal government, as well as from any natural or juridical person, and administer and comply with the conditions and requirements to which said gifts are subject.
- (j) Invest its funds in direct debentures of Puerto Rico, or secured as to principal and interest, by the Commonwealth of Puerto Rico, or in obligations of any public agency or municipality of Puerto Rico; or in direct obligations of the United States or obligations secured as to principal and interest by the United States; or in obligations of any agency, instrumentality, commission, authority or other political subdivision of the United States; or in obligations of international banking institutions recognized by the United States. It may also invest its funds in acceptances or other banking obligations or certificates of deposit, endorsed or issued, as the case may be, by banks organized or authorized to do business under the laws of the Commonwealth of Puerto Rico or the United States of America. The application of this section shall be ruled by the provisions of this Act, of federal laws, any special laws which are applicable, and by the regulations approved by the Government Development Bank to such effects.

(k) Provide the needed funds, according to the provisions of this Act, to pay the salaries of the officials and employees, and to defray the expenditures and operating expenses incurred or contracted, or to be incurred or contracted by the municipality for services, works and improvements of the municipality, or for its development, except as otherwise provided by law.

(l) Acquire and prepare land for any type of public work, and construct, improve, repair, reconstruct, and rehabilitate facilities of any class, type, or nature for any public end authorized by law.

(m) Acquire whatever equipment is necessary and convenient for the preparation and operation of any public work or facility, according to the applicable legal provisions.

(n) Contract professional, technical and consulting services that may be necessary to carry out the activities, programs and operations of the municipality, or to comply with any public purpose authorized by this Act or by any other act that applies to the municipalities. The municipalities, the special corporations created by these and the inter-municipal bodies established pursuant to this Act may contract, for reasonable pay, the services of the personnel of the University of Puerto Rico or any of its dependencies, outside of their working hours and with the prior written consent of the university body for which they work.

(o) Exercise its legislative and executive powers in any matter of a municipal nature, which will bring about the welfare of the community and its economic, social and cultural development; in the protection of the health and safety of the people; in encouraging civic action and the solidarity of the communities, and in the development of works and activities of collective interest, subject to applicable legislation.

(p) Create intermunicipal bodies that will allow two (2) or more municipalities to identify common problems and to plan and develop joint activities or services in benefit of the inhabitants. Their organization shall be carried out through an intermunicipal agreement signed by the mayors with the approval of the absolute majority of each of the legislatures concerned; that is to say, the majority with more than half of the votes of their active members composing such body. Once the intermunicipal agreement has been approved, a consortium will be constituted, which shall have its own existence and juridical personality, separate from the municipality, as provided for partnerships in the Puerto Rico Civil Code of 1930. Said provisions shall apply in every respect that is not contrary to the provisions of this Act or other local or federal laws that govern them. The operations of the intermunicipal consortiums shall be subject to auditing by the Office of the Comptroller of Puerto Rico. In addition, every person, be it an employee or an official of a government agency, who is a member of the Employees Association of the Commonwealth of Puerto Rico for a period of not less than one (1) year upon being transferred, relocated or contracted by an intermunicipal consortium, shall be able to continue his/her membership in the Association. If the person does not opt to continue his/her membership, he/she shall notify the Executive Director of the Association of his/her intention in writing, within a term of sixty (60) days from the day the change took place. In the event the employee opts to continue his/her membership, the Executive Director of the Association shall take the necessary measures to enforce the purposes of this section, to wit, coordinate with the respective consortiums to implement this section.

Each intermunicipal consortium shall establish an autonomous system for the administration of its personnel. Said system shall be governed by the merit principle so that it promotes excellence in public service on the basis of equality, justice, efficiency, and productivity. Therefore, the consortiums shall adopt uniform regulations for the administration of human resources that

contain a Uniform Job Classification and Compensation Plan, duly updated for regular and trust personnel; a recruitment, selection and regulation system; an official and employee training and evaluation system; and a system on the matter of retention and layoffs. This Plan shall be evaluated and shall require the approval of the Board of Mayors.

The implementation of the compensation, as part of this Plan, shall be subject to the availability of federal funds appropriated to each consortium or local area. No municipality, consortium or local area shall be compelled to absorb or retain the employees that have been laid off due to the lack of funds, whether by the reduction or elimination of budget appropriations by the Federal Government.

(q) Enter into agreements with the federal government, the agencies, departments, public corporations and instrumentalities of the Government of the Commonwealth of Puerto Rico for the development of municipal public works and facilities and for the rendering of public services pursuant to applicable federal or state laws and to promote the viability of the work or project to be carried out upon delegating competencies. The public dependencies and instrumentalities that agree to delegate competence to the municipalities shall be bound to transfer thereto the fiscal and human resources necessary to assume such competence, unless the municipality certifies that it has its own resources. Formalization of contracts shall require prior approval by the municipal legislature.

(r) Contract with any public agency and with any natural or juridical person the joint coordinate or delegated development, administration and operation of facilities for the rendering of public services, and for the construction, repair and maintenance of municipal facilities. Such activities shall include the contracting of joint projects with profit or nonprofit public or private entities, for the construction and development of affordable housing, the development and operation of municipal programs or facilities and any others in which the municipality requires the participation of external natural or juridical persons for the feasibility of projects and programs. The formalization of the contracting shall require prior approval by the municipal legislature.

(s) Grant and award subsidies, gifts or any other type of help in cash or kind to nonprofit entities constituted pursuant to the laws of Puerto Rico, provided they are for public service ends and activities, and after complying with the provisions of this Act.

(t) Exercise all powers delegated by law and those that are incidental and necessary.

(u) Adopt ordinances providing for everything concerning those dwellings that are dangerous or harmful to health or safety due to their ruinous state, disrepair, and construction defects, pursuant to Act No. 222 of May 15, 1938 as amended, [17 L.P.R.A. §§ 143-151], and any structure, edifice, billboard or other building that could constitute a public nuisance because of its threat to lives and safety.

(v) To adopt ordinances providing for the regulation of vehicular parking in the municipalities' urban areas, including the parking by parking-meter system so that parking facilities are used in an efficient way and to benefit the municipalities' development and their inhabitants' welfare.

(w) Promote incentives for investments offer in equipment, machinery and processes to avoid contamination, give incentives for the creation of direct and indirect employment that bolsters regional economic activity promoting more links and incentives on external sources of energy to be carried out by the municipalities themselves or through the contracting of private, public or quasi-public entities.

(x) To contract and establish consortiums with other government agencies and private entities to provide day care center services their employees and officers in harmony with the provisions established by state and federal regulations in effect for similar programs.

The mayor or designated officer is hereby authorized to take all pertinent steps with respect to the Integral Care and Development of Childhood Administration, the government entity that, in accordance with Reorganization Plan No. 12 of 1995, manages the funds received by the Government of Puerto Rico under the federal "Child Care and Development Block Act", as well as to establish consortiums with government agencies and private entities. Furthermore, the mayor or authorized officer in the municipalities also has the obligation to notify the Family and Children Administration of the establishment of any day care center for the benefit of its employees.

(y) To form consortia with other municipalities not necessarily geographically abutting each other to render administrative services such as human resources administration, revenue collections, solid waste recovery and disposal, medical emergency systems, federal programs office, provided that they comply with the applicable federal provisions; and tourist development office, among others. No consortium shall be created for internal audit offices. Consortia shall comply with the provisions applicable to consortia set forth in subsection (p) of Section 2.001 of this Act and the provisions relative to contracts between municipalities set forth in Section 14.002 of this Act.

Section 2.002. — Power to Impose Taxes, Duties, Levies and Others. — (21 L.P.R.A. § 4052)

In addition to what is provided in other acts, the municipality may impose and collect taxes or levies for the concepts and in the manner established below:

(a) Impose a basic tax which shall not exceed six percent (6%) on the appraised worth of real property, and of four percent (4%) on the appraised worth of chattels that are not exempted or relieved from the payment of taxes, located within its territorial limits, and pursuant to Section 2.01 of the Municipal Property Tax Act of 1991. [21 L.P.R.A. § 5001].

The municipality, through ordinances to such effects, may impose property taxes based on a lower percentage for the type of business or industry to which said property is dedicated, or on its geographic location, when it is convenient to the public interest for the development of any business activity, or any special development and rehabilitation zone defined or established by ordinance. The municipality may likewise promulgate graded or progressive rates within the established maximum and minimum, establish lesser rates, and relief from the payment of property taxes, to promote investment in the development and rehabilitation of deteriorated or decaying urban areas in the municipality, through mechanisms that will allow a lower property tax rate, or a total or partial exemption thereof in the function of meeting conditions on investments and other similar ones established by the municipality through ordinances. These special programs shall be for fixed terms.

Until a municipality adopts new basic tax rates for each municipality, the rates that shall apply will be those that result from the sum of the rates adopted by each one of them under the statutory provisions that apply until the date of approval of this act, plus one percent (1%) per annum on the appraised worth of all chattels, and of three percent (3%) on the appraised worth of

all non exempt or tax exempt real property in the municipality, that was previously covered into the General Fund of the Commonwealth of Puerto Rico.

(b) Impose additional special property taxes for the payment of loans. Each quarter, the Government Bank in its capacity as trustee, shall remit to the municipalities the interest accrued from the deposits in the Municipal Debt Redemption fund which are nourished from the product of the special additional property tax.

(c) Impose a special tax on all real property located in a residential improvement zone or business improvement district, as designated in this Act, for public improvements in benefit of the zone or district on which they are imposed.

(d) Impose and collect taxes, fees, licenses, construction excise taxes and other reasonable excise taxes and contributions, fees and tariffs within the territorial limits of the municipality that are compatible with the Internal Revenue Code and the laws of the Commonwealth of Puerto Rico, including, without it being construed as a limitation, fees for parking on municipal thoroughfares, for the opening of commercial, industrial and service establishments, for the construction of works and the demolishing of buildings, for the occupation, use and intervention of municipal thoroughfares and easements, and for waste management.

Every construction work within the territorial boundaries of a municipality, performed by a private natural or juridical person, or performed by a natural or juridical person in behalf or in representation of, or by a contract or subcontract signed with an agency or instrumentality of the central or municipal government or of the federal government, including works which do not require the request or issue of a permit by the Regulations and Permits Administration or by an autonomous municipality, shall pay the corresponding construction tax, prior to commencing said work.

In such cases, said excises shall be paid to the municipality in which said work shall be carried out, prior to the date it commences. In those cases where a change order arises in which a variation of the initial project is authorized, it shall be verified if said change consists of an extension, and if so, the corresponding tax shall be computed.

Neither the Regulations and Permits Administration or the Municipal Permits Office may grant a construction permit for a work to be carried out in a municipality that does not comply with the requirements imposed by this Section. To such effects, every contractor must present a certification issued by the municipality in evidence of the payment of the corresponding construction taxes.

The municipalities may resort to the Court of First Instance to plead an injunction to stop any work initiated without having paid the corresponding tax. Such procedure shall be processed pursuant to the Rules of Civil Procedure, and the court shall issue the corresponding writ if it is proved that the person served has not complied with the corresponding payment of the construction tax.

The municipal construction excise tax shall be effective on the date the duly-called notice for bidding is properly closed or on the date of adjudication of the contract for those construction works that do not require bidding. In the cases of change orders, the excise tax in effect on the date the petition for change orders was issued shall be applied. It being understood, that all prior work was done pursuant to the statutes that have authorized the collection of construction excise taxes in the municipalities through the years.

For the purpose of determining the construction excise tax, the total cost of the work shall be the cost incurred to carry out the project after deducting the cost of the acquisition of land, the

buildings already constructed, built on the worksite, and the cost of studies, designs, plans, permits, and consultation and legal services fees.

(e) Impose upon telecommunications companies, cable TV and private utilities companies that do business or operate within the municipality, a fee for the use and maintenance of the easements used to install and maintain their infrastructure and equipment.

The municipality may impose this collection by means of ordinance to such effects pursuant to the type of business or enterprise and its type of operations. In any case, the charges or fees shall be fixed based on a fair and reasonable reference that is not discriminatory.

In addition to the charges, the ordinance and the regulation approved by the municipality, shall also establish the method of payment and collection, the means for verification of information or the required amount and the interest, surcharges and penalties to be imposed on those who do not comply or evade this obligation.

The municipality may also, by means of ordinance, impose on these businesses minor charges as an exemption, incentive or relief when convenient for the public interest for any economic, social rehabilitation or investment activity required. Such exemptions, incentives or relief shall be established for a fixed term and may be revoked in the case of noncompliance or abandonment of the conditions or obligations agreed on. The ordinance shall fix the administrative procedure to review these provisions.

The municipality shall implement the collections authorized herein through its finance or municipal income department, for which it shall have contracted skilled and qualified personnel. By means of ordinance, the municipality shall create a special account or fund in which it shall cover, in whole or in part, the amounts collected and the specified use.

This subsection shall be construed in accordance to the provisions in Act No. 213 of September 12, 1996, as amended, known as the “Telecommunications Act of Puerto Rico of 1996” and the regulations approved pursuant to the same. The Regulatory Board shall establish the necessary regulations with the direct participation of the municipalities within a term of ninety (90) days.

Section 2.003. — Power to Approve and Enforce Ordinances with Penal Sanctions and Administrative Fines. — (21 L.P.R.A. § 4053)

(a) *Municipal penal legislation* — The municipality shall be empowered to approve and enforce ordinances containing penalties for violations thereof with penalties not greater than one thousand dollars (\$1,000) or penalties of home detention, community services or imprisonment up to a maximum of ninety (90) days, at the discretion of the court. Every sanction shall take into consideration the general principles of the penalties established in the new Commonwealth of Puerto Rico Penal Code of the 2004, [33 L.P.R.A §§ 4629 et seq.]. Every municipality, at the time of imposing a fine through an ordinance, resolution or regulations shall evaluate the proportion between the severity of the violation committed and the fine to be imposed.

Each municipality, shall evaluate the proportionality between the seriousness of the offense and the fine to be imposed, when imposing a fine in an ordinance.

The Court of First Instance shall have jurisdiction to hear and resolve any violation of municipal penal ordinances. Notwithstanding what has been provided above, infractions of municipal ordinances which regulate the flow, parking and traffic of motor vehicles shall be penalized pursuant to the administrative fine procedure established in Act No. 141 of June 10, 1960 , known as the "Vehicle and Traffic Law of Puerto Rico" [9 L.P.R.A. §§ 5001 et seq.].

It is determined, however, that with regard to municipal ordinances related to parking violations in areas covered by parking meters, such violations can be sanctioned according to what the municipal ordinance establishes. Puerto Rican municipalities are authorized to issue regulations establishing the system for compliance with parking in areas covered by parking meters, as well as to designate the public or private entities who will function as agents, enforcing the ordinances by issuing administrative violation tickets. The regulations shall establish the procedure for requesting the review of administrative violations imposed according to the ordinances pertaining to parking lots subject to parking meters. The regulation shall comply with the norms contained in Act. No. 170 of August 12, 1988, as amended, known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico" [3 L.P.R.A. §§ 2101 et seq.].

Ordinances that impose penal sanctions shall take effect ten (10) days after being published in one (1) or more newspapers of general circulation and regional circulation, provided that the municipality is within the region served by said newspaper. The publication shall include the following information:

- (1) Ordinance number and series to which it corresponds;
- (2) date of approval by the mayor;
- (3) effective date;
- (4) title, or a brief statement of its contents and purpose, and
- (5) notice that any interested person may obtain a certified copy of the complete text of the ordinance in the Office of the Secretary of the Municipal Legislature after paying the corresponding fee.

(b) *Legislation with administrative fines* — In the exercise of its powers to regulate, investigate, issue decisions, certificates, permits, endorsements, and concessions, the municipality may impose and collect administrative fines up to a maximum of five thousand dollars (\$5,000) for infractions of its generally-applicable ordinances, resolutions and regulations, as established by law or ordinance. Each municipality, shall evaluate the proportionality between the seriousness of the offense and the fine to be imposed, when imposing a fine in an ordinance, resolution or regulation.

The municipality shall adopt a uniform procedure for the imposition of administrative fines, by ordinance, which shall contain due process of law guarantees, similar to those established in Act. No. 170 of August 12, 1988, as amended, known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico" [3 L.P.R.A. §§ 2101 et seq.].

The Court of First Instance shall hear every petition for judicial review of any person affected adversely by a municipal order or resolution that imposes an administrative fine.

Section 2.004. — Municipal Powers in General. — (21 L.P.R.A. § 4054)

Each municipality shall order, regulate and resolve whatever is necessary and convenient to attend to its local needs and for its greater prosperity and development. The municipalities shall be vested with the powers that are necessary and convenient to carry out the following functions and activities:

- (a) Establish solid waste collection services and programs and public sanitation programs in general, and adopt the standards and measures that are necessary for [the improvement] and adequate control and disposal of waste.

Likewise, municipalities are hereby empowered to establish agreements with agencies of the Central Government and with residents' associations or community members to carry out maintenance works and other related activities in public facilities.

(b) Establish, maintain, manage and operate cemeteries; determine the conditions and requirements for the burial of bodies therein, and for the granting of concessions or authorizations for the construction of graves, mausoleums, sepulchers, and other vaults in accordance with health laws and regulations, pursuant to Act No. 24 of April 22, 1931 as amended [24 L.P.R.A. §§ 1041 et seq.].

(c) Establish, maintain and manage market places, commercial centers, and abattoirs, pursuant to all health laws and regulations in effect, and to this Act.

(d) Organize and maintain a Municipal Police Corps pursuant to the provisions of Act No. 19 of May 12, 1977, as amended, known as the "Municipal Police Act".

(e) Impose and collect fees from the Medical Emergency Corps for the ambulance and medical emergencies services provided to the latter, except when otherwise provided by a contract signed by the parties.

(f) To establish programs and adopt convenient and useful measures to prevent and fight fires, offer assistance to the community in cases of emergency or natural disasters, catastrophic accidents or fires and for the civil protection in general, pursuant to Act No. 211 of August 2, 1999, as amended, known as the "Commonwealth of Puerto Rico Emergency Management and Disaster Administration Agency Act". Provided, That in the cases previously mentioned, the municipality, including any of its municipal dependencies or municipal administrative units or special corporations created thereby, shall provide a control number or, in its default, a copy to serve as a receipt of all requests made by any persons for the purpose of guaranteeing the due process and the award of the various aids to be granted as a consequence of such events.

(g) Regulate whatever concerns stray domestic animals, dispose for their euthanasia and disposal in interest of the public health, establish the rules and conditions under which they can be rescued by their owners, as well as the muzzling and licensing of dogs, and the adoption and implementation of such precautionary measures that are necessary or convenient to protect the public health as it may be affected by domestic stray animals; and establish, operate and manage animal shelters according to Act No. 36 of May 30, 1984 [21 L.P.R.A. §§ 1094 et seq.].

(h) Establish policies, strategies and plans addressed to the ordinance of the territory, conservation of its resources, and its optimum development, subject to the provisions of this Act.

(i) Rule and regulate outdoor graphic publicity in the municipality, provided it is done with the same or more limiting criteria than those established by the Regulations and Permits Administration and the Planning Board, and require and charge fees established by ordinance for the issuing of permits to authorize the installation or fixing of outdoor posters and graphic propaganda. To such effect, the municipality may require a deposit as a bond, which shall not be greater than five hundred dollars (\$500), with the objective of ensuring the payment of the cost of cleaning and removing the authorized graphic propaganda. To such effect, the Commissioner of Municipal Affairs shall issue uniform guidelines that shall govern the municipalities when fixing or determining the amount of the deposit that will be required as a bond. In drawing up these guidelines, the Commissioner shall take into consideration the various lucrative and non-lucrative activities and institutions that use commercial entities as sponsors, and shall direct the revision thereof every two years, as of the date they are approved. The municipality may require, by regulations, a lesser amount than that recommended in the uniform guidelines, but shall never

impose or require an amount that is greater. The amount deposited as a bond shall be returned when the person who requested the permits authorizing the installation or fixing of outdoor posters and graphic propaganda takes the necessary steps leading to the cleaning of the site and the removal of the publicity.

In order to require a deposit for the cleaning and removal of outdoor commercial graphic publicity, the municipality shall adopt the needed regulations through an ordinance, which shall establish the amounts of the deposits required according to the size, type and number, among others, of the sign or graphic propaganda to be installed or fixed.

(j) Rule and regulate the location and operation of mobile businesses, including the power to require and charge for a license or periodic rent to be able to operate, pursuant to this Act. Those mobile businesses which hold an authorization as of the effective date of this act, which is duly issued pursuant to repealed Act No. 56 of July 21, 1978, as amended, known as the "Act to Regulate the Operation of Mobile Sales Businesses in Puerto Rico" and who comply with it and with any applicable regulations and ordinances, may continue to operate without any additional requirement until the expiration of the authorization or permit.

The municipal authority may proceed against those mobile sales businesses that operate illegally, once it adopts the needed regulations. Under no circumstances shall the municipality issue authorizations to operate mobile sales businesses on Commonwealth highways.

(k) Name the streets, avenues, walks, parks, plazas, alleys, pedestrian walks, buildings, facilities and all kinds of municipal public highways, works, structures or facilities, when the total construction cost, or more than fifty percent (50%) thereof, has been defrayed with municipal funds proceeding from their budgetary funds.

The mayor shall determine the corresponding name, which shall be approved through a municipal ordinance to such effects. In no case shall the name of persons who have not passed away be used. The municipality shall, to the extent possible, choose names related to the municipal history, geography, and traditions or of distinguished persons of the past identified with the municipality.

(l) Establish and operate a school transportation system for students, either for pay or free of charge, without being subject to the provisions of Act No. 109 of June 28, 1965, as amended, known as "Puerto Rico Public Service Act" [27 L.P.R.A. §§ 1001 et seq.]. Notwithstanding the above, and for the best safety of the students, the Public Service Commission shall inspect every motor vehicle used for the transportation of school children at least three (3) times a year, and such inspection shall include the capacity of the motor vehicle, the authorized number of passengers, equipment, school vehicle operator's license, and insurance policy. The Public Service Commission shall establish the fees that it will charge the municipalities for said inspections, by regulations.

(m) Establish, maintain, operate or contract for the operation or maintenance of mass interurban or intermunicipal transportation systems, either for pay or free of charge, subject to Act No. 74 of June 23, 1965, as amended [9 L.P.R.A. §§ 2001 et seq.], and any other applicable statutes. Two (2) or more municipalities may agree to operate these systems jointly.

(n) Contribute to the planning and solution of the affordable housing economic problem through the development of housing projects, the distribution of lots for the construction of said housing by the municipalities themselves or jointly with any public agency or private entity; as well as, to carry out developments and housing construction, and other related activities through the formalization of agreements with natural or juridical persons, special corporations, and profit or

nonprofit corporations organized under Act No. 144 of August 10, 1995, as amended, known as the "General Corporations Act of 1995" [14 L.P.R.A. §§ 2601 et seq.], subject to the maximum limits of the value of the real property established by the applicable laws.

(o) Provide services and facilities to moderate income families for the construction, paving, or provision of an entrance or access to their dwellings from a road, highway, alley, lane, sidewalk, walk, or any other public way, provided that the laws and regulations that apply or that any duly-constituted right of way allows such entrance or access. The requirements, procedures, and norms for the request and concession of the services authorized in this subsection shall be established by ordinance.

(p) Establish, with the advice of the Puerto Rico Planning Board, the necessary conditions and requirements to grant authorization for the control of access of vehicles and of the streets, pursuant to Act No. 21 of May 20, 1987, as amended [23 L.P.R.A. §§ 64-64h], and also subject to the following:

(1) That the community that is interested in controlling the access of motor vehicles can be isolated within the geographic area in which it is located and that it, in turn, does not control the entrances and exits of other communities that have not requested the control of motor vehicle traffic.

(2) That the flow of vehicles and pedestrians is not hindered on local streets which have continuity between the municipality's communities and wards, and which not only provide options for the traffic of the members of the community but also for those who live in other sectors.

(3) That the design of the facilities to control access of vehicles does not interfere with the free flow of rainwater.

(4) Every resolution to approve or deny an access control request by the municipality shall be notified to the concerned parties including in said notice the right to request a judicial review before the Court of First Instance within twenty (20) days pursuant to the provisions in Section 15.002 of this Act.

Any regulations for the execution and implementation of the authorizations and functions provided in this subsection shall be approved pursuant to Act No. 170 of August 12, 1988, [3 L.P.R.A. §§ 2101 et seq.], known as "Commonwealth of Puerto Rico Uniform Administrative Procedures Act".

(q) Design, organize, and develop general welfare and public service projects, programs and activities, and to such ends, create and establish such administrative units and bodies as are needed for their implementation and operation.

This listing of municipal functions is not taxative in nature, therefore, the competence of the municipalities in each of the areas of activities and services described, shall comprise the faculties indicated above, as well as those that are congruent with the respective interest and public service area or function. In addition to the functions indicated above, the municipal government shall carry out any and all of the administrative functions needed for its proper operation and administration.

(r) Rule on and regulate the use, delegation, disbursement and supervision of funds proceeding from the "Program for Citizen Participation in Municipal Development", pursuant to this Act and to the municipal ordinances or resolutions applicable and subject to the norms established by the Commissioner.

(s) Regulate and approve regulations for the authorization, location, and installation of physical speed controls in the municipal thoroughfares and roads.

(t) To contract public advertising services to broadcast, announce and inform public interest activities, programs or services sponsored by the municipality. All expenditures of municipal funds for public advertising shall be governed by reasonable parameters in said industry and subject to the applicable rules. The validity of contracts entered into and formalized prior to the effectiveness of this provision is hereby acknowledged, but their prospective application shall be subject to the provisions set forth herein.

(u) Municipalities are hereby authorized, upon approval by the Municipal Assembly, to acquire commercial franchises and to operate any kind of for-profit venture or corporate entity so as to promote economic development; to create new sources of employment and acquire through these ventures additional funds to boost their municipal treasuries, to improve the quality of life of their constituents, insofar as such franchises or establishments are located in municipal structures. Likewise, municipalities are authorized to establish through regulations any such procedures to be followed as pertinent to the provisions of this Section.”

Before conducting any transactions in connection with the authority conferred herein, municipalities must comply with the following provisions:

(1) Before making any efforts conducive to the acquisition of one or more franchises, municipalities shall conduct feasibility and marketing studies to assess the success rate for such franchises and the chances of sustaining losses, depletion, or any other negative factor that could result in losses for the municipalities. A copy of this study shall be forwarded to the Government Development Bank for Puerto Rico (GDB) for evaluation by its staff and for the Bank to issue its opinion on this matter.

(2) Upon receipt of the opinion issued by GDB officers, a draft for a resolution shall be prepared, to be submitted to the Municipal Assembly for its evaluation and approval by at least 2/3 of the members of the Assembly. The resolution draft shall be submitted together with a draft for the regulations that shall govern the operations of franchises so acquired. Municipalities shall take precautionary measures at the time of deciding the franchise concept to be adopted and the track record of their franchisors.

(3) All costs relative to the acquisition and transaction of one or more franchises must be defrayed with funds originating from accrued surplus resulting from the regular operations of the municipalities, as certified by a firm of authorized external auditors or by a single audit for the year immediately preceding the year in which the acquisition of the franchise(s) is sought. Municipalities may not use more than fifty percent (50%) of such annual surplus for these purposes.

(4) Municipalities shall abstain from granting and/or denying any endorsements or permits to those who wish to establish businesses or operate commercial franchises whose products are similar to those produced by municipalities and which are physically located in close proximity. These cases may be referred to the Permit and Endorsement Regulatory Administration (ARPE, Spanish acronym) for its opinion on the matter, or to the Commonwealth agency responsible for granting permits.

(5) Municipalities shall establish monitoring plans and stringent oversight programs in order to ensure a sound administration and the proper management of the operation of municipal ventures.

Section 2.005. — Waste Collection and Disposal Programs and System. — (21 L.P.R.A. § 4055)

The municipality may regulate the solid waste collection management in harmony with the environmental public policy of the Commonwealth of Puerto Rico and provide through ordinance the manner in which solid waste management shall be conducted, and impose penalties for violations of the norms thus adopted. It may also establish, maintain and operate by itself or by contracting with any other bona fide natural or juridical person, waste management and general public sanitation programs and services.

(a) *Definitions.* — For the purposes of this Section and Section 2.006 of this Act, the following terms and phrases shall have the meaning indicated below:

(1) *Obligation.* — Shall mean any bond or note, payment agreed upon under a service or lease contract or instrument, debt, fee, or obligation of a similar nature of the municipality.

(2) *Solid waste disposal service.* — Shall mean the disposal of solid waste by any public or private entity, including any municipality or the Solid Waste Authority, by the operation of plants or installations for the disposal of such waste.

(3) *Solid waste management facilities.*— Shall mean and include land, improvements, structures, equipment, machinery, vehicles, or any other property used by any public or private entity authorized by the Environmental Quality Board or the Solid Waste Authority for the management of solid waste. This term includes, but is not limited to sanitary landfills, transport stations, processing facilities, compost plants and materials recovery facilities.

(4) *Solid waste management.* — Shall mean the administration and systematic control of all activities associated with solid waste, which include but are not limited to: generation, storage, separation at the source, collection, transport, transfer, processing, recovery and final disposal.

(b) *Waste management fees.* — The municipalities are hereby authorized to impose, through municipal ordinance, a fee for solid waste management in residential sectors. Prior to the approval of any ordinance to such ends, the municipality shall notify and hold public hearings at a place and time that is accessible to the community. The Board of Directors of the Municipal Revenues Collection Center shall establish the minimum margins of fees that apply for the management of solid waste in residential sectors.

Once the Board of Directors of the Municipal Revenues Collection Center approves the minimum margin for the applicable fees, all the municipalities shall adopt such margins except those that have fees that are higher than those established.

The municipalities may also fix fees for solid waste management in industrial, commercial and government sectors through an ordinance to such effects.

The municipalities may contract the bona fide public or private entities that they deem convenient for the billing and collection of fees services.

To such ends, the Electric Power Authority is hereby empowered to render billing and collection services for the collection of solid waste fees, pursuant to the terms and conditions provided by the contract to such effects. The Authority shall itemize in a separate column or item in its bills, the specific amount that corresponds to the municipal solid waste collection services, and the amounts it collects and receives for such concept shall be remitted to the corresponding municipality no later than thirty (30) days following the date the same were billed.

Every municipality shall keep the revenues from the fees for solid waste management in a separate account. Such income shall be used solely and exclusively to finance any solid waste management activities, programs, projects and facilities.

(c) The municipalities of Puerto Rico are hereby empowered to declare any abandoned, vacant or fallow lot whose state or appearance threatens or is offensive or harmful to the health and safety of the community, as a public nuisance. Once the lot is declared a public nuisance, the owner shall be bound to clean up the same or perform the work needed to eliminate such condition, within the reasonable term provided therefor, after the notice of the resolution. If the owner fails to clean up the lot, the municipality shall proceed to clean it at his/her expense. The uncollected expenses incurred by the municipality in cleaning up the property or eliminating its detrimental condition, shall constitute a lien on the property which shall be recorded on the Property Registry. Provided, That in those cases in which the municipality has incurred in cleaning expenses on more than two (2) occasions, a penalty of not less than five hundred dollars (\$500), nor more than five thousand dollars (\$5,000) shall be imposed for every time the cleaning of the same is ordered. This penalty shall be imposed as follows: the third time the penalty shall be of one thousand dollars (\$1,000); the fourth time shall be of three thousand dollars (\$3,000); the fifth time shall be of four thousand dollars (\$4,000); the sixth and subsequent times, the same shall be of five thousand dollars (\$5,000). This penalty shall be imposed in addition to the cost of the cleaning thereof, and if payment is not made, said sum shall be added to the lien on the title of the corresponding lot. The penalties imposed shall be paid to the municipality where the lot is located.

Section 2.006. — Special Tax for Solid Waste Management Facilities. — (21 L.P.R.A. § 4056)

The municipality may impose [a] special tax, ad valorem 1957, on all real property which is not tax-exempt, including machinery, that is located within its territorial limits, and which does not affect the fifteen thousand dollar (\$15,000) tax exemption in the case of properties dedicated to a principal residence, in order to accrue funds to meet any obligation incurred for solid waste management services, or the acquisition, construction, reconstruction, renewal, expansion, or improvements to any solid waste management facilities.

(a) *Tax rate.* —

The rate to be paid for said special tax shall be determined by the municipality, by taking into account the amounts needed to establish reserves to secure the payment of the obligation, including, without it being understood as a limitation, any reserves for current or contingent obligations, or to prevent deficiencies in the collection of future taxes, and to pay expenses incurred in the negotiation and granting of the obligations. Different taxes may be imposed to meet payments corresponding to different obligations.

Any special tax imposed pursuant to this section shall be billed and collected by the Center according to the rate and to the terms provided by the ordinance to such effects. The municipality shall advise the Center no later than April 15 of the previous fiscal year for which a special additional tax is imposed, of the corresponding tax rate for said year pursuant to this section. Revenues for said special tax shall not be subject to the procedures for advances of funds to municipalities by the Center.

(b) *Pacts to impose taxes.* —

The municipalities are hereby authorized, with regard to any obligation contracted as the result of the establishment of solid waste management facilities, or the rendering of services for the management thereof, to assume the responsibility of imposing the special additional property tax authorized by this section for the term of duration of the obligation contracted therefor, according to the rates and sums that shall be sufficient to opportunely pay any sums due, according to the obligation contracted.

The municipality may likewise waive any defense which it may have under sovereign immunity, in any suit in which the specific compliance of any pact agreed upon pursuant to this subsection, is claimed. The beneficiary of any municipal pact or obligation, entered into pursuant to this section, may yield his/her rights to the person or persons who have granted the financing of the solid waste disposal facilities which cause such pact or obligation.

(c) *Use of taxes.* —

Any taxes collected under the authorization granted in this section, shall be kept in separate accounts and shall be used solely for the purposes for which they have been authorized. The municipality shall impose these taxes each fiscal year, pursuant to a rate that is sufficient to allow the establishing of the needed reserves and the payment of all sums payable during the following fiscal year, according to the obligation for whose payment or guaranty said taxes are imposed.

(d) *Ordinance.* —

Every ordinance to authorize the municipality to incur an obligation which contains or is secured by a pact to impose additional special taxes pursuant to this section, shall have to be approved by two thirds (2/3) of the members of the Legislature. Said ordinance shall provide for the annual imposition of the special additional tax on all real property of the municipality that is not exempted or relieved from taxes, without establishing a limitation to its rate or amount. The ordinance shall also provide that the tax thus imposed shall be sufficient to meet the sums that are payable according to the obligation during each fiscal year, and to establish the reserves required in subsection (c) of this section.

Prior to the approval of the ordinance, the municipality shall hold public hearings on the obligation to be incurred. Notice of said hearings shall be published in two (2) daily newspapers of general circulation in Puerto Rico, no less than fifteen (15) days prior to the date indicated for the hearings. Notices shall also be posted in the City Hall and Internal Revenue Offices located in the municipality in question. Such notices shall inform the public of the date, hour and place of said public hearings and shall explain the nature and purpose of the special additional tax to be imposed.

(e) *Notice of approval.* —

Within five (5) days after the date of approval of an ordinance that authorizes the granting of an obligation that contains or is secured by a pact to impose additional special taxes, one notice shall be published one single time in a daily newspaper of general circulation, informing of the approval of said ordinance. Notices to such effects shall be posted in no less than two (2) public places in the corresponding municipality, within the same period.

(f) *Effective date.* —

Every ordinance adopted in accordance with this section shall be final, twenty (20) days after the date of publication of the notice required in subsection (e) of this section, and it shall be conclusively presumed that it has been duly approved and adopted by the municipality, unless a

juridical proceeding or action is initiated to question its validity, prior to the expiration of said term.

The validity of said ordinance and its provisions, including those concerning the payment of the obligations authorized therein, and the validity of the obligations themselves, shall not be questioned subsequently by the municipality, by the taxpayers, nor by any other interested party, notwithstanding what is established in any other legal provision.

(g) *Form of collection.* —

Except as provided in this section, the special additional tax shall be imposed and collected in the same way that the basic property tax is imposed and collected. The amount of said tax shall constitute a lien, such as that provided for property taxes.

(h) *Exemption of restrictions in an election year.* —

Solid waste management services are deemed to be essential services to the community under threat of being interrupted for the purposes of Section of this Act [sic] which establishes special provisions for general election years and, as such, the leasing and service contracts related thereto shall not be subject to the restrictions imposed by said Section.

(i) *Environmental impact study.* —

Before establishing final solid waste management system, the municipalities shall conduct an environmental impact study, and meet all the sanitation provisions required by public agencies, in order to comply with the public policy of the Commonwealth of Puerto Rico.

(j) *Obligations not subject to public debt limitations.* —

Any obligation authorized and agreed upon pursuant to this section which is not otherwise subject to public debt limitations, in which a municipality may incur under legislation in force when said obligation is incurred, shall not be subject to said limitation for the mere fact of the approval of this Act, or for the imposition of some tax authorized by it to accrue funds to make payments pursuant to said obligation.

(k) *Contracts for the establishing of solid waste management facilities.* —

The municipality may contract or otherwise enter into agreements with public agencies and private persons for the establishment of solid waste management facilities, and for the rendering of services related thereto. These contracts or agreements may provide for compensation or other fees based on the present or projected tonnage of solid waste delivered or contracted to be delivered by the municipality to the solid waste management facility. Said contracts or agreements may include provisions that bind the municipality to pay compensation or any other fee even though the services are not rendered, provided that it is not due to the negligence or noncompliance of the provider of said services.

The contracts for the establishment of solid waste management and the rendering of solid waste management services, and the lease contracts of municipal real property or chattels incidental to the contracts for the establishment of solid waste management facilities and the rendering of solid waste management services shall be excluded from the requirement of public bidding required in this Act for the leasing of municipal property and may be granted for any term of duration. Those contracts for the establishment of solid waste management facilities and for the rendering of services related thereto shall also be excluded from said requirement.

Likewise, the municipality may sell, transfer, lease, loan or otherwise provide space to public entities or persons [or] private entities within the premises, lots, sidewalks or other municipal property without the need for public bidding and under the terms, conditions, installments or rates, fixed or contingent, which it deems are of most benefit to the public interest and to the

development of [improvements] and recycling, for the temporary or permanent location of containers, equipment, structures or facilities of any nature or purpose that allows for the collection of solid waste and recyclable materials.

(l) *Leasing of municipal property.* —

Notwithstanding the provisions of this Act, in the case of real property or chattels lease contracts incidental to the establishing of solid waste management facilities, and to the rendering of services related thereto, the municipal legislature may authorize the leasing of municipal property under the terms, conditions, installments and rates which it deems are of most benefit to the public interest.

(m) *Retroactivity.* —

The provisions on solid waste management established in this Act shall apply to contracts for the establishment of solid waste management facilities, or for the services related thereto executed prior to the effectiveness of this act, provided the obligations thus contracted are not impaired.

Section 2.007. — Payment of Construction Excise Tax, claims and others. — (21 L.P.R.A. § 4057)

Pursuant to Section 2.002 of this Act, procedures for the construction excise tax shall be as follows:

(a) *Filing the declaration.* —

The natural or juridical person who is responsible for carrying out the work as its owner or his/her representative shall submit, before the Finance Office of the municipality in question, a detailed itemized declaration of activity, describing the costs of the work to be performed.

(b) *Excise tax determination.* —

The Finance Director or his/her authorized representative shall review the work's estimated value declared by the taxpayer in the declaration of activity, and shall inform his/her decision to the applicant by certified mail with acknowledgment of receipt or by registered delivery with acknowledgment of receipt, within fifteen (15) days after the declaration was filed. The Finance Director may:

(1) Accept the work's estimated worth declared by the taxpayer, in which case, he/she shall apply the corresponding tax rate and determine the amount of the authorized excise tax.

(2) Reject the work's estimated value declared by the taxpayer, in which case, he/she shall proceed to make a preliminary estimate of the work's worth for taxing purposes, within the not extendible term of fifteen (15) days, from the date the declaration was filed by the taxpayer. After this preliminary determination is made, it shall be served on the taxpayer by certified mail with acknowledgment of receipt, or personally with acknowledgement of receipt.

(c) *Payment of excise tax.* —

When the Finance Director or his/her representative accepts the work's estimated worth declared by the taxpayer pursuant to the provisions of the above subsection (b)(1), the taxpayer shall make the corresponding excise tax payment within the fifteen (15) working days, following the date of the final determination, by money order or certified check payable to the municipality. The official of the Revenue Collection Office of the Finance Division shall issue a receipt for the construction activity's excise tax payment. When the Finance Director or his/her

representative, rejects the work's estimated worth and imposes an excise tax pursuant to subsection (b)(2), the taxpayer may:

(1) Proceed, within the fifteen (15) working days, following the date of the acknowledgment of receipt, with the payment of the excise tax, accepting the determination of the Finance Director as a final determination.

(2) Proceed to pay the imposed excise tax under protest within the fifteen (15) working days following the date of notice of the preliminary determination; and, within the same term, apply in writing for the reconsideration of the Finance Director's preliminary determination, and filing the application before the Revenue Collection Office's Official before whom the payment is made.

(3) Refuse to make the payment, stop his/her construction plan, change the work's starting date and apply for a judicial review, as provided in Section 15.002 of the Autonomous Municipalities Act [21 L.P.R.A. § 4702], within the not extendible term of twenty (20) days from the Finance Director's preliminary determination notice.

Any taxpayer who voluntarily or under protest pays the corresponding excise tax, shall receive receipt of payment, so that upon its presentation before the Regulations and Permits Administration, it can issue the corresponding construction permit.

(d) *Payment under protest and reconsideration.* —

When the taxpayer has paid under protest, he/she shall file a writ of reconsideration with a copy of the receipt of payment in the Finance Office. The Finance Director shall have a term of ten (10) days to issue a final determination on the work's worth. The taxpayer shall be served the final determination by certified mail with acknowledgment of receipt, or personally, with acknowledgment of receipt, as well as of the recomputed excise tax and the deficiency or credit, whichever results from the final determination.

(e) *Reimbursement or deficiency payment.* —

If the taxpayer has paid in excess, the municipality shall reimburse the excise tax paid in excess, within thirty (30) days, following the service to the taxpayer.

When the taxpayer is bound to pay a deficiency, he/she shall make such payment within a term of thirty (30) days, from the date of service. When the taxpayer proves to the satisfaction of the Finance Director, that the payment of the deficiency on the prescribed date is an undue inconvenience to the taxpayer, the Finance Director shall grant an extension, up to thirty (30) additional days.

When the taxpayer has made the excise tax payment herein provided, and after this date, the owner of the construction work, without, having in fact, started the construction activity, the taxpayer shall fill out a reimbursement application for the excise tax, and this shall proceed in its totality. If the work has been started and any construction activity has occurred, the reimbursement shall be limited to fifty percent (50%). The reimbursement shall be made within thirty (30) days following the date the reimbursement application is filed before the Finance Director. No application for the reimbursement of any sum shall be acceptable after six (6) months have elapsed from the date the excise tax payment receipt was issued for a specific work.

None of the provisions herein stated shall impede the taxpayer from resorting to the judicial review proceeding of the Finance Director's final determination, pursuant to the provisions of Section 15.002 of this Act. The judicial review must be filed within twenty (20) days following the date the Finance Director's final determination was served. Except for any contrary provision

by the court, the filing of a judicial review by the taxpayer shall not stay the effectiveness nor the obligation to pay the imposed excise tax. If the court determines to order the reimbursement of the excise tax, and at the same time, authorizes the construction to commence the posting of a bond shall be provided, which shall be sufficient in his/her judgment to ensure the recovery of the final excise tax determined by the court on behalf of the municipality, once the worth of the work is adjudicated in the review proceeding initiated by the taxpayer.

The municipality may request [of the] developer or contractor, whether public or private, evidence attesting to the final cost of the project to verify increases in the final value of the construction for purposes of imposing the payment of excise taxes for the increase in value of the works.

(f) *Exemptions.* —

Through an ordinance approved to said effect, the Municipal Legislature may totally or partially exempt the following from the payment of construction excise taxes projects:

(1) Nonprofit associations that provide affordable housing to be rented to moderate or low-income families, who qualify as such under Sections 221 (d)(3) or 236 of the National Affordable Housing Act, (Pub. L. 73-479, 48 Stat. 476, 498), when thus certified by the Department of Housing of Puerto Rico.

(2) Nonprofit associations that provide affordable housing to be rented to persons who are sixty-two (62) years of age or older, provided such corporations qualify under § 202 of the National Affordable Housing Act, as amended (Pub. L. 86-372, 73 Stat. 654), when thus certified by the Department of Housing of Puerto Rico.

(3) Developers of construction projects or affordable housing rehabilitation, as provided in Act No. 47 of June 26, 1987 [17 L.P.R.A §§ 891 et seq.], known as the "New Housing Operation Public and Private Copartnership Program".

(4) The construction of real property constructed and destined to be rented to moderate-income families, as provided in Act No. 130 of August 9, 1995, which amends Section 2.03 of Act No. 83 of August 30, 1991 [21 L.P.R.A. § 5003].

(5) The development of projects for the expansion of buildings or plants that foster the generation of more jobs under the industrial incentives laws, and whose exemption granted under the signed agreement still is in effect.

(6) Civic or religious institutions operating on a non-profit basis, engaged in the development and welfare of the general citizenry, registered in the Department of State of the Government of Puerto Rico, and that are operating as such at the time of their application for exemption. Said institutions shall have a federal certification, pursuant to Section 501 (c) (3) of the Internal Revenue Code of the United States. The Municipal Ordinance to be approved by the Municipal Legislature, pursuant to this subsection, shall be approved by two-thirds (2/3) of the members which constitute the Municipal Legislature.

Through the approval of the corresponding ordinance, the exemption benefit set forth in the preceding clauses (1) and (2) of this subsection may be retroactively granted to those projects that were in process of determining the payment of construction excise taxes and that, at the time of approval of Act No. 199 of September 6, 1996 [21 L.P.R.A. §§ 4001(bb) et seq. and 4001(cc) & 4052(d)], had not made the payment in question.

Works carried out under the management of an agency of the central government, or its instrumentalities, a public corporation, a municipality or an agency of the federal government, are exempted from the payment of the excise tax on construction. This exemption, however,

shall not be applicable to construction works carried out by a private natural or juridical person acting in behalf or in representation of, or by contract or subcontract executed with an agency or instrumentality of the central or municipal government. Said exemption is not applicable when the construction works are carried out by a private natural or juridical person acting in behalf or in representation of, or by contract or subcontract executed with an agency of the federal government, when the applicable federal statutes or regulations thus allow it.

(g) *Failure to comply.* —

Failure to comply with the presentation of any of the declarations and/or documents required to corroborate the information provided on behalf of the taxpayer, or the provision of false information, being aware of its falseness, in the Construction Activity Declaration as well as the failure to comply with the excise tax payment, accompanied by the performance of the taxable construction activity, shall lead to the application of several sanctions, to wit:

(1) Administrative sanction. — When the Finance Director determines that the taxpayer has incurred any of the acts mentioned in the first paragraph of this clause, after granting an administrative hearing to such effects and pursuant to the procedure established in the Uniform Administrative Procedures Act §§ 2101 et seq. of Title 3, if the imputed conduct is established, the Finance Director shall proceed to collect the corresponding excise tax, and shall impose an administrative penalty to the taxpayer, equal to twice the amount of the imposed excise tax with the corresponding interests. A right for revision is hereby granted to the taxpayer, with regard to the penalty and the imposed interest, apart from the revision of the excise tax imposed; thus, the taxpayer shall pay the excise tax imposed before proceeding to impugn the penalty and/or interest imposed. In this case, the payment of the penalty shall be made, once its correction is ratified by the Court of First Instance under the procedure established in Section 15.002 of this Act [21 L.P.R.A. § 4702].

(2) Penal sanction. — Any person who voluntarily, deliberately and maliciously provides false information, being aware of its falsehood, with regard to the worth of the work that generates a taxable construction activity in any of the declarations that must be submitted before the Finance Director pursuant to this Act; or who deliberately, voluntarily and maliciously fails to file the declaration and begins the construction activity, or fails to pay the excise tax and begins the activity, in addition and regardless of any applicable administrative or penal provision, upon conviction, he/she shall be sanctioned with a fine not greater than five hundred dollars (\$500.00), or with imprisonment of not more than six (6) months or both penalties, at the discretion of the court. In the event, that in a judicial review the ordinance with the penal sanction is set aside, it shall be understood that only the penal sanction shall be ineffective.

(h) *Final agreements.* —

The Finance Director is hereby empowered to execute a written agreement with any person with regard to said persons liability or that of the person or succession, on behalf of whom he/she acts, regarding any excise tax levied under Section 2.002 [21 L.P.R.A. § 4052]. Once the agreement is determined, the same shall have to be signed by the mayor, the Finance Director and the person or persons who are liable.

Section 2.008. — Public Law and Order Codes. — (21 L.P.R.A. § 4058)

(a) The recognition of the discretionary power of the municipalities to implement public law and order codes in their territories is hereby established as public policy of the Commonwealth of Puerto Rico.

(b) For the purposes of this section, Public Order Codes shall be the body of municipal ordinances in effect or of new legislation that intend to govern public areas delimiting specific and limited territorial extension areas with problems of disorder or lack of peaceful coexistence, such as the sale or consumption of alcoholic beverages in public areas, the sale or dispensing of alcoholic beverages to minors, excessive or unnecessary noise, prostitution, public nuisances that create security problems, debris and junk in public areas and conflicts for the use of the areas designated for vehicular traffic as parking areas for vehicles.

The spaces to be regulated are locations such as urban centers, recreational areas, areas of tourist interest, or residential areas affected by commercial development, among others.

The public order codes entail the imposition of monetary penalties of such a nature that they dissuade unwanted behavior and motivate changes in attitude that achieve peaceful and orderly coexistence in the designated surroundings.

The implementation of a public order code presupposes the participation of the various community sectors and the intervention of the citizenry prior to its approval, which requires the prior consultation of citizens, to wit, merchants, residents, visitors, representatives of civic, religious and cultural organizations, as well as representatives of youth groups.

(c) *Power to approve and enforce the Codes. —*

Each municipality shall have the discretionary power to approve and enforce the public law and order codes in its territory. The voluntary adoption of the codes shall depend on the interest of the municipality in contributing to a better quality of life and enhancing the health, safety and peace of mind of residents, businessmen and visitors, as well as preserving the physical environment of the communities and public areas.

The establishment of the public law and order codes shall be based on the participation of municipal governments together with the various groups that constitute the community. They shall identify the affected areas, discuss their particular problems and evaluate the alternatives to solve them.

The adoption and implementation of these codes shall be framed within educational and orientation efforts to promote citizen compliance with civic and order standards established by each municipality pursuant to the criteria and parameters of this section.

The community boards attached to the municipalities shall have the power to file proposals for the implementation of the public law and order codes drafted by the Commonwealth Police for submittal to the Interagency Committee described in subsection (f) of this section, after the municipalities have exercised their discretionary power to adopt said codes.

(d) *Scope and Objectives. —*

The public law and order codes shall address those problems that affect particular sectors of each municipality and that have been identified as the sources behind the deterioration of the quality of life. The codes may establish, among others, provisions regarding the control of: the sale and consumption of alcoholic beverages; traffic and parking problems; excessive and unnecessary noise; public nuisances; waste disposal and cleaning; stray animals such as cattle,

horses, pigs, fowl, dogs and others whose ownership is prohibited by law; debris and metal scraps in public places duly identified in the citizen participation process.

(e) *Requirements for Adoption.* —

In drafting and implementing the public law and order codes to be adopted pursuant to the provisions of this section, the following requirements shall be met:

(1) To guarantee the participation of citizens, residents, resident associations, neighborhood councils, businessmen, law enforcement officers and other groups with an interest in the community, through public opinion inquiries or hearings conducted in order to identify those areas and situations that merit the establishment of the codes.

(2) To develop orientation campaigns to inform the citizenry of the approval of the codes, the duties and responsibilities established therein, and the penalties provided.

(3) To coordinate with the Puerto Rico and the municipal Police training sessions, lectures and seminars on the adoption and implementation of public law and order codes.

(4) To establish the mechanisms to evaluate the effectiveness and results of the implementation of the codes, for which the broadest participation of the citizenry shall be sought and achieved.

(5) To ascertain that the territorial boundaries of the areas to be governed by the code are clearly and precisely defined.

(6) If the codes adopted pursuant to this section provide for administrative fines for the violation thereof, it shall be necessary to comply with the provisions of Section 2003 of this Act.

(f) *Creation of the Interagency Committee for Public Law and Order Codes.* —

(1) The Interagency Committee for the Adoption of Law and Order Codes is hereby created. This Committee shall be constituted by the Secretary of Justice, the Chairperson of the Association of Mayors, the Chairperson of the Federation of Mayors, the Superintendent of the Puerto Rico Police, and the Commissioner of Municipal Affairs, who shall chair the same and a representative of the public interest designated by the Governor.

The purpose of this Committee is to evaluate and consider the petitions that shall be submitted through proposals by the municipalities interested in using the funds for the adoption of public order codes. The Committee is hereby authorized to draft the regulations that shall govern the procedures for the presentation and consideration of petitions, which shall meet the requirements established in this section.

The Committee, shall meet when summoned by the Chairperson, as needed. A simple majority of the Committee members shall constitute quorum for its deliberations and determinations.

The Committee shall submit an annual written report to the Governor of Puerto Rico and to the Legislature on the process to implement and administrate this chapter and the resources appropriated and used by each municipality.

(2) The Public Law and Order Codes Unit is hereby created, attached to the Office of the Commissioner of Municipal Affairs, whose main objective shall be to promote among the municipalities of the Commonwealth of Puerto Rico in accordance with this chapter, the adoption of law and order codes as instruments of citizen public safety.

The Office shall have the following powers, functions, duties and responsibilities:

1. To advise and assist, when necessary and by petition of the municipalities, on the processes for the participation of citizens in the preparation and implementation of the public order codes.
2. To promote and collaborate in the integration of all government efforts to achieve the rescue of public areas through the adoption of public order codes.
3. To assist the Interagency Committee for the Adoption of Public Order Codes in the evaluation of proposals submitted by the municipalities interested in using the funds for the adoption of said codes.
4. To develop systems and procedures to expedite the operations of said Interagency Committee.
5. To develop an educational campaign on the importance of implementing the public order codes.
6. To follow-up the results of the implementation of the codes to ensure the achievement of the objectives of the program.
7. To ensure faithful compliance of the law that establishes the use of the funds for the purpose of adopting the codes, the purchase of equipment, or the recruitment and training of police officers.
8. To ensure that the public order officers are duly trained to ensure compliance of the public order codes.
9. Submit reports to the Commissioner of Municipal Affairs on the results obtained and on any others that may be required.
10. Any other function or task assigned by the Commissioner of Municipal Affairs within the framework of the purposes and objectives established in this chapter.

The Office of the Commissioner of Municipal Affairs, through the Public Law and Order Codes Unit shall work in close collaboration with the Department of Justice, the Puerto Rico Police, the Department of the Family, the Office of Special Communities, the Department of Education, the Housing Department, the Department of Transportation and Public Works and any other Commonwealth or federal agency, as well as with the mayors of the municipalities. The Commonwealth agencies are hereby directed to provide the support needed to achieve the objectives established in this chapter.

The Office of the Commissioner of Municipal Affairs shall ensure that the participation of the citizens constitutes a fundamental element in the process of fostering the adoption of the public law and order codes. The aforementioned Office shall model the configuration and implementation of the public law and order codes so that they are a reflection of the interests and needs of the communities in which they are adopted.

The Office of Management and Budget is hereby directed to appropriate to the Office of the Commissioner of Municipal Affairs the amount of money needed to cover the operating expenses of the Public Law and Order Codes Unit.

The personnel of the Office for the Adoption of Public Law and Order Codes who by the date of approval of this act is occupying regular positions with permanent career service functions are hereby transferred to the Office of the Commissioner of Municipal Affairs with the status of regular career employees. The relocation shall be made in consideration of the functions that each employee performed in the Office for the Adoption of Public Law and Order Codes, subject to the need for personnel and the funds available to the Office of the Commissioner of Municipal Affairs.

The reinstatement of employees of trust with a right to the same by the date of approval of this act shall be governed pursuant to the provisions of Section 9.2 of Act No. 184 of August 3, 2004, as amended. The personnel transferred shall retain the same rights and benefits it had at the time of the transfer, as well as the rights and obligations regarding any pension or retirement system or savings and loans funds.

The classification, reclassification and compensation of the positions shall be established according to the classification and compensation schedules that apply to the Office of the Commissioner of Municipal Affairs. The employees transferred must meet the minimum classification requirements for the positions to which their functions are assigned.

However, the Superintendent of Police may request that any employee of the Office for the Adoption of Public Law and Order Codes who in his/her opinion is fully knowledgeable on specialized public safety matters or who has the experience needed to occupy said position be transferred to or relocated at the Puerto Rico Police. In such a case, the transfer or relocation shall be conducted according to the conditions established in this section.

Every process that entails the transfer of human resources from the Office for the Adoption of Public Law and Order Codes to the Office of the Commissioner of Municipal Affairs shall be conducted pursuant to applicable laws and regulations.

(g) Creation of the Annual Fund for the Adoption of Public Law and Order Codes

The Annual Fund for the Adoption of Public Law and Order Codes is hereby created to be distributed among the municipalities interested in implementing said codes in consultation with the organizations that represent the municipalities. The Office of Management and Budget shall establish the amount of the unencumbered funds in the Commonwealth Treasury to be granted for distribution among the municipalities interested in implementing said codes.

This appropriation shall be registered in separate accounts and identified as the "Fund for the Adoption of Public Law and Order Codes", attached to the Office of the Commissioner of Municipal Affairs.

The Office of Management and Budget shall annually consign in the operating expenses budget of the Office of the Commissioner of Municipal Affairs, the funds needed for achieving the purposes of this chapter. The Fund for the Public Law and Order Codes may be nourished from municipal and federal contributions and from contributions from private entities. All appropriations previously made in favor of the public law and order codes shall be understood to be part of this fund, and to those effects they shall be governed by the criteria provided in this Chapter.

The Office of the Commissioner of Municipal Affairs is hereby directed to establish reasonable criteria for the proper distribution of these funds among the interested municipalities.

The Office of the Commissioner of Municipal Affairs shall administer the funds and the Interagency Committee shall distribute the same so as to enable the municipalities to implement the public law and order codes, to educate and provide orientation on the processes for establishing the same, to recruit public law and order agents and to acquire security, transportation, communications and high technology equipment. However, the funds appropriated for the implementation of these codes may not be used to substitute or liberate the items already assigned by the municipalities for these purposes.

This Committee is also authorized to evaluate and consider applications from Community Boards attached to the municipalities or to any duly established community-based organization, for the implementation of the public law and order codes by the Commonwealth Police, after the

municipality in question has exercised its discretion for adopting said public law and order codes and if for any reason the police of that municipality is unable to capably implement the same.

(h) The municipalities that adopt public law and order codes shall be given priority in the appropriation of Commonwealth or federal funds available to fulfill the purposes or establish programs in harmony with the provisions of this section and subject to the requirements and conditions applicable to the distribution of these funds.

(i) *Municipal autonomy.*-

The adoption of the public law and order codes shall by no means be construed as to impair the powers and faculties conferred by this section to the municipalities, and in any and all cases, be construed in accordance with the public policy established in Sections 1.002, 1.004 and 1.006 of this act.

Chapter III. — Executive Powers. [21 L.P.R.A. , Subtitle 6, Chapter 205]

Section 3.001. — Mayoral Requirements. — (21 L.P.R.A. § 4101)

Every candidate for mayor must meet the following requirements on the date of taking office:

- (a) Be twenty-one (21) years of age or older.
- (b) Know how to read and write.
- (c) Be a citizen of the United States and the Commonwealth of Puerto Rico.
- (d) Have resided in the municipality for at least one year before the date of his or her election, and be a qualified elector thereof.
- (e) Have never been convicted of a felony or misdemeanor that implies moral turpitude.
- (f) Have never been removed from office or employment for misconduct in the performance of his/her duties.
- (g) Have never been declared mentally unfit by a court of competent jurisdiction.
- (h) No person shall hold the office of mayor for more than three terms, whether consecutive or not.
- (i) Once he/she is elected or reelected, he/she shall be required to take seminars related to the administration of municipalities, which seminars shall be prepared and offered by the Puerto Rico Mayor’s Federation and the Puerto Rico Mayor’s Association. These seminars may be credited by the Government Ethics Office, the Office of the Comptroller or any other government instrumentality having seminars established as requirements for mayors by their laws. Mayors shall participate in a minimum of two seminars per year, which shall be aimed at strengthening areas such as administration of human resources, finances, ethics, budget management, and use of federal funds, among others. Participation of the Mayors in the seminars provided in this Act shall not exempt them from participating and complying with the training requirements and seminars set forth in Act No. 222 of August 6, 1999, for elected officials.

Section 3.002. — Form and Term of Mayoral Elections. — (21 L.P.R.A. § 4102)

The mayor shall be elected by the direct vote of the corresponding municipality's qualified electors in each general election.

The mayor shall hold said office for the term of four (4) years counted from the second Monday in January of the year following the general election in which he/she is elected, and shall hold office until his successor takes office.

When the mayor-elect does not take office on the date provided above in this Act, he/she shall be granted an additional term of fifteen (15) days to give oath and assume his/her office.

Section 3.003. — Procedure to Fill a Vacancy When the Mayor Does Not Take Office. — (21 L.P.R.A. § 4103)

When the mayor-elect does not take office on the date provided in this Act, and if there is just cause for the delay, he/she shall be granted a term of fifteen (15) days to do so. The Legislature shall request the local governing body of the political party that elected the mayor, to designate a candidate to fill the vacancy. The Legislature shall ratify this request at its first regular session after the above term has elapsed, and the Secretary shall immediately send it, in writing, with acknowledgment of receipt requested. The candidate submitted by said local governing body shall take office immediately after his/her selection, and shall hold office for the term of office of the person who was elected, who did not take office.

When the local governing body does not submit a candidate within fifteen (15) days following the date of receipt of the Legislature's request, the Secretary thereof shall notify said fact to the President of the political party that elected the mayor, as expeditiously as possible. The President shall proceed to fill the vacancy with the candidate proposed by the central governing body of the party that elected the mayor, whose vacancy is to be filled.

Any person that is selected to fill a vacancy caused by a mayor-elect who does not take office, must meet the eligibility requirements established in Section 3.001 of this Act.

The President of the Municipal Legislature or the President of the political party in question, as the case may be, shall notify the name of the person selected to fill the vacancy of the mayor, to the Commonwealth Election Commission for their information, and for them to issue the corresponding certification.

Section 3.004. — Resignation of the Mayor and Procedure to Fill the Vacancy. — (21 L.P.R.A. § 4104)

In case of resignation, the mayor shall present it to the Municipal Legislature in writing, with acknowledgment of receipt requested. The Legislature shall take cognizance thereof and immediately notify the local governing body of the political party that elected the resigning mayor. This notice shall be handled by the Secretary of the Legislature, who shall file a record of the date and manner of said notification, and of the date it was received.

Said local governing body shall submit a candidate to the Legislature to replace the resigning mayor within fifteen (15) days following the receipt of the notice thereof. When the local governing body does not submit a candidate to the Legislature within the term established above, the Secretary thereof shall inform the President of the political party concerned of this fact as expeditiously as possible, who shall then proceed to fill the vacancy with the candidate proposed by the central governing body of the political party that elected the resigning mayor.

Every person selected to fill the vacancy of a mayor who resigns his office, shall meet the eligibility requirements established in Section 3.001 of this Act. The person selected shall take

office immediately after his/her selection and shall hold it for the unexpired term of the mayor who resigned.

The President of the political party that elects the mayor shall notify the name of the person selected to fill the vacancy caused by the resignation of the mayor to the Commonwealth Elections Commission for the Commission to issue the corresponding certification.

Section 3.005. — Vacancy Occurring for Other Reasons. — (21 L.P.R.A. § 4105)

Any vacancy caused by death, removal, total and permanent disability or any other reason that causes a permanent vacancy in the office of mayor, shall be filled in the manner provided in Section 3.004 of this Act.

In any case, the person selected to fill the vacancy of the office of the mayor shall meet the requirements established in Section 3.001 of this Act. This person shall fill the office of mayor immediately after his/her selection and shall hold it for the unexpired term of the person who caused the vacancy.

Section 3.006. — Independent Candidate Vacancy. — (21 L.P.R.A. § 4106)

When an independent candidate who has been elected mayor does not take office, is totally and permanently disabled, resigns, dies, or for any reason vacates the office of mayor, the Legislature shall advise the Commonwealth Election Commission and the Governor in order to call a special election to fill the vacancy.

This election shall be held pursuant to Section 5.006 of Act No. 4 of December 20 of 1977, as amended, known as the "Puerto Rico Electoral Law", and any elector affiliated to a political party or any person duly-qualified as an elector who meets the requirements of the office in question, may present himself/herself as a candidate in said election.

When the vacancy in the office of mayor of a candidate elected under an independent candidacy occurs within twelve (12) months prior to the date of the general election, the Municipal Legislature shall fill the vacancy with the affirmative vote of at least three fourths (3/4) of its members. When a term of not more than sixty (60) days has elapsed without having achieved this proportion of votes for the selection of a substitute mayor, the Governor shall appoint him/her from among the candidates that the Legislature has considered.

Any person who is selected to fill the vacancy shall meet the eligibility requirements established in Section 3.001 of this Act.

When there is a permanent vacancy in the office of a mayor who ran as an independent candidate, the official provided in the ordinance providing for interim substitution as required in this Act, shall be the interim substitute.

Section 3.007. — Interim Succession of Permanently Vacant Mayoralty. — (21 L.P.R.A. § 4107)

The legislature shall establish, by ordinance, the order of interim succession for the office of mayor when the office of mayor is permanently vacated due to death, resignation, removal from office, total and permanent disability, or any other cause, and in those cases in which he/she is suspended from employment while any charges filed against him/her are considered. Neither the

official in charge of the finances of the municipality, nor the Internal Auditor may hold the office of mayor in an interim manner. Nor may any person who is a relative within the fourth degree of consanguinity and the second degree of affinity of the mayor who causes the vacancy, hold office in an interim manner. The vice-mayor, the administrator of the municipality, or other official or person, designated by the legislature, may substitute for the mayor until the person who will fill in the vacancy, is appointed.

The interim order of succession provided by ordinance shall also apply in any case in which the mayor does not designate the municipal official who will substitute for him/her in case of a temporary or transitional absence, as required in this Act.

Section 3.008. — Removal of Mayor from Office. — (21 L.P.R.A. § 4108)

In the performance of their office, mayors shall be subject to complying with the standards of conduct and ethics established in Act No. 12 of July 24, 1985 as amended, known as "Ethics in Government Act of the Commonwealth of Puerto Rico".

The mayor may be removed from office pursuant to the procedure provided in this Act, and for the following reasons:

- (a) Having been convicted of a felony.
- (b) Having been convicted of a misdemeanor implying moral turpitude.
- (c) Incurring immoral conduct.
- (d) Incurring illegal acts that imply dereliction of duty, inexcusable negligence or conduct which is harmful to the best public interest, in the performance of his/her functions.

The Governor of Puerto Rico, the Director of the Ethics in Government Office, the legislature or any other person, may file charges against the mayor before the Commission to Air Municipal Complaints.

Section 3.009. — Powers, Duties and General Functions of the Mayor. — (21 L.P.R.A. § 4109)

The mayor shall be the highest authority of the executive branch of the municipal government, and as such, is charged with the direction, administration, and supervision of the operations of the municipality. The mayor shall have the duties and shall exercise the powers and functions, as follows:

- (a) Organize, direct, and supervise all administrative functions of the municipality.
- (b) Coordinate all municipal services in order to ensure the complete and adequate rendering thereof within the territorial limits of the municipality, and ensure that the population has equal access to all of the minimum public services under the competence or responsibility of the municipality.
- (c) Promulgate and publish municipal rules and regulations.
- (d) Comply with and enforce ordinances, resolutions, regulations, and duly-approved municipal statutes.
- (e) Represent the municipality in juridical or extra-judicial actions brought by or against the municipality, appear before any Court of Justice, forum or public agency of the Government of the Commonwealth of Puerto Rico and the Government of the United States of America, and support all kinds of rights, actions and procedures. The mayor may not acquiesce to, or fail to

answer any suit in any procedure or action in which the municipality is a party, without the prior consent of the absolute majority of the members of the municipal legislature. The mayor shall submit to the consideration of the municipal legislature any transaction offer that entails any type of financial disbursement over twenty five thousand dollars (\$25,000), prior to submitting said transaction offer to the consideration of the juridical forum.

(f) Represent the municipality in any official, community civic, cultural, or sports activity of any nature, or in any other activity, event, or act of public interest within and outside of Puerto Rico.

(g) Administer the real property and chattels of the municipality in accordance with the applicable provisions of law, ordinances and regulations, as well as the assets in the public domain with whose custody he/she is charged by law.

(h) Perform all useful or convenient actions pursuant to law needed to execute the faculties and functions of the municipality with regard to public works and services of all types and nature.

(i) Handle everything related to the contracting of municipal borrowings with the consent of the Municipal Legislature, pursuant to this Act.

(j) Draw up the draft of the Resolution of the general budget of operating expenses of the municipality, as provided in this Act.

(k) Administer the general expenses budget of the Executive Branch and make the credit transfers between its accounts, with the exception of those accounts created for paying for personal services. The authorized transfers shall not be employed to effect the payment of interest, amortization and settlement of the public debt, other expenses or statutory obligations, the payment of judicial sentences, payments to cover the deficits of the previous year, nor any expenses to which the municipality is legally bound under any contracts it has executed.

(l) Give immediate notice to the competent authorities on any irregularity, deficiency, or infraction of the laws, ordinances, resolutions and regulations that apply to the municipality, adopt those measures, and impose such sanctions as are provided, on the officials or employees who incur them, or whose actions, or omissions cause such irregularities, deficiencies or infractions.

(m) Design, formulate, and apply a personnel administration system for the municipality, according to the provisions of this Act, and the regulations adopted by virtue thereof, and promulgate the rules which municipal officials and employees shall be subject to in the performance of their duties and obligations.

(n) The mayor shall foster, through the Office of Human Resources, the development of programs geared to maintain a working environment which will contribute to the satisfaction, motivation and participation of municipal employees and officials. The Office of the Commissioner of Municipal Affairs shall promulgate by regulations, the provisions needed to implement the development of these programs.

(o) Appoint all officials and employees and dismiss them from their positions when necessary for the good of the service, for just cause and in accordance with the procedure established in this chapter.

(p) Appoint interim substitutes for the officials who direct administrative units in case of their temporary or transitional absence. Those persons designated to provisionally substitute for these officials may be employees of the administrative unit in which the absence occurs.

(q) Appoint members of the Bidding Board pursuant to the provisions of this Act.

(r) Contract professional, technical and consulting services that are necessary, convenient or useful for the performance of his powers, duties and functions and for the affairs and activities of

municipal competence or jurisdiction. This power includes the granting of contracts contingent to the investigation, counseling and preparation of documents in the determination and collection of municipal licenses, excise taxes, taxes, duties and other debts, provided said debts are declared delinquent, uncollectible or if they are the product of the identification of tax evaders and the official determination of the debt is made by the Finance Director. Any communication directed to the debtor must be signed by the Finance Director, his representative or his legal advisor and the fees to be paid shall not exceed ten percent (10%) of the total amount due determined and collected without including the legal services which, in a separate contract, are necessary to execute, and for which fees over ten percent (10%) of the amount determined and collected shall not be paid. The validity of the contracts executed prior to the approval of this act is hereby acknowledged, but their prospective applications shall be in accordance to the provisions set forth herein. Likewise, the mayor is hereby authorized to formalize and award professional, technical and consulting services contracts in a contingent manner through the Requests for Proposals (RFP) process and those defined in this Act to carry out activities for which the municipal finance department does not have the expertise or the knowledge, or the technical resources. It is also provided that the fees to be paid shall not exceed ten percent (10%) of the total amount collected. The powers, duties and functions established in this subsection shall not constitute a non-permissible delegation of the authority of the Finance Director, nor a duplication of services.

(s) Supervise, administer, and authorize all disbursements of funds received by the municipality, pursuant to the provisions of this Act, except with regard to the budget appropriation corresponding to the municipal legislature.

(t) Adjudicate works and improvements that do not require bidding, taking into consideration the recommendations of the corresponding municipal officials; direct and cause the supplies, materials, equipment, printing services, and non-professional contracted services required by any administrative unit and dependency of the municipal government to be provided; and adopt the specifications for the purchase of supplies, materials and equipment, provide for their inspection and examination, and otherwise compel that said specifications be complied with. All these purchases shall be made pursuant to the rules and regulations promulgated by virtue of the provisions of this Act.

(u) Promulgate states of emergency through executive order to such effects, in which the facts that provoke the emergency are stated, as well as the measures that shall be taken to acquire and have available the resources that are necessary, immediate and essential for the inhabitants when needed due to any emergency as defined in subsection (ff) of Section 1.003 of this Act.. When the Governor of Puerto Rico issues a proclamation declaring a state of emergency for these same reasons, on the same date, and covering his/her municipality's jurisdiction, the mayor shall be relieved of issuing his/her own proclamation, and the Governor's proclamation shall prevail with full effect as if it had been promulgated by the mayor.

(v) Adopt, by regulations, those norms and procedures concerning the payment of per diems; official travel and entertainment expenses of municipal officials and employees, in and outside of Puerto Rico.

(w) Keep an updated registry of the real property shares and real rights of the municipality.

(x) Delegate whatever powers, functions and duties that are conferred by this Act, in writing, to any official or employee of the municipal Executive Branch, except the power to approve, adopt and promulgate rules and regulations.

(y) Exercise all powers, functions and duties that are expressly delegated to him/her by any law or municipal ordinance or resolution, and those that are necessary and incidental for the proper performance of his/her office.

Section 3.010. — Obligations Regarding the Municipal Legislature. — (21 L.P.R.A. § 4110)

In addition to any others provided in this or other laws, the mayor shall have the following obligations with regard to the municipal legislature:

(a) Present to the legislature the drafts of ordinances and resolutions which by provision of law, should be submitted for its consideration and approval.

(b) Notify any state of emergency that is promulgated, with a copy of the executive order to such effects, or the proclamation of the Governor of Puerto Rico, as soon as possible, and no later than two (2) days following the end of the state of emergency.

(c) Approve, or return unsigned, with his/her objections, in the terms and as provided in this Act, the drafts of the ordinances and resolutions approved by the legislature.

(d) Submit the municipality's personnel administration system which shall be adopted [sic] to this Act, for approval.

(e) Submit for the confirmation of the legislature the appointments of officials designated as directors of administrative units and those other appointments by law or by ordinances, which the legislature shall confirm, or return them to it without his/her signature, with his/her objections, within the term provided in this Act.

(f) Call a special session for the legislature to consider the matters expressly included in the summons to such effects.

(g) Submit the draft resolution of the General Budget of operating expenses of the municipality for each fiscal year, on the date, and according to what is provided by this Act.

(h) To render the Budget Resolution on the Municipal Budget to the Municipal Legislature not later than May 31st of each year. To appear, in his/her discretion, before the municipal legislature to present his/her Budget address not later than May 31st of each year at a special session of the Municipal Legislature especially held for that purpose.

(i) Submit the quadrennial investment plan to the legislature.

(j) To submit, not later than October 15th of each year, a full report on the finances and administrative activities of the municipality at the closing of operations as of June 30 of the preceding fiscal year. The mayor shall, in his/her discretion, present said report during a public hearing at the City Hall Assembly Room. Said report shall be filed with the Secretary of the Municipal Legislature with sufficient copies for every municipal legislator, and shall be available to the public from its date of presentation.

If before the deadline for submitting the report required by this subsection, the municipality were to be declared a disaster area by the Governor of Puerto Rico, the Mayor shall have sixty (60) additional days, from October 15th, to submit the full report on the finances and administrative activities of the municipality.

(k) Submit the transfers to other credit items of the budget appropriation for the payment of personal services, for its consideration and approval. Remit a copy of every resolution approved by the mayor for other transfers between items in the general budget, no later than five (5) days after their approval.

- (l) Submit any recommendations that are deemed convenient, useful and opportune in benefit of the municipality.
- (m) Provide administrative services with regard to the performance of responsibilities, and particularly with regard to the administration and disbursement of the expense budget authorized by the municipal legislature, if it so requests it.
- (n) Notify the municipal legislature of the official designated to substitute for him/her during any absence due to vacation or sick leave, trips outside of Puerto Rico, or any other reason that will prevent him/her from provisionally performing his/her duties. The designation may be for each occasion, or for the duration of the mayor's term of office, unless he/she provides otherwise. For said designation to be valid, it shall be in writing and filed before the Secretary of the municipal legislature.

Section 3.011. — Transition Committee in General Election Years. — (21 L.P.R.A. § 4111)

All Municipalities of the Government of Puerto Rico shall follow the Transition Process set forth in this Section.

(A) Inventory of the Property of the Municipalities

- (1) The officials directing the administrative units of Property, Public Works, Finances, and Personnel of each municipality shall render to the Mayor a detailed report including an inventory and description of the property of the Municipality, the value of which is greater than five hundred (500) dollars. This report shall be submitted on or before October 31 of each election year.

(B) Duration of the Transition Process of Municipalities

- (1) The Transition Process of the Municipalities shall begin the fifteenth day after holding general elections and end on or before December 31 of the election year.

(C) Obligation of the Mayor, his/her designated representatives or officials

- (1) All Mayors, his/her designated representatives or officials have the obligation and ministerial duty of participating in the Transition Process of their Municipalities.

(D) Creation of Transition Committees

- (1) In the event that the incumbent Mayor is not reelected, an Outgoing Transition Committee shall be designated to turn the administration of the municipality over to his/her successor in office. This Committee shall be immediately constituted on the fifteenth working day after holding general elections and the members thereof shall be: the outgoing Mayor, or the person designated by him/her; the Deputy Mayor or Municipal Administrator, the officials who direct administrative units such as the Property, Planning, Finances, Public Works, Personnel, and Legal Affairs Offices and the President of the Municipal Legislature. The Outgoing Mayor may appoint up to three (3) additional officials, in his/her judgment, to the Outgoing Transition Committee.
- (2) The Outgoing Mayor or the person designated by him/her shall be the Chair of the Outgoing Committee. However, if the Mayor fails to make such designation, the provisions of Section 3.007 of this Act shall apply, which provide for the establishment of an acting mayor through an ordinance.
- (3) The Mayor-elect shall designate an Incoming Transition Committee and inform in writing to the Outgoing Mayor not later than the fifteenth day after holding general

elections and may designate thereto a maximum of ten (10) members. In addition, he/she shall designate the Chair of the Incoming Transition Committee.

If the Outgoing Mayor, his/her representatives or officials designated to the Outgoing Transition Committee refuse to meet or comply with the provisions of this Section, the Incoming Mayor may initiate the extraordinary proceeding of Mandamus before the Court of First Instance in the Part of the Judicial District where the municipality is located to compel said Outgoing Mayor or Transition Committee to meet or comply with this Section.

(E) *Transition Report*

The members of the Transition Committee shall render a written report to the Mayor-elect on the general situation of the municipal finances and administration. A copy of such report shall be filed with the Office of the Clerk of the Municipal Legislature for it to remit a copy to the municipal legislators-elect. The Office of the Commissioner shall issue and circulate prior to May 1 of the year in which general elections are to be held, the necessary guidelines or regulations establishing the procedure to be followed by municipal officials to comply with the provisions of this Section and the description of any documents, books, reports and others that are necessary to conduct an orderly transition. Such regulations shall be filed on or before February 1 of the election year with the library of the Office of Legislative Services, the Office of the Clerk of the House and the Secretary of the Senate. The Legislature shall issue any comments on or before sixty (60) days as of the filing thereof. In the event of inaction, it shall be deemed to be approved.

(1) Transition reports of each Municipality shall include, without it being limited to, the following information and documents:

(2.1) A detailed description and information of the personnel status: number of permanent, transitory, and trust office employees. An account of positions and vacancies stating the class and salary schedules thereof without including the names of the employees.

(2.2) A copy of the classification and compensation plan in effect and the one proposed.

(2.3) Current status of any and all administrative units of the Municipality.

(2.4) A financial report of the Municipality with a copy of all of the audits conducted and the Single Audit Report.

(2.5) A copy of the Municipal property inventory.

(2.6) A detailed description and status of all judicial actions to which the Municipality is a party and are pending in the Courts of Puerto Rico and the United States of America.

(2.7) A detailed description of any bids in process and those awarded over the past twelve (12) months.

(2.8) A compilation of all regulations, memoranda, circular letters, and norms of the Municipality that are in effect at the time of the transition.

(2.9) A report of all legal actions initiated in or on behalf of the Municipality at the state or federal level.

(2.10) A list of any approved laws and ordinances that affect the Municipality.

(2.11) A copy of the Corrective Action Plan required by the Office of the Comptroller.

(2.12) A list containing the sum of the contract, the term thereof, and the services contracted. Likewise, it shall furnish a copy of all contracts in effect at the time of the transition.

(2.13) A detailed report on the services rendered by the Administration.

(2.14) A detailed report stating the current phase of the Land Ordination Plan. Likewise, a copy of every document related thereto.

(2.15) Any other information or document that, as agreed by the Chairs of the Incoming and Outgoing Transition Committees, needs to be disclosed.

(F) *Transition Report Format*

(1) All Transition Reports shall have a title, index, all pages numbered and all exhibits or additional documents properly identified.

(2) All Transition Reports shall be submitted in a format that allows a quick transfer to the Internet or access to the Automated Standard Accounting System.

(G) *Oath and Date of Transition Report*

(1) Every Mayor of a Municipality shall issue a Transition Report with his/her signature and under oath. The Transition Report oath shall be administered by any notary or person authorized by law to administer oaths.

(2) Transition Reports of all Municipalities shall be final on or before October 31 of the election year.

(3) Transition Reports shall be updated and completed so that the Outgoing Mayor may be able to provide the most recent information on the current status of the Municipality during the transition hearing process. The updated report shall also be submitted under oath.

(H) *Seat of the Transition Process*

(1) The Town Hall of the Municipality shall be the seat of the municipal transition process. If it is not possible to meet at the Town Hall, the Chairs of the Outgoing and the Incoming Transition Committees shall agree on the location to be used as the seat for the process.

(2) The Outgoing Mayor shall arrange an area for holding the transition process hearings and for the Executive Director of the Transition Process.

(I) *Executive Director of the Municipal Transition Process*

(1) The Chair of the Incoming Transition Committee shall designate an Executive Director of the Municipal Transition Process. The Executive Director shall carry out the functions entrusted by the Chair of the Incoming Transition Committee to comply with the purposes of this Act, in addition to the following responsibilities:

(1.1) The Executive Director shall receive from the Outgoing Mayor the Transition Reports of the Municipality and certify the date of receipt thereof and that the same comply with the provisions of this Act.

(1.2) The Executive Director shall be responsible for making arrangements for storing the transition report and all documents related thereto. Likewise, he/she shall be responsible for making available for inspection by the media of the Island any information that is neither privileged nor confidential.

(1.3) The Executive Director shall be responsible for making the transition documents available to the citizens over the Internet.

(1.4) The Executive Director shall be the custodian of the keys of offices, vehicles, equipment, and any other material designated to be used during the transition process.

(J) *Transition Committee Sessions.*

(1) The Incoming and Outgoing Transition Committees of the Municipality shall convene in the Municipal Town Hall or the location agreed by the Chairs of the Incoming and Outgoing Transition Committees.

(2) The Transition Committee Sessions shall follow the public hearing format in which the Mayors answer the questions of the members of the Incoming Transition Committee.

(3) Sessions shall be held at the time and on the date agreed by the Chairs of the Incoming and Outgoing Transition Committees. Sessions shall begin on or before December 1 of the election year.

(K) *Public Nature of Transition Sessions*

(1) The media as well as the citizens shall have access to the transition committees' sessions.

(2) The media shall not have access to the same only when information considered privileged or confidential is under discussion, as provided by this Act.

(3) The Island's media shall have access to all documents of the Municipal Transition, except to those considered privileged or confidential, as provided by this Act.

(L) *Confidential Documents and Information*

(1) Any information or document, the disclosure of which is prohibited by any laws in effect or that affects the rights of third parties and investigations in process, shall be deemed to be confidential.

(M) *Duties of the Members of the Transition Committee*

(1) The members of the Incoming Transition Committee shall not have any direct or indirect financial interests.

(2) Any person who has been convicted of a felony or misdemeanor which implies moral turpitude or any crime which conviction renders such person unable to contract with the Government, as provided in Section 3 of Act No. 458 of December 29, 2000, shall not be a member of the Incoming Transition Committee.

(3) Any person who has a tax debt and is not complying with a payment plan shall not be a member of the Transition Committee.

(4) The members of the Incoming Transition Committee shall execute a confidentiality agreement whereby they shall guarantee not to disclose, for their own benefit or to benefit a third party, any information that may be in their power while discharging his/her functions.

(5) The members of the Incoming Transition Committee shall have, at all times, the duty of informing the Chair of the Committee in the event a conflict of interest or any situation that might violate the provisions of this Act arises. If during the process any member of the Incoming Transition Committee learns that he/she has a conflict of interest, he/she shall so inform immediately to the Chair of the Incoming Transition Committee and abstain from participating in any matters that are related to such conflict of interest.

(N) *Final Report*

(1) Upon the conclusion of the Transition Process, the Incoming Transition Committee shall prepare a written report to be entitled “Final Transition Process Report.”

(2) The “Final Transition Process Report” shall include the most important and significant aspects of the information garnered during the entire Transition Process.

(3) The format of the “Final Transition Process Report” shall be similar to that of the Transition Reports.

(4) The Incoming Transition Committee shall render the “Final Transition Process Report” to the new Mayor and the outgoing Mayor not later than seven (7) days after the conclusion of the Transition Process, which shall end not later than December 31 of the election year. Furthermore, the Incoming Transition Committee shall publish the Final Report over the Internet to facilitate access by citizens and interested persons.

(5) The Incoming Transition Committee shall also remit a copy of the “Final Transition Process Report” to the Office of the Commissioner of Municipal Affairs (OCAM, Spanish acronym) not later than seven (7) days after the conclusion of the Transition Process.

(O) *Vote Retallying*

(1) In the event the Commonwealth Elections Commission directs that votes be retallied for the office of Mayor, the Transition Process shall not be halted and shall be conducted as provided by this Act.

(2) In the event of a vote retallying, the Outgoing Transition Committee shall be constituted by the members established in this Act, and such members shall have the same duties and obligations as if no vote retallying were being conducted.

(P) *Sanctions and Penalties*

(1) Perjury – Any Mayor who knowingly includes false information in a Transition Report on the status of the Municipality, shall be guilty of the crime of perjury and upon conviction, he/she shall be sentenced to the punishment established by the Penal Code of Puerto Rico for such crime.

(2) Destruction or Defacing of Public Documents - Any official or employee of the Municipality who destroys, loses, or conceals any kind of information, records or files, including electronic files, with the intention of delaying or hindering the Transition Process, or of avoiding his/her responsibility, shall be guilty of a felony and upon conviction, he/she shall be sentenced to imprisonment for six (6) years. Should there be aggravating circumstances, the punishment may be increased to imprisonment for ten (10) years. Should there be extenuating circumstances, the punishment may be reduced to a minimum of four (4) years of imprisonment.

(3) Civil Action – Any members of the Incoming Transition Committee who uses or discloses, for his/her financial benefit, or that of a client or relative up to the third degree of consanguinity and second degree of affinity, privileged business information of the Municipality to which he/she may have had access during the Transition Process, may be sued by the Municipality for damages in order to claim the award of a financial indemnity of up to three (3) times the revenue or economic benefit obtained for him/herself or a third party, from the privileged business information obtained while discharging his/her duties as a member of the Incoming Transition Committee.

The Court may impose a fine to any member of the Outgoing or Incoming Transition Committee or Mayor for failing to comply with the provisions of this Section. Said penalty or sanction shall not be less than one thousand (1,000) dollars or more than ten thousand (10,000) dollars.

Section 3.012. — Salaries. — (21 L.P.R.A. § 4112)

The municipal legislature shall approve, with the vote of two-thirds of its members, the regulations that shall govern the procedures for the evaluation, determination and adjudication of the mayor's salary.

When considering salary increases for the mayor, the legislature shall take into consideration the following criteria, among others that the legislature deems necessary:

- (1) The municipal budget and the fiscal situation of the income and expenses reflected in the single audits.
- (2) Population and the increase in community services.
- (3) Compliance with fiscal and administrative controls established by OCAM, the Office of the Comptroller, and the federal government.
- (4) The complexity of functions and responsibilities of the chief executive.
- (5) The cost of living, which information shall be provided by the planning board upon request of the municipal legislature.
- (6) The ability to attract capital and economic development to the municipality.
- (7) Take into account the salaries received by the members of the Legislature and the secretaries of the constitutional cabinet.

Chapter IV. — Municipal Legislative Power. [21 L.P.R.A. , Subtitle 6, Chapter 207]

Section 4.001. — Municipal Legislature. — (21 L.P.R.A. § 4151)

The legislative powers conferred hereby to the municipalities shall be exercised by a municipal legislature.

The municipal legislature of each one of the municipalities shall be composed of the total number of the members indicated below, taking the last decennial census as a basis:

POPULATION	NUMBER OF MEMBERS
(a) 40,000 or more inhabitants	16 members
(b) Over 20,000 inhabitants but less than 40,000	14 members
(c) Less than 20,000 inhabitants	12 members

The municipal legislature of the capital city of San Juan shall be composed of seventeen (17) members, and that of the municipality of Culebra, of five (5) members.

Section 4.002. — Requirements, Election and Substitution of the Legislature Members. — (21 L.P.R.A. § 4152)

Every candidate to be an legislature member shall meet the following requirements on the date he/she takes office:

- (a) Know how to read and write.
- (b) Be domiciled in, and be a qualified elector of the corresponding municipality.

- (c) Be a citizen of the United States and of the Commonwealth of Puerto Rico.
- (d) Have not been convicted of a felony nor a misdemeanor that implies moral turpitude.
- (e) Have not been removed from office or employment for improper conduct in the performance of his/her duties.
- (f) Have not been found mentally disabled by a court of competent jurisdiction.
- (g) Be eighteen (18) years of age or over.
- (h) No person shall hold office as a municipal legislature member for more than three terms, whether consecutive or not.

Section 4.003. — Election of Legislature Members. — (21 L.P.R.A. § 4153)

The members of the municipal legislatures shall be elected by the direct vote of the electors of the corresponding municipality in every general election for a term of four (4) years as of the second Monday of the month of January of the year following the general elections in which they are elected and shall exercise their functions of their offices until the second Monday of the month of January following the general elections.

In the case of a municipal legislator who, having been elected cannot be sworn in, and thus cannot take office on the second Monday of the month of January following the general elections, said office or seat shall remain vacant until the new municipal legislator can be sworn in.

Political parties shall only nominate thirteen (13), eleven (11), and nine (9) candidates to municipal legislatures composed of sixteen (16), fourteen (14), and twelve (12) members, respectively; Provided, That the Capital City of San Juan may nominate fourteen (14) and Culebra, four (4).

The Commonwealth Election Commission shall declare elected, from among all the candidates, those thirteen (13), eleven (11), nine (9), fourteen (14) and four (4) candidates who have obtained the largest number of direct votes. In the event of a tie to determine the last position among those who shall be elected by direct vote, the order of appearance on the ballot, from top to bottom, shall be used to determine who shall be elected. The three (3) remaining members of each one of the municipal legislatures, except Culebra, which shall only have one (1) additional member, shall be elected from among the candidates of the two main opposing parties to which the majority of legislature members elected by direct vote belong, as follows:

- (a) The Commonwealth Election Commission shall declare as elected, from among the candidates that have not been elected by direct vote, those two (2) who have obtained the largest number of votes from the party that was second in the number of votes cast for legislature members, and one (1) from the party that was third. In the case of Culebra, the additional legislature member that shall be declared elected, shall be from the party that was second in the number of votes cast for legislature members.
- (b) In the case of the second party, if there were more than two candidates with the same number of votes, the candidates shall be elected, in the order they appear on the ballot, in the column of the party, from top to bottom. The same shall apply to elect the minority candidate of the third party.
- (c) If there were only two (2) parties on the electoral ballot, the three (3) remaining members shall be elected from among the candidates who have obtained the largest number of votes

and who have not been elected by direct vote in the party that was second in the number of votes cast for legislature member.

The Commonwealth Commission shall adopt the necessary measures to regulate the provisions contained in this section.

If for any reason any of the remaining members of each of the municipal legislatures referred to in this section does not qualify to be declared as elected by the Commonwealth Commission, another person shall be designated in his/her place, as proposed by the party that elected the legislature member who did not qualify for the office.

The Secretary of State of Puerto Rico shall review the total number of members composing the municipal legislatures, after each ten-year census, starting in 1990. The determination of the Secretary of State shall rule for the general election held after each review, and shall be made public by the Commonwealth Election Commission, which shall be notified by the Secretary for general knowledge.

Section 4.004. — General Standards of Ethics of the Legislature Members. — (21 L.P.R.A. § 4154)

The following general standards shall govern the conduct of the legislature members in all that is directly or indirectly related to the official duties of their office:

- (a) They shall observe conduct that safeguards the decorum, integrity, good name and public respect that the legislature and the municipality deserve.
- (b) They cannot be officials nor employees of the municipality in whose legislature they are members. Notwithstanding the above, any legislature member who resigns his office as such, may hold any career or trust office or position in the municipality in which he/she was elected, provided it is an office or position which was not created or improved with regards to salary during the term for which he/she was elected a legislature member.
- (c) They shall not maintain a business or contractual relationship of any nature with the municipality of whose legislature they are members, nor with any other with which said municipality has a consortium or has organized a municipal corporation or intermunicipal entity. An exception to this provision is made when the Governor of Puerto Rico grants a dispensation, only in the extreme case that the service provided cannot be offered by anyone else, or when the costs involved justify it.

It shall not be understood that a legislature member incurs conduct that is prohibited in this subsection when it is a matter of permits, patents, business licenses, concessions, or any others of a like or similar nature required by law, municipal ordinance, or regulation, so that the legislature member may exercise a profession, provided, he/she meets all the legal and regulatory requirements and does not ask for preferred treatment other than what the general public receives.

(d) They may not be employees of the Office of the Controller of Puerto Rico, the Office of the Commissioner of Municipal Affairs, the Center, nor the Commission to Handle Municipal Complaints. With the exception of what is provided above, the legislature members may, while they hold their elected terms of office, hold or fulfill any other job or general office in the Government of the Commonwealth of Puerto Rico which is not an elected public office.

(e) They shall not participate in the work, deliberations and decisions of any matter in which they may have any interest which may produce personal gain, whether directly or through any other

person. This prohibition shall not be understood to limit the legislature members' participation in those matters in which the benefit they may receive is comprised in the community in general, or any part thereof.

(f) Shall not assume the professional representation of any person before a court of justice, in a suit for violation of any municipal ordinance, nor provide any legal representation services in any administrative or judicial action filed against the municipality of whose legislature he/she is a member, or in any suit in which the municipality is a party thereof. This prohibition shall not apply when the municipality becomes a party to the suit after the suit is filed, and such intervention as a party is not due to the legislature member's action or request. He/she shall not render professional services to any person before an administrative unit or dependency of the municipality of which he/she is an legislature member.

Legislature members shall also be subject to compliance with the other standards of conduct established by Act No. 12 of July 24, 1985, as amended, known as [the] "Commonwealth of Puerto Rico Ethics in Government Act", and the regulations adopted by virtue thereof.

Section 4.005. — Procedure to Fill a Vacancy of an Legislature Member Does Not Take Office. — (21 L.P.R.A. § 4155)

When a candidate elected as an municipal legislator does not take office on the date fixed by this Act, he/she shall be granted a term of fifteen (15) additional days counted from the stated date, to give oath and assume his/her office, or to otherwise state the reasons that prevented him/her from appearing to take office. If the candidate-elect does not appear in the above stated term to take office, nor does he/she state the reasons that prevent him/her from assuming the same, the Legislature shall notify the same, in writing and with acknowledgment of receipt, to the local governing body of the political party that elected him/her. Together with the notice, it shall request said party to submit a candidate in substitution of the elected municipal legislator in question, within thirty (30) days following the receipt thereof.

If the local governing body takes no action on the Legislature's petition within the above stated term, the Secretary of the Legislature shall notify the President of the political party that elected the municipal legislator who did not take office, of said fact within five (5) days following the expiration of the term. The President shall fill the vacancy with the candidate proposed by the central governing body of the corresponding political party.

Any person who is selected to fill the vacancy caused by an municipal legislator-elect who does not take office, shall meet the eligibility requirements for the office established in this Act. He/she shall take office as municipal legislator immediately after his/her selection, and shall hold it for the term for which the person whom he is substituting for, was elected.

The President of the Municipal Legislature or the President of the corresponding political party, as the case may be, shall notify the name of the person selected to fill the vacancy of the municipal legislator, to the Commonwealth Election Commission, for said agency to issue the corresponding certificate of election.

Section 4.006. — Resignation of an Legislature Member. — (21 L.P.R.A. § 4156)

Any municipal legislator may resign his/her office by a written communication addressed to the legislature through the Secretary thereof, who shall acknowledge receipt of the

communication and shall immediately notify it to the President of the legislature. The Secretary shall present the resignation to the legislature in full for its consideration at the first regular or special session that is held immediately after it is received. The office of the municipal legislator shall be frozen as of the date of said session. The Secretary of the legislature shall give notice of the vacancy, by certified mail with acknowledgment of receipt, to the governing body of the local political party that elected the resigning municipal legislator, within five (5) days following its effectiveness.

The local political body shall have fifteen (15) days to submit [the name of] a candidate to replace the resigning municipal legislator. The local president of the party must call a special legislature of the party's municipal committee where nominations shall be opened, voting shall take place, and the new municipal legislator shall be certified. The Secretary of the committee shall prepare and certify the attendance sheet and the voting results. The local president of the party shall remit one copy of the certification of the results of the party's municipal committee's vote, along with the corresponding forms, to the Commonwealth Election Commission, another copy to the Secretary General of the party represented by the elected municipal legislator, and the last copy to the Secretary of the legislature, who must notify it to the legislature as a whole at the first regular or special session that is held immediately after it is received.

If the local political body does not take action within the specified term of fifteen (15) days, the Secretary of the legislature shall notify the Secretary General of the political party that elected the resigning municipal legislator, within the five (5) days following the expiration of the term. Upon being notified, the Secretary shall fill the vacancy with the candidate proposed by the central body of the political party in question.

Any person selected to fill the vacancy shall meet all the eligibility requirements for the office established by this Act and by Act No. 4 of December 20, 1977, as amended, known as the Puerto Rico Electoral Act.

The Commonwealth Election Commission shall issue the corresponding election certificate, once it receives the notification with the name of the person selected to fill the vacancy of the resigning municipal legislator. Said notification shall be remitted by the President of the municipal legislature, by the local president of the political party, or by the Secretary General of the political party, depending on the case. Once the Commonwealth Elections Commission issues the certificate to the new municipal legislator, the President of the legislature shall administer the oath to him/her in front of the legislature at large, at the next regular or special session after the certification has been issued.

Section 4.007. — Death or Permanent Disability of a Legislature Member. — (21 L.P.R.A. § 4157)

As soon as the Secretary of the Legislature knows that one of the Legislature members has died or has become totally and permanently disabled, he/she shall attest to such fact and shall inform the President of the Legislature by the speediest means possible. He/she shall likewise inform it in writing and with acknowledgment of receipt to the local governing body of the political party that elected the Legislature member in question, not (sic) within the five (5) days following the date he/she had knowledge of the death or total and permanent disability of the Legislature member in question.

Section 4.008. — Mass Resignation and Refusal of Elected Legislature Members to Take Office. — (21 L.P.R.A. § 4158)

When all elected municipal legislators refuse to take their respective offices, or when they resign after taking office, the mayor shall notify this fact immediately and simultaneously to the Governor of Puerto Rico, to the Commonwealth Elections Commission and to the Presidents of the local and central governing bodies of the political parties that elected them. This notice shall be made in writing, return receipt requested, not later than the five (5) days following the date in which the mayor obtained knowledge of the refusal of the elected municipal legislators to take office. Within thirty (30) days from the date the mayor's notice is received, as evidenced by the notice of receipt of the aforesaid, the local and central governing bodies of the political parties that elected them shall submit the names of the substitute municipal legislators to the Commonwealth Elections Commission, with a copy to the mayor. The Commonwealth Elections Commission shall fill the vacancies with the persons proposed by the local and central governing bodies of the political party that elected the municipal legislators that resigned or refused to take office. When discrepancies about the persons proposed arise between the local and central governing bodies of the political party which must fill the vacancies, the recommendation of the central governing body shall prevail.

The persons selected to fill the vacancies referred to in this Section shall meet the eligibility requirements for the position established in this Act.

Section 4.009. — Removal of Legislature Members from Office. — (21 L.P.R.A. § 4159)

The legislature, with the approval of two-thirds of the total number of the members, and through a resolution to such effects, may declare a vacancy and remove any of its members from office, for the following reasons:

- (a) The municipal legislator changes his/her domicile to another municipality.
- (b) He/she is absent for five (5) meetings, consecutive or not, equivalent to one regular session, without justification and, after having been duly summoned to it.
- (c) He/she is declared mentally disabled by a court of competent jurisdiction or suffers from an illness which prevents him/her from exercising the functions as a member of the legislature.

Any decision of an legislature to declare the position vacant and remove one of its members from office, shall be notified to the legislature member concerned in writing, by certified mail with acknowledgment of receipt, no later than two (2) days following the date that the legislature makes such a decision. Said notice shall advise the legislature member of his/her right to be heard in public hearing by the legislature. He/she shall likewise be informed that the decision shall be final and binding within a term of ten (10) days, counting from the date said notice is received, unless he/she can show cause in that same term why the legislature's decision should be rendered ineffective.

Section 4.010. — Impeachment of an Legislature Member. — (21 L.P.R.A. § 4160)

Members of the Legislature may only be removed from office once they have taken office, by an impeachment procedure filed by one third (1/3) of the total number of its members and for the following reasons:

- (a) Have been convicted of a felony or a misdemeanor implying moral turpitude.
- (b) Have incurred immoral conduct.
- (c) Have incurred illegal acts that imply dereliction of duty, inexcusable neglect, or conduct which is injurious to the best public interest in the performance of his/her functions.

Once the impeachment process is initiated, the President of the Legislature shall call a special session to judge and issue a decision on the charges filed against the municipal legislator concerned. The municipal legislators who signed the charges may participate in the process, but not in the deliberations nor in the decision rendered on the charges.

A conviction shall only be produced in an impeachment process with the concurrent vote of a majority of the members of the Legislature that did not sign the charges. The decision thus issued shall be final and binding as of the date of its official notification to the impeached municipal legislator, as stated in the receipt acknowledgment of the same.

A conviction shall cause the definite removal of the person as member of the Municipal Legislature. Furthermore, the person shall be liable and subject to any civil, penal and administrative procedure.

Section 4.011. — Procedure to Fill Vacancies. — (21 L.P.R.A. § 4161)

Individual vacancies that arise among the members of the Legislature because of resignation, death, total and permanent disability, removal from office or impeachment, shall be filled according to the procedure established in this Act.

Any person who is selected to fill the vacancy caused by the resignation, death, total or permanent disability, removal from office or impeachment of a municipal legislator, shall meet the eligibility requirements for the office as established in this Act. Said person shall take office immediately after being selected, and shall hold it for the remainder of the term of the elected assembly member who was substituted.

Section 4.012. — Procedure to Fill Vacancy of an Legislature Member Elected Under an Independent Candidacy . — (21 L.P.R.A. § 4163)

When an independent candidate who has been elected [as a] municipal legislator does not take office on the date provided in this Act, or resigns, is totally and permanently disabled, is removed from office or impeached, the Secretary of the Legislature shall advise the Governor and the Commonwealth Election Commission of the fact, in writing and with acknowledgment of receipt, in order to call a special election to fill the vacancy of the municipal legislator, within thirty (30) days following the date of the receipt thereof.

When all the municipal legislators elected under an independent candidacy refuse to take office or resign at any time after having taken office, the mayor shall immediately notify the Governor and the Commonwealth Election Commission of the fact, so that a special election can be called within the above-stated term of thirty (30) days.

Every special election held to fill vacancies of municipal legislators elected under an independent candidacy, shall be held pursuant to Section 5.006 of Act No. 4 of December 20 of 1977 as amended, known as "Puerto Rico Electoral Law".

Any person who is selected to fill the vacancy of an municipal legislator elected under an independent candidacy, shall meet the eligibility requirements for the office provided in this Act.

Section 4.013. — Perquisites of Legislature Members. — (21 L.P.R.A. § 4164)

As of July 1, 1995, the municipal legislatures are authorized to decree a raise in the per diems received by each municipal legislator, except the President, for each duly summoned day in session to which he/she attends, as reimbursement for expenses. Said raise shall be authorized through a municipal ordinance, with not less than two-thirds of the votes of its members in favor thereof.

In considering the raise, the following criteria shall be taken into account, among others:

- (1) The municipal budget and the financial situation of revenues and expenses, as reflected in the single audit.
- (2) The population that they serve and the complexity of the services.
- (3) The territorial extension of the municipality.
- (4) The complexity of the functions and responsibilities of each specific legislature, including the amount of work that this implies for its members.

Once said raise has been approved, it will also be applicable to the per diems they receive at present for their attendance to any meeting of a committee of the legislature, in session in Puerto Rico, with the prior authorization of the Chairman of the legislature, at least twenty-four (24) hours earlier, or when there is an express recommendation of the legislature for said committee to study and investigate a matter in Puerto Rico.

The summons, as well as the payment of per diems for holding a session or a committee meeting, shall require the prior authorization issued by the Chairperson of the legislature at least twenty-four (24) hours in advance, or when there is an express assignment of the legislature for said committee to study and investigate a specific matter in Puerto Rico. As of July 1, 1995, the municipal legislatures are authorized to decree a raise in the per diems received by the Chairperson of the legislature, as reimbursement for expenses for each day of a duly called session he/she attends. Said raise shall be authorized through a municipal ordinance, with the favorable vote of not less than two-thirds of its members. The Chairperson of the legislature may also receive a raise in his/her per diems for his/her attendance to any meeting of a committee of the legislature, which shall be equal to the raise decreed by ordinance for the members of the legislature.

For any raise of the per diems authorized to this effect, received by the Chairperson of the legislature, the same criteria mentioned earlier shall be taken into account in considering the raise for the members of the legislature.

When the legislature bylaws provided that the Chairperson of the legislature shall also be the ex officio Chairperson of all the committees thereof, he/she shall not collect any per diem for any committee meetings he/she attends as ex officio Chairperson.

The municipal legislators including the Chairperson thereof, shall only receive a per diem equivalent to one meeting, for each days of session, even though they are present at more than one meeting on the same day.

However, to be entitled to the per diem authorized in this Section, the attendance shall be to the session of the legislature or to the meetings of different committees. When a session of the legislature coincides with a meeting of any committee on the same day, [members] shall be paid only one per diem for the session of the legislature held. Every member of the legislature who is a member of more than one committee shall be entitled to [a] per diem for only one legislature and committee meeting they attend, even though they attend more than one meeting in the same day. Every attendance certificate of a meeting of the legislature and/or the committee shall include the hour it started and concluded [in order for the member] to be entitled to the per diem authorized in this Section.

Those municipal legislators who are officials and employees of the Government of the Commonwealth of Puerto Rico shall be entitled to collect the per diems authorized in this section, without detriment to the salary or wage they receive regularly.

Section 4.014. — Legislature Member's Leave . — (21 L.P.R.A. § 4165)

Those municipal legislators who are employees of any public entity shall be entitled to a special leave with pay, for just cause. This leave shall not exceed a maximum of five (5) working days a year, nonaccruable. They shall also be entitled to leave without pay that shall not exceed five (5) working days a year, nonaccruable, regardless of any other leave they might be entitled to. Both leaves shall be used to attend sessions of the legislature and its meetings and hearings, in order to perform municipal legislative activities. The legislature shall remit in writing, in any of the two special leaves, to the municipal legislator, the summons to the corresponding meeting, at least twenty-four (24) hours in advance [of] it. The municipal legislator, the summons to the corresponding meeting, at least twenty-four (24) hours in advance [of] it. The municipal legislator shall be responsible for presenting said summons to the pertinent public entity, for the adjudication of the special leave that applies to such effect.

Those municipal legislators who are employees of a private entity shall be entitled to a special leave without pay, or to a special leave for just cause, at the discretion of the employer, regardless of any other leave. Up to a maximum of ten (10) nonaccruable working days a year, to attend the sessions of the legislature and comply with the other responsibilities mentioned in the above paragraph.

The employers of the municipal legislators, whether public or private, shall not discriminate against said employees for using the leave established herein. The Municipal Affairs Commissioner shall be responsible for the drafting and promulgating the regulations establishing uniform standards that shall govern the provisions of this section, no later than six (6) months after this act is approved.

Section 4.015. — Transition Committee in General Elections Years. — (21 L.P.R.A. § 4166)

The municipal legislatures shall constitute a transition committee whenever it is required to turn over the administration of the legislature to the new successors of the members of the majority, or when at least half of the departing members, are replaced. The committee shall be constituted no later than the 30th of November of the year that general elections are held. It shall be composed of at least five (5) representatives of the outgoing legislature, and an equal number

of representatives of the incoming legislature. The Secretary, the President and the Vice-President of the outgoing legislature shall be a part of said committee.

The members of the Transition Committee of the outgoing legislature are bound to meet with the members of the incoming legislature in order to inform them of the status of the resources and finances of the legislature, provide them with the reports of the Director of Municipal Finances regarding the accounts and balance of the legislature's budget, the legislature's property register, the regulations, resolutions and ordinances, approved and in effect, and any other documents or information that can expedite the orderly transfer of the municipal legislative body.

The members of the transition committee of the outgoing legislature shall render a written report to the body of the newly-elected legislature on the general state of the legislature's present finances, property, resolutions, and ordinances, with the observations and recommendations that they deem are necessary or convenient. A copy of this report shall be remitted to the mayor, the members of the constituted legislature, and the Office of the Municipal Affairs Commissioner. The committee shall establish the transition mechanism for the orderly transfer of the administration of the legislature and the municipal government, without affecting its services and operations.

When the President of the outgoing legislature refuses to appoint the representatives on the transition committee, or when the representatives of said committee do not comply with the responsibility imposed on them by this section, the newly-elected legislature may file a special writ of mandamus before the Court of First Instance of the judicial district where the municipality is located, in order to bind the outgoing legislature to comply with this section, or to be authorized to appoint the representatives of both parties, or to order the representatives of the President before said committee to fulfill their duties.

Furthermore, in electoral fiscal years, it is required to include in the municipal budgets an item with all the resources needed to meet the costs of accrued vacation leave, as well as any other concept the outgoing confidential employees might be entitled to.

Chapter V. — Municipal Legislative Process. [21 L.P.R.A. , Subtitle 6, Chapter 209]

Section 5.001. — Inaugural Session, Election of Officers, Regulations and Quorum. — (21 L.P.R.A. § 4201)

The Municipal Legislature shall hold its inaugural session on the second Monday of the month of January of the year following each general election. Said session shall be called under the acting presidency of the outgoing Secretary, or in his absence, by the eldest Legislative member-elect with most seniority as a municipal legislator. At this inaugural session, the Legislature shall elect a President and a Vice President from among its members.

The legislature shall adopt regulations to govern its internal proceedings, which it may begin to consider in its inaugural session. Until the new regulations are approved, those of the former legislature shall rule and apply. The legislature's regulations shall cover the statutory provisions of this act and of any other act that will allow it to discharge its functions effectively, as well as the administrative provisions issued through memoranda sent by the Commissioner.

The majority of the total number of the legislature's members shall constitute its quorum.

Section 5.002. — President of the Legislature. — (21 L.P.R.A. § 4202)

The following shall be the duties and responsibilities of the President of the Legislature in addition to any others provided in this Act:

- (a) Represent and appear in behalf of the Legislature in all official and juridical acts required by law, ordinance, resolution or regulations.
- (b) Convoke the regular sessions of the Legislature and the special sessions in those instances that are provided in this Act.
- (c) Prepare the agenda of the matters to be dealt with or considered in each session.
- (d) Direct the work of the regular and special sessions of the Legislature, acquaint it of [with] the various matters it must resolve, and lead the debates and deliberations of the same.
- (e) Appoint the members of the standing committees and the special committees that are constituted to such effects and designate their chairpersons.
- (f) Sign the minutes of the sessions of the Legislature and every ordinance or resolution that is duly approved, as well as all official documents on which his/her signature is necessary or convenient due to their nature.
- (g) Authorize vacation, sick and other types of leave for the Secretary and the Legislature's employees.
- (h) Administrate the Legislature's budget appropriation subject to the provisions of this Act and the applicable ordinances and regulations.
- (i) Appear at the execution of the professional services and consultant's contracts that are needed in the exercise of the Legislature's faculties.
- (j) Exercise the functions that are appropriate to the administrative head of the Legislature, and as such, direct and supervise the Legislature and the Secretariat's transactions and activities.

In case of the temporary absence of the President of the Legislature, the Vice President shall assume his/her duties for the duration of his/her absence. The President of the Legislature may delegate the duties provided in subsection (h) of this section on the Secretary or any other executive employee of the Legislature.

Section 5.003. — Legislature Sessions. — (21 L.P.R.A. § 4203)

The Legislature may meet in regular and special sessions. These sessions shall be public and held on the days and time provided through regulations, including holidays.

(a) *Regular sessions.* —

The Legislature shall establish in its bylaws the number of regular sessions to be held during the calendar year, which shall not exceed twelve (12) each year. The duration of regular sessions of the Legislature may not exceed five (5) days, and ten (10) days in the case of a session to consider the budget resolution, except in those cases in which said term is extended upon prior authorization of the mayor, or as provided in subsection (b) of this section. Whenever the mayor convenes the holding of a special session to consider an emergency matter while the Legislature is in session within the five (5) day term of a regular session, the Legislature may, by a vote of 2/3 of its members, approve the interruption of the regular session for a term that shall not exceed five (5) days in order to address said matters. Upon conclusion of the five (5) day special session period, the Legislature may reconvene its regular session for the corresponding number of days without exceeding the five (5) day term provided in this section.

The presidents of the committees shall request the President of the Legislature in writing the authorization to meet, explaining briefly the issue or issues to be covered in the agenda. Said petition may be submitted to the President of the Legislature at any given time, and he shall have five (5) days to answer it as of the date in writing, it is filed in the office of the Secretary to answer it to approve it, or to deny it [sic]. When answering in the negative, the President shall explain the reasons for the denial.

The Legislature shall devote one of its regular sessions for the discussion, consideration and approval of the general budget of income and expenditures of the municipality, as provided by Section 7.001 of this Act. This regular session can be held earlier, but never shall it be held later than the 3rd of June of each year, and shall not last more than ten (10) days, which do not have to be consecutive, and excluding Sundays and holidays, but in any case, it must be concluded no later than the 13th of June of each year with the approval of the budget, as provided in Section 7.004 of this Act.

(b) Special sessions. —

Special sessions shall be called by the Mayor at his own initiative or through a petition signed by not less than two-thirds (2/3) of the total number of the members of the Legislature. The sessions shall not exceed five (5) consecutive days, unless said term is extended as provided in subsection (a) of this Section. Only those matters included in the agenda of the call shall be considered in the special sessions, however, the Mayor shall have the power to extend the call for a special session to include additional matters, subject to compliance with the terms and parameters set forth in this Section.

No later than the 31st of May of each year, the mayor shall be bound to call a special one-day session to present to the Legislature the project and the message of the budget, complying thus with Section 7.001 of this Act.

(1) By mayor's initiative Every special session called by initiative of the mayor, shall be initiated on the date and hour indicated by the official in the summons.

(2) By petition of the Legislature When there is a petition of the Legislature to call a special session, the mayor shall notify his acceptance or rejection of it in writing, with acknowledgment of receipt, within five (5) days following the receipt of said petition.

The five-day term for the mayor to state his acceptance or rejection of the Legislature's petition to call for a special session, shall begin to count from:

(i) The day following the personal delivery of the petition to call a session to the mayor, by the Secretary of the Legislature, or by the President, or by a committee thereof. In these cases, the President, or the Secretary, as the case may be, shall draft and sign a certificate to the Legislature stating the date, hour and place that personal delivery of the petition in question was made to the mayor, and shall prepare minutes certifying these matters.

(ii) The first working day after the date the petition was received, as is found on the acknowledgement of receipt issued by the postal service, if the petition to the mayor to call the session is handled in this fashion.

When in the term stated above, the mayor does not take any action on the Legislature's petition to call a special session, the President of the Legislature may issue the call.

When the Legislature understands that the matter at hand is urgent, and the mayor does not approve the holding of a special session, the President of the Legislature may call to a special one-day session, in which holding the special session may be approved, with the full vote of the

members of the Legislature. If approved, the day of the voting shall count as part of the five (5) days of the special session.

Special sessions called by petition of the Legislature must be held within ten (10) days following the date on which the mayor or the President of the Legislature, as the case may be, issues the corresponding call.

Section 5.004. — Constitutional Limitations of the Legislature. — (21 L.P.R.A. § 4204)

All limitations imposed by the Constitution of the Commonwealth of Puerto Rico and by the Federal Relations Act in Puerto Rico, on the Legislature and its members, shall apply to the fullest extent to the Municipal Legislature and its members.

The municipal legislators shall have the duties and attributes indicated in this Act. The municipal legislators shall have parliamentary immunity for their votes and statements in the regular or special sessions thereof, or any duly held meeting of its committees. The municipal legislators shall make use of the privilege of parliamentary immunity conferred in this section, prudently, and within the broadest frame of propriety, respect and ethics.

Section 5.005. — Powers and General Duties of the Legislature. — (21 L.P.R.A. § 4205)

The legislature shall exert legislative power in the municipality and shall have the powers and duties on local affairs conferred on it in this Act, as well as those that are incidental and necessary to the same, among which are:

- (a) Approve the resolution of the general budget of income and expenses for the operation and functioning of the municipality, each year.
- (b) Confirm the appointments of the municipal officers and the officials and members of the municipal boards and entities whose appointments are subject to confirmation by the legislature by the provisions of this Act or any other act.
- (c) Approve by ordinance, the confidential positions of the municipality according to the provisions of this Act.
- (d) Approve the exchange, encumbrance, lease or sale of municipal real estate.
- (e) Authorize the levying of property taxes, special rates, excises, rights or imposts within the jurisdictional limits of the municipality on matters which are not incompatible with the taxing by the state subject to law.
- (f) Approve ordinances that impose penal sanctions or administrative fines for violation of municipal ordinances and resolutions, up to the limits and in accordance with the provisions of this Act.
- (g) Authorize the budget readjustments submitted by the mayor, and the transfers of credits of the accounts for paying for personal services to others within the general expense budget. The legislature may not authorize readjustments or transfers that adversely affect the accounts for the payment of interest, the amortization and settlement of the public debt, statutory obligations, the payment of judicial sentences and any contracts it has already executed, nor the account consigned to cover overdrafts of the previous years.
- (h) Authorize the contracting of loans pursuant to the provisions of Act No. 64 of July 3, 1996, as amended, known as the "Puerto Rico Municipal Financing Act of 1996", the applicable special laws and regulations, and the corresponding federal laws.

- (i) Provide, by ordinances or resolutions, what is needed to implement the powers conferred on the municipality with regard to the creation of intermunicipal bodies and the granting of agreements, in the measure they bind the municipality financially and legally.
- (j) Approve the plans of the personnel area of the municipality submitted by the mayor pursuant to this Act, and the regulations and classification and guidelines and pay schedules that shall be adopted for the administration of the personnel system.
- (k) Approve the regulations for the purchasing, leasing of equipment, or performance of services in case of emergencies caused by disasters.
- (l) Ratify and validate the efforts, actions, expenses and obligations incurred by the mayor in the exercise of the powers conferred in this Act for those cases in which a state of emergency is decreed.
- (m) Approve such ordinances, resolutions and regulations on matters or affairs of municipal competence or jurisdiction which, pursuant to this Act or any other statute, should be submitted to its consideration and approval.

However, when it concerns the installation of speed reducers, the municipal legislatures shall adopt the Regulations for the Authorization and Installation of Physical Speed Controls on the Public Highways of Puerto Rico, as approved by the Department of Transportation and Public Works, through an ordinance, and within a term no greater than ninety (90) days from the approval of this act. The needed penalties to be imposed on any person or entity who violates any of the provisions of the regulations approved to such effects, shall be fixed within said ordinance, without it being construed to represent the annulling of the penalties provided in Act No. 141 of July 20, 1960, as amended, known as the "Vehicles and Traffic Act of Puerto Rico". The municipality shall have thirty (30) days to implement said Regulations, counting from the date of approval of the ordinance of the municipal legislature.

- (n) Fill vacancies that arise within its membership in accordance with the procedures established in this Act.
- (o) Authorize the constitution of municipal and intermunicipal corporations which are to be organized and which operate in accordance with this Act.
- (p) Perform any investigations, including public hearings, that are needed for the consideration of the drafts of ordinances and resolutions that are submitted to it, or to develop any municipal legislation.
- (q) Contract, for reasonable pay, the necessary professional, technical and consulting services of the personnel of the University of Puerto Rico or any of its dependencies, outside of their working hours and with the prior written consent of the university body for which they work, to carry out the municipal activities, programs and operations, or to comply with any public purpose authorized by this Act.

Section 5.006. — Other Norms for the Approval of Resolutions or Ordinances. — (21 L.P.R.A. § 4206)

In addition to any others provided in this Act or any other law, the drafts of ordinances or resolutions for the actions described below shall require the approval of the absolute majority of the total number of the members of the Municipal Legislature; that is to say, the majority with more than half of the votes of the active members composing such body.

- (a) The sale without auction of lots where houses have been built to users or owners de facto of the lots, or the lessees, occupants or tenants of the houses or lots.
- (b) The lease without auction of municipal property in those cases which would ordinarily require an auction, but which, because of a public interest that is clearly stated in the ordinance or resolution, this requirement is dispensed with.
- (c) The authorization of donations of funds and municipal property to private nonprofit entities or groups, that are not partisan in nature nor political groups, which are devoted to public interest activities, that promote the general interests of the community, provided the assignment does not interrupt the functions that are proper to the municipality. The two-thirds (2/3) requirement shall not apply when said assets and funds are to be used for a program financed under any federal or Commonwealth law.
- (d) Authorization to the municipality to request the Governor to transfer the power of jurisdictional functions of territorial distribution pursuant to Section 13.012 of this Act, and the delegation of any other jurisdictional functions by means of an agreement with agencies of the Central Government, as provided by Section 14.006 of this Act.

Section 5.007. — Requirement for the Approval of Draft Ordinances and Resolutions. —
(21 L.P.R.A. § 4207)

The following shall be the norms and principles that shall govern the consideration and approval of the Legislature's draft ordinances and resolutions:

- (a) In order to be considered by the Legislature, every draft of ordinance or resolution shall be filed, in writing, before the Secretary, who shall register it and remit it to the President to be included in the agenda of the Legislature's regular session.
- (b) Every draft ordinance and resolution shall be read before being considered and submitted to vote. However, at the time a draft ordinance or resolution is being considered by the Municipal Legislature, by motion of any municipal legislator, it may be deemed read as part of the process. The Secretary of the Municipal Legislature shall deliver a copy of the draft to be considered in the session that has been called within a term of not less than twenty-four (24) hours prior to the holding thereof to every Legislator.
- (c) The approval of any ordinance and resolution shall require the affirmative vote of the majority of all the members that compose the Legislature, unless it is otherwise expressly provided by this Act or any other act.
- (d) Every draft ordinance or resolution shall be effective on the date it is signed by the mayor. When the mayor does not sign a draft resolution or ordinance within twenty (20) days following the date it is presented to him/her, nor does he/she return it to the Legislature with his/her objections, it shall be understood that the same has been signed and approved by him/her and the ordinance or resolution in question shall become effective for all purposes, on the date said term expires.

It shall be understood that a draft ordinance or resolution approved by the Legislature has been "presented" to the mayor when the Secretary hands it to the mayor or his/her authorized representative and its receipt is acknowledged. Its receipt by the mayor's authorized representative shall be as if it had been received by him for all legal effects. The Secretary shall register the fact of the presentation in the Secretariat of the Legislature, and shall certify to said body, the date, time and place that the draft ordinance or resolution was presented. When the

mayor or his authorized representative, although present, refuses to receive the draft from the Secretary, he/she shall state that fact in the certification to the Legislature, and the draft in question shall be deemed as received by the mayor for all legal effects and purposes.

When the presentation is made by mail, it shall be certified with acknowledgment of receipt requested. In such case, the effective date of presentation to the mayor shall be the next working day following the date on the receipt.

(e) The Legislature may approve any draft ordinance or resolution that was returned by the mayor with his/her objections, with the approval of two thirds (2/3) of all its members. Any ordinance or resolution approved over the objections of the mayor as provided above, shall be enforceable, valid and effective as if the mayor had signed and approved it.

(f) Any ordinance and resolution shall govern from the date indicated in its effective clause, except in the case of ordinances that establish penalties and administrative fines, which shall be effective ten (10) days after their publication in the manner provided in this Act.

(g) No ordinance nor resolution shall be invalidated because it was approved as an ordinance when it should have been approved as a resolution, or vice versa.

(h) The approval of resolutions shall be handled in the same way as the ordinances, except that those resolutions on the internal affairs of the Legislature shall not need the mayor's approval.

Section 5.008. — Consultation with Bodies. — (21 L.P.R.A. § 4208)

In the case of ordinances and resolutions authorizing borrowings under Act Oct. 28, 1954, No. 7, known as "Municipal Loan Act", and Act Aug. 29, 1990, No. 71, known as "Revenue Bond Act of 1990", the certification of the Government Development Bank shall be required as to the fact that the municipality has a sufficient margin of credit to meet said obligation. This certification shall be issued within sixty (60) days from the date the Government Development Bank receives the municipality's request. If it is not issued within the prescribed term, the municipality shall resort to the Court to procure a mandamus against the Bank. The municipality may execute the loan with any government entity or other source of financing and invest its funds, pursuant to subsections (h) and (j) of Section 2.001 of this Act. In addition to the certification, the Government Development Bank shall issue a report on the viability of the financing once it is presented by the municipality, and shall have forty-five (45) days to issue said report. If the report is not issued within said term, it shall be deemed that the financing is viable.

Section 5.009. — Internal Agreements of the Legislature. — (21 L.P.R.A. § 4209)

The legislature's internal agreements shall be registered in resolutions, and shall be adjusted to the procedure established in this Act for the approval of ordinances and resolutions, as applicable. Resolutions on the internal affairs of the legislature shall be valid and effective once they are signed by its President. Every document proceeding from such resolutions shall bear the President's signature.

The Secretary of the legislature shall remit a certified copy of these resolutions to the mayor, not later than three (3) working days after the date they are signed by the President.

Section 5.010. — Secretary of the Legislature. — (21 L.P.R.A. § 4210)

The Legislature shall create the administrative office of Secretary. The Secretary of the Legislature shall not be a municipal legislator, and shall, at least, hold a Bachelor's degree from an institution of higher education, and enjoy a good reputation in the community. He/she shall be appointed by the President with the advice and consent of the Legislature and shall answer solely to it.

With regard to his/her working hours, vacation leave and fringe benefits, the Secretary shall be subject to the personnel rules that are established for the officials and employees of the Municipal Legislative Branch.

The Secretary's annual salary shall not be less than the basic salary fixed for the officials that are directors of the administrative units of the Executive Branch of the municipal government. The Legislature shall establish the working hours, attendance registry, granting of leave and other matters that apply to the Secretary, by resolution. In this case, annual leave or other types of leave shall be authorized by the President of said body.

When the Secretary is temporarily absent, his/her office shall be covered by the person designated by the President pursuant to this Section.

Section 5.011. — Duties of the Secretary. — (21 L.P.R.A. § 4211)

The Secretary may take oaths and sworn statements in matters related to the functions and responsibilities of his/her office, and shall keep a register of the sworn statement[s] he/she signs. In addition to any other duties prescribed in this Act in other statutes, the Secretary of the legislature shall have the following duties:

- (a) Act as Recording Secretary of the legislature and attest to the minutes thereof.
- (b) See that the legislators are duly called to the legislature's sessions, committee meetings and any other act or meeting thereof.
- (c) Certify to the filing of the draft ordinances and resolutions, reports and other documents submitted or presented to the legislature.
- (d) Keep the legislature and its President informed about all duties assigned to him/her, and those imposed by this Act.
- (e) Notify the local administrative body of the corresponding political party on any vacancy that arises in the legislature or in the office of mayor.
- (f) Notify the President of the party concerned of the existence of a vacancy in the legislature or in the office of mayor when the local administrative body of the corresponding political party does not act on it as provided in this Act.
- (g) Reproduce and place at the disposal of the public the duly-certified municipal ordinances that impose penal sanctions and administrative fines, and can require the payment of the amount provided by resolution to cover the cost of reproducing the same.
- (h) Preserve the originals of the ordinances and resolutions signed by the President of the legislature and the mayor, or only by the first, in cases of resolutions on the internal agreements of the legislature. At the end of each fiscal year, he/she shall prepare [a] volume with its corresponding index, containing all the originals of the resolutions and ordinances approved and in effect during said fiscal year. The legislature shall authorize the reproduction and sale of said volume at a fair and reasonable price, which shall not exceed the cost of preparation and

reproduction. Every citizen shall be entitled to obtain copies of the resolutions and ordinances, upon a written request, and payment of the correspondent fees established by the legislature by a resolution.

- (i) Certify and remit to the municipal court and regarding those municipalities where no municipal court exists, to the corresponding district court, a copy of the municipal ordinances and their amendments which contemplate legal sanctions.
- (j) Safeguard the minute books, the legislators oaths, and all other documents that belong in the legislature's files.
- (k) Receive the draft resolution of the general budget of expenses of the municipality from the mayor, and deliver it to the legislators no later than the beginning of the session in which it shall be considered.
- (l) Supervise all personnel attached to the legislature.
- (m) Certify the attendance of the legislators to the full sessions of the legislature and to the committee meetings thereof.
- (n) Carry out whatever actions are necessary and adequate for the orderly transfer of all the legislature's documents, books, minutes, property and others, in every general election year. When the Secretary of the legislature refuses to comply with the obligation imposed herein, a special mandamus to compel compliance may be invoked.
- (o) Perform any other duties, functions, and responsibilities that are imposed by law or that are delegated on him/her by the legislature or its President.
- (p) Remit to all legislators the summons to a meeting of the legislature, at least twenty-four (24) hours beforehand so that they can comply with their ministerial duty and the provisions of Section 4.014 of this Act..

Section 5.012. — Grounds for Removal of Secretary. — (21 L.P.R.A. § 4212)

The voluntary omission by the Secretary of the Legislature to notify the President of the central or local governing body of a political party, in the cases and terms provided in this Act, on any vacancy in the office of mayor, or an municipal legislator, shall constitute an administrative violation and shall be just cause for his/her dismissal or removal from said public office.

The Secretary's failure to comply with his/her obligation to draft, maintain, keep custody of and compile the minutes of the legislative proceedings of the Legislature in the manner provided in this Act, shall also be sufficient cause for his/her removal. The Secretary can also be removed from office for intentionally failing to remit to the mayor a certified copy of the resolutions on internal agreements of the Legislature, as provided in this Act, and of any other document, action or matter that said official is bound to present, submit or notify to the mayor, the Commissioner, or any other public authority, by provision of this Act or any other act.

The procedure for the dismissal or removal of the Secretary of the Legislature shall be provided in the Legislature's bylaws.

Section 5.013. — Minutes and Records of the Assembly. — (21 L.P.R.A. § 4213)

The Minutes are the constitutional and legal instrument used to succinctly record the facts related to the processing of ordinances, resolutions, and other matters that, because of their nature, are of importance to the Assembly. To ensure their clarity and exactness, as well as their

perpetuity and publications, the Secretary shall use the tape recording system or any other modern system for the textual reproduction of all the procedures and events that take place in each session, which shall be included precisely in the legislative record of said body.

The Secretary of the Assembly shall record the legislative procedures in the minutes, in which he shall consign, without being limited to, the following:

- (a) The hour the works began and ended.
- (b) The agenda of the matters considered.
- (c) Members present, absent, and those that have been duly excused.
- (d) A list of the projects, resolutions, or motions filed in the Secretariat including the author, title, and number that was assigned to them.
- (e) A list of the documents, communications, and reports received in the Secretariat announcing the matter and date of receipt.
- (f) Matters discussed, including the statements made by each member regarding the issues considered.
- (g) The agreements on the draft resolutions and ordinances filed.
- (h) Results of the voting on each matter, indicating the votes in favor, the votes against, and the abstentions.
- (i) Whether the documents, ordinances, or resolutions were printed and distributed to the members, or read, as the case may be.
- (j) The statements regarding the points of order raised and the President’s decision on the matter.

The minutes shall never include, unless the Assembly agrees otherwise, the following:

- (a) Speeches by the assembly members or guests in special sessions.
- (b) Explanatory votes of the assembly members.
- (c) Incidents in the debates.

Minutes shall be prepared for each meeting, which shall be approved by the majority of all the members of the Assembly.

At the end of each fiscal year, the Secretary shall prepare a volume of all the minutes of the Assembly's sessions during the corresponding year, in book form. It shall contain the original of said minutes, duly initialed in handwriting on each page and certified and signed by the President and the Secretary. Said book shall also contain an index of the contents of the volume, by session and in chronological order, with a final certification signed by the Secretary and the President, which shall state the following:

“I certify that this volume contains the originals of the Minutes of the Sessions of the Municipal Assembly held during Fiscal Year ____”.

The Minute Books shall constitute records of the same type and nature as the minutes of the Houses of the Legislature of Puerto Rico. The tapes or any other system used, shall not be used for any other purpose but the publication of the records, unless by is majority consent of the Assembly. The recordings made shall be kept as historic documents and their conservation and custody shall be subject to the provisions of Act No. 5 of December 8, 1955, as amended, known as the “Puerto Rico Public Documents Administration Act.”

Any provision in a regulation applicable to the Assembly that prohibits the recording in full or in part of the works of the parliamentary sessions, or prohibits or prevents or in full or in part what is provided in Sections 5.014 and 5.015 of this Act, shall be declared null.

Section 5.014. — Reading of Documents. — (21 L.P.R.A. § 4213a)

When a Municipal Legislator wishes that a document that is strictly linked to the legislative process and that has not been reproduced and distributed in the course of the parliamentary procedures be read, he shall so request it from the Assembly through a motion to said effect, briefly explaining the need for its reading, its contents, and its extension. If there is no objection, the President shall order that the document be read.

If there were an objection to that reading request, it shall be explained briefly, but shall not be debatable. The Assembly shall resolve by the affirmative vote of four fifths (4/5) of the members present, whether the document shall be read or not.

The affirmative vote of four fifths (4/5) of the members present shall also be required to determine if the contents of the document shall be consigned in the legislative record.

Section 5.015. — Questions of privilege, expositions and preferences. — (21 L.P.R.A. § 4213b)

Privileges are classified as privilege of the Body and personal privilege. The privilege of the body includes those matters presented to the Body regarding the facts or statements that affect the rights, dignity, decorum, safety and severity of the Assembly, as well as the integrity of its proceedings. Personal privilege includes those matters presented to the Body to note facts or expressions that affect the rights, reputation, or official conduct of the Assembly members, individually, or in their representative capacity as members of the Body.

The presentations expressed by a member of the Assembly shall be resolved by the President, who shall determine if said question constitutes or not a personal privilege or a privilege of the Body. The decision of the President may be appealed to the Assembly, but the appeal shall be voted on without debate and shall be resolved by the majority of the members present.

In those cases that the President of the Assembly determines that the exposition involves a question of personal privilege or privilege of the Body, the necessary measures or remedies shall be considered to correct or prevent that such situation persists in its effects or that it is repeated.

The questions of personal privilege or privilege of the Body shall have priority over the other matters, except: when the roll is called; when the Minutes of the previous session is being considered; when the Secretary is discharging the function of reading of documents and calendars; when a motion to recess or to end the session has been presented; while there is a vote taking place, until the result of the vote is known; and when the previous question is stated.

Section 5.016. — Internal Administrative Functions. — (21 L.P.R.A. § 4214)

The legislature shall appoint the personnel needed for the functioning thereof and the performance of their duties, functions, and responsibilities in all the positions and offices. It may, likewise, contract whatever professional and consulting services that are necessary or convenient to perform its responsibilities as a body. Every contract shall be executed according to the applicable provisions of this Act and the rules and regulations that are in force to such effects. It shall also maintain a registry of all contracts that are executed and shall be subject to Act No. 18 of October 30, 1975, as amended [2 L.P.R.A. §§ 97 et seq.] and its regulations.

The legislature shall administer the authorized budget of expenses of the municipal legislative branch in the general budget of the municipality, pursuant to Section 2 of Act No. 45, of April 18, 1935, as amended, known as "Work Accidents Compensation Act"; shall take whatever measures are necessary for the protection of the municipal legislators members while they are in the performance of their duties as such and while they go to and return from the meetings of the legislature to their home.

To such ends, the legislature shall establish the necessary rules to authorize the disbursements and any internal transfers of credits within its budget, to contract the life and accident insurance, in equal or similar terms as that which covers municipal employees in the performance of their official duties and functions. Every transaction with regard to said budget shall be carried out following the procedures that are analogous to those established by this Act, and complying with the regulations approved by the Commissioner and the pertinent municipal ordinances. The President of the legislature shall establish the administrative mechanisms needed to execute this power.

Chapter VI. — Administrative Organization. [21 L.P.R.A. , Subtitle 6, Chapter 211]

Section 6.001. — Municipal Executive Branch. — (21 L.P.R.A. § 4251)

The administrative organization of the Executive Branch of each municipality shall respond to a structure that will allow the latter to attend to each and every function and activity within its jurisdiction according to the needs of its inhabitants, the importance of the public services to be rendered and the fiscal capability of the municipality in question.

Every municipality shall have the following administrative units as part of their organizational structure, except for subsection (i) of this section, which shall be optional. As to subsection (h) of this section, said office may be an independent administrative unit or be part of any of the following units or of any other unit to be established by the municipality:

- (a) The Office of the Mayor
- (b) The Office of the Municipal Secretary
- (c) The Municipal Finance Office
- (d) The Department of Public Works
- (e) The Office for the Administration of Human Resources
- (f) The Internal Auditing Unit
- (g) The Municipal Emergency Management and Disaster Administration Office
- (h) The Municipal Federal Programs Office
- (i) The Municipal Tourism Development Office. The municipalities that choose to establish the Tourism Office shall have the benefit of receiving from the Tourism Company direct advisory services on internal and external tourism planning, promotion, development, and research and marketing studies, among others.

The basic administrative structure described above shall be considered as the minimum. Each municipality may adapt the [structure] according to its particular circumstances and with the exception of those itemized in subsections (f) and (g) of this section, and rearrange or consolidate administrative units or establish others that are not specifically indicated in this Act which will ensure a rational division of the municipal functions and matters according to their nature and to

a balanced distribution of the work load and responsibilities. However, the basic administrative units provided above shall always be maintained.

The administrative organization of each municipality, as well as other specific functions assigned to the various administrative units and their coordination, shall be governed by their respective organic and functional regulations approved by the municipal legislature, except that said approval shall not be required by the Municipal Emergency Management and Disaster Administration Office. Regarding the latter, the Director of the Municipal Emergency Management and Disaster Administration Office shall organize and administer said unit according to the directions of the Commonwealth Agency Director, pursuant to the provisions of Act No. 211 of August 2, 1999, known as the "Commonwealth of Puerto Rico Emergency Management and Disaster Administration Agency Act". However, the Mayor is granted the authority to make those personnel changes he/she may deem necessary or convenient within the Municipal Emergency Management and Disaster Administration Office.

Section 6.002. — Appointment of Municipal Officials. — (21 L.P.R.A. § 4252)

The candidates for directors of administrative units of the Executive Branch of the municipal government shall be comprised within the confidential service and their appointment shall be subject to confirmation by the municipal legislature. In the case of the Director of the Municipal Civil Defense Agency, his/her appointment shall be made by the mayor in consultation with the Commonwealth Director of the Civil Defense and shall be subject to confirmation by the legislature.

The candidates to the office of director of the administrative units of the Executive Branch and others provided by this Act, must preferably comply with, but not be limited to, the minimum requirement of holding a Bachelor's Degree in the specialty or field for which they are being considered, except for the recruitment of the Internal Auditor. In the case of the Director of Human Resources and the Director of Finances, these must meet the minimum requirement of holding a Bachelor's Degree in the specialty or area related to the position for which they are being considered. As of the date of approval of this act, the provisions of Section 21.005 of this Act shall be applied when the officials in question lack the academic education required for the office, but are performing such functions when their appointment is submitted for confirmation by the municipal legislature.

After it has been determined that there is a difficulty to recruit certain officials under the legal requirements established for their office, the Chief Municipal Executive may submit for the consideration of the municipal legislature, which shall then consider other candidates qualified for the position pursuant to the provisions and alternate requirements for recruitment established in the Classification and Compensation Plan and the Personnel Regulations in effect that apply to confidential employees. In case a municipality determines that the difficulty in recruiting personnel for the offices of Director of Human Resources or Director of Finances prevails, the Chief Municipal Executive may submit for the consideration of the municipal legislature, other candidates who possess the minimum requirement of at least four (4) years of experience working for a municipality performing tasks closely related to the duties he/she will perform. However, during the first year of their appointment and in order to remain in office, they shall be required to take an integral training course offered by the Central Personnel Administration Office. These training courses shall be designed and shall address the most relevant aspects

concerning the administration of human and/or fiscal resources, as the case may be. In the case of the Director of Human Resources, he/she shall likewise be required to take at least two (2) courses offered by the Central Personnel Administration Office annually and in the case of the Director of Finances, he/she shall likewise be required to take at least one course offered by said Office annually.

If the alternate requirements are not contemplated in said plan, it shall be duly amended prior to the recruitment process. In the absence of duly approved Regulations or a Compensation and Classification Plan, the nominating authority, represented by the Personnel Office, shall certify the minimum requirements desirable for the position to the municipal legislature. Such requirements shall be part of the Retribution and Classification Plan that shall be approved no later than May 31, 1997.

(a) Term to submit appointment. The mayor shall submit the appointment of the person designated as a director of an administrative unit to the consideration of the legislature, no later than ninety (90) days after the effective date of the appointment. When the mayor does not submit said appointment within the term established above, the official thus appointed shall immediately cease in office on the date said term expires.

(b) Term for the legislature to consider appointments. The legislature shall approve or reject the appointments of officials submitted by the mayor no later than thirty (30) days following the date they are filed in the office of the Secretary of the legislature. When the legislature neither approves or rejects said appointments within said term of thirty (30) days, it shall be understood that they were confirmed by the legislature, for all effects and purposes.

(c) Consideration of appointments. In considering the appointments of municipal officials, the legislature's power shall be limited to evaluate whether:

(1) The proposed candidate meets the academic training or experience requirements, or a combination of both, as established for the position through this Act, the Classification and Compensation Plan in effect in the municipality, or by ordinance or resolution.

(2) Has not been convicted of a felony or misdemeanor implying moral turpitude.

(3) Has not been removed from office or employment on charges of misconduct in the performance of his/her duties.

(4) Has not been found mentally unfit by a court with jurisdiction.

Any person who at the time he/she is being considered for an appointment, is holding or has held a position similar in obligations and functions in the same municipality or in another municipality, but does not meet the academic requirements, shall be considered and evaluated in accordance with his/her experience and the provisions of Section 21.005 of this Act. The academic requirements pertinent to the functions that the holder of the position shall perform shall be one of the requirements to consider new candidates.

At the beginning of a new quadrennium, the reelected mayor who wishes to retain one or more of the officials must submit his/her appointment as provided in subsection (b) of this section.

(d) Rejection of appointment by the legislature. When the legislature rejects the appointment of any official, he/she shall cease in office as of the date that the legislature notifies the mayor of its determination, in writing.

If the legislature rejects the appointment of an official for any cause or reason other than those contemplated in subsection (c) of this section, the mayor may submit him/her again, or resort to the Court of First Instance through a process of mandamus. While the legislature reconsiders the

case or the court issues its decision on the recourse, the person appointed shall continue to perform the duties of the office and be paid the salary that corresponds to it.

The above procedure shall also apply for all appointments of private persons, officials and municipal employees appointed to fill any office on a board, committee or municipal body which, by provision of law or by ordinance, must be submitted to be confirmed by the legislature.

Section 6.003. — General Duties of the Directors of Administrative Units. — (21 L.P.R.A. § 4253)

Without it being construed as a limitation, the directors of administrative units shall have the duties established below with respect thereto:

- (a) Plan and organize the work and direct, coordinate and supervise the functions and activities that the administrative unit under their responsibility or direction must perform.
- (b) Coordinate actions and operations of their respective administrative units with other municipal dependencies, and especially with those that operate in the same fields or areas of activity.
- (c) Impart general technical and administrative instructions that shall govern the activities of the administrative unit in question.
- (d) Establish control systems that will allow the verification of quantitative and qualitative compliance of the programs, projects and activities of the administrative unit.
- (e) See that the legal and regulatory norms related to the matters under his/her direction are faithfully complied with, and study and resolve the various problems.
- (f) Make available to the internal auditors, the external auditors and the auditors of the Controller's Office, any books, files, registers, documents, reports and any other information that they request and is pertinent for the performance of their functions.
- (g) Give advice and counsel to the Legislature in his/her fields of action.
- (h) Cooperate with the Commissioner in the design of the fiscal organization and the uniform computerized accounting system and the procedures for payments, revenues and property of the municipality.
- (i) Perform any needed and adequate efforts for the orderly delivery and transfer of all documents, books, and property in his/her custody after an inventory to such effects, in any case that he/she ceases in his/her function as the director of the administrative unit in question, and in every case that a change of administration occurs, as provided in Section 3.011 of this Act.
- (j) Render periodic reports to the mayor on the activities and operations of the administrative unit, and on the development and achievements of the programs, works, activities and operations specified in the plans and projections of the administrative unit in question.
- (k) Render a report to the mayor who shall remit it to the Legislature to be read by the Secretary thereof in a regular session. Said report shall include the achievements in the development of the plans and programs, the projections of the administrative units and the areas or aspects that need to be bolstered to achieve said projections.
- (l) Take and pass the courses of the Compulsory Training and Continuing Education Program, as established by the Office of the Commissioner of Municipal Affairs for the corresponding position or administrative unit. All Directors shall be notified as to their obligation to take the course and pass the same not later than 30 days after their appointments have been confirmed.

Any Director who fails to comply with this requirement may be sanctioned pursuant to the provisions of Section 19.012 of the “Autonomous Municipalities Act”

Section 6.004. — Internal Auditing Unit. — (21 L.P.R.A. § 4254)

Every municipality shall have an Internal Auditing Administrative Unit. The Internal Auditor shall hold a bachelor's degree in business administration with a major in accounting, from a higher education institution recognized by the Council on Higher Education, and at least three (3) years of experience, two (2) of those three (3) in auditing, preferably in the governmental sector, which will qualify him/her to perform in the area of accounting in general and in that of auditing, specifically, and shall enjoy good reputation in the community and meet those requirements provided by the trust service position classification plan approved by the legislature.

The Internal Auditor shall be appointed by the mayor and his/her appointment shall be subject to confirmation by the legislature. He/she shall advise on fiscal and operational procedures, the establishing and perfecting of internal controls and the compliance of statutes, ordinances and regulations in general. In addition to any other functions and responsibilities provided in this or any other law, the internal auditor shall have the following functions and responsibilities:

- (a) Perform audits and control all municipal public funds operations.
 - (b) Supervise the acquisition, use and disposal of municipal property with the purpose of verifying and corroborating that it is being done pursuant to the applicable laws, ordinances and resolutions.
 - (c) Perform audits of the transactions and operations of the municipal administrative units and dependencies, in order to determine if they have performed their activities and operations according to the laws, ordinances, resolutions and regulations in effect.
- The audits conducted by any regulating entity or agency shall comply with the provisions established in the highly accepted auditing standards published in the "Yellow Book", which are developed and published by the Office of the Comptroller of the United States of America for auditing federal funds. If the audits are conducted for regular funds, the Office of the Comptroller or any other regulating agency shall establish and notify the applicable auditing standards to the municipalities. These standards shall be published and the guarantees established in the Yellow Book shall be applied to those who are audited.
- (d) Examine all accounts, books, registers, contracts, budgets and any other financial activities and transactions of the administrative units.
 - (e) Render reports to the mayor at least every three (3) months, on the result of the audits performed, and make any recommendations he/she deems necessary and convenient to ensure that the municipal resources are used for public ends in the most efficient way, and with an optimum yield or profit. He/she shall also comply with the provisions of Section 6.003(k).
 - (f) Advise the mayor and the directors of the administrative units on fiscal and operational procedures, the establishment and improvement of internal controls, and compliance with laws, ordinances, resolutions and regulations in general.
 - (g) Evaluate and study the recommendations of the controller's audit reports and any other audit report related to the municipality, and offer advice to the directors of the administrative units regarding the actions that should be taken to handle or apply such recommendations.

(h) Give follow up to the directors of administrative units for them to comply with or implement the recommendations of the Controller of Puerto Rico, in the administrative units under their direction or responsibility.

(i) Evaluate from time to time, the computerized accounting systems and the compliance with the internal controls that are established, to determine their effectiveness and ensure the protection of the municipal assets against loss, fraud, or inefficient use or disposal.

(j) Promote the exactness and reliability of the accounting and operational data and judge the efficiency of all the operational units of the municipality.

(k) Perform any other function established by law or which is assigned by the mayor.

The internal auditor, may by him/herself or by expressly delegating to the auditors who work in the Internal Audit Unit, summon any official or employee and any private person to appear and present documents or to make statements related to the operations and matters on which an intervention or audit is being conducted. Likewise, they may, when they deem it necessary, exercise their discretion to take sworn statements related to the operations or matters on which an intervention or audit is being performed, in which case, a register of said sworn statements shall be established, similar in content to the Registry of Affidavits established by the Notarial Act of 1987, as amended. The sworn statements taken during the course of an intervention or audit shall be of a confidential nature until the internal auditor or the auditors who work in the Internal Audit Unit complete the audit, submit their report to the mayor, and the corresponding corrective actions are taken, as well as the actions in the proper forums. Once the corresponding report is rendered, the corresponding investigations, and the possible judicial actions that could be initiated are submitted, the sworn statements shall have the nature of a public document, as defined in Section 8.017 of this Act.

This delegation of power by the Internal Auditor to the auditors who work in the Internal Audit Unit shall be granted in writing and shall be strictly limited to the specific investigation or audit for which it was authorized in writing.

Section 6.005. — Administrative Finance Unit. — (21 L.P.R.A. § 4255)

Every municipality shall establish an administrative finance unit which shall be directed by a person who meets the requirements established in Section 6.002 of this Act, enjoys good reputation in the community and, in addition, meets those other requirements established in the plan for positions of trust approved by the municipal legislature. The Director of the Finance Office shall be appointed by the mayor and confirmed by the municipal legislature. Without it being understood as a limitation, the Finance Director shall have the following duties and responsibilities:

(a) Advise the mayor as to the adoption and implementation of the municipality's financial public policy.

(b) Participate, in coordination with the mayor, in the drafting and administration of the general budget of the municipality.

(c) Supervise the preaudit and processing of disbursements; accounting of appropriations, obligations and contracts; collections, including municipal licenses; acquisition and disposal of property; administration and control of investments; drafting and filing of financial reports, and performance of any other functions and activities related to the operations, transactions and other financial matters of the municipality.

- (d) Maintain custody of all books, records and documents related to the financial and accounting activities of the municipality.
- (e) Render the reports required by the mayor, the Legislature and any other public agency with the legal power and authority to require the municipalities to submit them.
- (f) Take adequate measures to protect and safeguard the funds, securities and other municipal property.
- (g) Request the Internal Auditor to perform the special audits that are necessary to clarify or investigate irregularities in the handling of municipal funds and property allegedly or actually incurred by municipal officials or employees, or any other person.
- (h) Delegate [to] his/her employees and subordinates the performance of the corresponding tasks without impairing the proper performance of the functions and responsibilities imposed by laws, ordinances, and resolutions, and the quality of the services.
- (i) Perform any other functions and responsibilities delegated to him/her by the mayor, or which are essential to the performance of the duties of the office.
- (j) Evaluate in detail the accounts payable to the municipality and certify to the mayor which of those accounts are collectible and uncollectible. Provided, That such accounts may be declared uncollectible by the Director of Finance of the municipality, with the approval of the municipal legislature, when such accounts are at least five (5) years overdue and after the municipality carries out affirmative collection measures.

Section 6.006. — Promulgation of Municipal Acts. — (21 L.P.R.A. § 4256)

In any case in which, by provision of this Act, the promulgation of any ordinance, resolution, regulations, or municipal act is required, such requirement shall be deemed as complied with, by the diffusion, notice or distribution through any medium, of the municipal act in question, without having necessarily to publish an announcement in a daily newspaper of general circulation, unless such publication is expressly required by law or ordinance. The mayor, or the official on whom he/she delegates, shall be responsible for filing a certified copy of municipal regulations of general application, as well as the amendments thereto with the Department of State, within ten (10) days following the date of their approval.

In the case of municipal resolutions and ordinances, the Secretary of the Legislature shall be responsible for filing with the Department of State chronological index which includes the title of all the approved ordinances and resolutions, no later than twenty-five (25) days following the final approval of the measure. Said index shall be accompanied by certification signed by the Secretary and the President of the Legislature.

Failure to file the ordinances, resolutions and regulations shall not render them ineffective nor shall it prevent the ordinance, resolution or regulation in question, from becoming effective, but the Commissioner may impose an administrative fine in the manner provided in this Act, on the officials who are guilty of such omission.

Section 6.007. — Systems and Procedures. — (21 L.P.R.A. § 4257)

The municipalities may establish, adopt or incorporate, subject to the provisions of applicable laws, ordinances or regulations, any modern or innovative system or procedure, including the

implementation of procedures, systems, operations and designs used in private enterprise, as model or pilot projects, to achieve greater profits, production and efficiency, and which lead to:

- (a) Facilitate the population's access to the bulk of minimum services of municipal competence or jurisdiction.
- (b) Achieve better efficiency in the performance of their functions and the rendering of services.
- (c) Improve their capacity to generate revenues and achieve a greater effectiveness or efficiency in the collection of municipal licenses, taxes, fees, tariffs, and others.
- (d) Provide simple reports to keep the mayor and the officials informed about the municipality's economy, and the status of its finances, in general.
- (e) Improve and perfect the internal controls and compliance with laws, ordinances, resolutions and regulations in general.
- (f) Better identify the budgetary needs, plan and administer municipal funds more effectively and expedite the drafting of the municipal budget.
- (g) Expedite compliance with all the provisions of this Act and any others that apply to the municipalities, which may also expedite the performance of the services and the implementation of the laws and regulations regarding any competence of the Central Government that is delegated to them.

Section 6.008. — Municipal Administrator. — (21 L.P.R.A. § 4258)

The municipalities that deem it necessary, in view of the complexity of their administrative procedures, may create the position of Municipal Administrator to perform the administrative functions of the municipality which pertain to the mayor as provided in Section 3.009 of this Act, with the exception of the appointment and removal of officials and employees, representation of the municipality in judicial or extrajudicial acts, the contracting or execution of agreements in behalf of the municipality, and any other exceptions established by other statutes. The appointment of the Municipal Administrator shall have to be confirmed by the Municipal Legislature as provided in Section 6.002 of this Act.

The Municipal Administrator shall, at least, hold a bachelors degree from a higher education institution, and have three (3) years of experience in government management matters, or its equivalent in additional years of experience in the corresponding area, which will allow him/her to develop municipal programs effectively. The validation of the years of experience for education shall be governed by the criteria established in the Compensation and Classification Plan, Ordinance of Regulations in effect.

Chapter VII. — Municipal Budget. [21 L.P.R.A. , Subtitle 6, Chapter 213]

Section 7.001. — Presentation of Budget Bill and Message. — (21 L.P.R.A. § 4301)

The Mayor shall draft the balanced Budget Resolution Bill of income and expenditures of the municipality for each fiscal year, which he/she must present before or file in writing with the Municipal Legislature together with a budget address, not later than May 30 31st of each year. In the event that the Mayor decides to deliver the budget address before the Municipal Legislature, he/she shall do so at a Special Session of the Municipal Legislature especially held for such purposes. The municipality's general budget resolution bill shall be filed at or before the

Legislature with sufficient copies for each of the members of the Legislature. A copy thereof shall also be remitted to the Commissioner not later than the day it is presented before the Legislature.

Section 7.001-A. — Budget: Examination and Pre-intervention. — (21 L.P.R.A. § 4301a)

Pursuant to the powers conferred to the Commissioner in this Act, he shall examine and advise during the process of drafting, approval and the amendments pertaining to the budget that shall govern during each fiscal year. As part of his responsibilities, the Commissioner shall examine the budget resolution to verify preliminarily if it complies with the standards of this Act and shall remit to the mayor any observation or recommendation in this regard not later than June 15 of each year. The mayor shall reply to the observations of the Commissioner and shall inform the corrections made in the approved budget, enclosing a copy of the ordinances through which such corrections were approved and of the budget document contained therein not later than June 25 of each year.

Section 7.002. — The General Budget Resolution of the Municipality Shall Include: — (21 L.P.R.A. § 4302)

(a) *A budget message* — The mayor's budget message shall contain an outline or description of the budget's financial standards and a description of the main aspects thereof, with explanations and justifications of the largest and most important budget requests. It shall also include a list of the capital works and improvement projects for the fiscal year and subsequent years, in order of priority with regard to the community's needs, as well as their sources of financing.

(b) *A financial plan* — The municipality's general budget draft resolution shall provide:

(1) A complete financial plan for the corresponding fiscal year.

(2) A general summary of municipal expenses for salaries, wages, materials, services and permanent works for the following fiscal year.

(3) A detailed estimate by administrative unit, of the resources to attend to municipal expenses of salaries, fringe benefits, wages, materials, services, permanent works and others.

(4) A comparative statement of the appropriations proposed, with those of the previous fiscal year.

(c) *Budgeting by program* — The municipalities that adopt the system of budgeting by program, shall include in the draft resolution:

(1) A detailed estimate of the municipal resources to attend to the municipal expenses for salaries, fringe benefits, wages, materials, services, permanent works and others, by administrative unit.

(2) Information on every program, including the description and objectives thereof, as well as the distribution of expenses according to the items established in subsection (a).

(3) The subprograms or activities in each of the programs.

(4) The approximate cost of each subprogram or activity.

(5) A comparative statement of the estimates of each proposed subprogram with those of the previous fiscal year.

(d) *General budget of municipal revenues and expenses* — The budget draft resolution for the fiscal year, 1995-96 that are presented to the legislature for approval shall contain:

(1) Revenues

(A) A first part with the distribution of the local municipal revenues and those originating from the Department of the Treasury, the Center and the state agencies, including the federal funds that are received through the latter.

(B) A second part with the distribution of the revenues received directly from federal government agencies. The appropriations of previous fiscal years shall be used to estimate revenues of the following year.

(2) Expenses

The expenses shall be distributed among the corresponding items by administrative unit or program, as the case maybe, as itemized in subsection (c) of this section.

The distribution of revenues and expenses in both parts of the budget bill shall be done according to the guidelines provided in subsection (b) of this section and the uniform accounting chart of accounts, as provided by Section 8.010 of this Act.

The Commissioner shall take the necessary measures and provide the accounts in the computerized uniform accounting chart that will allow the municipalities to comply with the provisions of this section.

Section 7.003. — Budget Estimates and Mandatory Appropriations. — (21 L.P.R.A. § 4303)

In order to estimate the resources to draft and balance the budget, the mayor shall use the calculations and estimates submitted by the Executive Director of the Center, the Secretary of the Treasury, and the public corporations that are bound, by legal mandate, to make contributions and/or compensations to the municipal governments, on or before the 1st of April of each year.

In the general budget draft resolution of each municipality, it shall be mandatory to include appropriations with sufficient credits for the following purposes, and in the order of priority provided below:

- (a) Interest, amortizations and withdrawal from the municipal public debt;
- (b) other statutory expenditures and obligations;
- (c) payment of court judgments;
- (d) any amounts needed to cover any deficits of the previous fiscal year;
- (e) expenses to which the municipality is legally obligated by contracts that have already been executed;
- (f) expenses or obligations whose inclusion is required in this Act, and
- (g) other operating expenses.

The Legislature may amend the draft of the general budget resolution of the municipality presented by the mayor to include new accounts or reduce or eliminate appropriation accounts. However, the appropriations to cover the accounts indicated in subsections (a), (b), (c), (d), and (e) of this section, shall not be reduced nor eliminated, but can be amended to increase them.

Section 7.004. — Approval of the Budget. — (21 L.P.R.A. § 4304)

The legislature shall consider the municipality's general budget draft resolution during a regular session as provided in Section 5.003 of this Act, and approve it and submit it to the mayor no later than June 13 of each fiscal year.

(a) Term for the mayor's approval Within six (6) days following the date that the budget draft resolution approved by the legislature is presented to the mayor, he/she shall sign it, or return it to the legislature within the same term without his/her signature, stating his/her objections and recommendations. When the mayor does not sign nor return said draft resolution within the above term, it shall be construed that it has been signed and approved by him/her, and the municipality's general budget resolution shall be effective for all purposes, on the date said term expires.

(b) Approval over the objections of the mayor When the mayor returns the budget draft resolution to the Assembly with his/her objections and recommendations, its President shall call a special session within five (5) days following the receipt thereof, which shall not last more than three (3) consecutive days, to consider the mayor's objections or recommendations, exclusively.

(1) The legislature may amend the draft resolution by adopting all or part of the mayor's recommendations with the affirmative vote of the majority of all its members. The budget draft resolution thus amended and approved, shall again be presented to the mayor, who shall have a term of three (3) days from the date it is presented to him/her, to sign and approve it. If the mayor does not sign and approve it within said three-day term, it shall be construed that the budget draft resolution as amended, has been signed and approved by him/her, and shall be effective on the date said term expires, as if the mayor had signed it.

(2) The legislature may approve the municipal budget draft resolution over the objections and recommendations of the mayor, by the affirmative vote of not less than two-thirds of the total number of the members of the legislature. The budget thus approved shall be in effect and shall rule for the following fiscal year.

(3) When the legislature makes no decision on the objections and recommendations of the mayor to the draft of the general expenses budget resolution approved by it, or when it does and the mayor does not concur with them, said draft of the resolution shall be approved and the credits of the accounts on which the legislature did not take action, as well as those approved by the legislature and not accepted by the mayor, shall be left in a reserve account. The distribution of these reserves shall only be carried out through a resolution to that effect, duly approved by the municipal legislature.

Section 7.005. — Norms when the Budget is not Approved. — (21 L.P.R.A. § 4305)

(a) The Legislature does not approve the budget

When the Legislature does not meet on the date established in this Act to consider and approve the general budget draft resolution presented by the mayor, or when it does not approve it in the term of the regular session meeting, the budget presented by the mayor shall rule for the following fiscal year.

(b) Draft budget by initiative of the Legislature

When the mayor does not present the municipality's general budget draft resolution to the Legislature on the date indicated in this Act, it shall draft and approve a budget bill of its own initiative, which shall be as effective as if it had been approved and signed by the mayor.

(c) Previous year's budget

When the mayor fails to submit the draft of the general budget resolution of the municipality and the Legislature fails to draft and approve one of its own initiative, the original budget approved for the previous fiscal year shall rule. In such a case, the accounts of said budget whose

purpose was accomplished, and the estimates of the revenues available for the new budget that exceeded the total credits consigned to the present budget, shall be included in a reserve account. The use and disposal thereof may only be done through a resolution to that effect.

Section 7.006. — Distribution and Publication of the Budget Resolution. — (21 L.P.R.A. § 4306)

(a) After the municipality's General Budget Resolution is approved, the Secretary of the Legislature shall immediately remit sufficient certified copies thereof to the mayor for the use of the municipal officials concerned. Likewise, within ten (10) days after the date of its approval, the Secretary shall remit a certified copy to the Commissioner, together with the supplementary documents that served as a basis to determine the appropriations and the estimates of the local revenues to be received during the corresponding fiscal year.

(b) The Commissioner shall carry out a detailed examination of the already approved budget and its supplementary documents between the months of July and September of each year, and shall submit to the mayor and to the Municipal Legislature those observations or recommendations he/she may deem pertinent not later than September 30.

(c) When, in accordance with this Act, the budget of the previous year should rule, the mayor shall notify the Commissioner of this fact. This notice shall be given not later than ten (10) days following the date of commencement of the new fiscal year in which said budget continues to apply, and the accounts and revenues that shall be included in the reserve account shall be identified therein.

(d) These situations shall be revised by the Commissioner, who shall submit the corrective actions he deems necessary to the mayor and the municipal legislature not later than August 25 of the corresponding fiscal year.

(e) The municipality's general revenues and expenses budget resolution, including the supplemental documents that have served as a basis for the determination of appropriations and the estimates of the revenues to be received during the corresponding fiscal year, shall constitute a public document subject to inspection by any interested party. The budget shall be accessible to any person at the Office of the Secretary of the Legislature.

Section 7.007. — Opening of Books and Registry of Accounts. — (21 L.P.R.A. § 4307)

After the approval of the budget and the beginning of the new fiscal year, the budget accounts to register the estimated revenues and the appropriations in the corresponding fund's accounts shall be established in the corresponding register. In addition, the amounts appropriated to each account shall be transferred to the budget control books according to the regular expense budget, as well as the appropriations for special and federal programs. Any unused and allocated balance of the appropriations without a specific fiscal year that remain as of June 30 shall also be transferred.

(a) During the course of the year, these books shall reflect the obligations and disbursements and available balances of the appropriations by funds. The appropriations for which no accounts are itemized shall be carried on the books in global form.

(b) Special appropriations for capital improvements and appropriations for specific purposes shall be entered into the books only when the corresponding funds are available to the

municipality. Those special appropriations authorized by the Legislature [of Puerto Rico] shall be deposited in a special bank account, separate from any account of the municipality. Every year, at the close of the fiscal year, a report on the surplus in said account shall be submitted to the Legislature [of Puerto Rico], including the disbursements made and the interest earned by it. The interest earned by this account shall be deposited in the current account of the municipality. Provided, That compliance with the latter does not exempt the municipalities from complying with any other requirement or condition imposed upon them by the applicable regulations or laws.

(c) Municipal enterprise funds, and interdepartmental services funds shall be exempted from budget account controls if they do not have budget appropriations. Nevertheless, the necessary accounts shall be registered to determine the income, disbursements and general balance sheet according to generally accepted accounting principles.

Section 7.008. — Administration of the Transfers of Credits between Budget Items. — (21 L.P.R.A. § 4308)

The mayor shall administer the general expenses budget of the Executive Branch according to the provisions of this Act including the authorization of credit transfers between budget accounts, through an Executive Order of the mayor to that effect, which he/she shall notify to the Legislature with a copy of the aforesaid within five (5) days after the order has been signed. The prior approval of the Municipal Legislature shall be necessary for the transfer of credits of the budget appropriation for the payment of personal services.

Pursuant to the provisions of this Act, the Municipal Legislature shall administer the general expenses budget of the Legislative Branch. It shall also authorize credit transfers between the accounts of said general expenses budget through a resolution to that effect.

(a) Before recommending or entering in the books any transfer of credits between the accounts of any budget, whether it be regular, a subsidy, a loan or any other special funds, it shall be ascertained that the credit to be transferred is available. To those effects the amount of the authorized orders or contracts pending payment shall be deducted from said credit even though the services have not been rendered or the supplies furnished.

(b) The credits to meet the statutory obligations of the municipality, such as contracts for ongoing electric power, rentals and telephone services and the fees, contributions and premiums for protection against financial losses, shall not be transferred, except when a surplus is determined and certified. Appropriations for the payment of the public debt and its interest are nontransferable, unless it is surplus liquidated after the obligations have been fully covered, and said surplus shall be certified by the Department of the Treasury or the Municipal Income Collection Center. All provisions of this section shall apply during the election period.

The Secretary of the Legislature shall remit to the Commissioner a certified copy of the ordinances or resolutions for the transfer of funds from the budget appropriation of the Municipal Executive Branch and the Legislative Branch, as the case may be, within five (5) days after their approval.

Section 7.009. — Budget Readjustments. — (21 L.P.R.A. § 4309)

Without prejudice to the provisions of this Act, by proposal of the mayor, the Legislature may authorize readjustments to the general expenses budget of the municipality, with the surplus remaining as cash on hand as of June 30 of each year, after the budget is closed and the debts chargeable to said balance have been met. The budget may also be readjusted with the revenue from former years collected after July 1, resulting as available surplus, as well as with revenues proceeding from the leasing of public sites or facilities for the celebration of patron saint feast days, and with the largest net profit in the local revenue accounts which have had an increase over the estimates thereof in any fiscal year.

The Secretary of the Legislature shall remit to the Commissioner certified copies of the ordinances or resolutions authorizing readjustments to its budget not later than five (5) days following the date of their approval.

Section 7.010. — Supervision and Control of the Budget. — (21 L.P.R.A. § 4310)

The mayor, as the chief executive officer of the municipality, and the Chairperson of the Municipal Legislature, as its administrative head, shall be responsible for supervising the performance of the budget approved for the Executive and Legislative Branches, as pertinent, and of all fiscal operations related to the same. The control of each budget shall include, the task of ensuring the legality and purity of the fiscal operations that arise in the execution of the budgets, that is, that said operations are performed within the authorized amounts. The supervision and control of the operations of each municipality shall be carried out at the following five levels:

- (a) Examination and preventive advice by the Commissioner.
- (b) The internal supervision of the Finance Department.
- (c) Audits of the fiscal operations by the Internal Auditing Unit of the municipality.
- (d) External supervision by the Controller of Puerto Rico, in tune with the provisions of § 22 of Art. III of the Constitution of the Commonwealth of Puerto Rico. The Controller shall perform audits in the municipalities every two (2) years.

The implementation of these audits by the Controller shall be in a gradual manner in order for the latter to have the flexibility needed so that on or before fiscal year 1996-97 all the municipalities are audited every two (2) years.

- (e) The auditing of the financial statements prepared each year by external auditing firms duly qualified and contracted pursuant to the provisions of Section 8.016 of this Act to give opinions on the reliability and correctness of said financial statements and compliance with the provisions of the Single Audit Act of 1984, P.L. 98-502, as amended. The reports rendered by the external auditors shall also give their opinion on the compliance of the recommendations of the Comptroller and the correction of the deficiencies found in the previous reports.

The mayor shall submit the reports rendered by the auditors on the matter, to the Legislature and the Commissioner within the term established by him/her through regulations.

Said reports shall be placed in at least two (2) places in public view and access, in the City Hall, Internal Revenue Collector's Office, judicial centers, or any other place that is accessible to the general public for at least fifteen (15) days following its delivery to the mayor and the

Legislature. The above shall not impair the right of the citizens to examine said documents in the place they are filed after their term of publication has expired.

Section 7.011. — Closing of Books. — (21 L.P.R.A. § 4311)

At the closing of each fiscal year, the appropriations authorized for the corresponding fiscal year shall be closed in the municipal books in order to determine and evaluate the municipal operations during said year and determine their financial situation.

(a) If there is a deficit in the municipal operations when liquidating any fiscal year, the municipality shall be bound to include the resources that are necessary and sufficient to answer for the credit corresponding to the previous fiscal year. Said deficit shall be identified as a regular deficit account.

(b) Provide that the operating deficit accrued by the municipality as shown in the financial statements audited as of June 30, 2005, at such a date for the public debt shall be amortized within not more than forty (40) years. The amount equivalent to the annual amortization shall be consigned as an expense account in the annual budgets of the municipalities with accrued deficits into a separate account which shall be provided in the uniform accounting scheme.

(c) Each special fund of a non-budgetary nature shall be liquidated separately. Those appropriations for no specific fiscal year shall not be subject to closing at the end of the fiscal year.

(d) The mayor shall render to the Commissioner whatever reports he/she deems necessary within the term provided by him/her, on the result of the fiscal operations during the fiscal year, pursuant to the uniform computerized accounting system designed for the municipalities. He/she shall also prepare and submit all such financial reports that are required periodically or eventually by the Legislature [of Puerto Rico], the Governor of Puerto Rico, the Commissioner or any official with legal or regulatory authority to require said reports.

Chapter VIII. — Municipal Finances. [21 L.P.R.A. , Subtitle 6, Chapter 215]

Section 8.001. — Income and Disbursements Regime. — (21 L.P.R.A. § 4351)

The income and disbursements of municipal funds shall be ruled by the provisions of this Act, by the Municipal Revenue Collection Center Act [21 L.P.R.A. §§ 5801 et seq.], by the rules and regulations promulgated by the Commissioner, by the provisions of any special laws that apply to the municipalities, and by the agreements authorized by this Act that provide funds to the municipality.

(a) No expenditure of public municipal funds considered as extravagant, excessive or unnecessary shall be incurred. Each of these terms shall be construed as follows:

(1) "Extravagant Expense" Shall mean any disbursement which is not ordinary and commonplace, which is against reason, law or custom, which does not adjust to the norms of usefulness and austerity of the moment.

(2) Excessive Expense"" Shall mean any disbursement for goods, supplies, or services whose quoted price is greater than those normally quoted in the market at the time they are acquired or purchased, or when there is a substitute product which is less costly and as adequate. which will serve the same purpose with the same results or effectiveness.

(3) "Unnecessary Expense" Shall mean any disbursement for supplies or services that are not indispensable or necessary for the municipality to perform the functions that have been entrusted to it by law.

Section 8.002. — Revenue Sources. — (21 L.P.R.A. § 4352)

The municipality's sources of revenue shall be the following, among others:

- (a) Revenues and proceeds of municipal goods and services.
- (b) Yield of the basic tax on real property and chattels.
- (c) Additional taxes on all property subject to taxation for the payment of principal and interest on loans.
- (d) Collection of municipal licenses, including interest and surcharges, as imposed and collected by Act No. 113 of July 10, 1974, known as "Municipal License Act".
- (e) Fines and costs imposed by the courts of justice for violations of municipal ordinances.
- (f) Interest on deposited funds and any other interest accrued on any other investments.
- (g) Interest on investments in bonds of the government of the United States, the Commonwealth of Puerto Rico, the municipalities of Puerto Rico and quasi-public entities of the federal government, and any other interest on investments as established in subsection (j) of Section 2.001 of this Act.
- (h) Fees, duties, excises, taxes, charges and tariffs imposed by ordinance on matters that have not been subject to taxation by the State.
- (i) Contributions and compensations authorized by this Actor any other special acts.
- (j) Special appropriations authorized by the Legislature of Puerto Rico.
- (k) Federal government grants.
- (l) Cash gifts.
- (m) Special rates imposed on properties subject to taxation.
- (n) Additional special real estate taxes.
- (o) Enterprise funds income.
- (p) Funds proceeding from the legislative appropriations for the Citizen Participation in Municipal Development Program created in Section XVI of this Act.
- (q) Two percent (2%) of the revenues obtained from the fines collected for violations of Act No. 22 of January 7, 2000 [9 L.P.R.A. §§ 5001 et seq.], as now or subsequently amended.
- (r) Revenues from municipal licenses or any other tax imposed by the municipality with due authorization of the municipal legislature.

Section 8.003. — Collection of Debts Registered on Behalf of the Municipality. — (21 L.P.R.A. § 4353)

It shall be the obligation of the mayor to make all necessary efforts to collect all debts of natural or juridical persons that are registered in the accounting books or records in favor of the municipality and to resort to all means authorized by law to collect said debts within the same fiscal year in which they are registered or up to the date they are due. Court action shall be taken in certain cases when necessary, and when the municipality lacks sufficient funds to contract the required professional legal services it shall refer the cases to the Secretary of Justice. The mayor shall resort to the Commission to Resolve Controversies over Payments and Debts between

Government Agencies to take steps to collect debts against other government agencies, public corporations or municipal governments, pursuant to the provisions of Act No. 80 of June 3, 1980, as amended [3 L.P.R.A. §§ 1751 et seq.], known as the "Act to Create the Commission to Resolve Controversies over Payments and Debts between Government Agencies". When the debt, due to its nature or amount, or both, affects the budget estimates and/or the programmatic accounts for the appropriation of funds for a fiscal year, said situation shall be reported to the Commissioner.

The municipality may write off any debt or obligation in its accounting books if the same turns out to be uncollectible after the Municipal Finance Director conducts the evaluation provided in subsection (j) of Section 6.005 of this Act..

Section 8.004. — Disbursement of Funds. — (21 L.P.R.A. § 4354)

The obligation and disbursement of municipal public funds shall only be done to commit or pay for services, supplies of materials and equipment, claims or any other items authorized by laws, ordinance or resolution approved to such effects and by the regulations adopted by virtue thereof.

(a) Credits authorized for the attention of a specific fiscal year shall be applied exclusively to the payment of expenses legitimately obligated and incurred during the respective year, or to the payment of obligations legally contracted and duly entered in the municipality's books during said year.

(b) No amounts whatsoever may be spent or obligated in a fiscal year that exceed the appropriations and funds authorized by ordinances or resolutions for said year. Nor shall the municipality be committed in any way through any contract or negotiation for the future payment of amounts that exceed the appropriations and the funds. Leasing agreements for chattels and real property and services shall be excluded from the provisions of this subsection.

(c) Grants, gifts, legacies and other similar donations received by the municipality destined to specific municipal works and services shall only be used to attend to the purposes for which they are granted or given, unless they are surpluses which were not provided for when the grant was made.

(d) All disbursements made by the municipality shall be made directly to the persons or entities that rendered the services or furnished the supplies or materials, except in those cases that there is a contract for the assignment of the credit and the regulatory requirements of the Commissioner have been met.

(e) It is hereby prohibited for the municipalities to use the contributions or quotas withheld from to municipal employees for purposes other than those for which they have been authorized by said employees or by law. The those withholding and use of the contributions and quotas of municipal employees shall not exceed the term established by the laws that authorize such withholdings, with which the municipality shall promptly comply, in such a manner that the remittance of these funds to the different entities shall be carried out diligently.

(f) The use of credit cards as disbursement mechanisms to defray official expenses is hereby limited and restricted exclusively to the mayors and presidents of the municipal legislatures.

No disbursement whatsoever shall be authorized with regard to contracts without the evidence that the contract was sent to the Office of the Comptroller of Puerto Rico as provided in Act No. 18 of October 30, 1975, as amended , [2 L.P.R.A. §§ 97 et seq.] and its regulations.

Section 8.005. — Accountability for Legality and Accuracy of Expenditures. — (21 L.P.R.A. § 4355)

The mayor, the officials and employees on whom the former delegates, and any authorized representative of the mayor or the municipality shall be accountable for the legality, accuracy, propriety, need and correctness of the documents and all expenditures authorized for the payment of any item. They shall, likewise, be subject to the provisions of Act No. 115 of July 22, 1974, as amended, known as the "Puerto Rico Penal Code", in all matters related to the performance of their public, administrative and fiscal functions. They shall, likewise, produce and submit all the reports required by applicable laws, ordinances, resolutions, regulations, procedures and norms within the term established thereby.

Section 8.006. — Authorization to Incur Expenses or Obligations in Excess of Credits. — (21 L.P.R.A. § 4356)

Notwithstanding what is provided in Section 8.009 of this Act, which establishes special provisions for general election years, in case of emergencies, the Mayor may authorize the official in charge of finances to incur expenditures or obligations in excess of the appropriated credits up to an amount equal to five percent (5%) of the total sum of the operating expenses budget of the Municipality for the fiscal year in which said authorization is issued. This authorization shall be in writing, and shall indicate the facts of the emergency. The Mayor shall inform the Municipal Assembly and the Commissioner of said determination no later than twenty-four (24) hours following the date said authorization was issued. The cases of emergency to which this Section refers are those established in Section 1.003 of subsection (ff) of this Act.

Forty (40%) percent of the debt equal to said five percent (5%) shall be included preferentially in the revenues and expenses general budget resolution of the municipality for the following fiscal year, and the remaining sixty (60%) percent shall be apportioned in equal parts in the subsequent two (2) years. It shall be the discretion of each Municipality to adopt this debt amortization mechanism.

Section 8.007. — Obligations on the Books. — (21 L.P.R.A. § 4357)

(a) Matters with a Specific Year

The portion of the appropriations and funds authorized for the matters of a fiscal year that have been obligated on or before June 30 of the fiscal year to which said appropriations and funds correspond, shall remain on the books for one (1) additional year after the fiscal year for which they have been authorized has elapsed. After said year, no amounts shall be drawn against said portion for any reason whatsoever, except in the case of a declared emergency for which the amortization shall be extended to three (3) years.

Immediately after said year has concluded the allocated balances shall be closed, taking into consideration any legal and regulatory provision to such respects. Every authorized obligation, whose payment is affected by the closure of the allocated balances, shall be included in the budget of the fiscal year in effect, as provided in this Act.

(b) *Matters without a Specific Year*

Those appropriations and funds authorized for obligations that do not have a specific fiscal year, shall be applied exclusively to the payment of expenses for goods, supplies and services needed to comply with the purpose for which it was established, provided they are obligations legitimately contracted and duly recorded in the municipal books. No amount may be spent or obligated which is not needed for said purpose or that exceeds the amount authorized, including the amounts transferred to be credited to said appropriations or funds. Nor may the municipality be committed in any contract or negotiation for the future payment of amounts that exceed said appropriations or funds, unless they are expressly authorized by law.

The appropriations and funds authorized for those obligations without a specific year, shall continue on the municipal books until the purposes for which they were created have been fully met, after which the unencumbered surpluses of said obligations and funds shall be closed, taking any applicable legal or regulatory provisions into account. The allocated balances of said appropriations and funds shall continue on the books for one year after the close of the unencumbered balances, at the end of which they shall be cancelled, taking into consideration the legal and regulatory provisions in effect.

Section 8.008. — Prohibition of Payments to Debtors. — (21 L.P.R.A. § 4358)

No payments shall be made to any natural or juridical person who has any unpaid debts for any reason with the municipality, or debts with the Central Government which the municipality has knowledge of. The amounts of said payments withheld by the municipality shall be applied to the debt of the natural or juridical person from whom it is withheld. When the debt is with the municipality, the mayor may authorize and grant a partial payment plan to the person, which will expedite the payment of the debt, if the debtor's situation warrants it.

Interest shall be charged on the accrued debt on the basis of the prevailing rate of interest in the market for consumer loans, at the time the payment plan is agreed upon.

With the purpose of ensuring the collection of the municipal debts referred to in this section and subsection (j) of Section 9 of Act No. 230 of July 23, 1974, as amended [3 L.P.R.A. § 283h(j)], known as "Government of Puerto Rico Accounting Act", the municipality shall draw up a list, as of June 30 of each year, of all natural or juridical persons, with their respective personal or employer social security numbers, who have overdue debts for any reason with the municipality for two (2) or more years. It shall submit said list to the Commissioner no later than July 15 of the following fiscal year. The Commissioner shall remit report summarizing the lists remitted by the municipalities to the Secretary of the Treasury and the Executive Director of the Center not later than August 30. The Secretary of the Treasury shall circulate the list to all the agencies, instrumentalities and corporate entities, and the Commissioner, to the other municipalities.

Section 8.009. — Special Provision for Election Years. — (21 L.P.R.A. § 4359)

During the period comprised between July 1 of each year that general elections are held and the date the new officials-elect take office, the municipality shall not incur obligations or expenditures that exceed fifty percent (50%) of the budget approved for the fiscal year. To such

purposes, the official in charge of finances shall abstain from registering or certifying any order that exceeds the limits established in this section.

This limitation shall not apply to the following:

- (1) Interest, amortization and settlement of the municipal public debt;
- (2) other statutory expenditures and obligations;
- (3) the payment of sentences of the courts of justice;
- (4) amount needed to cover any deficit from the previous fiscal year;
- (5) expenditures that legally bind the municipality for contracts already executed;
- (6) capital improvements;
- (7) the purchase and repair of equipment;
- (8) the celebration of patron saint feast days or holidays when a separate account has been set aside for the celebration in the general expenses budget resolution, and
- (9) withholding made by the center for the collection of statutory or contractual debts contracted with the Central Government.

The legislature shall not authorize the municipality to incur expenses and obligations in excess of fifty percent (50%) of the budget appropriation, during the term indicated above. The legislature may authorize transfers between on [sic] committed credit accounts from July 1st to December 31st of the year that general elections are held. The accounts used to attend basic needs and services to the community, such as prescription drugs and medications, payment of prescriptions and laboratory tests, solid waste disposal, and other similar basic services offered to the community, may be increased, but not reduced to be transferred to other accounts. In the case of accounts to pay employee salaries, the legislature shall only authorize the use of fifty percent (50%) of the available funds or credits for regular or confidential employees not covered during the period of July 1st through December 31st of the year that general elections are held. This will allow the availability of funds that correspond to the vacancies for new appointments.

During this same period of time the municipality shall not commit itself in leasing or service contracts except in those cases or situations in which the essential services to the community could be threatened with interruption, or are interrupted.

Not later than October 15 of each general election year, the mayor shall provide to the Local Elections Commission of the precinct in which City Hall is located, a detailed listing of all the accounting registers as of September 30 of said election year corresponding to its budget accounts, assets, liabilities, income and expenses by funds. Said listing shall include the balances in any books or subsystems which are deemed to be necessary to ensure the integrity of the data on said date.

The Local Elections Commission shall return this information to the legislature within two (2) days following the date the elected mayor takes office.

The Commonwealth Elections Commission shall establish through regulations the procedure and norms to ensure the custody of said information.

Whenever the Commonwealth Election Commission issues a preliminary certification in which it is determined that an incumbent mayor has been reelected, the provisions in this section shall be rendered ineffective as of the date on which said preliminary certification is issued. However, if the preliminary certification shows a difference of one hundred (100) votes or less or of one-half of one percent of the total votes, deposited in the ballot box, between the two candidates to the office of mayor, thus giving rise to the possibility of issuing a petition for recount, or if a challenge of the election of an incumbent is pending, it shall be necessary to wait for the

Commonwealth Election Commission to issue an official certification of election (or on the date in which the elected official is sworn to office, whichever occurs first) to be able to render ineffective the provisions of this section.

Section 8.010. — Fiscal Organization and Accounting System. — (21 L.P.R.A. § 4360)

The Commissioner, in coordination with the municipalities, shall be responsible for serving as advisor to the municipalities and watching over the fiscal organization, the uniform accounting system, and the payment, income, and property procedures of all the municipalities, pursuant to generally accepted accounting principles. As part of said procedures, he/she shall design and review all the fiscal reports used by the municipalities, as well as integrate the standards applicable to accounting systems contained within the Recommendations for Promoting Sound Public Administration and Countering Corruption submitted by the Office of the Comptroller of Puerto Rico.

(a) The system and the accounting and property procedures shall be designed in such a way that they will allow the municipality to carry out its functions while serving as a basis to maintain uniform and coordinated municipal accounting, provide a complete picture of the results of the financial operations of the municipality, and also supply the needed financial information that the municipality must provide to assist the Legislative Assembly, the Governor, and the Secretary of the Treasury and the Commissioner in the performance of their respective responsibilities.

(b) Municipal accounting shall be performed by funds, and shall be based on generally accepted accounting principles and the requirements established by the Governmental Accounting Standard Board (GASB). The statements of the National Committee on Governmental Accounting (NCGA) and the book entitled Governmental Accounting, Auditing and Financial Reporting, commonly known as the ‘Blue Book,’ shall also be used as the basis to design the accounting system and the fiscal procedures of the municipalities.

(c) Every municipality shall be bound to use the uniform accounting system that complies with the account schematics, financial report requirements, and internal control standards established by the Commissioner, or with the uniform system and public policy on governmental control and accounting established by Act No. 230 of July 23, 1974, as amended, better known as the ‘Puerto Rico Government Accounting Act.’ The Commissioner shall also see to the municipal accounting systems’ compliance with the abovementioned requirements, which shall also:

(1) provide complete information on the result of municipal operations;

(2) provide adequate and necessary financial information for an efficient municipal administration;

(3) have an effective control and accounting of all funds, properties, and assets belonging to the municipality; and (4) produce reliable reports and financial statements that can serve as a basis for the preparation and justification of the municipalities’ budgetary needs.

(d) The procedures to incur and defray expenses, to receive and deposit public municipal funds, and to control and account for public municipal property, shall have adequate and sufficient controls to prevent and impede irregularities from being committed. However, if irregularities are committed, these procedures shall enable these to be discovered and accountability to be established, and the clarity and purity of fiscal procedures shall also be ensured.

(e) The mayor and all other municipal officials shall use the uniform parameters provided by the Commissioner for the design of the fiscal organization of their respective municipalities, of the

accounting system, and the payments, income, and property procedures. Nevertheless, the Commissioner shall offer the municipality any advice and assistance that he/she deems pertinent for the installation of said system and procedures.

(f) The municipalities may design their own computerized accounting system and fiscal procedures, insofar as they meet the standards and guidelines established by the Commissioner of Municipal Affairs or by the uniform system and public policy on governmental control and accounting established by Act No. 230 of July 23, 1974, as amended, better known as the ‘Puerto Rico Government Accounting Act,’ and shall not require final approval for implementation.

(g) The Commissioner shall audit the fiscal organizations and the accounting system and property procedures of each municipality from time to time, to ascertain if they are being followed and if they meet their objectives fully. In order to prevent the accounting system and the accounting and property procedures from departing from the policies or regulations established by the Commissioner of Municipal Affairs or from the uniform system and the public policy on governmental control and accounting established by Act No. 230, supra, and from losing their effectiveness, the Commissioner shall review them according to the changing needs of government and the modern standards that govern these matters.

(h) The Commissioner may advise any municipality on how to modify its own system, its accounting and property procedures, and its fiscal organizations when they depart from the required standards. The modifications shall be performed as per the directions and norms established by the Commissioner.

(i) Each municipality shall be responsible for the implementation of a uniform accounting system that complies with the requirements established by the Commissioner of Municipal Affairs. The Commissioner shall ensure that the accounting system complies with the basic and uniform requirements established by him/her for accounting and to originate the required reports. If the accounting system is found not to be in compliance with any of these requirements, the Commissioner shall advise the municipality on how to correct it.

(j) It shall be the responsibility of the municipalities to have account balances at hand, as well as the bank statements and accounts payable and receivable, as a requirement, at the time of entering the information into the uniform accounting system. When this is not the case, or it is not possible, the municipality shall notify the Commissioner, who shall conduct an evaluation together with an Advisory Council created for the purposes of this subsection and subsection (k).

(k) The Commissioner is hereby empowered to create an Advisory Council that shall be integrated by five (5) members. Four (4) of these members shall be designated by the Commissioner in consensus with the Mayor, and shall be persons in good standing of proven repute and knowledgeable in accounting and computerized information systems. The fifth member of the Advisory Council shall be the mayor of the municipality concerned, except in cases in which the mayor designates his/her financial director. The Commissioner shall be responsible for the remuneration of the members of the Advisory Council who are not government employees and for all the related costs incurred by said members in the performance of their duties.

Taking into consideration the specific situation of the municipality concerned, and after receiving the evaluation and recommendations of the Advisory Council, the Commissioner may:

- (1) Authorize the purging of incorrect information entered into the system, including its total elimination.
- (2) Fix the balances of the latest single audit of the municipality as the starting point.

(3) Identify a date on which there is reliable information as of which the system shall be started.

(4) Authorize any municipality that is unable to balance its accounting history, because of the lack of the documents needed to do so, or for any other reason that makes it impossible to comply with the statutory mandate, to perform a cash register cutoff and make any necessary adjustments in their accounts provided that the following circumstances concur:

(a) The municipality submits to the Commissioner a detailed evaluation of how deviation from the accounting procedures occurred along with a proposal with assurances such as internal and administrative controls to guarantee that such irregularity shall not occur again. The Commissioner shall submit the proposal to the Council.

a) The Council shall study the municipal proposal, request whatever supplementary information it deems pertinent, and shall prepare, together with the municipality, an action plan stating the adjustments to be made, how the accounting transactions affected by the adjustments will be dealt with, and who shall be personally responsible at the municipal level for the execution of the plan; this plan shall also provide the manner in which the Council shall provide follow-up, and the evaluation methods, before making its recommendation to the Commissioner.

b) Whenever the Council deems it convenient in these and any other cases, it may request the advice of the Accounting Board, created by Act No. 293 of May 15, 1945, as amended.

None of these measures shall release the municipalities from their responsibility of making all possible efforts to correct their accounting practices and maintain the documentation of their operations in such a way that audits may be performed in non-automated periods.

Section 8.011. — Protection of Assets and Resources Against Financial Loss. — (21 L.P.R.A. § 4361)

The municipalities shall have the obligation of protecting their assets and resources against any type of financial loss resulting from the contingencies or risks mentioned in subsection (c) of this section.

(a) In order to comply with the obligation imposed above, the municipalities shall use the risk control mechanisms provided by the Secretary of the Treasury, which may include:

(1) The use of self-insurance that meets the requirements of insurance techniques but which shall not be deemed as insurance pursuant to Act No. 77 of June 19, 1957, as amended, [26 L.P.R.A. §§ 101 et seq.], known as "Puerto Rico Insurance Code".

(2) The partial or total transfer of risks to authorized insurers through the use of bonds, warranties and insurance contracts.

(3) The use of captive insurers and reinsurance.

(4) Assumption of risk by the State when none of the above mentioned options is viable.

(b) When providing the manner that the above mentioned risk treatment systems are to be used, the Secretary of the Treasury shall take into account that the insurance technique operates with greater efficiency, in the measure that this is applied to risks of different incidence and severity, and that the number of objects insured is greater. He/she shall likewise provide, whenever possible, for said mechanisms to apply globally to all the municipalities. Nevertheless, the Secretary of the Treasury may authorize the use of insurance mechanisms that apply to specific

municipalities or groups of municipalities, if he/she determines that this is the most efficient and less costly option in the specific case of said municipality or group of municipalities.

(c) The risk treatment mechanisms provided by the Secretary of the Treasury shall provide protection, as he/she may determine, to the municipalities against any pure risk. Pure risks shall be construed as those that may cause the municipality a financial loss, but not an earning, including:

(1) Losses for physical damage to property.

(2) Indirect economic losses or extraordinary expenses resulting from such damage.

(3) Losses due to all types of claims for damages, including, without it being understood as a limitation, professional liability and contractual liability, if any, in a minimum amount equal to the statutory limits provided in this Act.

(4) Losses of the municipalities' assets, including money, securities, bonds, deeds or certificates of indebtedness or obligation, or any type of financial instrument or public property belonging thereto, caused by fraud, dishonesty, theft, robbery, embezzlement, forgery, misrepresentation, misappropriation, default, or any other dishonest act or failure in the faithful compliance of the duties and obligations of their office, committed by officials and employees of the municipality or by any other persons, with the knowledge and consent of said officials and employees.

(d) The Secretary of the Treasury shall act in representation of the municipalities, in the manner he/she deems most convenient, thrifty, and advantageous for them, in everything connected with the protection of their assets against losses resulting from pure risks. In pursuing this responsibility, the Secretary shall be empowered to decide among other things, on the mechanism that shall be used to treat the risks to be covered, the limits of coverage, the terms of the contracts that will apply thereto, and the contribution, fee or premium that the municipality shall pay for the coverage it will receive, and the procedures to be followed in the handling, appraisal and negotiation of claims.

The Secretary may also require that the municipalities, in their transactions with third parties, require said parties, by contract, to protect the municipality against financial losses that result from said transactions or that they be totally relieved from legal liability connected to said transactions.

To the effects of this protection, the Secretary of the Treasury may require the municipalities to compel said persons to furnish the bonds, warranties and insurance that he/she deems pertinent.

(e) The Secretary of the Treasury, in consultation with the Commissioner, shall provide by regulations, the criteria, requirements and procedures that shall apply in everything connected to the treatment of risks that could cause financial losses to the municipalities, including, among others, the risk treatment mechanism to be used, the risks to be covered, the limits of coverage, the officials, employees and persons who should be covered against the types of losses mentioned in subsection (c)(4) of this section, and the criteria said persons should meet to obtain such coverage, the appraisal of claims, and the granting of credits for good experience to the municipality.

He/she shall also be empowered to require the municipalities to impose on the Special Corporations for the Development of the Municipalities, the obligation to protect their assets against financial loss resulting from the risks mentioned in subsection (c) of this section, and to relieve the municipality from losses resulting from their operations.

With regard to the types of losses mentioned in subsection (c)(4) of this section, the regulations and the contract establishing the agreement between the municipality and the mechanism used to underwrite the risk, shall provide that the mayor or his/her authorized representative shall submit, no later than May 10 of each year, a list of the positions whose incumbents should be covered against the types of losses mentioned in said subsection, and that the new incumbents in said positions shall be automatically covered when they assume said office.

With regard to the types of losses mentioned in subsection (c)(1)-(3) of this section, the regulations shall establish the information that the municipalities must submit, and the procedures and actions they must follow, so that the Secretary of the Treasury may comply with the responsibilities and obligations imposed on him/her by this section.

(f) The amounts of the fees, contributions or premiums that correspond to each municipality for the cost of their protection against financial loss established in this section, shall be paid from municipal funds. The Secretary of the Treasury shall advance the corresponding amounts for this concept from the General Fund of the Commonwealth of Puerto Rico. These amounts shall be reimbursed to the General fund in the amount or portion that corresponds to each municipality, from their property tax withholdings, and shall be remitted to the Secretary of the Treasury pursuant to the trust contract signed between the Municipal Revenue Collection Center and the Government Bank.

(g) The municipalities shall have the obligation to protect their assets and resources against financial loss resulting from risks related to transactions made in the normal course of their operations such as investments in special corporations and financial instruments, bonds, or loans to third parties, bankruptcy of their creditors, economic fluctuations, changes in interest rates, among others, which are not included in the scope of the term "risk", established in subsection (c) of this section, nor can be dealt with adequately by the mechanisms mentioned in its subsection (b) of this section. The Commissioner shall provide the measures and procedures that the municipalities should use to avoid financial losses for these concepts by regulations.

Section 8.012. — Obligation of the Municipalities. — (21 L.P.R.A. § 4362)

Every municipality and its officials shall be bound to furnish such documents or reports to the Commissioner that are required as part of an investigation, pre-audit or examination of the procedures duly regulated and provided by law, that are necessary for the Commissioner to comply with the regulatory and advisory duties imposed by the law, and to furnish any information that is requested by the Governor of Puerto Rico, the Legislature [of Puerto Rico] or any public agency. Likewise, the municipalities and their officials shall be bound to render the reports directly to the Governor and the Legislature as requested by them.

Section 8.013. — Custody and Control of Municipal Property. — (21 L.P.R.A. § 4363)

The mayor and the Municipal Legislature or their respective authorized representatives, shall be responsible for the custody, care, control and accounting of municipal property acquired and assigned for use by the Executive and Legislative Branches. This responsibility shall be performed pursuant to the norms and regulations promulgated to such effects by the Commissioner.

Every municipal official or employee who uses or assumes the custody, care, or physical control of any municipal property shall answer to the municipality for its worth, in case of loss, undue deterioration or harm thereto caused by negligence or carelessness, pursuant to the norms established by the Commissioner.

The mayor or his authorized representative shall render such reports on the municipal property required by the Commissioner to carry out the functions which have been conferred on him/her by law. The President of the Legislature shall have the same responsibility with regard to the property in use by the Municipal Legislative Branch.

Section 8.014. — Transfer of Public Funds, Property, Books and Documents. — (21 L.P.R.A. § 4364)

When there is a change of administration or a municipal official ceases in office for any reason, the municipal properties, books, and documents which are in the custody of the outgoing official shall be transferred to the incoming official by inventory, and a document shall be issued that will state all the details of said transfer. The original of said document shall be filed in the Mayor's office for examination by the internal Auditor, Auditors of the Puerto Rico Controller's Office when they perform audits in the municipality, and the Commissioner. If it is an official or employee of the Municipal Legislative Branch, said inventory document shall be filed at the Secretariat of the Legislature.

Transfers of public funds shall be made through a cash cut-off, which shall be carried out jointly by the outgoing Director of the Administrative Finance Unit and the incoming Director. The document by which this transfer is made shall be countersigned by the above mentioned officials. The mayor shall file the original of said document in his/her office for inspection by the auditors of the Puerto Rico Controller's Office when they perform their audits, and shall immediately send a copy thereof to the Commissioner.

Section 8.015. — Conservation of Documents. — (21 L.P.R.A. § 4365)

The municipalities shall be governed by the regulatory provisions approved by the Secretary of the Treasury with regard to the conservation of documents of a fiscal nature, or which are needed for inspection and checking of governmental accounts and fiscal operations, pursuant to Act No. 5 of December 8, 1955, [3 L.P.R.A. §§ 1001 et seq.] which establishes the Public Document Conservation and Disposal Program.

Section 8.016. — On Contracts. — (21 L.P.R.A. § 4366)

The municipality may contract whatever professional, technical, and advisory services that are necessary to carry out municipal activities, programs, and operations or to comply with any other public end authorized by this Act, or by any other applicable statute. Nevertheless, any contract executed or subscribed in contravention to the provisions of this section shall be null and ineffective, and the public funds invested in its administration or execution shall be recovered in behalf of the municipality through the proper action filed to such effect.

The municipality shall not grant any contract in which any of the legislators, officers, or employees have, directly or indirectly, any pecuniary interest, unless authorized by the Governor of Puerto Rico, upon the recommendation of the Secretary of Justice and of the Commissioner. Likewise, no legislator, municipal official or employee shall lend or borrow money, nor accept donations or gifts from any contractor who is providing services or supplies to the municipality.

Furthermore, any contract that is executed or subscribed in contravention to the following special provisions shall be null:

(a) Contracts for training services No contracts shall be subscribed with private entities for the performance of training services until the competent municipal authority certifies in writing that there are no competent and qualified municipal employees or officials nor government agencies or entities engaged in providing low-cost training services, such as the University of Puerto Rico or the Central Labor Advisory and Human Resources Administration Office, that may offer the required services.

(b) Contracts for auditing services The municipality shall contract the services of an external auditor duly qualified and certified as certified public accountant, who shall receive orientation by the personnel of the Office of the Comptroller and shall be responsible for the annual auditing of the municipal financial statements.

The report on the municipal financial statement, which shall be prepared by the external auditor contracted by the municipality shall pass judgment on the reliability and correction of said financial statements and compliance with the provisions of the Single Audit Act of 1984, Public Law 98-502, as amended, with the recommendations of the Comptroller and the correction of the deficiencies found in his/her previous reports.

(c) Contracts for the performance of public works and improvements The contracts for the performance of public works and improvements shall not be signed until:

(1) The contractor gives evidence before the municipality of the payment of the corresponding State Insurance Fund policy and the corresponding municipal license;

(2) delivers the bond issued to guarantee the payment of wages and the materials used in the work, and

(3) delivers or deposits any other performance bond required by the Bidding Board.

Any contract for the construction or improvement of public works shall provide for the withholding of ten percent (10%) from each partial payment until the work is completed, inspected and accepted by the municipality, and until the contractor gives evidence that he has been relieved of all obligations as an employer. Provided, That the municipality may disburse part of the withheld ten percent (10%) when the work is substantially finished or between phases of the construction or improvement of public works project.

The municipalities shall keep a record of all contracts granted, including the amendments thereto, and shall remit a copy of them and the deeds for the acquisition and disposition of assets to the Office of the Comptroller of Puerto Rico, pursuant to Act No. 18 of October 30, 1975, as amended, [2 L.P.R.A. §§ 97 et seq.] and its Regulations.

Section 8.017. — On Public Documents. — (21 L.P.R.A. § 4367)

Any person may request permission to inspect, copy, photocopy, or obtain certified copies of any municipal public document, unless specifically provided otherwise by any act to such effects. For the purposes of this section, "public document" shall mean any writ, paper, book,

booklet, photograph, photocopy, film, microchip, magnetic tape, map, drawing, plan, tape, compact disc, or any other material that is read by machine, or informative in nature, regardless of its form or physical characteristics, and which is originated, received or kept in any administrative unit, dependency or office of the municipality pursuant to law; and any writ that is originated in another agency of the Commonwealth Government or the federal government, or originated by any private, natural, or juridical person in the regular course of their transactions with the municipality, and is permanently or temporarily kept in any administrative unit, office or dependency of the municipality for its administrative use or legal, fiscal, historical or cultural value.

Every municipal official under whose custody there is any municipal public document, has the obligation to issue, as required, a certified copy thereof after payment of the corresponding legal fees. The fees to be charged for the issuing and certification of municipal public documents shall be established by ordinance. and shall be reasonably sufficient to reimburse the municipality for the cost of searching and reproducing them.

No fee whatsoever shall be charged for the search and reproduction of any municipal public documents That are requested for official business by any Legislative Chamber, or their Committees, a Court of Justice, the Office of the Controller of Puerto Rico, the Center of any court, agency or official of the Central Government or the federal government.

Chapter IX. — Acquisition and Disposition of Real Estate and Chattels. [21 L.P.R.A. , Subtitle 6, Chapter 219]

Section 9.001. — Municipal Assets. — (21 L.P.R.A. § 4451)

The municipality's assets shall be constituted by the bulk of the assets, rights and shares it owns. The municipality's patrimony shall be made up of public property and capital assets. The municipality's public assets shall be those destined to a public use or service such as the town squares, streets, avenues, lanes and general service public works defrayed by the municipality with public funds. These public assets are inalienable, and not attachable, and are not subject to taxation.

The municipality's capital assets shall not be subject to taxation, shall be governed by the corresponding provisions of Title 31. Their sale, exchange, lease and encumbrance shall only be executed with the prior approval of the Legislature by an ordinance or resolution to such effects, except in cases otherwise provided for in this Act.

The changing or altering of the juridical classification of municipal assets may be carried out as prescribed by law, and in every case, with the prior justification of the public need or convenience for such changing or altering, except for natural resources, archaeological and historical patrimony and those of architectural interest, whose classification may be altered on a case-by-case basis through legislation to such effects.

Section 9.002. — Acquisition and Administration of Assets. — (21 L.P.R.A. § 4452)

Municipalities may acquire by any legal means, including expropriation, the assets, rights or actions on them that are necessary, useful or convenient for their operation, functioning or the

adequate exercise of the functions of their competence and jurisdiction, according to the provisions of this Act.

Every municipality shall prepare and keep an updated registry of the real estate it owns and the real rights thereof.

Section 9.003. — Acquisition of Property Through Eminent Domain. — (21 L.P.R.A. § 4453)

The municipalities may request that the Governor of Puerto Rico file expropriation proceedings, subject to the general laws that rule said matter. To request that the Governor initiate any expropriation proceeding at least two (2) appraisals made by two (2) real estate appraisers duly licensed to practice in Puerto Rico, or the appraisal of the Department of the Treasury or the Center, must be included.

The municipality may file an eminent domain procedure by itself provided the property does not belong to the Central Government or any of its instrumentalities or public corporations, except through authorization by joint resolution from the Legislature. Provided, That if the property was owned by the Central Government for ten years prior to the date of the request of eminent domain, the action of eminent domain of the municipality shall not contravene the public purpose, if any, for which the Central Government reserved the property in the transfer of ownership. In said case, the request shall be accompanied by at least two (2) appraisals conducted by two real estate appraisers duly licensed to practice in Puerto Rico, or in lieu thereof, a single appraisal by a duly licensed real estate appraiser, ratified by the Department of the Treasury or the Municipal Revenue Collection Center and a registry certification.

In all expropriation proceedings filed by the Governor of Puerto Rico on behalf of a municipality under the applicable legal provisions and for the ends and purposes thereof, the title of the properties or rights object of such proceedings shall be vested in the corresponding municipality, provided it first repays any sum of money paid by the Commonwealth of Puerto Rico by virtue of said expropriation proceeding.

When the municipality exercises its power to expropriate property on its own, within its respective territorial boundaries, its good faith and credit are committed to pay any sum of money determined by virtue of the expropriation proceeding. The good faith and credit of the Commonwealth of Puerto Rico shall be committed solely when the expropriation is initiated through the Government of Puerto Rico.

Section 9.003-A. — Authorization to Municipalities to Acquire Real Property without Meeting the Transaction Consultation Requirement. (21 L.P.R.A. § 4453a)

Municipalities are hereby authorized to acquire real property through the exercise of eminent domain or by any other means authorized by law, without having to comply with the requirement of previously consulting the Planning Board about the transaction, provided that such real property is located within the municipal jurisdiction and the area included in the Municipality's Land Use Plan, as previously approved by the Planning Board.

Section 9.004. — Municipal Acquisition of Central Government Property. — (21 L.P.R.A. § 4454)

The title deed, usufruct or use of any land or facility of the Central Government, its instrumentalities and public corporations, which in the judgment of the mayor may be necessary to fulfill any municipal public need, may be transferred gratuitously by donation, or by voluntary sale for valuable consideration, to a municipality. Said transfer shall be subject to having the laws which govern the public agency holding the title to or custody of the property, authorize or permit said transfer and to the approval of the Governor of Puerto Rico. The head of the Public agency holding the title to or custody of the property shall represent the Government of the Commonwealth of Puerto Rico in awarding the title deed or corresponding document.

The Legislature [of Puerto Rico] may transfer to a municipality the title deed, usufruct or use of any land or facility of the Central Government, subject or not to conditions, through a Joint Resolution.

Section 9.005. — Alienation of Property. — (21 L.P.R.A. § 4455)

Every exchange, lien, lease, sale or assignment of municipal property shall be approved by the Legislature by ordinance or resolution to such effects.

Except in the cases which are established below in this section, the sale and lease of any municipal property shall be done through a public bidding procedure.

The public bidding procedure shall not be necessary in the following cases:

- (a) The sale, assignment, or lease in behalf of another municipality, or the Central Government or the federal government.
- (b) The sale of lots in usufruct according to this Act.
- (c) The sale of any chattels unit which has a value of one thousand dollars (\$1,000) or less, subject to the approval of the absolute majority of the Legislative members.
- (d) The assignment by sale, of land divided by the construction line of a municipal street or road, as provided in this Act.
- (e) The assignment of buildings it owns to nonprofit entities for permanent use to establish libraries.
- (f) The sale of existing paths or pedestrian walkways in urbanizations to the adjoining owner, subject to compliance with the procedure provided in this Act.
- (g) The sale and lease of niches or parcels used for the burial of the deceased.
- (h) The sale of surplus agricultural property authorized by Act June 20, 1978, No. 61.

Section 9.005-A. — Municipal Property Declared as Surplus. — (21 L.P.R.A. § 4455a)

Notwithstanding what is provided in this Act, the municipality shall dispose of municipal public property declared as surplus, for agricultural use or to manufacture handicrafts or that may benefit fishing activities, or for artisanry, through sale with preferential treatment, and for its fair market value to be determined through the corresponding evaluation and appraisal procedure, to any bona fide farmer, aquiculturist, artisan and fisherman, respectively, who qualifies as such, as provided herein, and who resides in the municipality.

(a) Any farmer, aquiculturist, artisan and fisherman interested in acquiring surplus property for agricultural, industrial or fishing activities, respectively, shall state so before the mayor, through a sworn statement declaring that agriculture, aquiculture, artisanry or fishing, respectively, represents fifty percent (50%) or more of his/her gross income and that he/she resides in the municipality. Said statement shall be accompanied by a certification of the Secretary of Agriculture of Puerto Rico, in the case of farmers, of the Secretary of the Department of Natural and Environmental Resources, in the case of fishermen and aquiculturists, or of the Administrator of Economic Development, in the case of artisans.

The mayor shall keep the names of bona fide farmers, aquiculturists, artisans and fishermen, who have registered before him and who are accredited as such. The mayor shall have the obligation to notify them whenever there is surplus property they can use, available for their acquisition.

The mayor shall adopt in the regulations on surplus property, any additional rules and procedures to the ones established herein, as may be necessary for the implementation of this section.

(b) After every agency of the Executive or Legislative or Municipal Branch has rejected a property that has been declared as surplus by the mayor, and which is to be used in agriculture or for the manufacture of handicrafts in artisanry, or that may be beneficial for fishing activities, the mayor may then consider applications from bona fide farmers, aquiculturists, artisans and fishermen who have stated their interest in acquiring such property. The mayor may sell the surplus property to any bona fide farmer, aquiculturist, artisan and fisherman who has applied for the same pursuant to the announcements made in the press of general circulation in Puerto Rico. When there is more than one application for a property declared as surplus, the administrator shall carry out a drawing among the interested parties. The applications shall be processed in the order received. Provided, That the equipment units shall be sold to farmers, aquiculturists, artisans or fishermen separately, that is, one by one. These farmers shall pay based on the price fixed by the municipal dependency concerned, pursuant to what is stipulated in the first paragraph of this section.

(c) The sale of any municipal property carried out pursuant to the above subsections shall need the approval of the Municipal Legislature through an ordinance or resolution.

Section 9.005-B. — Donation to Foreign Countries of Municipal Private Property Declared as Surplus. — (21 L.P.R.A. § 4455b)

Any municipal private property that has been declared as surplus by the municipality, be it of agricultural use, or used in the practice of handicrafts, or that may benefit the fishing industry or the work of artisans through sale, and that has not been acquired by those persons who have preferential rights to purchase the same pursuant to Section 10.005-A of Act No. 81 of August 30, 1991, and any other municipal private property declared as surplus by the municipality and used for the transportation and construction of municipal public works or used in maintenance operations, that has not been acquired by those natural persons who have preferential rights to acquire the same, may be donated by the municipalities to those democratic countries that prove to have urgent and specific health, education and housing needs and that require aid in emergencies or in cases of natural disasters. Any donation of municipal property declared as surplus to be assigned to other countries shall have to be submitted by the mayor for the

consideration and approval of the Municipal Legislature and approved by the latter through an ordinance or resolution to that effect. Said ordinance or resolution shall set forth the motive or reason of public interest that justifies said donation as well as any condition the Municipal Legislature may deem pertinent for granting said donation or assignment of good.

The ordinance approving the donation shall set forth the value of the goods given as donation and a description of the same, and include the authorization for the transfer of the corresponding titles and licenses if necessary.

A statement shall also be included indicating that said donation neither affects nor has any impact whatsoever on the municipality making the donation.

The municipality shall adopt regulations to establish the standards, procedures and requirements needed to implement this section. Said regulations must be approved by the Municipal Legislature through an ordinance or resolution. For the purpose of applying this section, the Commissioner of Municipal Affairs shall be responsible for advising the municipality in the preparation of the regulations. Any public property declared as surplus subject to the procedures established in this chapter that is intended for donation shall have to be previously approved by the Government of the United States through its embassy or consul in the foreign country.

Section 9.006. — Sale of Lots in Usufruct. — (21 L.P.R.A. § 4456)

The municipality may sell the lots in usufruct that have buildings to their usufructuaries without need of public biddings, and in any case, by means of an ordinance duly approved by the vote of an absolute majority of the total number of municipal legislators. An absolute majority shall be half the total number of municipal legislators plus one. In the case of a vacancy, it shall not be taken into account when performing the calculation.

(a) Procedure and Conditions for the Sale

Every ordinance of the Legislature that authorizes the sale of lots in usufruct shall establish the norms, rules, conditions and selling price of the lot in question.

(1) In the case of lots devoted to dwellings, the selling price may be less than the appraisal value fixed by the Center pursuant to this Act.

(2) In the case of lots with buildings which are devoted to a lucrative business, industry or any other activity with a pecuniary purpose, the selling price shall be the same as its appraisal value according to a real estate appraiser duly licensed to practice as such in Puerto Rico.

The municipality may also sell those lots with buildings on them that have been assigned for an indefinite term, without need of public bidding. It may also sell those lots with buildings on them in the hands of private persons, without need of a public bidding, to the usufructuary or owner-in-fact, lessor, occupant, or tenant of the lot in question, as the case may be. Every sale shall be done by ordinance, according to the norms and conditions determined thereby, and for the price fixed pursuant to clauses (1) and (2) of this subsection.

Every sale of municipal lots shall comply with the provisions of law, ordinances, regulations and the applicable territorial ordinance plans, and the property title transfer deeds shall be granted by the mayor or by the administrative official on whom he delegates.

Once the ordinance is approved, the mayor shall make the sale of the lots in usufruct with buildings on them, according to the norms and subject to the prices and conditions established

therein, without the participation or authorization of the Legislature being needed for each transaction.

(b) Revision of the Valuation of Lots in Usufruct

Every three (3) years, the Center shall review the valuations of the municipal lots in usufruct that are in effect. The municipality shall be notified of any change in the appraisal and valuation in effect within thirty (30) days following the date of its review.

When the Center does not review the valuations in effect within the above term, and the municipality wishes to sell any lot in usufruct on which there is a building, it may review the valuation through a real estate appraiser duly licensed to practice in Puerto Rico, who shall perform it according to the norms and practices prevailing in the market. The municipality shall remit a copy of the appraisal to the Center.

Section 9.007. — Revocation of the Concession of Usufruct. — (21 L.P.R.A. § 4457)

When the mayor considers that there is just cause for the revocation of a concession of usufruct, the usufructuary shall be notified of the intent to revoke such concession in writing, with acknowledgment of receipt thereof, to his/her last known address, if his/her name and last address is known. In the event that the lot is abandoned and the name and address of the usufructuary is unknown, the municipality may then opt to publish a notice, once, in a general circulation newspaper in Puerto Rico to inform the usufructuary and/or any interested party of the intent to revoke the usufruct.

In both cases, the municipality shall inform the usufructuaries of their right to an administrative hearing where they may state their rights and the reasons why the usufruct should not be revoked. Said hearing shall be held on the date indicated in the letter and/or notice, that is, thirty (30) days from the date on which the acknowledgment of receipt of the letter was postmarked, or thirty (30) days from the date of publication of the notice.

This hearing shall be presided over by the municipal official or employee on whom the mayor delegates, and the usufructuary may appear, “pro se” or with the assistance of counsel, and present evidence in his/her behalf. The report of the hearing, with its conclusions and recommendations, shall be forwarded, not later than fifteen (15) days following the date of the hearing, to the mayor, who shall issue his/her decision not later than thirty (30) days after the date on which he/she receives the same.

Any person who is adversely affected by the revocation of the usufruct of a municipal lot may present a request for review before the Court of Appeals with jurisdiction over the judicial district in which the municipality is located, within twenty (20) days after the date on which a copy of the notice of the mayor’s decision and/or of the publication of the notice of the revocation is filed in the case record.

Section 9.008. — Assignment of Municipal Property to the Central Government. — (21 L.P.R.A. § 4458)

The municipality may assign the property title, usufruct, or use of any asset it owns, free of charge, to the Government of the Commonwealth of Puerto Rico or to the federal government, provided it is for public use. In those cases in which the usufruct or use of the property is granted, a contract shall be executed which stipulates the use which the property is to be given,

the term of the assignment, the responsibility of each party with regard to the maintenance, repair and conservation of the property assigned in use, and any other matters that are essential and convenient to the municipality's interests.

Section 9.009. — Sale of Land Divided by Construction Line. — (21 L.P.R.A. § 4459)

When a municipality has established the construction line of a street in the urban zone of the municipality, or of a road in the rural zone, and the property that is contiguous to the street or road is separated from said construction line by land belonging to the municipality, the municipality may sell the land it owns to the owners of the property immediately contiguous to it by ordinance, without requiring public bidding. In every alienation of land held according to this section, the price shall be the corresponding prevailing market value per square meter at the time of the sale.

Section 9.010. — Sale of Paths or Pedestrian Walkways. — (21 L.P.R.A. § 4460)

The municipalities may sell the existing paths or pedestrian walkways in the urbanizations without the requirement of a public bidding procedure, to the owners of the property immediately adjoining said paths or walkways.

The legislature shall determine the selling price in each case, according to the appraisal that is most beneficial to the municipality. To such ends, it shall establish a summary appraisal procedure which shall require at least two (2) appraisals performed by two (2) real estate appraisers duly licensed to practice as such in Puerto Rico. The buyer shall not need to obtain an appraisal of the property and may accept the appraisal of the municipality, if he/she so desires. This requirement shall be applicable in those cases in which the size of the lot to be sold is larger than one hundred (100) square meters. For lots the size of which is less than one hundred (100) square meters, the legislature may sell them for the price of one dollar (\$1.00) insofar as the remaining provisions of this section are complied with.

The appraisal determined by the municipality for such purposes shall be effective for two (2) years, unless special circumstances make it obsolete.

The Regulations and Permits Administration shall authorize the closing of each path or pedestrian walkway by a resolution to such effect, which shall be issued not later than twenty (20) working days after the date of the municipality's petition for its closing. If said authorization is not issued within said term, the municipality is

authorized to continue the procedure for the closing and sale of said paths or walkways.

In those cases in which the path or pedestrian walkway is subject to an underground or aerial easement, whether by the Electric Power Authority, the Aqueduct and Sewer Authority, the Puerto Rico Telephone Company, or any other public agency, the purchase of the land by the adjacent owner shall depend on the authorization granted by said agency to him/her, according to the safety standards and the protection of the rights of said public agencies. This right shall be stated in any purchase and sale deed signed by the municipality.

With the purpose of having said deed registered in the corresponding section of the Property Registry, the municipalities of Puerto Rico are hereby authorized to segregate the parcel of land destined to a public path or pedestrian walkway from the main farm in which the urbanization is located, as required by the Regulations and Permits Administration, and to transfer said parcel of

land directly to the adjoining owners who are to acquire it. In those cases in which a lot is sold for the price of one dollar (\$1.00), the acquiring parties shall defray all the costs of said sale.

Section 9.011. — Sale of Public Property Without Bidding. — (21 L.P.R.A. § 4461)

Notwithstanding the provisions of Section 10.001 of this Act, when the public interest requires it, the municipality may regulate the leasing of its real estate and chattels by ordinance, based on a reasonable rate, without being subject to public bidding. Said ordinance shall specify the reasons why it is deemed that it is fair and necessary to dispense with the public bidding requirement. The reasonable leasing rate shall be determined by taking as a basis the cost, and the useful life of the property, and the leasing rates prevailing in the market.

The leasing of niches or parcels that are to be used for the burial of the deceased, shall be excluded from the bidding procedure. The municipality shall provide for everything related to this matter, by ordinance.

Section 9.012. — Leasing of Lots in the Marketplace. — (21 L.P.R.A. § 4462)

The leasing of lots, booths, concessions and any other commercial facility in the municipality's marketplaces shall be carried out by announcements of public bidding, except in the cases provided below. The municipality shall review the rental rates of the marketplaces from time to time, pursuant to the criteria indicated in this section. The bidding procedures for the leasing of lots in the marketplaces shall be held six (6) months prior to the expiration date of the contract. Every lease contract of lots, booths, concessions and any other commercial facilities in the marketplaces shall be subject to the following conditions and standards:

(a) Term of duration of the lease contract and renewal The lease shall be for a term of not less than five (5) years, but in no case shall exceed ten (10) years, counting from the date the corresponding lease contract is signed. No later than thirty (30) days prior to the expiration date of the lease contract, it may be renewed without holding public bidding, subject to the lease rate in effect on the date of renewal of the contract, as fixed by the municipal ordinance to such effects, provided the lessor:

- (1) Has complied with subsection (b) of this section;
- (2) has complied with the regulations that govern marketplaces;
- (3) is not delinquent in the payment of the lease;
- (4) has paid up all the permits, licenses or authorizations required by the laws of Puerto Rico, if any, to engage in the sale, distribution or trade of a specific article, product or branch of business in which he/she is engaged, and
- (5) his/her leasing record is unimpeachable.

The lessor shall notify the municipality of his/her intention to renew the lease contract at least nine (9) months prior to its expiration date. The fact that a lessor holds more than one lot, booth, concession or facility for said concept in any of the marketplaces operated by the municipality, shall be grounds for not granting the renewal of the lease contract.

(b) Obligations of the lessor The lessor shall give faithful compliance to the regulations that govern marketplaces, and shall not assign or cede his/her contract, nor may lease or sublease his/her lot, booth, or any other facility thereof to any other natural or juridical person unless there is a written resolution of the Bidding Board of the corresponding municipality which authorizes

it. Any change of use, transfer, assignment, sale, gift, lease, sublease, or any other transaction that has not been approved by said Board, shall be void.

(c) Auction of vacant lot Any booth, lot or any other commercial facility of a marketplace that is vacated due to breach of contract, resolution, rescission, termination thereof, or any other cause, shall be auctioned according to the provisions of this Act and under the terms and conditions specified in the auction.

(d) Displacement of lease by reconstruction Any lessor who is displaced from his/her booth or lot in a marketplace due to any reconstruction or remodeling thereof, shall be entitled to be granted a lot or booth without having to participate in any bidding whatsoever, provided he/she has complied with the applicable norms and regulations. The lot shall be granted for the remaining term of his/her contract, or for a term of five (5) years, whichever is greater, counting from the date the same lot or any other one is granted to him/her.

What is provided above shall apply while the use of the facilities under lease is not altered.

(e) Successors of lease In the event of the death of a lessor, his/her heirs or successors designated in the declaration of heirship, shall be his/her successors as lessors for the remaining term of the lease contract signed by the principal add the municipality. Such heirs or successors shall have the right to benefit from the renewal of the lease contract without the bidding requirement, if the case merits it for financial and social reasons, provided they have complied with the provisions of subsections (a) and (b) of this section.

Section 9.013. — Assignment of Facilities, Assets and Funds for Libraries. — (21 L.P.R.A. § 4463)

The municipality may assign the permanent total or partial use as needed, of any facility it owns, to any nonprofit entity which is not involved in partisan politics, for the establishing of public libraries. The municipality may likewise, and for the same purposes, request and accept gifts of money and equipment or join said associations in public campaigns to encourage the habit of reading and the general and assiduous use of municipal library facilities.

The municipality may also contribute financially to the establishing and operation of the libraries of said nonprofit entities, furnishing them with electric power and water services, supplies of books and subscriptions to magazines or any other similar publications.

The necessary requirements for the granting of a permanent use permit of the municipal facility in question by said associations, and the basic rules addressed to ensure the proper operation of the libraries once they have been established, shall be established by ordinance. Every assignment shall be automatically revoked when the legal existence of the nonprofit entity is ended or when the public end for which the assignment was granted is lost.

Section 9.014. — Gifts of Funds and Properties to Nonprofit Entities. — (21 L.P.R.A. § 4464)

The municipality may assign or donate funds or assets it owns to any nonpartisan nonprofit entity which is engaged in public interest efforts or activities which promote the community's general welfare.

The assignment of assets or donation of funds may only be made if it is confirmed beforehand that the entity is a nonprofit one and is organized in accordance with the laws of the

Commonwealth of Puerto Rico, and when the municipal functions, activities and operations are not interrupted nor affected adversely.

Any assignment of assets or donations of funds shall be approved by the Legislature by a resolution to such effects, passed by not less than two thirds (2/3) of the total number of members thereof, unless the municipal funds or assets are to be used to carry out programs sponsored by any federal law or a law of the Commonwealth of Puerto Rico. Said resolution shall state the reasons or grounds of public order or interest that justify their concession or granting, the amount of the donation or a description of the assets to be assigned, and the conditions to which the donation or assignment are subject to.

The municipalities shall adopt regulations to govern everything concerning the donation or assignment of funds or assets to nonprofit entities. Without it being understood as a limitation, said regulations shall provide for the documents or contracts for said donation or delegation to be granted, the reports that shall be required, the control and supervision that the municipality shall exert to ensure that the funds donated or the property assigned shall be used pursuant to the public interest for which they are granted, and any others that are deemed necessary or convenient.

Section 9.015. — Donation of Funds to Natural Indigent Persons. — (21 L.P.R.A. § 4464a)

(a) The municipality may cede or donate public funds to persons who show they have authentic and specific health, education, housing, sports, emergency assistance and natural disaster needs. The ceding of funds or goods shall only be made after it has been verified that the person is indeed indigent and when the functions, activities and operations of the municipality will not be adversely interrupted or affected.

Every cession of funds must be approved by the Municipal Legislature, by means of an ordinance or resolution to such effects, approved by not less than two-thirds (2/3) of the members thereof. In said ordinance or resolution, the public interest motives or grounds that justify the granting of said donation shall be set forth, as well as any condition deemed pertinent by the Legislature to grant the donation.

(b) Regardless of what is mentioned above, any mayor interested in offering donations in emergency situations to indigent natural persons shall create a program in the municipality, through regulations, to donate or cede up to five hundred (500) dollars under such circumstances, without need of a prior ordinance or resolution by the Municipal Legislature. To comply with this purpose, the program created by the mayor shall be supervised by the internal auditing unit of the municipality and advised by the Office of the Commissioner of Municipal Affairs. Furthermore, said program shall have at least one municipal employee, who shall also be a duly bonded disburser in charge of paying the donations. In exceptional cases of loss due to fire, flood, meteorological events or earthquake, the sum to be donated, as provided in this subsection, may amount to a maximum of one thousand five hundred (1,500) dollars.

For the purposes of this exception, any situation or occasional combination of unusual circumstances that provoke an unexpected and unforeseen need that requires the immediate delivery of a donation to achieve a speedy course of action or to obtain the requested remedy, without being understood as a limitation, and according to the aforementioned maximum amount, shall be deemed as an emergency. For example, any medication that is indispensable for the relief of a health condition that places the life of a citizen in imminent danger, or any

equipment or material for the rehabilitation of the home that, if not obtained immediately, could endanger the lives of the persons who reside in the structure. The emergency must be of such a nature that the required assistance cannot be handled through ordinary means nor can it wait for the consideration of the next regular session of the Municipal Legislature. In all these cases, the action taken shall be notified. In said notification, the mayor shall state the facts or circumstances that motivated the emergency and that justified that the regular procedure established in this section was not followed. Furthermore, the report shall include the pertinent document that certifies the need for the requested assistance or donation, and attesting evidence of the use given to the donation thus granted. If the abovementioned requirements are complied with, the Municipal Legislature shall ratify and validate said action. However, if the Legislature understands that the requirements described herein were not complied with, it may object, stating the misuse of municipal funds to safeguard its responsibility in the administration of said funds.

(c) Every year, the municipality shall set forth in its General Budget Resolution, the limit or maximum amount of funds available to be appropriated for donations to natural indigent persons, and shall specifically indicate the maximum amount to be granted for assistance in emergency situations. Likewise, each municipality shall establish its internal regulations, a Regulation for Donations and a Register of Petitions and Disbursements.

Within the Regulation for Donations, the municipalities shall include the provisions needed to govern matters pertaining to the determination of indigence of a person. In said regulation, it shall provide for the control and supervision to be exercised by the municipality to ensure that the donated funds are used pursuant to the resolution or ordinance approved by the Municipal Legislature, and shall establish the parameters for donations in emergencies, pursuant to the purposes of this Act.

(d) For the effects of the application of this section, the Commissioner of Municipal Affairs shall have the responsibility of the defining what shall be understood as an "indigent person". The Office of the Commissioner of Municipal Affairs shall prepare a model Regulation for Donations to serve as a guide for the municipalities and shall train the municipal employees to faithfully comply at all times, with the requirement of completing the Register of Petitions and Disbursements.

Section 9.016. — Closing of Streets and Roads. — (21 L.P.R.A. § 4465)

After taking into consideration the recommendations of the Territorial Ordinance Office, the municipality may order and carry out the permanent closing of any street or road within its territorial boundaries, after a public hearing is held, which shall be notified by means of written notices fixed in prominent places in the City Hall, and the street or road to be closed. A copy of said notice shall also be sent to the Secretary of the Department of Transportation and Public Works and to each of the residents and those who abut the street or road in question. The notice of public hearing shall be made no later than ten (10) days prior to the date provided for it to be held, and shall include a brief description of the street or road to be closed, the date, time and place of the public hearing, as well as an exhortation for the interested citizens to participate in said hearing.

Said hearing shall be held before a committee of three (3) administrative officials of the municipality, designated by the mayor. The Committee shall render a report to the Legislature with its conclusions and recommendations, no later than thirty (30) days following the date the

public hearing is concluded. The legislature shall determine in the regular session following the date on which the Committee presents its report, by resolution to such effects, whether the closing of the street or road in question shall be authorized.

The secretary of the legislature shall notify its decision with a copy of the resolution authorizing the closing or denying it, as the case may be, to the persons who attended the public hearings, and those that stated their position in writing, those who stated their interest in receiving such notice, and the neighbors directly affected thereby.

Any person who deems that he/she has been injured by a resolution of the legislature that authorizes the closing of a street or road, may impugn it before the Court of First Instance within the term of thirty (30) days counting from the date of its approval. The resolution thus impugned shall remain ineffective until the court renders its decision thereon.

The provisions of this section shall not apply to the granting of authorizations to control the access of vehicles and public use of the streets, as provided by Act No. 21 of May 20, 1987 as amended [23 L.P.R.A. §§ 64 et seq.].

Chapter X. — Purchase of Equipment , Supplies and Services. [21 L.P.R.A. , Subtitle 6, Chapter 221]

Section 10.001. — Purchases of Goods and Services by Public Bidding. — (21 L.P.R.A. § 4501)

Except as otherwise provided by this Act, the municipality shall comply with the public bidding procedure for:

- (a) The purchase of materials, equipment, food, medicines, and other supplies of alike or similar nature, use or characteristics, in excess of one hundred thousand dollars (\$100,000).
- (b) Any public construction work or improvement by contract exceeding two hundred thousand dollars (\$200,000).
- (c) Any sale of real property and chattels. Any public bid notice shall be made at least ten (10) days before it is to be held, by publication at least once, in one (1) newspaper of general circulation in the Commonwealth of Puerto Rico.

Change orders, the purchase of supplies, equipment, food, medicine, and other goods, and all public construction and improvement works described in this Section, which, added up to the agreed price of the original purchase or work, exceed the sums established in subsections (a) and (b) of this Section are hereby prohibited. Except when the total of the change order or the acquisition of supplies, equipment, food, medicine, and other goods does not exceed ten percent (10%) of such total.

The municipality shall establish regulations which shall include, among other matters, the conditions and requirements of the municipality for the acquisition of the necessary services, equipments, and/or supplies. It shall also establish a clause compelling the municipality to notify the persons who were not awarded the bid by certified mail with receipt of acknowledgement. The Municipal Legislature shall authorize the approval of regulations for such purposes.

It shall be the duty of each municipality of Puerto Rico to establish the corresponding mechanisms to set aside not less than fifteen percent (15%) of the purchases excluded from public bidding to small and medium size businesses as well as to companies that manufacture their products on the Island insofar as these can provide them.

The municipality shall establish regulations which shall include, among other matters, the conditions and requirements of the municipalities for the acquisition of the necessary services, equipments, and/or supplies. It shall also establish a clause compelling the municipality to notify the persons who were not awarded the bid by certified mail with receipt of acknowledgement. The Municipal Legislature shall authorize the approval of regulations for such purposes.

Section 10.002. — Purchases Excluded from Public Bidding. — (21 L.P.R.A. § 4502)

No notice or holding of a public bidding shall be needed for the purchase of goods and services in the following cases:

(a) Any purchase made from another municipality, the Government of the Commonwealth of Puerto Rico, or the federal government.

(b) Annual purchases per item up to a maximum amount of one hundred thousand dollars (\$100,000) for materials, equipment, food, medicine, and other supplies equal or similar in nature, use or characteristics. Before the award of the purchase order, at least three (3) quotes shall be obtained from accredited suppliers who are duly registered as bona fide businesses under the laws of the Commonwealth of Puerto Rico. Furthermore, during emergency situations declared by the Mayor through Executive Order, equipment or supplies may be acquired to address such emergency up to the amount of one hundred fifty thousand dollars (\$150,000). For the purpose of this Section, an emergency situation shall mean any event occurring in the Municipality which requires immediate attention, either to prevent or solve any issue that is affecting the citizenry or to benefit them.

(c) Purchase or acquisition of supplies or services in any case of emergency in which the delivery of the supplies, materials or rendering of services is required immediately. In these cases, a written statement shall be provided with the facts or circumstances of the urgency or emergency because of which the public bidding was not held.

The cases of emergency referred to in this section are those established in subsection (ff) of Section 1.003 of this Act

(d) When prices are not subject to competition because there is only one (1) source of supply.

(e) For the purchase of materials or equipment that cannot be acquired in Puerto Rico because they are not locally available, or because there is no representative or authorized agent of the company that provides them. In these cases, quotes must be obtained from not less than two (2) accredited suppliers or dealers, and the purchase shall be made according to such prices, as if made by means of auction.

(f) When bidders do not concur, and there is a risk of losing any opportunity to acquire the needed goods, supplies, equipment, or services, with prior written justification explaining the risk and the need that makes it necessary to proceed with the purchase or contracting.

(g) Any modifications or extensions that entail an increase in costs of up to a maximum of thirty percent (30%) of the total cost of the original project in any public works or improvement performed under a construction contract. Such modifications or extensions shall comply with the provisions in effect in this regard. Provided, That under exceptional duly justified and documented circumstances, the municipality may approve a change order that exceeds thirty percent (30%) of the cost of the original project in any public works or improvement by means of drafting a suppletory construction contract, pursuant to the provisions established in the Revised Basic Norms Regulations for the Municipalities of Puerto Rico approved by the Office

of the Commissioner of Municipal Affairs. Should there be more than one modification or extension to a contract, such modifications or extensions altogether shall not exceed the maximum of thirty percent (30%) of the total cost of the original project and must be approved by the Bidding Board, unless when this takes place, a supplementary contract is executed with the affirmative vote of two thirds (2/3) of the members of the Bidding Board. Said contract shall not exceed fifteen percent (15%) of the total cost of the project, including change orders.

(h) The municipal administration must perform all public works or improvements construction work. If the purchase of materials and supplies for the construction of the works is required, same shall be performed pursuant to the laws and regulations in effect.

(i) Annual purchases per line of product up to a maximum amount of forty thousand dollars (\$40,000) for materials, equipment, food, medications, and other supplies equal or similar in nature, use or characteristics. Before the award of the purchase order, at least three (3) quotes shall be obtained from accredited suppliers who are duly registered as bona fide businesses under the laws of the Commonwealth of Puerto Rico.

(j) For the acquisition of new or used heavy equipment from abroad, subject to the dispositions set forth in Section 10.003 of this Act.

(k) For the acquisition of used goods by means of auctions processes in Puerto Rico and abroad, with prior authorization from the Legislature.

(l) For the purchase or acquisition of articles or works of art of very personal characteristics, the price of which does not exceed ten thousand dollars (\$10,000) when the value of same resides in the specific characteristics of the work, or in the acknowledgement and fame of the Puerto Rican artist that created same. Puerto Rican artists shall be the first option to consider when purchasing or acquiring articles or works of art. In these cases, written record must be made of the characteristics of a particular work, or of the acknowledgement and fame of the author of the work in the artistic community. Given the aforementioned circumstances, the requirement of quotes does not apply either to this type of articles or works of art. For purposes of this subsection, an article or work of art is defined as: any visual work of art, including without being limited to, paintings, murals, sculptures, drawings, mosaics, photographs, calligraphy, monuments, graphic art works, such as lithographs, and engravings, artisanry, fountains, or any other analogous display of ornamentation that improves the quality and artistic effect of a public installation or building within which same are contained, or to which same are attached, as part of the total architectural design.

(m) Contracting of mechanical repair services for municipal vehicles and equipment, and for the repair of computerized equipment. These services shall be contracted by the mayor through the request of an application for proposals for such purposes. However, in no case shall the payment thereof exceed twenty-five thousand dollars (\$25,000).

The consistent practice of the fractionization [sic] of purchases or works to one (1) or more suppliers for purposes of keeping from exceeding the limits set forth by law, and thus evading the public auctions procedures is hereby prohibited.

(n) Any purchases made in connection with the operations of municipal franchises are hereby exempted from public bidding procedures.

Section 10.003. — Purchase of Heavy Equipment Outside of Puerto Rico. — (21 L.P.R.A. § 4503)

Municipalities are authorized to acquire new or used heavy equipment by regular purchase outside of Puerto Rico when its price abroad, including freight, haulage, insurance and any other charges required to import it into the country is less than that on the local market, and the equipment to be acquired is not deemed to be a Puerto Rican product pursuant to Act No. 42 of August 5, 1989 [3 L.P.R.A. §§ 914a et seq.], known as "Government of Puerto Rico Preferential Purchasing Act".

For every purchase made under the provisions of this section, at least three (3) quotations shall be obtained from accredited suppliers or dealers outside of Puerto Rico. These quotations shall be submitted to the determination of the Bidding Board, together with the quotations of three (3) local suppliers, and the purchase authorization shall be made in view of the prices in such quotations, in a like manner as if it had been made by public bidding.

The Commissioner shall establish by regulation, the minimum requirements that the municipalities should exact from suppliers abroad, as well as the procedures and norms that shall govern the purchase of heavy equipment outside of Puerto Rico.

To the effects of this section, "heavy equipment" shall mean construction, earth-moving and paving equipment, vehicles and machinery for the collection and disposal of solid waste, ambulances, fire engines, cranes, school transportation vehicles, special vehicles for the transportation of disabled or elderly persons, and others of a similar nature, excluding parts and accessories thereof.

Section 10.004. — Bidding Board. — (21 L.P.R.A. § 4504)

Every municipality shall constitute and have a Bidding Board of which the mayor shall be its president or a member. The Bidding Board shall be composed of five (5) members. Four (4) of the members shall be municipal officers appointed by the mayor and confirmed by the municipal legislature. The fifth member, who shall not be a municipal official, shall be a resident of said municipality and of recognized moral probity, who shall be appointed by the mayor and confirmed by the municipal legislature, and shall not have any contractual relationship with the municipality.

The mayor shall designate a chairman from among the members of the Board, or an administrative official who is not a member of the Board, to preside the same. Should an administrative official be designated, the appointment shall be submitted to the legislature for confirmation, and he/she shall have a voice, but no vote, and his/her functions shall be limited to administrative matters. The Internal Auditor and the official in charge of the legal affairs of the municipality may not be appointed as members of the Board. However, the Director of Finances and the Director of Public Works shall be ex officio members of the Bidding Board, and shall have a voice but no vote, thus limiting their function on the Board as advisors.

The members of the Board shall be appointed for the term for which the mayor who made their appointments is in office. In no case shall the term of office of the appointed members of the Board exceed [beyond] the second Monday of the month of January of the year following the general elections, although they shall remain in office until their successors are appointed and take office. The above shall not be construed as a limitation for the members to be renominated

for more than one (1) term. In such a case, the provision indicating that they shall remain in said office until their successors are appointed shall not apply, and their appointments shall have to be reconfirmed by the legislature.

The members of the Board who are not municipal employees or officials or employees of a public agency, may receive as reimbursement a per diem of not more than fifty dollars (\$50) for each day they attend Board meetings.

No Board member shall incur financial liability for any action taken in the discharge of his/her duties and powers, provided his/her actions are not intentionally illegal or contrary to the practices prohibited while in the performance of his/her duties, or incurs a manifest abuse against authority or the discretion conferred to him/her by this or other laws or regulations that apply to such procedures, including the provisions in Section 4.1(a)(7) of Act No. 12 of June 24, 1985, as amended. The municipality shall acquire liability insurance against any intentional or illegal action performed by any member of the bidding board.

Any member of the Board may only be removed from office before the term of his/her appointment expires with the vote of three-fourths of the total number of members of the legislature or when after an investigation conducted as part of the process for bringing charges in a court with jurisdiction, a competent government agency or the municipality itself, one or several of the following causes are proven to exist: manifest incompetence in the performance of functions or duties to protect the best fiscal interests of the municipality; violations of the legal provisions that prohibit certain practices regarding the discharge of their functions; conviction for a felony or a misdemeanor implying moral depravation; manifest abuse of the authority or the discretion any powers conferred by this, or other laws; dereliction of duties; and the violation of the provisions of the Government Ethics Act or its regulations. When the latter occurs, the mayor, at his/her discretion and with the confirmation of the legislature, may restore said member to his/her functions on the Board after the Government Ethics Office has certified that the required corrective action has been complied with.

Section 10.005. — Internal Operations of the Board. — (21 L.P.R.A. § 4505)

Three (3) members of the Board shall constitute a quorum for the opening of bids and the consideration of matters submitted to it. All agreements and resolutions of the Board shall be taken by a majority of all of its members, unless otherwise provided in this Act, or any other act or ordinance.

All the Board's decisions, agreements, determinations, resolutions and procedures shall appear in the minutes, which shall be signed and certified by the President and the Secretary thereof. The minutes shall be a permanent record of the same nature as the minutes of the Legislature. The Board shall establish the norms and procedures for its internal operations, and to carry out the functions and responsibilities that are established in this Act for it.

The Board may obtain whatever counsel it deems necessary for the performance of its functions, from officials or employees of any public agency, the municipality itself, and any other person, provided that the person who gives the advice is not an owner, shareholder, agent or employee of any natural or juridical person who has any direct or indirect interest in any matter which the Board must handle or adjudicate.

Section 10.006. — Functions and Duties of the Board. — (21 L.P.R.A. § 4506)

The Board shall handle and adjudicate all bids that are required by law, ordinance or regulations, and in the leasing agreements of any real property or chattels, and contracts for services, such as guard, refrigeration equipment maintenance, and others.

(a) Adjudication criteria

In the case of purchases, construction projects or the rendering of services, the Board shall adjudicate in favor of the lowest bidder. In the case of the sale or lease of real or personal property, it shall adjudicate in favor of the highest bidder. The Board shall make the adjudications taking into consideration whether the proposals meet the specifications, the terms of delivery, the bidder's ability to execute and comply with the contract, the financial accountability of the bidder, his/her business reputation and integrity, the quality of the equipment, product or service and any other conditions that have been included in the bidding form.

The Board may adjudicate to a bidder who is not necessarily the lowest or the highest, as the case may be, if it is in benefit of the public interest. In this case, the Board shall state in writing the reasons adduced as beneficial to the public interest that justify such adjudication.

Such adjudication of a bid shall be notified to all bidders by certified mail with return receipt requested. In the consideration of the offers of the bidders, the Board may make adjudications by items when the public interest is benefited thereby. The Board shall notify the reasons for which they were not awarded the bid to the losing bidders. Every adjudication shall be notified to each of the bidders, informing them of the jurisdictional term of twenty (20) days to request a judicial review of the adjudication before the Court of Appeals, pursuant to Section 15.002 of this Act.

(b) Reasons for rejecting bidding forms

The Board may reject each and every one of the bidding forms received pursuant to a call for bids, when it deems that the bidder lacks accountability or is in debt to a municipality or to the Commonwealth of Puerto Rico, or when the nature or quality of the supplies, materials or equipment fails to meet the requirements indicated in the bidding form, or when the prices quoted are deemed to be unreasonable, or when it is in benefit of the public interest.

(c) Warranties and bonds

The Board shall require from the bidder the warranties it deems necessary to ensure compliance with the purchase contract and it may fix whatever other terms of the contract, which in its judgment, are deemed necessary, convenient or useful.

In cases of public works and improvements carried out through the bidding process, in addition to what is required in Section 6.007 of this Act, the contractor, shall produce or pay the bonds and guarantees required by the Board to ensure faithful compliance with the contract prior to signing the corresponding agreement.

The Board may likewise fix the amount of the provisional bond to ensure the participation of the bidder in the competitive bidding.

(d) Forfeited bidding

The Board may declare a bidding as forfeited, and call another or recommend that the municipal legislature authorize that the matter be handled administratively, when the latter is less costly and more advantageous to the municipality's interests. However, if a bidding is held and only one bid is received, the Board may adjudicate to the single bidder or call a second bidding

notifying the single bidder of the reasons for which the bid shall not be awarded to him/her and is considered as forfeited.

When the Board alleges circumstances for not awarding to the single bidder, and, convenes a second bidding and the same situation of a single bidder arises, the Board may award the bid to the single bidder or submit the matter administratively for the authorization of the municipal legislature. In such situation, the Finance Director shall be responsible for the verification and validation of the quote or quotes received to such effects, certifying that such action is the less costly and advantageous for the municipality.

The fragmentation into amounts of lesser value than the real value of a purchase, construction project or sale of property to which the bidding process must apply with the clear intention of adjudicating according to the quotations procedure, shall be deemed contrary to the provisions of this Act and its regulations, except in those cases that are clearly stated in the law.

Section 10.007. — Quotations or Bids; Correctness and Accuracy. — (21 L.P.R.A. § 4507)

When quotations or bids are required for the purchase of movable property, supplies, services or works, the municipal official or employee shall have the following responsibilities:

(a) Quotations

The municipal official or employee who requests, receives and accepts the quotations required by law or regulations, shall write clearly and legibly on all pertinent documents his/her full name and title, and shall sign each stage of the process, including the verification of the accuracy and correctness of the cost estimates. The official or employee authorized to adjudicate the purchase or service, shall certify said fact by clearly and legibly writing his/her full name and title and signing it [sic] the document.

The authorization for the disbursement of funds shall include a certification from the municipal official or employee in charge of paid disbursement. The disbursement of municipal funds for the purchase of goods, supplies, services or works without the proper quotations required by law or regulations is prohibited, except when otherwise provided by law or regulations. Also prohibited is altering in any manner the quotations, certifications or documents related to the quotations, adjudications or the disbursement of funds.

Any file whereby municipal funds have been authorized or disbursed shall include the documents required by this Act and any other law or regulation that governs the municipal fiscal and administrative procedures, including, without it being understood as a limitation, evidence of the internal preliminary audit and of the payments made.

(b) Biddings

The municipal official or employee who requests, receives, accepts or authorizes the disbursement of funds in every bidding process established by law or regulations, shall clearly and legibly write his/her full name and title, and shall sign each stage of the process, including the verification of the exactness and correctness of the cost estimates upon their receipt, and when there is a change in the documents included in the bidding form. The authorized official or employee, or the members of the Bidding Board that adjudicate the purchase, service or works, shall certify said fact by clearly and legibly writing his/her full name and title, and signing the same.

Each disbursement of funds shall include a certificate issued by the municipal official or employee responsible for issuing the same. It is hereby prohibited to make any disbursement of

funds that does not include the documents and bidding forms required by law or regulations. It is also prohibited to alter in any way the cost certificates or other documents related to the bidding form, adjudication certificates or disbursement of funds. All files shall have the evidence or documentation required by this Act and any other law or regulations that govern municipal fiscal and administrative procedures, including, but not limited to evidence of the internal auditing and of the payments made.

Chapter XI. — Municipal Personnel. [21 L.P.R.A. , Subtitle 6, Chapter 223]

Section 11.001. — Municipal Personnel System. — (21 L.P.R.A. § 4551)

Each municipality shall establish an autonomous system for the administration of the municipal personnel.

Said system shall be governed by the merit principle in order to provide a public service of excellence based on equity, justice, efficiency and productivity without discrimination due to race, color, gender, birth, age, origin or social condition nor due to political or religious ideas or to being a victim of domestic violence. Said system shall be in agreement with the guidelines prepared by the Office of Human Resources of the Commonwealth of Puerto Rico (ORHELA, Spanish acronym), by virtue of Section 1, et seq. of Act No. 5 of October 14, 1975, as amended, known as the "Puerto Rico Public Service Personnel Act".

The Central Personnel Administration Office shall provide the technical advice and assistance needed to establish the personnel administration system for each municipality, considering its size, the complexity of its organization, and the circumstances and needs thereof, in harmony with the provisions of this Act. This office shall prepare no later than ninety (90) days after the approval of this act, the Classification and Compensation Guidelines for Municipal Administration, which shall be used by the municipalities as a uniform guide to comply with the provisions of this Act in everything that concerns the drafting and approval of [the] Compensation and Positions Classification Plan. The Compensation and Position Classification Plan of the municipalities must be approved on or before May 31, 1997.

The municipalities may contract the services of private consultants specialized in personnel administration when their needs require it and their fiscal resources allow it. The consulting services contract shall include, among others, a provision regarding the civil liability of the consultant. In addition, they may use the services of the Central Personnel Administration Office by means of an agreement with it.

Section 11.001-A. – Definitions.

For all purposes, the words and phrases listed herein shall have the meaning stated below:

- (1) *Disciplinary Action.* – A penalty recommended by the supervisor of the employee and imposed by the appointing authority, which shall be filed in the employee’s record. It may consist of written reprimands, job and salary suspension, or dismissal.
- (2) *Salary Adjustments.* – Positive adjustments made to the base salary of the employee.
- (3) *Promotion.* – The change of an employee from one job class to another with functions or a base salary of a higher level.

- (4) *Salary Raise within the Schedule.* – A change in the compensation of an employee to a higher salary rate within the schedule assigned to the job class to which a position belongs.
- (5) *Salary Raise due to Merit.* – An increase in the direct compensation to be paid to an employee by virtue of an evaluation of his/her performance during the twelve months preceding the evaluation date.
- (6) *Salary Raise due to Competencies.* – Additional compensation that shall be granted to all employees that exhibit the progressive behaviors deemed to be important by the municipality (e.g.: causing agent of continuous changes and innovations). For the development of these behaviors, the municipality shall promote training aimed at achieving the same. This raise shall become part of the base salary of the employee.
- (7) *Raise due to Abilities.* – Additional compensation that shall be granted to all employees who acquire and develop, on their own initiative, abilities and knowledge that they shall subsequently use later on for the benefit of the organization. This raise shall become part of the base salary of the employee.
- (8) *Appointing Authority.* – The Mayor and/or all heads of agency with the legal power to make appointments for jobs in the Municipal Government.
- (9) *Scholarship.* – The financial aid granted to a person so that he/she may pursue higher education studies at a renowned university or institution with the purpose of broadening his/her professional or technical education.
- (10) *Bonus.* – A nonrecurring compensation.
- (11) *Eligible Candidate Certification.* – The process whereby the Municipality certifies, in order to fill vacancies and to refer to interview, the names of the candidates pending certification within the register, in descending order according to grades and contingent upon their acceptance of the employment conditions.
- (12) *Selective Certification.* – The process whereby the Appointing Authority specifies the special qualifications required from the candidate for a particular office to be taken. For this purpose, a clear description of the official duties of such office containing such special qualifications shall be furnished to the Human Resources Office.
- (13) *Class or Job Class.* – A group of jobs whose duties, nature, authority, and responsibility are similar in such a way that they can be reasonably named with the same title; which demands the same minimum requirements from the employees holding the job; which requires the same aptitude tests for the selection of employees; and for which the same compensation schedule is applied equitably under substantially equal working conditions.
- (14) *Job Classification.* – The systematic grouping of jobs into similar classes by virtue of the duties and responsibilities involved so as to give them equal treatment in the administration of personnel.
- (15) *Appeals Commission.* – The Appeals Commission of the Human Resources Administration System.
- (16) *Competence.* – Any acquired knowledge or skill which allows the employee to perform his/her functions with greater efficiency, so that he/she may contribute consistently to the achievement of the goals and objectives of his/her work unit.
- (17) *Job Posting.* – The document which shall officially state the determinations concerning the minimum requirements and the kind of test, as well as all those other aspects that need to be or are convenient to disclose in order to announce the opportunity to be hired into a job class, effective and applicable during a certain period of time.

- (18) *Demotion*. – A change of an employee from one job class to another with functions and basic salary of a lower level.
- (19) *Differential*. – Special and additional compensation, apart from the salary, that may be granted when there are special nonpermanent conditions or when an employee holds a position as an acting official.
- (20) *Director*. – The Director of the Human Resources Office of the Municipality.
- (21) *Work Team*. – A group of individuals with common objectives and committed to contribute to the achievement of the organization’s goals.
- (22) *Eligible*. – A person whose name appears validly in the eligible candidate register.
- (23) *Compensation Schedule*. – Compensation margin that provides a minimum rate, a maximum rate, and several intermediate levels in order to compensate the level of work that a particular job class entails and the proper and progressive amount and quality of work performed by the employees at a particular job class.
- (24) *Class Specification*. – A written and descriptive statement in generic form that indicates the prevailing characteristics of the essential work involved in one or more jobs in terms of the nature, complexity, responsibility, and authority, as well as the minimum qualifications that the candidates must have to hold such jobs.
- (25) *Salary or Wages Structure*. – The compensation structure composed by the various schedules, which shall be used in the assignment of job classes within a Classification Plan.
- (26) *Test*. – A written, oral, physical, or performance test, as well as evaluations based on experience and education, or other objective criteria, used to determine whether a person is capable of performing the functions of a job.
- (27) *Schedule Extension*. – The extension of a salary schedule departing proportionally from the maximum rate thereof.
- (28) *Public Duty*. – An inherent activity carried out in the exercise or performance of any permanent or temporary office, job, or position within public service, whether or not compensated, by virtue of any kind of appointment, contract, or designation in the Municipality.
- (29) *Acting Capacity Service*. – The temporary services rendered by a career or trust employee in an office whose classification of which is higher than that of the office to which he/she was officially appointed, by virtue of a written designation from the appointing authority or the authorized representative thereof, and in compliance with all other applicable legal requirements.
- (30) *Corrective Measure*. – Oral or written warning made by the supervisor to the employee when the latter incurs or relapses into a violation of the established rules of conduct, and which does not become a part of the employee's record.
- (31) *Acknowledgment Memorandum*. – Documents, letters, or certificates whereby an employee’s good performance is recognized.
- (32) *Urgent and compelling need*. – Those essential or indispensable actions that need to be carried out urgently in order to fulfill the functions of the municipality. It does not include those actions that are merely convenient or advantageous, the carrying out of which may be postponed until the regular processing is performed.
- (33) *Office*. – The Human Resources Office of the Municipality.
- (34) *Probationary Period*. – A term during which an employee, upon being appointed to a position, undergoes a period of training and testing and is subject to evaluations of his/her performance of his/her duties and functions. During said period, the employee has not acquired any vested rights over the position.

(35) *Job Classification or Appraisal Plan.* - The system whereby the different positions of an organization are systematically analyzed, ordered, and appraised, including, but without being limited to those positions established on the basis of factors, points, etc.

(36) *Compensation Plans.* - The systems adopted by the Municipality, whereby the compensation for career and trust services are fixed and administered pursuant to the provisions of this Act and applicable regulations.

(37) *Prevarication.* - To propose, whether knowingly or due to inexcusable ignorance, determinations that are evidently unfair.

(38) *Merit Principle.* - The concept on the basis of which all public employees shall be selected, promoted, retained, and treated in all matters concerning their employment based on their capability and without discrimination for reason of race, color, gender, birth, age, social condition or origin, political or religious beliefs, veteran status, or physical or mental disability.

(39) *Bona Fide Projects or Programs.* - Programs created through an administrative order or a formal proposal by the Mayor or his/her authorized representative to satisfy needs or to provide a non-recurring service, indicating the objectives, the start and completion dates, the human and fiscal resources originated, and the indicators or measuring standards which shall allow for the corroboration of the achievement of such objectives.

(40) *Position.* - A set of duties and responsibilities assigned or delegated by the appointing authority, which require the hiring of a person.

(41) *Reclassification.* - The action of classifying or appraising a position which had been previously classified or appraised. Reclassification may be made to a higher, equal, or lower level.

(42) *Eligible Candidate Register.* - List of the names of persons who have qualified to be considered for appointment to a specific class, in descending grade order.

(43) *Reinstatement.* - To restore or return to service, through a certification, any regular career employee, after having been separated from service for any of the following reasons: (a) A disability which no longer exists. (b) Layoff due to the elimination of positions. (c) Resignation from a career position occupied with a regular status. (d) Severance from a trust position without having exercised the right to reinstatement.

(44) *Active Service.* - Any term of service in which the employee is present and performing the functions of a position or connected to the service through the granting of any kind of paid leave.

(45) *Transfer.* - The change of an employee from one position to another within the same class or to a position in another class with functions or a basic salary of a similar level.

Section 11.002. — Structure of the Municipal Personnel System. — (21 L.P.R.A. § 4552)

The Mayor and the President of the Legislature shall be the Appointing Authority of their respective branches of the Municipal Government. The Board of Appeals of the Personnel Administration System, established by Act No. 184 of August 3, 2004, as amended, known as the “Puerto Rico Public Service Personnel Act,” shall be the appellate body of the Municipal Personnel Administration System.

Section 11.003. — Composition of the Service. — (21 L.P.R.A. § 4553)

The municipal public service shall be composed of career services, transitory services, confidential services and irregular services.

(a) Confidential service

The confidential service shall be constituted by positions whose incumbents intervene or collaborate substantially in the process of formulating public policy by providing direct counseling or rendering direct services to the mayor or the President of the Legislature.

The municipal officials shall be the Secretary of the Legislature, the directors of the administrative units, and those whose appointments require the confirmation of the Legislature by legal provision, and that meet the criteria for confidential service. The employees of the Municipal Legislature shall be comprised in the confidential service by their direct relationship with the President thereof.

In municipalities with more than fifty thousand (50,000) constituents, the mayor shall establish a confidential position plan by Executive Order that includes a maximum of thirty (30) positions of trust with which it intends to operate. In municipalities with less than fifty thousand (50,000) constituents, the plan shall include a maximum of twenty-five (25) positions.

When the organizational structure, functional complexity or size of the municipality requires a larger number of positions of trust, it shall be necessary to approve an ordinance authorizing the inclusion of a larger number than thirty (30) or twenty-five (25) positions, as provided above in the confidential position plan of the municipality, which total number shall not exceed fifty (50) positions in any case.

The municipality shall establish a classification plan for the confidential positions, excluding the mayor and the municipal legislators members. It shall also establish and maintain an updated compensation plan for the confidential positions, with the corresponding intermediate levels, according to its fiscal capacity and in harmony with the Classification and Compensation Guidelines for Municipal Administration.

A change of category of a confidential position to a career position, or vice versa, shall be authorized only when there is a change of functions or a change in the structural organization of the municipality to justify it, if the position is vacant.

(b) Career service

All other municipal positions shall be comprised in the career service, with the exception of transitory and irregular positions.

The career service shall be governed by the merit principle standards established in this Act.

(c) Transitory appointments

Transitory employees are those appointed to occupy positions of [a] fixed duration in the career service, created in harmony with the provisions of this Act. Transitory appointments in permanent positions in the career and confidential services shall be made when an incumbent is enjoying leave without pay. Transitory appointments in permanent career positions shall be made as determined by regulations.

(d) Irregular service appointment

Irregular appointments shall include those functions of an unforeseen, temporary, or intermittent type, whose nature and duration do not justify the creation of permanent positions and whose compensation is conveniently paid in wages, by the day or by the hour.

The mayor, with the counsel of the Director of the Central Personnel Administration Office, shall prepare a position classification guide for work units of this service, which shall also contain the salary schedules and compensation standards that apply to such work on the basis of equal pay for equal work.

The classification guidelines and the salary schedules shall require the approval of the Legislature.

(e) Municipal employees in office shall not be deemed to be public municipal employees while holding such office, and shall be covered under the provisions governing employees of the private sector.

Municipal venture management shall exercise its prerogative to establish the method whereby employees working for such ventures are to be compensated. These employees shall not hold permanent status, as set forth under the Autonomous Municipalities Act of Puerto Rico and the Public Service Personnel System. These employees shall be entitled to the benefits and guarantees that cover all private sector employees. To such effect, it is hereby provided that all provisions of law and regulations that protect the rights of private sector employees shall equally cover these municipal venture employees.

The Secretary of the Department of Labor shall offer assistance and advice to all municipalities that decide to operate this kind of business and he/she shall ensure that the rights, prerogatives, and equal protection of municipal venture employees under the law are guaranteed.

Section 11.004. — Legal Status of Employees. — (21 L.P.R.A. § 4554)

Municipal employees shall be classified as confidential, probationary career, regular career, transitory and irregular.

(a) *Confidential employees* —

Confidential employees shall be freely selected and removed and shall meet the educational and experience requirements, and take and pass the courses of the Compulsory Training and Continuing Education Program, as established by the Office of the Commissioner of Municipal Affairs, for the corresponding position or administrative unit and a unit of any other nature, as provided by this chapter, and which the mayor or the Legislative Chairperson, in their respective branches of the Municipal Government, may deem indispensable for the proper discharge of their duties.

They shall also be freely removable, except for those who may only be removed for the reasons established by law, and those whose appointment is for a term fixed by law.

When the removal of a confidential employee is for a cause that would provide grounds for the removal of a career employee, charges may be filed in writing, in which case, the procedure for the removal of career employees shall be followed. In this case, the employee will be ineligible to hold a position in the public service.

In such cases, the employee who has been removed may request the Director of the Central Office of Personnel Administration to be requalified as established in Section 3.4 of Act Oct. 14, 1975, No. 5, known as "Puerto Rico Public Service Personnel Act".

(1) Every employee who is a regular employee in the career service and enters the confidential service, shall have the absolute right to be reinstated in a position that is equal or similar to the last one he/she held in the career service; Provided, That he/she shall be

entitled to all classification and salary benefits extended to the position he/she held, for the term during which he/she served in confidential office.

(2) Every employee who is a regular employee in the career service in a municipality and is elected or designated as substitute to hold a public elective office, shall have the absolute right to be reinstated to a position that is equal or similar to the last one he/she held in the career service, unless he/she was removed from elective office due to misconduct or by an impeachment, or if he/she resigned from office due to illegal or inappropriate conduct which would have lead to his/her removal or impeachment; Provided, That he/she shall be entitled to all classification and salary benefits extended to the position he/she held, for the term during which he/she served in the confidential service.

(3) Every employee who, as of the date of approval of this act, is holding a position in the confidential service or an elective office in the Executive Branch or the Judicial Branch, and has received a lump sum as liquidation of vacation and sick leave provided in Section 11.021 of Act No. 81 of August 30, 1991 [21 L.P.R.A. § 4571], shall be entitled to have said regular vacation and sick leave credited on his/her personnel record once he/she has been reinstated to a regular position in the career service, provided he/she returns the sum received on such account to the municipal treasury.

(b) Regular Career Employees and Probational Career Employees —

Regular career employees are those who have entered the system after undergoing the recruitment procedure established in this Act, including the probation period. These employees shall be entitled to permanent status and may only be removed from their positions for just cause and upon filing of charges.

Probational career employees shall be those employees who have been recruited and appointed pursuant to this Act, and whose probation period has not been completed. Once their probation period has been approved, these employees shall be entitled to permanent status and may only be removed from office positions for just cause and upon filing of charges.

Every candidate recruited and appointed to a career position shall acquire his/her permanent position or regular status, after approving the probation period in a satisfactory manner. The duration of this period shall fluctuate from three (3) to twelve (12) months, depending on the nature and the levels of complexity and responsibility of the position. Said period shall include a complete cycle of the pertinent work of the position. It shall be the responsibility of the direct supervisor to direct and duly train said employee during the probation period.

At least an intermediate and a final evaluation should be administered during the probation period by the direct supervisor of the employee. Upon receiving the final evaluation, the nominating authority shall determine whether the employee shall continue as a regular career employee or shall be removed for failing to approve the probation period.

(c) Transitory Employees.

Transitory appointments shall not exceed one (1) year, except for persons who are appointed to fixed-term special projects defrayed with Federal or Commonwealth funds whose appointment shall correspond to the standards provided by the law under which they are appointed.

Transitory appointments may be made in permanent career positions as determined through regulations. The following shall be deemed to be transitory appointments:

1. When the transitory appointment is meant to substitute a career position of an employee on unpaid leave.

2. When the candidate to be appointed holds a provisional permit required for a job for which there was no candidate in the Eligible Candidate Register who met the requirements.
3. When the person holding the regular career position has been removed and is appealing such removal before the Board of Appeals.
4. When the person holding the regular career position has been suspended without pay for a definite period.
5. When the person holding the regular career position is holding another position on a transitory appointment, and is entitled to return to his/her previous position.
6. When, due to a need for service, it is indispensable to fill a position reserved for a scholarship holder, in which case the transitory appointment shall last for the duration of the scholarship.
7. When an emergency arises in the rendering of services which makes it impossible or difficult to certify candidates from an eligible candidate register, in which case the appointment shall not exceed six (6) months. After said period elapses, if the Appointing Authority deems that the conditions that motivated the original transitory appointment persist, such appointment may be extended an additional six (6)-month term.
8. When the person holding the regular career position becomes a trust employee.
9. Whenever the Municipality deems it necessary for just cause. The test for the persons to be recruited through transitory appointments shall consist of an evaluation for the sole purpose of determining whether they meet the minimum requirements for the job class for which they shall be appointed, and the general conditions for entering public service. Employees with transitory appointments shall not be deemed to be career employees nor shall they be appointed to career positions on a probationary or regular status unless they undergo the recruitment and selection procedures provided in this Act for career service.

(d) *Irregular Employees.* —

An irregular employee is a person who performs incidental and intermittent functions in the municipality, whose nature and duration make it impractical to create a full or part time position.

The municipality shall adopt regulations for the administration of its personnel, including their selection, classification, changes, remuneration and leaves, pursuant to the provisions of Section 12.003(d).

The selection, appointment and removal of irregular service personnel shall be done at the discretion of the nominating authority according to the person's merits and competence.

Employees in the irregular service shall not be deemed as career employees nor shall they acquire such status merely by the passing of time.

Every irregular employee shall acquire regular status as a career employee when he/she meets the following requirements:

- (1) he/she has rendered continuous services to the municipality for a term of three (3) or more years. A year of service shall consist of one thousand eight hundred (1,800) hours or more or services rendered in one fiscal year.

In those cases in which the daily working hours of irregular personnel are reduced by virtue of the provisions of a Commonwealth act, or in compliance with federal minimum wage provisions, the Municipal Assembly shall determine with the advice of the Central Personnel Administration Office the number of hours equivalent to one year of service.

The equivalence indicated above shall be determined considering the hours of service that can be rendered in a fiscal year, based on a full working day resulting from the reduction of working hours;

(2) has the minimum educational and experience requirements established for the type of position to which the functions he/she was performing are assigned, and

(3) the employee's immediate supervisor certifies to the Mayor that he/she has rendered satisfactory services in accordance with the standards adopted to such effects.

In the case in which an irregular employee deems he/she has been injured by the refusal of the nominating authority to certify the term and minimum requirements of the position, the employee may appeal said determination before the Board of Appeals of the Personnel Administration System.

Irregular employees shall acquire regular employee status in the career service on the first day of July immediately after meeting the requirements indicated above.

Whenever an irregular employee refuses to accept an appointment to a regular position, he shall notify it in writing, by letter, or on a form that is adopted to such purposes.

The positions needed to comply with these purposes shall be created pursuant to the administrative regulations in effect.

Section 11.005. — Areas Essential to the Merit Principle. — (21 L.P.R.A. § 4555)

The following areas of municipal personnel administration shall be deemed essential to the merit principle:

- (a) Classification of positions.
- (b) Recruitment and selection.
- (c) Promotions, transfers and demotions.
- (d) Training.
- (e) Retention.

The municipality shall adopt regulations regarding those areas that are essential to the merit principle. Said regulations shall include all those personnel areas that, even though they are not essential to the merit principle, are needed to achieve a modern and equitable personnel administration system which will expedite the application of the merit principle. Pursuant to the above, the municipality may include within these regulations, or in their place, adopt separate regulations which establish the procedures for performing controlled substances tests. These regulations shall provide, among other things:

- (1) Protection of the confidentiality of the procedures and the results of the tests for controlled substances.
- (2) The mechanisms for controlling the procedures and the norms to be implemented to administer the tests.

Section 11.006. — Provisions on Classification of Positions. — (21 L.P.R.A. § 4556)

All municipal positions shall be subject to classification plans adjusted to the circumstances and needs of the service. The mayor shall establish said classification plans and the compensation with the approval of the Legislature.

A rational structure of functions shall be established which will lead to the greatest possible uniformity and will serve as a basis for the different personnel actions. Municipal functions shall be organized in such a way that logical working units may be identified. These, in turn, shall be integrated by groups of duties and responsibilities that shall constitute the basic working unit, i.e. the position.

The municipal nominating authorities shall abstain from executing service contracts with persons in their individual nature when the conditions and characteristics of the relationship that are established between the employer and employee are appropriate to the position, except as provided in this Act.

(a) *Description of positions* —

A clear and precise description shall be prepared of the duties and responsibilities of each position as well as the degree of authority and supervision attached thereto.

(b) *Grouping of positions in the classification plan* —

The purpose of the classification of positions is to group those positions of a similar nature into classes. All positions that are the same or substantially similar with regard to the nature and level of difficulty of the work to be performed according to the duties, complexities, and the degree of responsibility and authority, shall bear the same classification. Their incumbents may be required to have similar requirements, the same tests for selection, and the same salary. These positions shall be grouped into classes of positions.

Each class of position shall have an official title that describes its common basic elements, including the work's nature, complexity and responsibility. A specification shall be prepared for each class included in the classification plan. The specification shall contain a clear description of the nature and complexity of the work, degree of authority and responsibility the incumbents are required to have, typical tasks, minimum educational requirements, experience, knowledge, abilities and skills that the employees in the class should have, duration of the probational period for the positions and the minimum and maximum salaries assigned to the class. The class specification shall be executed with the mayor's signature. The President of the legislature shall deal in the same way with the legislature's confidential employees classification plan.

The classes shall be grouped according to an occupational or professional scheme which shall be an integral part of the classification plans.

(c) *Assignment of classes to salary schedules* —

The municipal nominating authorities shall determine the relative [rank] of the classes comprised in the classification plan, taking into consideration the following factors: the nature and complexity of the functions, degree of responsibility and authority exercised and received, working conditions, risks inherent to the work, and minimum requirements of the positions. The classifications shall be assigned to the salary scales contained in the compensation plan based on the rank determined for each class.

Each municipal nominating authority shall design separate classification and compensation plans for the career and confidential services. The classes included in these plans shall be structured according to a professional and occupational order, and numbered according to that class structure.

Every position shall be included in the corresponding career or confidential classification plan. No one can be nominated to a position that is not in one of these classification plans. If this happens, the nomination or personnel action shall be null.

(d) *Updating of classification plan* —

The mayor or the president of the assembly shall be responsible for the creation, consolidation and modification of the classes of positions comprised in the classification plan of their respective jurisdictions, in order to keep them up to date, or reassign any class of position from one compensation scale to another contained in the compensation plan, as well as to reclassify positions and provide for changes in duties, authority and responsibility as provided by regulations.

(e) *Creation of transitory positions* —

Transitory positions of fixed duration may be created and classified in the career service when an unpostponable need arises for additional personnel to attend to exceptional and unforeseen or emergency situations, as provided in Section 11.004(c) of this Act.

Transitory positions shall be classified using the same classification criteria for career positions and shall be assigned to the classes contained in the classification plan.

Section 11.007. — Provisions on Recruitment and Selection. — (21 L.P.R.A. § 4557)

Every municipality shall offer the opportunity to compete for career positions to any qualified person who wishes to participate in the public functions of the municipality. This participation shall be established according to merit, without discrimination with regard to race, color, sex, birth, age, social origin or condition, or religious or political beliefs.

(a) *General conditions for entrance* —

The following general conditions are hereby established for entrance to municipal public service:

- (1) Be physically and mentally able to perform the duties of the position.
- (2) Be a citizen of the United States of America, of Puerto Rico, or a foreigner duly authorized to work in the United States of America.
- (3) Not have incurred in [sic] dishonorable conduct.
- (4) Not have been separated from the public service for causes that disqualify him/her.
- (5) Not have been convicted of a felony or any other crime that implies moral turpitude or infraction of official duties.
- (6) Not be addicted to the habitual use of controlled substances or alcoholic beverages.
- (7) Not have submitted, or attempted to submit false or deceitful information on examination or employment applications.

The last five (5) causes shall not apply when the candidate has been rehabilitated for public service by the Director of the Personnel Administration Central Office.

(b) *Minimum requirements* —

The minimum requirements to fill each position shall be established on the basis of the qualifications established in the specifications for the class of position. The requirements shall be directly related to the functions of the position at all times.

Every person who is appointed to a career or transitory position shall meet the minimum requirements established for the class of position and the general conditions to enter municipal public service.

(c) *Public notice of employment opportunities* —

The mayor shall publish all employment opportunities by means of communications that best adjust to the municipality's circumstances, and as provided by regulations.

(d) *Competitive and recruitment process* —

The process of recruitment shall take place in a systematic and objective fashion, through a competitive process that will allow all candidates to positions to compete under equal conditions, through tests for each class, such as: written, oral or performance tests; or objective evaluations of academic training; and experience of the candidates.

Every person who is tested must obtain a minimum grade in said test, in order to [qualify], and then his/her name shall be entered in a registry of eligible candidates.

The names of all tested persons shall be entered in this registry in a strict descending order, according to the grade obtained, and this shall constitute the list of eligible candidates for the class of position he/she was tested for.

Any person who has been tested shall be able to ask for a revision of the result of his/her test or evaluation, which shall in no [way] exceed fifteen (15) days as of the date of the official notice of the results, and pursuant to the norms adopted for said evaluation.

The regulations adopted by the municipality shall provide for everything related to the cancellation of the registers of eligible candidates, when they no longer respond to the need of services. It shall also provide that said cancellation be notified, in writing to all candidates whose names appear in them.

Section 11.008. — Process for the Selection of Career Positions. — (21 L.P.R.A. § 4558)

The Selection Committee of the municipality, composed of the Director of Personnel and two (2) other officials designated by the mayor, shall evaluate candidates for career positions in the municipal service.

The Committee shall interview all eligible candidates, and shall submit a list to the mayor with the names of the five (5) candidates it considers best qualified, based on their capacity and special qualifications to perform the functions of the position, pursuant to Section 11.007 of this Act. The mayor shall make the final decision on the selection.

(a) *Alternate procedures*

The municipality may establish written examination systems, registration of eligible candidates in order of points, and limitation of the number of candidates to be interviewed for selection to the first ones that appear on the registry of eligibles, when its size and organizational complexity justify it.

In addition, special alternate recruitment and selection procedures may be used when it is impractical to attend to the needs of the municipal service with appointments under the regular procedure established in this Act.

Said special procedures shall be mechanisms of exception, and shall only be used in the following cases:

(1) When a register of appropriate eligible candidates is not available a certain class of position and the urgency of the service justifies it.

(2) To fill transitory, unskilled, or semiskilled positions.

(b) *Verification of requirements, medical examination and oath of office*

The established requirements of training, experience, licenses, collegiation, citizenship and others, shall be verified at the time of appointment or when the corresponding change is authorized. Failure to present the required evidence or not meet the requirements on the basis of the evidence submitted, shall be good cause for the cancellation of any selection of a candidate.

Evidence issued by a physician duly-licensed to practice his/her profession in Puerto Rico shall be required, demonstrating that the person selected to enter public service is physically and mentally able to exercise the function of the position.

There shall be no discrimination against those persons whose disabilities do not prevent them from performing the duties of the position.

Any person to whom an appointment is extended to enter the public service in the municipality shall take the oath of office and entry required by law.

(c) Probationary work period

Every person who is appointed or promoted to fill a permanent career position shall be subject to a probationary period for said position as part of the selection process for municipal public service. The duration of said period shall be established on this basis and shall not be less than three (3) months nor more than twelve (12) months, except for those areas where bylaws establish a different probationary period with a more extensive work cycle. The work of every probationary employee shall be evaluated periodically with regard to productivity, efficiency, habits, and attitudes. Official forms designed for this purpose shall be used, and such evaluations shall be discussed with the employees. Employees shall be notified in writing of the final action at least ten (10) days before the effective date thereof.

Any employee may be separated from his/her position during the probationary period or at the end thereof, after having been duly advised and trained, if it is determined that his/her progress and adaptability to the norms of municipal public service have not been satisfactory.

Upon satisfactory completion of the probationary period, the employee shall become a regular employee in the position.

Any career employee who fails the probationary period for reasons other than his/her habits or attitudes, and who was a regular employee immediately prior thereto, shall be entitled to be reinstated in a position of the same class he/she previously filled as a regular employee, or in another like or similar position with similar requirements.

Section 11.009. — Promotions, Transfers and Demotions. — (21 L.P.R.A. § 4559)

Career employees may be promoted and transferred provided they meet the minimum requirements of the positions to which they are promoted or transferred.

Transfers may also be made from agencies of the Executive Branch of the Commonwealth to the municipalities, and vice-versa, or from one municipality to another, when the transfer of human resources is needed. In all such cases, the employee shall retain the compensation and other fringe benefits, such as vacation and sick leave he/she had before the transfer, provided there is reciprocity between the classification of the position held by the employee, before and after the transfer.

Furthermore, every municipal official with a regular status in the career service who is transferred to a confidential service, holding a position as the director or deputy, in a state agency, in the Governor's Office, in the Legislature [of Puerto Rico], or held an elective position, shall have the right to be reinstated to a position equal or similar to the last one he/she held in the career service; Provided, That all vacation and sick leave benefits accrued at the time of the change in category shall be allowed to remain frozen for a period of not more than twelve (12) years, when the employee so requests or accepts it in writing [and also Provided, That said benefits shall be reactivated in any of the situations specified below:

(a) When the municipal employee returns to his/her former position in the career service, where he/she will continue to accrue benefits as if his/her functions had not been interrupted, including, but without limited, to accruing years of service toward his/her retirement.

(b) When a municipal employee in his duties as confidential employee becomes disabled, in such a way that he/she cannot return fulfill his/her duties in any of the categories, he/she shall be compensated according to law as if he/she had resigned from career position.

In those cases that employees are transferred from a municipality to an agency of the central government, they shall be under the authority and supervision of the public agency to which they were transferred. Once transferred or assigned to the jurisdiction of the central government, the municipality cannot interfere in any way with their functions, nor shall it be allowed to require or demand that the public agency should return said employees to the municipal service.

Every employee who is a regular employee in the career service, and that when transferred, becomes a confidential employee, shall have the absolute right to be reinstated in an equal or similar position to the last one he/she held in the career service, unless his/her removal from the confidential position was based on charges filed against him/her. The reinstatement shall preferably take place, in the same body where he/she served prior to leaving the confidential service.

Transfers shall not be used as a disciplinary measure, nor may they be arbitrary or onerous for to the employee. They may only be made by request of the employee, or when they answer to true needs of the service, as established by regulations.

An employee may be changed from one position to another of less remunerated one, when the employee requests it, or when positions are eliminated and he/she cannot be placed in a similar position to the one he/she held, if the employee accepts the position with less pay. In case of a demotion, the employees must meet the minimum requirements of the classification [for] the position to which they are demoted, and shall state their agreement to the demotion, in writing.

The nominating authorities shall identify the positions that can be filled through the promotion mechanism, observing the following standards:

(a) The employees in career positions shall be promoted through competitive examinations, which may consist of: written tests, tests of physical performance, evaluation of their academic training and work experience, or a combination thereof.

(b) The opportunities for promotion shall be [announced] by a notice of [a] job opening, so that all interested persons who meet the minimum requirements [may] compete. If, after the corresponding notice is published, there is not a reasonable number of qualified candidates for the position, the procedure provided in the regulations shall be followed.

(c) Unopposed promotions may take place in cases when pressing demands of the service, and the special qualifications of the employees justify it, upon the prior evaluation and the recommendation of the Director.

(d) Every employee who has been promoted shall fulfill the probation period specified for the new position to which he/she has been promoted.

The municipality shall adopt by regulations, the norms for promotions, transfers and demotions of the employees.

Section 11.010. — Provisions on Retention. — (21 L.P.R.A. § 4560)

Every regular career employee recruited according to the provisions of this Act, who meets the criteria of productivity, efficiency, order and discipline which should prevail in the municipal public service, shall be entitled to permanent employment status. The municipality shall establish said criteria taking into consideration the functions of the positions and the duties, obligations and prohibitions established in this Act for all municipal officials and employees.

The municipality shall implement a system to evaluate the career employees' performance and their compliance with the criteria of order and discipline. The system shall be designed according to the functional complexity and needs of the municipality. The system that is established shall provide the mechanisms for the development of the levels of excellence that promote productivity.

Employees may be required to submit to periodic medical examinations when the functions of their position justifies it, or to protect the health of the employees.

Section 11.011. — Duties and Obligations of Employees. — (21 L.P.R.A. § 4561)

In addition to any other duties that may be established by law, ordinance or regulations, all municipal officials and employees, regardless of the service to which they belong and the legal status they hold, shall have the following duties and obligations:

(a) Municipal officials and employees shall:

- (1) Attend work punctually and regularly and comply with the established working day.
- (2) Behave courteously, correctly and respectfully in their relations with supervisors, fellow workers and citizens.
- (3) Diligently and efficiently carry out the tasks and functions assigned to their position and any others that are compatible with those, that are assigned to them.
- (4) Obey their supervisor's orders and instructions that are compatible with the authority delegated upon them, and with the municipal functions, activities and operations.
- (5) Maintain the confidentiality of those matters related to their work unless permission or a petition from a competent authority is received which requires them to reveal any matter. None of the above shall impair the rights of the citizens who have access to the documents and other information of a public nature.
- (6) Carry out work during non-working hours when the needs of the service require it, and with adequate and reasonable advance notice.
- (7) Watch over, preserve and safeguard public documents, goods and interests that are in their custody.
- (8) Comply with the provisions of this Act and with the ordinances, rules and orders adopted by virtue hereof.
- (9) Comply with the ethical and moral standards of conduct established in Act No. 12 of July 24, 1985, as amended, known as "Ethics in Government Act of the Commonwealth of Puerto Rico", and any other standard established by the Puerto Rico Government Ethics Office, by virtue of said sections.

(b) Municipal officials or employees, regardless of the service to which they belong or the legal status they have, shall be subject to the prohibitions that are established in Chapter III of Act No. 12 of July 24, 1985, as amended, and shall be subject to the following prohibitions:

- (1) They shall not conduct themselves in a way that is improper or injurious to the good name of the municipality or the Government of the Commonwealth of Puerto Rico.
- (2) They shall not incur any act of prevarication, bribery, or immoral conduct.
- (3) They shall not perform any act that prevents the implementation of this Act and the rules adopted pursuant hereto, nor shall they knowingly make or accept any false statement or report with regard to any matter covered by this Act.
- (4) They shall not give nor pay, offer, solicit nor accept directly or indirectly, any money, or services or any other thing of value or change of eligibility, appointment, promotion, or other personnel action.
- (5) They shall not perform or attempt to perform any deceit or fraud in the information submitted in any request for examination.
- (6) They shall not be remiss in the duties and obligations established in this Actor in the regulations adopted by virtue hereof.
- (7) They shall not certify, approve, or make any payment whatsoever for personal services in behalf of any person who holds a position in the municipal personnel administration system, unless said person has been appointed pursuant to the provisions of this Act and the regulations adopted hereunder.
- (8) They shall not certify, approve or perform any personnel action whatsoever in violation of the provisions of this Act and the regulations and norms that are adopted pursuant to it or any other law, regulations or norms that apply to said personnel action.
- (9) They shall not incur conduct that constitutes sexual [harassment] in the workplace.
- (10) They shall not execute any public work whatsoever, nor acquire any products or materials without holding public bidding, except in the cases and in the manner authorized by law.
- (11) They shall not sell municipal bonds or notes without holding public bidding except in the cases and in the manner authorized by law.
- (12) They shall not execute contracts, incur obligations in excess of what is authorized by law, or regulations, for the use of items consigned in the budget.
- (13) They shall not authorize the payment of debts or obligations contracted irregularly in a previous year, to be charged to budgeted items of a subsequent year, unless said debts or obligations were authorized in the manner provided in this Act.
- (14) They shall not dispose of any motor vehicle under the provisions of subsection (c) of Section 5-710 of Act No. 141 of July 20, 1960, as amended, without complying with the requirement of public bidding, or shall fail to comply with any other obligation imposed by virtue of said subsection.
- (15) They shall not fail to produce and submit the reports required by mandate of law or regulations.

Section 11.012. — Disciplinary Actions. — (21 L.P.R.A. § 4562)

When an employee's conduct does not adjust to the established norms, the municipal nominating authority shall impose the corresponding disciplinary action. Verbal admonishments, written reprimands, suspensions of employment and salary and removals may be considered, among other measures.

(a) Any employee may be removed or suspended from employment and salary for just cause, and after written filing of charges and advising them of their right to an informal hearing.

In those cases that the employee's conduct consists of the illegal use of public funds or when there are reasonable grounds to assume that the person is a real threat to the health, life or morals of the employees or the people in general, he/she may be summarily suspended from employment and salary after an informal hearing in which he/she is informed of the action to be taken and is given the opportunity to make a statement.

(b) The filing of charges shall be notified to the employee with a list of the facts that sustain the disciplinary action, and the laws, ordinances, rules or norms that have been violated by the employee. He/she shall be informed of his/her right to an informal administrative hearing to state his/her version of the facts.

(c) The mayor or the President of the Legislature in the case of an employee thereof shall determine the final action that corresponds, and shall give notice thereof to the employee. If the decision is to remove the employee or suspend him/her from employment and salary he/she shall be advised in writing of his/her right to appeal before the Personnel Administration System's Board of Appeals, as provided in Section 11.002 of this Act, within a term of thirty (30) days from the date of receipt of the notice.

(d) For the purposes of this Act, unjustified and unauthorized absence from work for five (5) consecutive days and the violation of the provisions of Section 11.011, among other similar situations, could be grounds for suspension from employment and salary, and removal.

When it is found through an administrative investigation that the imposition of corrective or disciplinary measures is not in order, the nominating authority or its authorized representative shall proceed according to the provision of subsections (d) and (e) of Section 11.022 of this Act.

Section 11.013. — Layoffs and other Separations. — (21 L.P.R.A. § 4563)

Layoffs may be decreed in the service upon the establishing the plan for these purposes, for the following reasons:

(a) For lack of work or funds Layoffs shall be decreed within the groups of employees whose positions have the same classification title, and considering the status of the employees within each group, their productivity as reflected by the periodic evaluations required by this Act, their habits of punctuality, and attendance at work, and their seniority in the public service.

Career employees shall be notified in writing of the procedures followed to decree the layoffs, and the criteria used. They shall also be notified of their right to appeal before the Personnel Administration Systems Board of Appeals. No layoff shall be effective unless it is notified thirty (30) days prior to its effective date.

(b) When it is determined after an evaluation process that the employee is physically or mentally disabled.

Any employee convicted for a felony, or a misdemeanor that implies moral turpitude, or for the infraction of his/her official duties, shall be removed from service pursuant to Section 208 of the Puerto Rico Political Code [3 L.P.R.A. § 556].

Section 11.014. — Limitations of Personnel Transactions in Electoral Periods. — (21 L.P.R.A. § 4564)

In order to ensure the faithful application of the merit principle in the municipal public service at all times, the nominating authorities shall abstain from carrying out any personnel transaction that involves the areas essential to the merit principle, such as appointments, promotions, transfers, demotions, reclassifications, changes in salaries and categories of positions and employees, within a term that is comprised of the two (2) months prior to the date the general election is held, and until the second Monday in January following said election.

After due approval by the Central Personnel Administration Office, exception may be made regarding those personnel transactions deemed necessary to fulfill the needs of the service. In those necessary cases, it shall be the responsibility of each nominating authority to request that said personnel action be excepted from the prohibition. The request must indicate the adverse effects to be prevented through the exception. Appointments that do not comply with this procedure shall be deemed null.

Section 11.015. — Compensation Provisions. — (21 L.P.R.A. § 4565)

The mayor shall prepare separate compensation plans for the employees of the Executive Branch of the municipal government in the career and trust service. Such plans shall adjust to the prevailing fiscal situation of the municipality and shall require the approval of the legislature by means of ordinance. The President of the legislature shall adopt a compensation plan for the employees of the legislature which shall be approved by the vote of at least two-thirds (2/3) of the members of the legislature.

(a) *Compensation plans.* - Compensation plans shall provide equitable treatment for employees and shall stimulate the maximum use of the available human and fiscal resources.

Said plans shall stipulate a compensation scale for each type of position, which shall consist of a minimum and a maximum rate, and any other intermediate rates that are deemed necessary.

The rates established in the compensation scales shall correspond to a monthly salary and a regular working day. When part-time services are rendered in a position, the salary to be fixed shall be in proportion to the regular working day established by regulations.

(b) *Administration of compensation plans.* - The nominating authorities shall establish, by regulations, the norms that shall govern the administration of the compensation plans for career and confidential services. The nominating authority may reassign classes to other scales, keeping the compensation plan updated, to respond to the needs of the service.

(c) When the financial capability of the municipality allows, those employees who hold regular positions and have not received any manner of salary increase whatsoever, except an increase granted by municipal ordinance, during an uninterrupted period of service of five (5) years, shall receive a salary increase equivalent to a type or step in the corresponding schedule. Said salary increase may be granted consecutively until the employee reaches the maximum type within the schedule assigned to his/her position. The nominating municipal authority may refuse to grant said salary increase to any employee if in its judgment the services of the employee during the corresponding five (5)-year period have not been satisfactory. In such cases the nominating authority shall inform the employee in writing the reasons for which the aforementioned salary

increase has not been granted and of his/her right to appeal before the Board of Appeals of the Personnel Administration Service.

(d) After the transfer, the employee or official shall continue to accrue, and shall be entitled to fringe benefits and other leaves, as stipulated in the provisions of the law that rules the agency of the central government to which he/she was transferred. Likewise, once reinstated to his/her career position, pursuant to the provisions of Section 11.009 of this Act, he/she will be entitled to transfer to the original municipality the fringe benefits and leave, accrued in the agency of the central government.

(e) The Municipalities shall use other compensation methods to retain, motivate, and recognize personnel. Some of such mechanisms are:

1. *Differentials* – A special, provisional compensation, in addition to and separate from the employee’s regular salary, which is granted to mitigate extraordinary circumstances that may otherwise be considered onerous to said employee. Differentials may be granted for:

(a) *Extraordinary Conditions* – A temporary work situation that requires greater effort from or risk from the employee while performing the duties of his/her job.

(b) *Acting Capacity Services* – A temporary work situation in which the employee performs all the essential duties of a position which is higher than the position he/she is officially appointed to. The following shall be required: having performed such duties uninterruptedly for thirty (30) days or more; having been officially appointed to perform duties in an acting capacity by the director of the department or office, and complying with the education and experience requirements of the position being performed in an acting capacity. An employee rendering services in an acting capacity may be removed from such position at any time as determined by the Mayor or the person he/she designates. No differential granted shall be deemed to be an integral part of the regular salary of an employee when calculating severance pay or retirement pensions.

2. *Bonus* – A special, non-recurring compensation, separate from a salary, which may be granted as a vehicle to recruit, retain, or reward an employee, or a group thereof, who meet the requirements established prior to granting such compensation. The standards to grant such an incentive to employees shall be evaluated and approved by the Appointing Authority.

(f) No amendment or modification to the evaluation or appraisal system of positions selected by the agency shall negatively affect the base salary of an employee.

(g) As a general rule, any person appointed to the regular career service shall receive, as salary, the minimum rate in the salary schedule pertaining to the job class of the position he/she shall fill. However, the Mayor may make an exception to this rule when there are reasonable circumstances that justify granting a compensation greater than that established within the salary schedule of such job class.

(h) Raises granted for promotions in the Municipality shall be appraised in terms of percentages or in the equivalent of intermediate rates. This determination shall depend on the salary structure selected by the Municipality. However, the raise shall not be less than the difference between minimum rates in the schedules.

(i) In the case of demotions due to particular services needs, determined by the Appointing Authority as an urgent service need, such action shall not negatively affect the salary of an employee, except when such action is taken to prevent layoffs due to lack of funds. When the demotion is undertaken at the request of the employee, his/her salary shall be adjusted to that of

the job class to which he/she is demoted, plus the raises granted by the Legislature and received while in the previous position.

(j) In the event of reinstatement as a result of having failed a probationary period, the employee shall receive the last salary earned in the position to which he/she is being reinstated, plus any raises received by such job class. Moreover, he/she shall receive those raises granted by the Legislature during the time he/she was in a probationary period.

(k) In the event of reinstatement as a result of returning from unpaid leave, the employee shall receive the last salary earned before the start of his/her leave, plus any raises received by such job class, or any raises granted by the Legislature during the time he/she was on temporary disability leave.

(l) In the event of reinstatement as a result of returning from temporary disability leave, the employee shall receive the last salary earned before the separation from work, plus any raises received by such job class or any raises granted by the Legislature during the time he/she was on such leave.

(m) Trust employees entitled to be reinstated to their regular career positions pursuant to this Act, when reinstated, shall be entitled to all the benefits in terms of classification and salary that were granted to the career position they held before, while they were rendering trust capacity services. Such employees shall also be entitled to pay raises granted by the Legislature and up to a ten percent (10%) raise in the salary they earned as trust employees. To receive this recognition, an outstanding performance evaluation included in the employee's record shall be necessary. On the other hand, if the employee to be reinstated rendered trust capacity services for no less than three (3) years, the Appointing Authority may authorize any pay raise resulting from the difference between the salary earned while in the regular career service and the salary he/she shall earn when reinstated. An outstanding performance evaluation shall also be necessary to receive this recognition.

(n) Promotion, transfer, and demotion standards established by the Appointing Authority through regulations shall apply in case of reclassification.

(o) As a general rule, transfers shall not entail pay raises.

(p) In case of employee reinstatement, the new appointment standard shall apply, except when the employee is reinstated after recovering from a temporary disability.

(q) The following rules shall only apply to employees and managers in public service:

1. The Municipalities may develop and include in their regulations such compensation methods, according to their budget capacity, to recognize productivity, efficiency, and quality of work performed by employees. These alternate compensation methods may be used to retain the most suitable personnel, to obtain qualified personnel to fill difficult-to-recruit-for positions, and to motivate employees. Some of these methods, among others, are:

- a. Certificates of Recognition for the work performed.
- b. Productivity bonuses, representing twenty percent (20%) of the money earned in a fifteen-day pay period.
- c. Teamwork performance bonuses.
- d. Agency achievement activities and employee recognition activities.
- e. Training in and outside Puerto Rico.
- f. Scholarship for undergraduate and graduate studies.
- g. Gym, health units, cafeteria, and child day care facilities.

- h. Room and board, food, and uniform benefits to all employees the nature of whose job so require.
 - i. Attendance and punctuality bonuses. Said bonus shall be independent and separate from any payment on account of any excess leave accrued.
 - j. Bonuses for employees retiring from the system.
 - k. Days and hours granted without charge to any leave.
2. Every employee shall have the possibility for professional development, either by his/her own initiative or as offered by the organization. Some of the compensation methods that foster said considerations are:
- a. *Additional Compensation for Abilities* – Insofar as employees develop and apply abilities other than those pertaining to their main duty, the Municipality may, at its entire discretion, grant an additional compensation that shall become part of the employees’ salary.
 - b. *Skill Development* – Insofar as the agency realizes which skills are required to obtain the employees’ outstanding performance, it may select and form individuals to achieve such a performance levels. As a result, when employees perform at an outstanding level, the overall performance of the agency is maximized. This premise implies that any employee who succeeds in implementing the new work processes that the agency desires, and who is a change agent and continuous innovator, shall receive a compensation for skills.
- c. When recruiting personnel, an economic incentive may be incorporated to the base salary. The same shall be adjudicated in any job classes that require a high level of education and experience.
- d. Salary adjustments may be granted subject to performance and productivity evaluations.

Section 11.016. — Fringe Benefits. — (21 L.P.R.A. § 4566)

In addition to the fringe benefits established by special laws, including the provisions in effect regarding holidays, municipal employees shall be entitled to the following:

(a) *Holidays*

Holidays shall be those days decreed as such by the Governor or by municipal ordinance.

(b) *Leave*

(1) *Vacation Leave*

Career, confidential and transitory employees shall be entitled to accrue vacation leave at a rate of two and a half (2 1/2) days for each month of service. Part-time employees shall accrue said leave in proportion to the number of hours that they regularly render services.

Each municipal body shall prepare and administer a vacation plan in the way that is most compatible with the requirements of the service and which prevents employees from accruing leave in excess of the allowable maximum per calendar year.

Every employee may accrue vacation leave up to a maximum of sixty (60) working days at the end of each calendar year. If he or she is unable to enjoy the accrued leave due to the requirements of the service, the municipal nominating authority shall grant any excess of the sixty (60) day limit within the first six (6) months of the following calendar year. The nominating authority shall take the measures needed to grant vacation leave to the employee whenever possible. The mayor shall adopt, through his/her office of human resources, the

norms that shall govern when the need to grant vacation leave to employees in advance arises.

Any employee may be authorized to use his/her accrued leave for a period greater than thirty (30) days up to a maximum of sixty (60) days in any calendar year, when the circumstances and merits of the case justify it.

Municipal bodies are hereby empowered to pay vacation leave accrued in excess of the maximum limit authorized by law within a calendar year to the employee, by exception when due to special circumstances of the service beyond his/her control, the employee has not been able to enjoy the same within the six (6) months after the calendar year which reflects such excess. Should said situation occur, the employee may opt to authorize the municipal body concerned to transfer to the Department of the Treasury any money amount on account of the balance of vacation leave accrued during the calendar year in excess of the maximum limit authorized by law, in order for said amount to be credited as total or partial payment of any income tax debt he or she has at the time of authorizing the transfer.

(2) Sick Leave

Every career, confidential, and transitory employee shall be entitled to accrue sick leave at a rate of one and a half (1 1/2) days for each month of service. Part-time employees shall accrue said leave in proportion to the number of hours that they regularly render services.

Workers Service employees who in any calendar year have rendered their services for a period of six (6) months or more shall be entitled to accrue sick leave at a rate of one and a half (1 1/2) days for each month worked, and vacation leave at a rate of two and a half (2 1/2) days for each month worked.

Sick leave shall be used exclusively when the employee is ill, disabled, or exposed to a contagious disease which requires his/her absence from work to protect him/herself or other persons. The nominating authority may require the worker to present a medical certificate issued by a physician licensed to practice medicine in Puerto Rico, which certifies that the person was unable to work during the period he/she was absent. This certificate shall specify the medical reasons of the disability and the period of time he/she shall be disabled. The municipality shall approve regulations concerning the procedures for absences from work due to sick leave and the certificate of disability when the period of absence is for three (3) working days.

Sick leave may be accrued up to a maximum of ninety (90) working days at the end of any calendar year. An employee may use all sick leave accrued during any calendar year. Every employee shall have the right to be paid for the sick leave accrued in excess of the ninety (90) days, not later than March 31 of the following year. The payment shall be based on the employee's salary at the time the payment is made. This right shall not lead to the incorrect or inadequate use of the leave to which the employee is entitled. Therefore, it is hereby prohibited to substitute or authorize the substitution of sick leave for any other types of leave granted for other purposes, in order to wrongfully accrue excess sick leave for the payment established herein, unless there is any other federal or state legislation authorizing it. Provided, further, That the municipal employee may opt to authorize the municipal body concerned to make a money transfer to the Department of the Treasury of the excess over the ninety (90) days of sick leave, or part thereof, with the purpose of said amount being credited as total or partial payment of any income tax debt he or she has at the time of authorizing such transfer.

In the case the employee does not have sufficient sick leave accrued, the nominating authority may advance the same for a reasonable term, as the circumstances and merits of the case so justify, up to a maximum of eighteen (18) working days.

(3) Leave for victims of domestic violence

When the employee is victim of domestic violence and requires free days or a flexible work schedule, he/she shall be entitled to non-accruable leave with pay for a term of up to five (5) working days to seek the assistance of an attorney or advisor in matters of domestic violence, obtain a restraining order or obtain medical services or those of any other nature for him/herself or his/her family members.

For the purposes of this section the term "domestic violence" shall be interpreted as it is defined in the "Act for the Prevention of and Intervention with Domestic Violence", Act No. 54 of August 15, 1989, as amended [8 L.P.R.A. §§ 601 et seq.].

(c) Christmas bonus

Those municipalities whose budgetary capability allows them to grant the payment of a Christmas bonus for an amount greater than that established in Act No. 35 of June 12, 1969, as amended [3 L.P.R.A. §§ 757 et seq.], may increase the amount thereof through the approval of an ordinance. The contribution of the Department of the Treasury shall remain at the percentage already established by said sections.

(d) Granting of Days as a Result of Disasters or Emergencies

Any days granted to Commonwealth employees by the Governor as a result of a disaster or emergency shall apply automatically and in like condition; to wit, with or without pay, and to be charged or not to accrued leave; to the municipal employees of those municipalities that are within the geographical zone comprised by the declaration of disaster or emergency.

The granting of working days under the provisions of this subsection shall not apply to those municipal employees that work in contingency groups in case of disasters or emergencies, nor to those employees whose work is essential for the operation of the municipal government in those cases. To such ends, the mayor shall identify through regulations, those municipal dependencies and positions whose employees should report, in case that a state of emergency is declared by him/her or the Governor. Said regulations must be approved by the legislature.

Section 11.017. — Maternity Leave. — (21 L.P.R.A. § 4567)

Every pregnant employee shall be entitled to request that maternity leave with pay be granted to her. This leave shall include a period of four (4) weeks before and four (4) weeks after childbirth.

In the case of a temporary employee, maternity leave shall not exceed the period of her appointment.

(a) Option to Alter Leave

An employee may choose to take only one prenatal week of rest and extend the postnatal rest period up to seven (7) weeks. In these cases, the employee shall submit a medical certificate establishing that she is able to work until one week before child-birth.

(b) Complete Salary and Accrual of Other Leave

An employee shall earn her complete salary during the maternity leave period. This payment shall be made when the employee begins her maternity leave. Employees on maternity leave shall accrue vacation and sick leave while on maternity leave, and until they return to municipal

public service at the end of such leave. In these cases, leave credits shall be granted when the employee returns to work.

(c) *Extension of Leave*

If child-birth occurs before the period chosen by the employee for her prenatal maternity leave, or without it having begun, the post-partum period shall be extended for a period of time equal to that which she failed to use during the prenatal period, and she shall also be paid her full salary. The pregnant employee may also request to return to work before her eight (8) weeks of leave expire, if she presents a medical certificate attesting that she is able to work. In this case, it shall be deemed that the employee has waived the extension of leave to which she is entitled.

When in spite of the medical certificate required in this section, the probable date of child-birth has been miscalculated, and the woman has taken eight (8) weeks of leave without having given birth, her leave at full pay shall be extended until the birth occurs, in which case, the additional term for which the prenatal leave is extended shall be paid in the same way and terms established for the payment of regular salaries, wages or compensation.

(d) *Request for Leave*

Every request for maternity leave shall include a certificate issued by a physician licensed to practice in Puerto Rico, indicating the approximate date that, in the physician's judgment the employee shall be able to work.

(e) *Complications During Pregnancy*

In those cases that the employee has complications during her pregnancy or as a result thereof, and there is a reasonable expectation that the employee shall return to work, she may be granted any vacation and sick leave she is entitled to, pursuant to this Act and the municipal regulations in force, in addition to maternity leave. When the employee has not accrued sufficient sick leave, the nominating authority can advance said leave for a reasonable period, as justified by the circumstances and merits of the case, up to a maximum of eighteen (18) working days. She may, likewise, also be granted leave without pay. However, in no case shall the total period that the employee who is on any of these types of leave, is absent, or all of them, exceed one year [sic].

(f) *Termination of Pregnancy by Abortion*

When an employee suffers an abortion, she may claim the same benefits granted to an employee who has a normal child-birth. However, to be entitled to such benefits the abortion shall be of such nature that it produces the same physiological effects that are regularly seen as a result of child-birth, according to the dictates and certification of the physician who attends her during the abortion. In this case, the employee shall be entitled to be granted maternity leave for the term of her disability.

Any employee who starts to use her prenatal leave as provided in this Act, and the pregnancy ends due to a premature birth, may claim the same benefits as an employee who has a normal childbirth.

(g) *Unjustified Dismissal*

A pregnant woman shall not be dismissed without just cause. Lesser productivity due to her pregnancy shall not be understood to be just cause. Any decision that may somehow affect a pregnant woman's permanence at work, shall be postponed until the end of her maternity leave.

Section 11.017-A. – Paternity Leave. (21 L.P.R.A. § 4567a)

Any employee shall be entitled to request that paternity leave with pay be granted to him, provided that he meets the following requirements:

- (a) Paternity leave shall comprise a period of five (5) business days from the child’s birth.
- (b) When claiming this right, the employee shall certify that he is legally married to or cohabits with the mother of the child, and that he has not incurred domestic violence. Such certification shall be made through the filing of the form required by the Municipality for such purposes, which shall also include the signature of the mother of the child.
- (c) The employee shall request paternity leave and submit the birth certificate as soon as possible.
- (d) During paternity leave, the employee shall receive full pay.
- (e) In the case of a temporary employee, paternity leave shall not exceed the period of his appointment.
- (f) Paternity leave shall not be granted to employees who are enjoying any other kind of paid or unpaid leave. Employees who have been granted vacation or sick leave are exempted from this provision.
- (g) The employee who, along with his spouse, adopts a preschooler, that is, a child who is five (5) years old or less and is not enrolled in school, pursuant to the laws and legislation in effect in Puerto Rico or in any other jurisdiction of the United States, shall be entitled to paternity leave for a period of five (5) days, to be counted from the date on which the notice of the judicial decree is received and, simultaneously, the child is brought to the home, which shall be certified in writing. When claiming this right, the employee shall certify that he is legally married, when applicable, and that he has not incurred domestic violence, sex offenses, or child abuse. Such certification shall be made through the filing of the form required by the Municipality for such purposes, which shall also include the signature of his spouse.
- (h) The employee who, individually, adopts a preschooler, that is, a child who is five (5) years old or less and is not enrolled in school, pursuant to the laws and legislation in effect in Puerto Rico or in any other jurisdiction of the United States, shall be entitled to paternity leave for a period of eight (8) weeks, to be counted from the date on which the notice of the judicial decree is received and, simultaneously, the child is brought to the home, which shall be certified in writing. When claiming this right, the employee shall certify that he has not incurred domestic violence, sex offenses, or child abuse.
- (i) Subsections (d) and (f) of this Section shall be equally applied in the cases in which the employee requests the benefits established in the paragraphs above.

Section 11.017-B. – Adoption Leave. (21 L.P.R.A. § 4567b)

Any female employee who adopts a preschooler, that is, a child who is five (5) years old or less and is not enrolled in school, shall be entitled to a four (4)-week leave, to be counted from the day of the adoption.

(a) *Full pay and accrual of other leave*

For the duration of the maternity leave for adoption, the employee shall receive full pay. This pay shall become effective when the employee begins to enjoy the leave. Employees enjoying maternity leave for adoption shall accrue vacation and sick leave while enjoying maternity leave

for adoption, provided that she returns to municipal public service at the end of the leave period. In these cases, leave time shall be credited when the employee returns to work.

(b) *Request Leave*

Every request for maternity leave for adoption shall be accompanied by a certification from the agency that managed the adoption process, where the adoption date shall be stated.

(c) *Removal without Just Cause*

The adoptive mother may not be removed without just cause. Any decision that may affect the permanent status at work of an adoptive mother shall be postponed until after the period of maternity leave for adoption.

Section 11.017-C. – Special Paid Leave for Breastfeeding. (21 L.P.R.A. § 4567c)

(a) Time shall be granted to breastfeeding mothers so that, after enjoying maternity leave, they may have the opportunity to breastfeed their babies for one (1) hour during each work day, to be distributed in two (2) periods of thirty (30) minutes or three (3) periods of twenty (20) minutes.

This benefit shall be granted in those cases in which the Municipality has an in-house Child Day Care Center where the mother may go to breastfeed her baby, or those cases in which she may go for milk extraction in the area designated for breastfeeding in the workplace.

(b) In the workplace, the breastfeeding period may last up to a maximum of twelve (12) months, to be counted from the day in which the employee returns to work.

(c) Those employees who wish to avail themselves of this benefit shall submit a medical certificate to the Municipality, during the period corresponding to the fourth (4th) and eighth (8th) month of life of the infant, stating that they are breastfeeding mothers. Said certification shall be submitted not more than five (5) days from each period. Provided, that the Municipality shall designate an area or physical space that guarantees privacy, security, and hygiene to the breastfeeding mother without it entailing the construction of physical or organizational structures, subject to the availability of resources of the government entities. The Municipalities shall establish regulations regarding the operation of these breastfeeding areas.

Section 11.018. — Other Special Leave. — (21 L.P.R.A. § 4568)

Municipal employees shall enjoy other leave, with or without pay, as established by regulations, such as the following:

(a) Serve as a confidential official in any Department or Agency of the Executive Branch; in any authority or agency excluded from Public Service Personnel Act, No. 5 of 1975, Section 10.6 [3 L.P.R.A § 1338]; in one of the agencies exempted from Act No. 5 of 1975, due to their Individual Administrator status under Section 5.3 of said Act [21 L.P.R.A. § 1343]; or in another municipality of Puerto Rico, in the confidential service.

(b) To hold a public elective office to which he/she has been elected or designated as substitute, in the Executive or Legislative Branch of the Commonwealth of Puerto Rico.

(c) Military leave, to attend National Guard or United States Army Reserve requirements and calls to active service by the Governor of Puerto Rico or the President of the United States.

(d) For judicial purposes, to act as a witness of the People of Puerto Rico.

(e) For study or training which enhance the education and capabilities of the public servant matters pertinent to his/her employment.

- (f) To participate in activities in representation of the Commonwealth of Puerto Rico.
- (g) To render volunteer services to the Civil Defense corps and other organizations that render emergency services in case of disasters.
- (h) For sports activities, with the prior authorization of the mayor or his/her authorized representative.
- (i) Unpaid leave shall not be granted in case that the employee means to use it to seek other employment opportunities.
- (j) If the cause for which leave was granted ceases to exist, the employee must return to work immediately, or notify to the Agency the reasons for which he/she is not available, or his/her decision not to return to his/her position at work.
- (k) To regular career employees, to protect their regular status or those rights to which they may be entitled in case of:
 - 1) A disability claim before the Retirement System of the Commonwealth of Puerto Rico or another entity, and the employee has run out of vacation or sick leave.
 - 2) A work-related accident suffered by the employee and, as a result of which he/she is undergoing treatment in the State Insurance Fund, or pending a final determination related to his/her accident, and he/she has run out of vacation or sick leave.

Section 11.019. — Transfer of Leave. — (21 L.P.R.A. § 4569)

he transfer of vacation and sick leave accrued by a municipal official or employee when he/she goes from one position to another within any agency or dependency of the Government of the Commonwealth of Puerto Rico, including those of the Legislative Branch, the Judiciary Branch and the municipalities, is hereby authorized.

The municipality shall certify, and the agency that acquires the services, shall accept and credit the number of days of leave accrued by said official or employee, up to a maximum of sixty (60) days of vacation leave and ninety (90) days of sick leave.

In a like manner, a municipality that acquires the services of an official or employee of any agency or dependency of the Government of the Commonwealth of Puerto Rico, including those of the Legislative Branch and the Judiciary Branch, shall accept and credit the number of days of vacation and sick leave accrued by said official or employee up to a maximum of sixty (60) days of vacation leave and ninety (90) days of sick leave.

Section 11.020. — Transfer Vacation Leave. — (21 L.P.R.A. § 4569a)

One or more municipal officials or employees may transfer, as an exception, to another municipal official or employee who works in the same municipality, their accrued vacation leave when:

- (a) The transferee official or employee has continuously worked at the municipality for a minimum of one year.
- (b) The transferee official or employee has not incurred a pattern of unjustified absences violating the municipal personnel regulations.
- (c) Due to an emergency, the transferee official or employee has totally consumed the total number of leave hours to which he/she is entitled.

(d) The transferee official or employee or his/her representative provides attesting evidence of the emergency and of the need to remain absent for a number of days in excess of the days of leave to be transferred.

(e) The transferor official or employee has accrued a minimum of fifteen (15) days of vacation leave in excess of the days of leave to be transferred.

(f) The transferor official or employee has submitted a written authorization agreeing to the transfer and specifying the name of the transferee, to the personnel office of the municipality in which he/she works. And,

(g) The transferee official or employee or his/her representative accepts in writing the proposed transfer.

The personnel office of the corresponding municipality shall proceed to subtract the leave days of the transferor official or employee and apply the leave days transferred to the transferee official or employee once the correctness of this transaction has been verified, pursuant to the provisions of this section and according to the applicable personnel regulations. Transferred vacation leave shall be credited according to the salary of the transferee official or employee.

No official or employee may transfer to one or more officials or employees more than five (5) days of accrued vacation leave in one month and the number of days to be cumulatively transferred may not be greater than fifteen (15) days per year.

The transferor official or employee shall not be entitled to payment for transferred vacation leave. However, he/she shall be entitled to payment for or enjoyment of the accrued balance of said leave in excess of the leave transferred.

When the special motive for which the transferee official or employee has had to be absent no longer exists, said official or employee shall return to work without the benefit of the remaining balance transferred, and said balance shall revert to the transferor official or employee to be credited to the his/her according to his/her salary at the time in which the transfer took place.

The transferee official or employee may not enjoy the benefits granted in this section for a period of over one year, including the time consumed on account of the leave and benefits enjoyed on his/her own right. The municipality shall not save the employment position of the absent transferee official or employee for a term greater than the term herein established.

The transfer of accrued vacation leave shall be conducted for free. Any person who directly or through an intermediary gives another or accepts from another any money or other benefit in exchange for the transfer of leave authorized in this section, shall be guilty of a misdemeanor and if convicted, punished with a fine not greater than five hundred dollars (\$500) or with a term of imprisonment not to exceed six (6) months or both penalties at the discretion of the court.

For the purposes of this section the following terms shall have the meaning expressed below:

(a) *Municipal official or employee* — Shall mean any official, employee and member of the personnel who works for any municipality of Puerto Rico.

(b) *Transferee official or employee* — Shall mean a municipal official or employee to whom vacation leave is transferred due to a personal emergency.

(c) *Transferor official or employee* — Shall mean a municipal official or employee who transfers a number of his/her vacation leave days to a transferee official or employee.

(d) *Emergency* Shall mean a serious or terminal illness or an accident or medical condition involving prolonged hospitalization or requiring continuous treatment under the supervision of a health professional, suffered by a municipal official or employee or a member of his/her immediate family, making it practically impossible for said officials or employees to fulfill their

duties in the municipality, or substantially affecting their performance, for a considerable period of time.

(e) *Municipality* — Shall have the same meaning given to this term in Section 1.003 of this Act.

Section 11.021. — Lump Sum Payment of Accrued Leave. — (21 L.P.R.A. § 4570)

Upon resignation or definite separation from public service for any reason, every municipal official or employee shall be entitled to receive, and shall be paid within a term of not more than thirty (30) days, a lump sum payment of money for the vacation leave he/she has accrued on the date of separation from service up to a maximum of sixty (60) working days, or any balance in excess not used due to the needs of the service and which has not been paid by the municipality, pursuant to the provisions in Section 11.016 (b) of this Act for extraordinary circumstances, as [an] exception.

In a like manner, every municipal official and employee shall be paid any accrued sick leave up to a maximum of ninety (90) working days, upon separation from the service for retirement, if he/she is a participant of the retirement system sponsored by the Government of the Commonwealth of Puerto Rico. If not, upon his/her definite separation from service, he/she shall have rendered at least ten (10) years of service. This lump sum for both kinds of leave shall be paid at the salary rate that the official or employee is earning at the moment of his/her separation from service, regardless of the number of days of this type of leave he/she enjoyed during the year.

The nominating authority is hereby empowered to authorize such payments.

Provided, further, That municipal employees may exercise the option of having said authorized lump sum payment, or part thereof, transferred to the Department of the Treasury, in order for the same to be credited as total or partial payment of any income tax debt they have at the time of exercising the option to transfer.

If the separation was caused by the death of the official or employee, the sum he/she would have been entitled to for unused vacation and sick leave, as the case may be, shall be paid to his/her heirs, pursuant to the provisions of this section.

When the rendering of services ceases, the office or position which said official or employee was performing shall be deemed vacant, and the time equivalent of the period subsequent to the date he/she ceased to perform such services, shall not be considered as time served.

The lump sum payment authorized herein shall be subject solely to the withholdings authorized by law, such as tax obligations and deductions of dues for municipal employees' associations authorized by law.

No liquidation whatsoever of any leave shall be made to any official or employee who has not returned municipal property or documents in his/her custody on the date of his/her resignation or separation from his/her office or position.

Section 11.022. — Working Day and Attendance. — (21 L.P.R.A. § 4571)

The municipality shall administer everything concerning the employee's working hours, working day, and attendance, according to the regulations it adopts. The regular working day shall not exceed eight (8) hours a day nor forty (40) hours a week. Every employee shall be granted one hour to partake of food during his/her regular working day.

When employees render services in excess of their working day or week, on their days of rest on any holiday, or on any day that services are suspended by municipal ordinance, they shall be entitled to receive compensatory leave at a rate of time and a half or payment in cash, as provided in the federal Fair Labor Standards Act. Employees who render professional, administrative or executive functions may be excepted from this provision.

Section 11.023. — Employee Files. — (21 L.P.R.A. § 4572)

Each municipality shall keep a file of its employees that reflects their complete history from the date they originally enter public service until the date of their definite separation from service.

(a) When an employee is moved from one municipality to another, or from one agency or dependency of the Government of the Commonwealth of Puerto Rico to a municipality, the agency or municipality from which he/she is moved shall transfer his/her file to the municipality to which he/she shall go to render services.

(b) The individual files of the employees shall be confidential in nature. Every employee shall have the right to examine his/her personal file.

(c) Everything concerning the conservation and disposition of the files of those employees who leave the service shall be established by regulations.

(d) When it is found through an administrative investigation that the imposition of corrective measures or disciplinary actions is not in order, no reference related to said investigation may be included in the personnel file of the employee. Nor shall any reference whatsoever to said investigation be included when the Board of Appeals of the Personnel Administration System or a court with jurisdiction determines that the imposition of corrective or disciplinary measures is not in order.

(e) In those cases in which the employee has been removed from office or suspended from work and salary, when the Board of Appeals of the Personnel Administration System or a court with jurisdiction orders the reinstatement of the employee to the same or a similar position to that he/she held, and after completing the compensation process, the partial or total payment of salaries, and reinstating the fringe benefits which the employee failed to receive from the effective date of the removal or the suspension from work and salary, all references to the removal or suspension from work and salary to which he/she was subject shall be eliminated from the employee's personnel file. In cases of removal, notice shall also be given to the Central Personnel Administration Office, so that any reference to the removal shall be eliminated therefrom.

In such cases and only when it is necessary to refer to the reason which motivated the payment to be made, this Act shall be used for said reference. It being understood that under no circumstance may direct appeals of the Personnel Administration System or the corresponding court, which rendered the removal or suspension of the employee ineffective.

Section 11.024. — Savings and Retirement. — (21 L.P.R.A. § 4573)

Municipal employees shall be entitled to avail themselves of Act No. 133 of June 26, 1966, as amended, [3 L.P.R.A. §§ 862 et seq.], which creates the Savings and Loan Fund of the Commonwealth of Puerto Rico Employees Association, as well as of Act No. 447 of May 15,

1951, as amended, [3 L.P.R.A. §§ 761 et seq.], known as "Government of Puerto Rico and Its Instrumentalities Employees Retirement Systems Act", or any other pension or retirement system subsidized by the Government of Puerto Rico to which they are contributing on the date of approval of this act.

Section 11.025. — Functions of the Central Personnel Administration Office. — (21 L.P.R.A. § 4574)

The Central Personnel Administration Office shall provide, by request of the municipality, the advice and technical assistance needed to develop their personnel systems, as provided in this Act. The municipality shall defray the cost of such services, except in those cases that the Director of the Central Personnel Administration Office decides to offer the services free of charge.

The Central Personnel Administration Office shall periodically study the development of the merit principle in the municipality, to be in the best position to furnish the technical advice and assistance authorized in this section.

The municipality shall make available to said Office all the information, records and files needed to carry out the studies. This Office shall render a report by July 1995 with pertinent recommendations to the Governor, the Legislature [of Puerto Rico] and the municipal nominating authorities, on the scope of the application of the provisions of this Act.

Any person who submits to the recruitment procedure to enter the municipal government, and is ineligible to enter municipal service for incurring in causes for ineligibility as established by law; and every career, transitory or irregular employee who has been dismissed by any municipal government, may request the Director of the Central Personnel Administration Office to be reinstated as established in Section 3.4 of Act No. 5 of October 14, 1975, as amended, known as the "Puerto Rico Public Service Personnel Act".

Section 11.026. — Legal Status of the Employees on the Effective Date of this Act. — (21 L.P.R.A. § 4575)

Employees who on the effective date of this act are holding permanent career positions in the municipality for which they have been recruited and selected pursuant to the criteria of the merit principle and who meet the minimum requirements established for the category of the position they hold, shall remain in their regular career status.

Employees who are performing transitory or fixed duration functions in the municipality which correspond to the career service on the effective date of this act, shall acquire transitory status.

Employees under contract who have performed their functions for a period of less than ninety (90) days, shall continue to work under contract until they complete the ninety (90) day term.

Employees who are performing permanent functions in the municipality corresponding to the confidential service on the effective date of this act, shall acquire confidential status.

The employees of the Municipal Legislature who on the effective date of this act are performing permanent functions corresponding to the career service, shall hold confidential positions in said Legislative Body. Upon separation from the confidential service, they shall have the absolute right to be reinstated in a position equal or similar to the last one they held in the career service in any municipal dependency, if they had been recruited pursuant to the criteria of

the merit principle and meet the minimum requirements established for the category of the position they hold.

Employees shall retain all vested rights according to all applicable laws, norms, and regulations, provided they are compatible with the provisions of this Act.

Section 11.027. — Penalties. — (21 L.P.R.A. § 4576)

(a) Any person who intentionally violates any of the provisions of this Act who violates the ordinances, regulations or norms approved by virtue hereof, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500), or by imprisonment for a term of not more than ninety (90) days, or both penalties, in the discretion of the court, unless the actions performed are punishable under the provisions of Section 3.8 of Act No. 12 of July 24, 1985, as amended, known as "Ethics in Government Act of the Commonwealth of Puerto Rico" or any other legal provision.

(b) Any sum of money paid with regard to personnel actions in contravention of the provisions of this Act, the regulations, and norms approved pursuant thereto, shall be recovered from the official or employee who, by carelessness or negligence, approves or countersigns the personnel action, or from the one who approves said payment, or who signs or countersigns the voucher, payrolls, checks, or payment order; or the bonds of said official. The monies thus recovered shall be covered into the treasury of the corresponding municipality, as the case may be.

(c) The municipal nominating authorities shall have the obligation of imposing appropriate disciplinary action on any official or employee who, by carelessness or negligence, fails to comply with any of the provisions of this Act, or of the ordinances, regulations or norms approved by virtue thereof.

Section 11.028. — Relationship with Other Laws. — (21 L.P.R.A. § 4577)

From the effective date of this act, the municipalities shall be excluded from the provisions of Act No. 5 of October 14, 1975 as amended, known as the "Public Service Personnel Act", except with regard to Section thereof, which establishes the Board of Appeals of the Personnel Administration System, which shall continue to apply to the municipalities. Every action or decision of the Board of Appeals shall be governed by the legal situation in effect when the acts subject to the action or decision occurred.

Likewise, the municipalities shall be excluded from Act No. 89 of July 12, 1979, known as the "Uniform Compensation Act".

Section 11.029. — Effectiveness. — (21 L.P.R.A. § 4578)

The Municipalities shall approve the classification and compensation plans, the employee evaluation systems, and the regulations provided in this Act not later than six (6) months after the approval of this Act, and if these have already been approved, they shall continue to be in effect. Said classification and compensation plans must be approved by the Municipal Legislature in order to be ratified, and shall take effect ninety (90) days after being submitted to the consideration of said Legislature, except when it returns them with objections and

recommendations to the Mayor before the expiration date of that term. The classification and compensation plans, the employee evaluation systems, and the regulations approved by virtue of Act No. 5 of October 14, 1975, known as the “Puerto Rico Public Service Personnel Act,” shall continue to be in effect until they are replaced by those adopted by virtue of this Act and Act No. 184 of August 3, 2004, as amended, known as the “Public Service Human Resources Administration Act”.

Section 11.030. — Early Retirement. — (21 L.P.R.A. § 4579)

The mayor, with the approval of the municipal legislature and the authorization of the Administration of the Retirement Systems of the Employees of the Government and the Judicature, may process the early retirement of municipal officials and employees.

Chapter XII. — Drug Testing to Detect Controlled Substances in the Workplace. [21 L.P.R.A. , Subtitle 6, Chapter 224]

Section 12.001. — Statement of Public Policy. — (21 L.P.R.A. § 4581 note)

The Commonwealth is committed and has a compelling ethical, legal, social and economic interest in eradicating the use, possession, distribution and illegal trafficking of controlled substances in the workplace.

To such ends, we deem it prudent and reasonable to adopt any such measure that is needed, geared to preventing the adverse effects of the use of controlled substances in the workplace.

In accordance with this principle, the use of controlled substances is declared incompatible with the effective performance of the functions and duties of a municipal position or office, in or outside of the work site or place, or its surroundings.

The Legislature, through its commitment to the health and safety of the officials and employees of the municipalities of Puerto Rico and their dependencies, and the citizenry in general, and based on the compelling interest stated above, deems it necessary and convenient to authorize and regulate the establishing of programs for the administration of diagnostic tests for drugs to municipal officials or employees, with the purpose of contributing to the effect of dissuading the illegal use of drugs and controlled substances; all of which is addressed to preserve and protect a safe and unperturbed [sic] workplace which will lead to the social and occupational welfare of all the municipal officials and employees and the citizenry in general.

This Act outlines the circumstances under which the municipalities will be permitted to administer tests to detect the use of controlled substances in the workplace, and prescribes the requirements that must be observed to such effect. It shall also serve to establish the minimum guarantees needed to protect the privacy and personal integrity of the official or employee subject to the tests, and guarantee the maximum reliability, precision and confidentiality of its results in a context of orientation, treatment and rehabilitation, leading to the faithful compliance of the functions and duties of the public servant, within the available resources.

Section 12.002. — Definitions. — (21 L.P.R.A. § 4581)

For the purposes of this Chapter, the following terms shall have the meaning stated below:

- (a) *Accident*. — Is any fortuitous event or action resulting from an act or function of an employee which affects or endangers the health, safety or property of any natural or juridical person, as determined in federal or state jurisprudence.
- (b) *Drug or controlled substance*. — Any drug or substance listed in Classifications I and II of Section 202 of Act No. 4 of June 23, 1971, as amended, known as the "Puerto Rico Controlled Substances Act", with the exception of the use of controlled substances by medical prescription or other legally authorized use.
- (c) *Liaison officer*. — A qualified person designated by the mayor to assist in coordinating assistance to the employee and of the program established in each municipality, pursuant to the provisions of this Act.
- (d) *Official or employee*. — Any person who renders career or trust, part-time, or irregular services for a wage, salary, day wage or any type of remuneration in any municipality, as defined in subsection (g) of this section, and any natural or juridical person that contracts his/her services with the municipality as a security guard.
- (e) *Laboratory*. — Any public or private entity that is engaged in performing clinical or forensic, pathological, or toxicological analyses, which is duly authorized and licensed by the Secretary of Health and the Mental Health and Addiction Administration, that processes tests for the detection of controlled substances.
- (f) *Official Medical Reviewer (OMR)*. — A licensed physician who is responsible for receiving the laboratory results generated by a controlled substances detection program, who must have knowledge of the disorders caused by drug abuse, and has received medical training to interpret and evaluate positive results, taking into account the medical history of the person, and any other information that is pertinent from the medical point of view.
- (g) *Municipality*. — The executive branch of the municipalities of Puerto Rico, its offices, departments, agencies, or bodies including the Municipal Legislature.
- (h) *Sample*. — Refers to the sample of urine, blood, or any other bodily substance that the official or employee furnishes to be analyzed, which is determined to meet the criteria [for] reliability and precision accepted by the Federal Register for the Controlled Substances Detection Tests of the United States Department of Health, and the regulations of the Department of Health of Puerto Rico.
- (i) *Program*. — The Prevention and Occupational Assistance Program established through regulations, pursuant to the provisions of this chapter.
- (j) *Sensitive offices or positions*. — Those that meet one or several of the following requirements: participation in the manufacturing, custody, handling, distribution and access of controlled substances; handling of, and access to dangerous, toxic, explosive or flammable material, or high voltage electric cables or equipment, and similar materials; school transportation and air, sea, or land transportation of passengers, cargo or heavy machinery and mechanics of said transportation or cargo vehicles; bearing, access to, or seizure of firearms; investigation or processing of criminal activity and juvenile delinquency, organized crime, situations of government corruption, and every situation that threatens municipal security; direct participation in the rendering of medical and first aid, rescue, or ambulance services; custody and direct rendering of supervisory and rehabilitation services for addicts, minors, victims of abuse, persons with disabilities, persons charged, convicted or confined; direct handling of highly confidential information referring to matters of public safety; direct relationship with gaming halls or casinos; working in the Office of the Mayor; be the official designated by the mayor to

order the administration of tests, or be the Liaison officer; or any other position of high risk to the health, public safety or law and order, in which a minimum dysfunction of the physical or mental capacity of the official or employee could cause an incident or accident that would endanger the life or safety of other employees, the citizenry, or their own.

(k) *Individualized reasonable doubt.* — The moral conviction that a specific person is under the influence or is a habitual user of controlled substances, regardless of whether the fact is, or is not subsequently established. Said doubt should be based on observable and objective factors such as: a) Direct observation of the use or possession of controlled substances; b) physical symptoms that suggest being under the influence of a controlled substance; c) a repeated pattern of abnormal conduct or erratic behavior at work.

Section 12.003. — Liason Officer; designation and duties. — (21 L.P.R.A. § 4582)

(a) Every mayor shall designate a qualified person who shall serve as liaison officer to help the employee and shall coordinate all matters related to the Prevention and Occupational Assistance Program established in this chapter.

Each municipality shall coordinate with the Mental Health and Addiction Services Administration, the advice and assistance that said official needs to implement and develop the program, according to the established standards.

The person designated as liaison officer is hereby authorized to extend his/her services, within the available resources, to attend to other situations that affect the physical and mental health of officials and employees, such as alcohol abuse.

Section 12.004. — Controlled substances detection tests as a requirement for employment. — (21 L.P.R.A. § 4583)

As part of a medical evaluation designed to determine the general health of the candidates for employment, every municipality shall require the presentation of a certified report of the results of a test for the detection of controlled substances, prior to their employment.

Said test shall be administered by any laboratory no later than twenty-four (24) hours from the time the municipality requires the candidate in question to present it, and it shall be paid for by the municipality that requests it.

Any candidate for employment who refuses to submit to the test, or should the test be positive, as certified by the laboratory in question, shall be sufficient ground to refuse to employ the person.

Each municipality shall establish the regulations needed to execute this provision.

Section 12.005. — Testing programs for the detection of controlled substances. — (21 L.P.R.A. § 4584)

The mayors are authorized by regulations, to establish permanent programs for the detection of controlled substances that use reliable tests to allow [for] the identification of officials and employees using drugs, to provide them with treatment and rehabilitation in those cases provided by this chapter so that they may perform their public service functions and duties faithfully and reliably.

The [establishment] of permanent, controlled substances detection programs, authorized in the preceding paragraph, shall be mandatory for all municipalities, with regard to the [administration] of tests for the detection of controlled substances to every municipal official or employee in the Municipal Police Corps, as said term is defined in Act No. 45 of May 22, 1996, as amended [21 L.P.R.A. §§ 1061-1070]; every municipal official or employee who holds a sensitive position or office, as said term is defined in Section 12.001 of this Chapter, and as a requirement for employment as provided in Section 12.0003 of this Chapter. Nevertheless, each municipality shall determine, by ordinance and pursuant to the fiscal and operating resources available, to include municipal officials or employees of other administrative divisions or units in the permanent programs established for the detection of controlled substances.

The Executive [Branch] shall regulate the adoption of these programs upon consultation with the municipal personnel office, the Office of the Commissioner of Municipal Affairs, the Mental Health and Addiction Services Administration, and the Institute of Forensic Sciences. Each regulation shall have the prior approval of the municipal legal counsel office, which shall be responsible for evaluating its legality in terms of the specific needs of each municipality. However, no regulation shall become effective until it is approved by the Municipal Legislature through an ordinance.

Those municipalities that have established a testing program for the detection of the use of controlled substances as of the date of approval of this act may keep it in effect; provided, said program meets all the requirements consigned in this statute. To such ends, said programs and their regulations shall be revised in order to conform them to the provisions of this Chapter.

Section 12.006. — Requirements of the controlled substances detection program. — (21 L.P.R.A. § 4585)

Each regulation that is adopted for the implementation of the provisions of this Chapter and the creation of the Controlled Substances Detection Program in every municipality, shall include the following:

- (a) A description of the type of tests that shall be conducted, according to the program that shall be adopted by each municipality, in writing, which shall contain its effective date, and shall be notified to the officials and employees by the delivery and signing of the receipt of a copy thereof. Each official or employee shall be given a notice in which he/she shall be informed of the implementation of the program, at least thirty (30) days prior to its effective date. The same terms and conditions shall apply to the notices and deliveries of copies made with regard to subsequent amendments made to the regulations. This procedure shall not annul or invalidate any prior action of the municipality pursuant to a regulation in effect prior to the approval of this act.
- (b) The main objective of the program shall be the identification of officials or employees who perform their functions or duties under the effect of controlled substances, and achieve their rehabilitation, with the exceptions established in this chapter, so that they may faithfully discharge their public service functions and duties.
- (c) A statement of public policy on the illegal use of controlled substances in tune with the provisions of this chapter, which includes a description of the sanctions and penalties applicable to the processing, distribution, possession or illegal use of drugs under the laws of Puerto Rico and the United States of America, and a statement that said practices are prohibited in the workplace.

(d) An orientation to the officials or employees on the risks to their health and safety caused by the consumption of controlled substances, and the plan that will be available for the treatment and rehabilitation of the officials and employees who have a positive result to controlled substances testing. This includes education and training of the supervisors with regard to the kind of conduct of the official or employee that is observed, which could have been induced by the use of controlled substances, in order to configure a reasonable and individualized suspicion. Provided, That if the supervisors do not receive the education and training required herein, their suspicion of a presumption would be assumed [to be] unreasonably controversial [sic].

(e) The standards of behavior with regard to the use of controlled substances, including the description of the circumstances under which the municipality can require an official or employee to submit to drug testing. Mention shall also be made of the preventive and treatment measures [to the] benefit of the official or employee whose initial, corroborated test is positive; and shall include the corrective and disciplinary measures to be imposed on that official or employee who refuses to be administered the detection tests, or to submit to the orientation, treatment and rehabilitation plan after a positive result of the drug tests, or who continues to illegally use controlled substances, as provided by this chapter.

(f) The detailed description of the procedure to be followed in [the administration of] the tests for the detection of controlled substances, including the confidentiality of the results. The municipality shall ensure the maximum protection of the right to privacy and personal integrity of the official or employee thus affected.

(g) A listing of the controlled substances to be detected by the tests to be made.

Section 12.007. — Administration of tests for the detection of controlled substances to officials or employees. — (21 L.P.R.A. § 4586)

No official or employee shall be submitted to a test for the detection of controlled substances unless one of the following circumstances occurs:

(a) A work accident occurs related to his/her functions during working hours, directly attributable to the official or employee. The official or employee cannot be submitted to controlled substances detection tests when he/she is not in full control of his/her mental powers due to the accident, unless a court order directs otherwise. Municipalities shall have discretion to determine other special circumstances in their programs by which the official or employee shall be exempted from submitting to the controlled substances detection tests, after the accident has occurred.

In this case, the tests shall be administered within a term of twenty-four (24) hours from the time the accident occurred.

(b) That there is a reasonable, individualized suspicion of the official or employee by at least two (2) supervisors, one of whom shall be the direct supervisor. In this case, the tests shall be administered no later than twenty-four (24) hours from the last observation or perception of abnormal or erratic conduct that generated the reasonable, individualized suspicion.

One of the two (2) supervisors shall keep a record which shall remain in custody of the liaison officer, or in the office of the mayor, in which all incidents that generate a suspicion that some official or employee is performing his/her functions under the effects of controlled substances, shall be recorded. These records shall be governed by the rules of confidentiality contained in this chapter.

When the official designated by the mayor to direct the [administration] of tests, deems, in consultation with the liaison officer, that it is proper to administer the test to detect controlled substances, he/[she] shall give the order to do so.

The records of officials or employees who have not been submitted to controlled substances detection tests within six (6) months after having recorded the first incident, shall be destroyed.

(c) The official or employee has tested positive to a first test; subsequent follow-up tests are required.

(d) The person decides to submit voluntarily to controlled substances detection tests, without it having been required in any way, as a condition to keep his job or to enjoy the rights and benefits to which he/she is legally entitled.

Section 12.008. — Administration of tests for the detection of controlled substances to law enforcement officials or employees who hold sensitive positions or offices. — (21 L.P.R.A. § 4587)

Every official or employee who holds a position or office in the Municipal Police Corps, as said term is defined in Act No. 45 of May 22, 1996, as amended [21 L.P.R.A. §§ 1061-1079], including the Chief, Deputy Chief or Director thereof, shall also be subject to periodic tests for the detection of controlled substances.

Those officials or employees who hold sensitive positions or offices, as said term is defined in this Chapter, including the liaison officer, shall also be subject to periodic testing.

Every contract signed between the municipality and a private enterprise with the purpose of obtaining security services shall include a clause to the effect that every guard of a private enterprise contracted by the municipality shall be subject to periodic tests for the detection of controlled substances, to be administered and paid for by the company for which he/she works. It shall also provide that every guard of a private enterprise contracted by the municipality whose test for the detection of controlled substances gives a positive result, shall be permanently barred from rendering said services.

Section 12.009. — Controvertible presumption. — (21 L.P.R.A. § 4588)

The unjustified refusal of an official or employee to submit to controlled substances detection tests, when required to do so pursuant to the provisions of this Chapter, shall activate the controvertible presumption that the result could have been positive.

Section 12.010. — Controlled substances detection tests; procedure. — (21 L.P.R.A. § 4589)

The procedure for the [administration] of controlled substances detection tests shall comply with the following requirements:

(a) The sample shall be taken by the Institute of Forensic Sciences, the Mental Health and Addiction Services Administration, or the qualified entity contracted for such purposes. The services for the [administration] of tests to detect controlled substances [in] municipal employees or officials conducted under the provisions of this chapter, and provided by any public entity, including the Institute of Forensic Sciences and the Mental Health and Addiction Services Administration, shall be done free of charge or at the lowest possible cost for the municipalities.

To such ends, any public entity engaged in rendering said services is hereby authorized to negotiate the cost of the tests prescribed herein with the municipalities.

(b) The samples shall not be submitted to any type of tests other than those needed to detect controlled substances, as defined in this chapter.

(c) The test shall be administered according to scientifically accepted analytical and chain of custody procedures, in order to protect the privacy of the official or employee in question. A person shall take the sample that the official or employee shall hand over, as soon as the person leaves the sanitary facilities. For a more exact reliability [sic], the method of placing dye in the toilet water may be used to prevent the tainting of the sample. The degree of intrusion shall not be greater than needed, to prevent tainting and preserve the chain of custody.

The official or employee shall be advised in writing, if so desired, that part of the sample can be sent to a laboratory selected by him/her, to give them [sic] the opportunity to make an independent analysis thereof. In any case, the official or employee shall have the opportunity, before the test, to report any facts he/she deems relevant for the interpretation of the results, including the use of prescription drugs and those that are not prescribed.

He/She shall also be advised of his/her right to obtain a copy of the results of the controlled substances detection test; to challenge the finding of a reasonable suspicion that gave rise to the tests; challenge the positive, corroborated results at a hearing, and present attesting evidence that he/she has not used controlled substances illegally.

(e) Every result must be certified by the entity that analyzed the sample before reporting it to the agency. When a positive result is involved, it must be submitted to a second corroborative analysis, and a qualified Official Medical Reviewer shall compare the results with the medications listed by the official or employee, and shall certify the results according to his/her observations and analysis. The OMR who reviews and evaluates the results shall not be an employee or agent, nor have any financial interests whatsoever in the laboratory, nor shall derive any financial benefit from the laboratory that could be construed as a conflict of interest.

(f) Any time needed for a [sic] the official or employee to be submitted to the controlled substances detection tests shall be considered as time worked.

Section 12.011. — Guidance, treatment and rehabilitation. — (21 L.P.R.A. § 4590)

(a) The municipalities shall require the official or employee who does not hold a sensitive position or is in the Municipal Police Corps, whose controlled substances detection test shows a corroborated positive result, to participate in a guidance, treatment and rehabilitation plan, referred by the Liaison Official. The official or employee may choose to submit to said treatment and rehabilitation in any public or private institution certified for said purpose. In the event that the official or employee chooses the latter, he/she shall be liable for the cost of the treatment and rehabilitation, unless it can be defrayed under the terms of the person's health insurance policy.

(b) Said official or employee may be submitted periodically to additional tests as part of the treatment and rehabilitation plan.

(c) Refusal to participate in the rehabilitation plan or to submit to the tests required as part of the treatment, as well as the presence of controlled substances in the results of the additional tests to which he/she shall be submitted, shall be deemed sufficient cause for corrective measures or disciplinary action against the official or employee, beyond verbal admonishment or a written

reprimand, pursuant to the applicable legislation and regulations, and according to the provisions of this chapter.

(d) The municipality shall assure every official or employee that they will continue to work as long as they comply with the treatment and rehabilitation, provided it does not endanger public health and safety.

(e) In those cases that retaining the official or employee at work could represent a health or safety hazard for the other employees of the municipality, the same conditions established in subsection (f) of this section would apply.

(f) In those cases that the official or employee requires time off to undergo treatment as provided in subsection (e), the time off shall be charged to his accrued sick leave, in the first instance. When he/she does not have any accrued sick leave, it shall be charged to accrued compensatory leave or vacation leave, and in the last instance, he shall be granted leave without pay for a maximum term of six (6) months.

(g) In the case of an official or employee who relapses, the municipality shall not have to comply with the orientation, treatment, and rehabilitation requirement established in this chapter. In this case, the municipality shall not have to grant the compensatory time, vacation leave, and leave without pay benefits provided in this section, nor absorb the treatment and rehabilitation costs. In this case, the provisions of this section shall prevail.

Section 12.012. — Dismissal or removal from office as an exception; procedural guarantees. — (21 L.P.R.A. § 4591)

(a) Every official or employee who does not hold a sensitive position or office or is in the Municipal Police Corps, whose test for the detection of controlled substances shows a positive result, shall be immediately suspended without depriving them of their salary or remuneration, until a hearing with the minimum procedural guarantees contemplated in subsection (b) of this Section, is held.

If after the hearing is held the original determination which is adverse to the official or employee is upheld, the municipality shall proceed according to the provisions of Section 12.010 of this Chapter.

(b) No official or employee shall be dismissed or removed from the position or office he/she holds due to a corroborated positive result of the initial test for the detection of controlled substances. Nevertheless, as an exception, the official or employee may be dismissed or removed from office:

(1) When because of the nature of the employment, the condition detected is inevitably incompatible with the effective performance of the functions and duties of the position or office.

Any sensitive position or office or in the Municipal Police Corps is hereby declared as inevitably incompatible with the use of controlled substances.

(2) When the official is the person designated by the mayor to order the [administration] of tests, or is the Liaison Officer; Provided, That in such cases, suspension without pay or any other sanction or corrective measure provided by regulations may be chosen.

(3) When the official or employee refuses to participate in the rehabilitation plan adopted by the agency when required to do so; Provided, That in said case suspension without pay, or any other sanction or corrective measure provided by regulations may be chosen.

(4) In the case of an official, or employee who relapses; Provided, That in such a case, suspension without pay or any other sanction or corrective measure provided by regulations, may be an option.

(c) In every case in which it is provided that corrective measures, disciplinary actions, suspensions, removals or dismissals be taken, the minimal procedural guarantees should be complied with, in which the official or employee has the opportunity to be heard, to introduce evidence in his/her behalf, and challenge the evidence presented against him/her, and where he/she can introduce his/her legitimate self-defense. Said hearing shall be held no later than twenty (20) days from the notice of the corrective measure, disciplinary action, suspension, removal or dismissal.

Section 12.013. — Confidentiality of the results and records of incidents. — (21 L.P.R.A. § 4592)

Any information, form, report, interview or statement related to the results of the drug tests and the records of incidents that generate suspicion that any official or employee is performing his/her functions under the effects of controlled substances, shall be kept apart from the personnel files, shall be deemed to be "Confidential" information, and shall not be disclosed, except to:

- (a) The official or employee who has been submitted to the test;
- (b) any person designated by him/her, in writing, to receive said information;
- (c) officials or employees designated by the agency for said purpose, and
- (d) the provider of treatment and rehabilitation plans for users of controlled substances, when the official or employee gives his/her express consent.

The municipality shall use the greatest degree of diligence in taking custody and preserving the confidentiality of the results.

Section 12.014. — Use of results in administrative, civil or criminal procedures. — (21 L.P.R.A. § 4593)

No positive result of controlled substances detection tests administered by a municipality may be used as evidence in an administrative, civil or criminal procedure against the official or employee, except when it is to challenge said result, or the procedure under which it was obtained.

Section 12.015. — Reviews and appeals of the findings of the municipality. — (21 L.P.R.A. § 4594)

The official or employee may review or appeal the findings of the municipality regarding the tests to detect controlled substances contemplated in this chapter, as provided in the applicable legislation.

Section 12.016. — Liability of the municipality. — (21 L.P.R.A. § 4595)

A municipality that discriminates against an official or employee in contravention of the provisions of this chapter, or that fails to comply with the standards of confidentiality established therein, shall be liable for the damages caused to him/her.

The court may direct the mayor to reinstate the official or employee in his/her position in the judgment issued in civil actions filed under the above provisions.

Section 12.017. — Civil liability of the municipality. — (21 L.P.R.A. § 4596)

None of the provisions of this chapter authorizes the filing of suits for damages against the municipality or its officials or employees for any action or determination made pursuant to a certified result of a test for the detection of controlled substances administered by a private entity.

Section 12.018. — Sanctions and penalties. — (21 L.P.R.A. § 4597)

The violation of any of the provisions of this chapter shall entail the imposition of any of the following administrative sanctions: written admonition, suspension from work and pay, dismissal or removal.

Nevertheless, any person who willfully and voluntarily reveals or makes improper use of information related to, or the results obtained in the process of the administration of tests to detect the use of controlled substances as provided in this chapter, or who violates its provisions or the regulations promulgated thereunder, shall incur a felony and upon conviction, shall be sanctioned with a penalty of imprisonment for a fixed term of one year, or a fine of two thousand dollars (\$2,000), or both penalties, at the discretion of the court, for each violation.

Should there be aggravating circumstances, the fixed penalty established herein may be raised to a maximum of two (2) years or up to five thousand dollars (\$5,000), or both penalties, at the discretion of the court.

If there should be extenuating circumstances, it may be reduced to a minimum of six (6) months and one day, or to one thousand dollars (\$1,000), or both penalties, at the discretion of the court.

Any person thus convicted shall be ineligible to perform any municipal or state employment or office, subject to the provisions of the Puerto Rico Public Service Personnel Act, Act No. 5 of October 14, 1975, to which it shall be deemed to be complementary.

The felonies established herein shall prescribe after five (5) years.

Section 12.019. — Municipal Legislatures. — (21 L.P.R.A. § 4598)

The municipal legislatures are hereby authorized to establish, by resolution, permanent programs for the detection of controlled substances that use reliable tests to allow [for] the identification of the officials and employees who use drugs, to give them treatment and rehabilitate them in those cases provided by this chapter, so that they may perform their public service functions and duties faithfully and reliably. However, any regulations and permanent

programs adopted by the municipal legislatures for the abovementioned purposes shall be in agreement with the provisions of this chapter.

Section 12.020. — Discrimination prohibited. — (21 L.P.R.A. § 4599)

No discrimination for race, color, sex, birth, origin or social status, nor for political or religious ideas or beliefs, may be established in the implementation or operation of the provisions of this Chapter.

Chapter XIII. — Territorial Ordinance. [21 L.P.R.A. , Subtitle 6, Chapter 225]

Section 13.001. — Public Policy. — (21 L.P.R.A. § 4601 note)

The land in Puerto Rico is limited and it is the public policy of the Commonwealth of Puerto Rico to propitiate the judicious use and optimum development of the territory to ensure the welfare of present and future generations by promoting an orderly, rational and integral process for its development. This process for the orderly development of the territory, when carried out at the municipal level as provided by this Act, shall be executed according to ordinance plans which shall include the strategies and provisions for the management of urban lands; the transformation of land suitable for urbanizing into urban land in a functional, aesthetic and compact manner, and the conservation, protection and utilization — in a non-urban manner — of the rural lands. Once an ordinance plan encompassing the municipality in its totality is in effect, certain responsibilities of the Planning Board and the Regulations and Permits Administration may be transferred to the municipalities.

It is hereby declared as the public policy of the Commonwealth of Puerto Rico to promote the participation of the citizenry in the process of drafting and adopting the ordinance plans. The municipality shall promote public understanding of said plans by using those means for providing information it deems proper. Likewise, the municipality shall provide the citizenry with all the information needed to place every citizen in a position of equality for his/her effective participation in the municipal territorial ordinance process.

Section 13.002. — Goal and Objectives of the Territorial Ordinance. — (21 L.P.R.A. § 4601 note)

The Ordinance Plans shall comply with the goals and objectives addressed to promoting the social and economic welfare of the population, among which are the following:

- (a) They shall be compatible and harmonize with the public policies and with the general plans for Puerto Rico, as well as with the regional plans and those of other municipalities, particularly with the plans of the contiguous municipalities.
- (b) They shall propitiate, in coordination with the pertinent public agencies, the development of the infrastructure needed to allow for new developments and shall promote only those new works for which the necessary infrastructure already exists, or is feasible to obtain.
- (c) They shall propitiate, in their drafting and adoption, a broad participation of the citizenry and of the concerned central government bodies.
- (d) They shall propitiate the social and economic development of the municipalities.

(e) They shall propitiate the use and management of rural land, avoiding its parceling and prohibiting the process of urbanizing said land. The Plans shall promote, among others, the following:

- (1) The conservation and proper use of agricultural, cattle raising, fishing, timber or mining areas, currently in use or with the potential for their development for said use;
- (2) the protection of surface and underground water resources and their immediate basin, as well as ecological systems, habitats of flora and fauna in danger of extinction, and other systems and natural resources of ecological value;
- (3) the conservation of open areas for the recreation and enjoyment of the inhabitants or with the potential to be developed for said use;
- (4) the conservation and protection of open areas for safety or public health reasons, such as areas that are prone to floods, landslides or sensitive to seismic movements;
- (5) the conservation of open areas to allow for the future expansion of urban areas to meet the needs of future generations;
- (6) the protection, safeguarding and conservation of structures of historical, architectural, cultural and archeological interest or value; and
- (7) the coordination and integration of the physical and spatial aspects with the economic, social and environmental development strategies designed by the municipality.

(f) Regulate urban land pursuing the following objectives, among others:

- (1) The balanced development of its uses throughout the city, incorporating diverse, but compatible, uses thereof to attain mixed communities where pedestrian access is made possible for the various uses;
- (2) the strengthening of the economic, social and physical structure of each ward or neighborhood in accordance with its particular characteristics, providing the diverse wards or neighborhoods with the services and variety of uses needed or desirable;
- (3) the protection, safeguarding and conservation of structures of historical, architectural, cultural and archeological interest or value;
- (4) protection of the urban center, preventing the establishing of the exclusive use of business and service establishments, and protecting and promoting residential uses in said sectors, and further providing, the approach to urban uses and activities or the consolidation of the city, so that the same become pedestrian friendly and have access to an integrated collective and modern transportation system.
- (5) the promotion of the integral development of all areas in the periphery of the city, including the suburbs, by providing them with the necessary economic and social infrastructure so that they will not have to depend on the central areas of the city;
- (6) the protection of the continuity of the layout and network of roads and the physical integration of the city through its network of roads, including the suburbs and other areas presently alienated;
- (7) the rescue and improvement of the public space of the municipality by promoting the protection and development of green areas, as well as the seeding of trees and vegetation to improve the quality of the environment of the city;
- (8) the development of mass transportation systems, where justified, in order to expedite the communication and movement within the city and between its wards or neighborhoods;
- (9) the availability of access of all citizens to the public spaces in the city, not excluding any legal provision which regulate their access;

- (10) the coordination and integration of the physical and spatial aspects with the economic, social and environmental development strategies designed by the municipality;
 - (11) the harmonious integration of the urban morphology and the network of roads between municipalities in the case of urban lands bordering that of other municipalities; and
 - (12) the intensive use of urban lands, including the suburbs.
- (g) They shall establish a clear process for the transformation of urbanizable land to urban land, pursuing the following objectives for the new developments, among others:
- (1) The integration of new developments to the existing urban context and its possible integration to future developments, emphasizing the continuity of the traditional street layout and the continuity of the local and main roads;
 - (2) the establishment of new developments in a compact, functional and aesthetic manner which will create a harmonious blend with the environment and offer public spaces worthy of and sensitive to the needs of pedestrians;
 - (3) the incorporation of various uses compatible with the new developments in the city to attain mixed communities where dependence on automobiles is reduced and pedestrian access to the various uses is made possible;
 - (4) the linkage of new developments with the existing city through the development of mass transportation systems, where justified, in order to expedite the communication and movement within the city;
 - (5) the availability of access of all citizens to the public spaces that are developed, not excluding any legal provision which regulate their access;
 - (6) the coordination and integration of the physical and spatial aspects with the economic, social and environmental development strategies designed by the municipality;
 - (7) the intensive use of the land to be urbanized.

Section 13.003. — Definitions. — (21 L.P.R.A. § 4601)

The following terms and phrases shall have the meaning indicated hereinafter, when used or referred to in this Chapter, unless the context clearly indicates otherwise:

- (a) “Regulations and Permits Administration” — Shall mean the public agency with operational functions created by virtue of Act No. 76 of June 24, 1975, as amended, known as the "Organic Act of the Regulations and Permits Administration".
- (b) “Land Administration” — Shall mean the public agency created by Act No. 13 of May 16, 1962, as amended, known as the "Puerto Rico Land Administration Act".
- (c) “Advance plan” — Shall mean the document that summarizes and illustrates the most important preliminary decisions and recommendations of a territorial ordinance plan under development.
- (d) “Dedication” — Means any free donation to the Commonwealth of Puerto Rico, its public agencies and municipalities for the public use of lands, structures or any type of real rights thereon; these donations could be required as a condition for the approval of a project or the implementation of an ordinance plan.
- (e) “Department of Housing” — Shall mean the public agency created by Act No.97 of June 10, 1962, as amended.

- (f) “Amendment to the Ordinance Plan” — Shall mean any minor modification of the geographic limits of a plan to respond to new technical information or of its unavailable context when originally drafted and that said change has no significant impact upon the area where it occurs.
- (g) “Exception” — Shall mean any discretionary authorization to use a property or construct a structure which is different from those usually allowed in an area by the ordinance regulations; provided, that said use or construction is allowed by an exception provision established in the regulations themselves, and provided that it meets the requirements or conditions established for said authorization.
- (h) “Piece of land” — Shall mean any parcel of land, plot, real estate property or lot whose identity and description are filed in a real estate registry.
- (i) “Puerto Rico Planning Board” — Shall mean the public agency with a regulatory function created by virtue of Act No. 75 of June 24, 1975, as amended, known as the "Puerto Rico Planning Board Organic Act".
- (j) “Parceling” — Shall mean any division or subdivision of a lot, plat or parcel of land into two (2) or more parts, for sale, transfer, assignment, conveyance, lease, donation, usufruct, use, census, trust, division of estate or community property, or for any other related or similar transaction; the establishment of a tenancy in common on a lot, plat or parcel of land where specific lots are assigned to the joint proprietors, as well as for the construction of one or more buildings; it also includes urbanization, as used to the present in the legislation of Puerto Rico and also as simple segregation.
- (k) “Simple parceling” — Shall mean any parceling of land in which all the urbanization works are already constructed, or in which said works are very simple and do not exceed ten (10) lots — including remnants — taking into consideration for the computation of the ten (10) lots the subdivision of the property as originally formed as well as the subdivisions of the remnants of the original property.
- (l) “Office of Territorial Ordinance” — Shall mean the office whose function and responsibility is to handle all matters pertaining to the planning of the territory of the corresponding municipality or municipalities.
- (m) “Permits Office” — Shall mean the agency, dependency or administrative unit of one or several municipalities whose function and responsibility is to consider and resolve all matters pertaining to authorizations and permits for the use, construction or installation of billboards and notices in the corresponding municipality or municipalities.
- (n) “Territorial ordinance” — Shall mean the organization and regulation of the use, the real estate and the structures of a territory in order to arrange it in a useful, efficient and aesthetic manner for the purpose of promoting social and economic development, obtaining the optimum use of the land and improving the quality of life of its present and future inhabitants.
- (o) “Area plan” — Shall mean the ordinance plan to provide for the use of the land in those areas of the municipality that require special attention.
- (p) “Extension Plan. Shall mean the ordinance plan to provide for the use of the urbanizable land programmed by the municipality to be converted into urban land.
- (q) “Ordinance Plan” — Shall mean the plan of a municipality to provide for the use of the land within its territorial limits and promote the social and economic welfare of the population to include the territorial plan, the extension plan and the area plan.
- (r) “Land Use Plan” — Shall mean the public policy document adopted by the Planning Board which shall, depending on its geographic scope and purpose, establish the distribution, location,

extension and intensity of the uses of the land and other elements such as the infrastructure for urban, rural and agricultural purposes and for the development of the mining and timber industries, the conservation and protection of natural resources, the areas of recreation, transportation and communications, the production of energy and for residential, commercial, industrial, educational, public and institutional activities, among others.

(s) “Territorial Plan” — Shall mean the ordinance plan encompassing the total territorial extension of a municipality which sets forth and provides the public policy regarding its development and the use of the land.

(t) “Soil Classification Design” — Shall mean the design or series of designs that are part of the territorial plan and that establishes the limits of urban and rural lands and the urbanizable land.

(u) “Ordinance Design” — Shall mean the design that is part of an ordinance plan and that graphically delimits the geographic application of the ordinance regulations and the public policies on land use.

(v) “Urbanizing Process” — Shall mean any development which transforms non-urban land with works such as the development of roads, the establishment of aqueducts and sewers and electrical energy sources, land movement and the development of grouped structures which provide the characteristics of an urban landscape.

(w) “Extension Program” — Shall mean the program in the territorial plan that quantifies and qualifies the urban development needs in land to be urbanized and serves as the foundation of an Extension Plan.

(x) “Development Project” — Shall mean any man-made physical change or modification of an improved or unimproved lot, plot, parcel of land or structure, including, without it being construed as a limitation, the segregation of lots, the construction, enlargement, or alteration of structures, the increased intensity in the use of the land or the structures and projects for the use and alteration of the land regarding areas such as agriculture, mining, dredging, landfills, deforestation, leveling, paving, excavation and drilling.

(y) “Urbanization Project” — Shall mean any project pertaining to "urbanizing", as this term is defined in this section.

(z) “Reserve” — Shall mean every determination or action of a competent government body through which private land is segregated for public use.

(aa) “Ordinance Regulations” — Shall mean the provisions which set forth the norms for the use of land applicable to an ordinance plan and shall include norms regarding the use and intensity of use of the land and the characteristics of the structures and public spaces as well as norms concerning parceling and other determinations of territorial ordinance relative to the processes, mechanisms, uses and other related factors.

(bb) “Revision of the Ordinance Plan” — Shall mean the collection of new data, inventories and needs, the declaration of new policies or the promulgation of regulations which significantly substitute, broaden or limit an ordinance plan in effect.

(cc) “Suburb” — Shall mean a specialized city area of low density development in which there is a segregation and separation of uses.

(dd) “Land” — Shall mean the surface of the earth in relation to its use, to include both the land as well as the bodies of water, the space above and the area below them.

(ee) “Rural Land” — Shall mean a land classification in the territorial plan and shall be constituted by the land that the territorial plan considers must be expressly protected from the urbanizing process due to, among other reasons, its present or potential agricultural and cattle

raising value; its natural value and its present or potential recreational value, as well as from risks to the public safety or health, or because they are not necessary to fulfill the expectations for urban growth in a foreseeable future of eight (8) “years. This land classification shall include the categories comprising common rural lands as well as especially protected rural lands.

(ff) “Urban Land” — Shall mean a land classification in the territorial plan and shall be constituted by the lands that have road access, water and electrical energy supplies and any other infrastructure needed to carry out the administrative, economic and social activities conducted in this land and that are included within areas consolidated by buildings.

(gg) “Urbanizable Land” — Shall mean a land classification in the territorial plan and shall be constituted by the land that the territorial plan declares as suitable to be urbanized on the basis of the need of land to accommodate the growth of the municipality in an eight (8) year period and comply with the goals and objectives of the territorial ordinance. This land classification includes the categories of programmed and non-programmed urbanizable lands.

(hh) “Urbanization” — Shall mean any segregation, division or subdivision of a plat of land, that in view of the works to be carried out for the formation of lots, is not included in the term “simple parceling”, as defined in this section, and shall further include the development of a plat of land for the construction of any building or buildings of eleven (11) “or more dwellings; the development of facilities for commercial, industrial, institutional or recreational use which exceed two thousand (2,000) square meters; or the development of facilities in land encompassing an area of over four thousand (4,000) square meters.

(ii) “Land Use” — Shall mean the final use to which a piece of land is put and in relation to the ordinance plans this terms shall include the use of the land as well as the characteristics of the structures and the spaces between these, be it public or private.

(jj) “Communal Use” — Shall mean any physical facility to provide a community with the basic services to be used to carry out its operations and achieve its general welfare. These facilities may include, among others, business establishments and schools or educational, cultural, recreational, sports, health, security and transportation facilities, as well as provide for the maintenance of the foundations, the collection of solid wastes, the upkeep of the public roads, and infrastructure services, such as water, sewage, road networks, telephone and electricity. Among these communal uses those which provide for the needs of the municipality in general and are identified as general must be singled out.

(kk) “Variation in Use” — Shall mean any authorization to use a property for a use not permitted by the restrictions imposed on a zone or district, granted to avoid damages to a property where, due to extraordinary circumstances, the strict application of the regulations would be the same as confiscating the property; that it is granted because of the acknowledged or urgent need for its use by a community due to the particular circumstances of said community that cannot be met if said variation is not granted; or that it is granted to fulfill an non-deferrable public need.

(ll) “Variation in Construction or in the Installation of Billboards and Otices” — Shall mean any authorization granted for the construction of a structure or part thereof or for the installation of billboards or notices, that does not meet the requirements of the established regulations and ordinance plans, but that due to the condition of the lot, its special location or particular use, faces practical difficulties and deserves special consideration, ensuring that no damage is done to neighboring properties. The variation may not affect the characteristics proper to a district and its outcome may not have the effect of converting one district into another.

(mm) “Affordable Housing” — Shall mean any housing unit for those families that, due to their income characteristics, are prevented from acquiring or do not qualify for seeking housing in the formal private sector.

Section 13.004. — Ordinance Plans. — (21 L.P.R.A. § 4602)

The municipalities are hereby authorized to adopt ordinance plans pursuant to the provisions of this Chapter. These ordinance plans shall constitute instruments of the municipal territory. They shall protect the land, promote the balanced, beneficial and efficient use thereof and propitiate the thorough development of each municipality. Regarding the regulations for the use of the land, ordinance plans shall include all matters relative to territorial organization and with those construction projects within the jurisdiction of the Planning Board and the Regulations and Permits Administration. The municipality may, pursuant to the provisions of Chapter XIV, request that the regulations of other public agencies be substituted and amended.

Ordinance plans shall be drafted, adopted and revised pursuant to the provisions of Section 13.008 of this Chapter and shall be compatible with the laws, public policies and regulations of the central government as provided in Section 13.11. There will be three (3) types of ordinance plans which shall handle the various aspects of the municipal space ordinance: The territorial plan, the extension plan and the area plan. The territorial plan shall be the first ordinance plan to be drafted by the municipality and it shall be an indispensable requirement that it be in effect so that the municipality may be able to adopt another ordinance plan.

No municipality shall approve developments which may limit or impede the free access of the public to the seacoast or beaches nor entail their private or exclusive enjoyment to the detriment or in prejudice of the legitimate right of the people of Puerto Rico to the free use and enjoyment thereof.

In order to propitiate the maximum compatibility of the ordinance plans with the regional and general public policies of Puerto Rico, the Central Government shall retain, through the Planning Board, the faculty to initially approve the ordinance plans and review any part thereof. Once an ordinance plan is adopted, an orderly process is hereby authorized to transfer to the municipalities certain territorial ordinance faculties of the Planning Board and the Regulations and Permits Administration to issue authorizations and use and construction permits and to incorporate amendments to the ordinance plans. The transfer process shall be carried pursuant to the provisions of Section 13.012.

The form and content of the various ordinance plans and the transfer and administration of the territorial ordinance faculties, as well as all matters included in this Chapter provided in Sections 13.002 to 13.020, shall be established and provided by the Planning Board through regulations.

Section 13.005. — Territorial Plan. — (21 L.P.R.A. § 4603)

The Territorial Plan shall be an instrument of integral and strategic ordinance of the whole municipal territory and shall cover at least one municipality. The Plan shall define the fundamental elements of such ordinance and establish the program for its development and execution, as well as its effectiveness term. Another of its functions shall be to divide the total municipal land in three (3) basic categories: urban land, urbanizable land, and rural land. This classification system shall be used to provide for ordinance for the cases and the structures in

those lands, and the categories to be created within the same shall be uniform and in harmony with those created through Regulations by the Planning Board of Puerto Rico and pursuant to Act No. 550 of October 3, 2004 [23 L.P.R.A. §§ 227 et seq.], known as the "Commonwealth of Puerto Rico Land Use Act". The designation of urbanizable land, if any, shall be done according to the determination of the plan regarding the demand for urban land. Once the Territorial Plan is in effect, any decision concerning the use of the land shall be made pursuant to the same.

Regarding urban land, the territorial plan shall comply with, among others, the following purposes: provide to correct the deficiencies of the existing development, propitiate social interaction and economic transactions, promote the efficient use of the land and preserve the cultural heritage.

Regarding urbanizable land, the territorial plan shall comply with, among others, the following objectives: define the fundamental elements of the general structure of the territorial ordinance; establish an extension program, and establish regulations for the programmed urbanizable land concerning the manner and conditions under which it may become programmed urbanizable land. Within the urbanizable land, the territorial plan shall establish two (2) categories with the following characteristics:

(a) Programmed urbanizable land Shall be constituted by land which can be urbanized according to the territorial plan in a foreseeable period of four (4) years after the date of effectiveness of the plan. This programmed urbanizable land requires an extension program.

(b) Non-programmed urbanizable land Shall be constituted by land which can be urbanized according to the territorial plan in a foreseeable period of between four (4) and eight (8) years after the date of effectiveness of the plan. The conversion of non-programmed urbanizable into programmed urbanizable land shall require that the programmed urbanizable land contain an approved extension plan and the imminent development of the programmed urbanizable land, and that at least half (1/2) of that land have preliminary or construction designs already approved. Any conversion of non-programmed urbanizable land into programmed urbanizable land shall require the drafting of an extension program and the revision of the land classification plan of the territorial plan.

Regarding rural land, the territorial plan shall comply with, among others, the following objectives: To maintain said land free from the urbanizing process; prevent the degradation of the landscape and the destruction of the natural heritage; establish measures for the non-urban use of the land; designate the land that must be especially protected due to its special characteristics; or draft plans for the management of natural and agricultural resources. Within the rural land the territorial plan shall establish two categories:

(a) Common rural land Refers to land which is not considered for urban or urbanizable use in a territorial plan, due to the fact, among others, that the urban or urbanizable land classified as such in the plan is sufficient to provide for the expected urban development.

(b) Rural land especially protected Refers to land which is not considered for urban or urbanizable use in a territorial plan and because of its special location, topography, aesthetic, archeological or ecological value, unique resources or other attributes, is identified as land which should never be used as urban land.

The territorial plan shall be developed by means of three (3) sets of documents: the general report, the program and the regulations.

The general report shall contain the following basic documents:

(a) A general report of the plan, to include, among others, a description of the general contents of the plan.

(b) A document to include an inventory, diagnosis, and the recommendations regarding the social, economic and physical development of the municipality. The document shall include, at least, the following specific design plans: infrastructure (main lines with actual and residual capacity), use of the urban land, use and characteristics of the rural land and the boundaries of the urban, urbanizable and rural land. The document shall contain a narrative description regarding the historic behavior of the area and an analysis, among others, of the deficiencies and needs of the present social, economic, physical and environmental development; the role of the municipality within its region; the housing needs; the characteristics and needs of the rural land; and the identification of the regulations, if any, of the Planning Board and the Regulations and Permits Administration believed to be in need of revisions in order to adjust them to the requirements of the plan. Should the substitution or amendment of any of the regulations be intended, the basis for the proposed action shall be discussed.

(c) Documents detailing the policies of the plan establishing goals and objectives and the recommendations for social, economic and physical development of the municipality. This document is fundamental to the plan and shall establish and include the policy determinations for the program and the regulations. The goals and objectives relative to the use of the land shall be specifically set forth for each classification of the urban, urbanizable and rural land. This document shall be accompanied by the design plans needed to graphically illustrate the physical and spatial development proposed by the plan.

The program shall contain the following basic documents:

(a) A program for general projects to include the identification, economic and financial evaluation and the time-table for economic, social and physical development projects for the municipal territory. This identification of projects shall be accompanied by the following conceptual or schematic design plans, among others:

(1) Location and proposed capabilities of the infrastructure, excluding the road system.

(2) Location and proposed capabilities of the road system.

(3) Location and capabilities of new general communal uses, additional to the infrastructure.

(b) Affordable housing program including projects and programs to attend to these needs.

(c) Support program for the conservation, protection and use of the rural land, free from the urbanizing process.

(d) Extension program for the programmed urbanizable land. This extension program shall be required in order to draft the extension plan and to convert non-programmed urbanizable land into programmed urbanizable land. The extension program shall include the following documents, among others:

(1) A statement of the social, economic and physical goals and objectives for the new extension.

(2) An analysis of the needs of the extension.

(3) Statements indicating the use, intensity levels and characteristics of the structures and the public space for the territorial ordinance.

(4) Determination as to the main communal needs and uses, with emphasis on the infrastructure.

(e) Investments Projects Program The municipality and the corresponding agencies of the Central Government, including public corporations, shall agree on the projects, the date on which they shall begin and the cost thereof in order to achieve the objectives of the ordinance plan. The approval of the ordinance plan by the Governor shall constitute a commitment of a contractual nature between the State, the agencies, the public corporations and the municipality to carry out said projects on the scheduled dates.

The regulations shall include the following basic documents:

(a) Design plan for land classification, dividing the municipal territory into urban land, urbanizable land (programmed and non-programmed) and rural land (common and especially protected).

(b) Regulations and ordinance design plans, and other territorial ordinance determinations, with indications for the use, intensity levels and characteristics of the structures and the public space. The regulations shall be drafted specifically for the urban, the urbanizable and the rural land, and may include norms in effect of the Planning Board and the Regulations and Permits Administration. The substantive and procedural provisions which lend legal authority to make feasible the territorial ordinance used in the ordinance plans shall be part of the regulations and the ordinance design plans.

The territorial plan, in its drafting process, shall require the preparation of an advance which shall serve as an instrument to divulge the ideas of the plan, as well as a means to promote a broad participation of the citizenry and of the public agencies concerned with the matters contemplated by the plan. The advance shall contain the following basic documents relative to the municipality:

(a) A general report on the physical and spatial development throughout history; the updated economic, social and physical condition; the role of the municipality within its region; the housing needs; and the conditions of the rural land.

(b) A statement of the public policy and the social, economic and physical development goals and objectives proposed for the municipality. The goals and objectives relative to the use of the land shall refer to all three types of land: urban, urbanizable and rural.

(c) Preliminary classification of the municipal territory into urban land, urbanizable land (programmed and non-programmed), and rural land (common and especially protected), as well as the general proposals for the management of these lands, including:

(1) A general proposal regarding the management of urban growth. It shall include design plans indicating the existing and proposed location of the general communal uses, including the infrastructure, and a general proposal on the use and intensity of use of the land and the characteristics of the structures and the public land.

(2) A general proposal regarding the management of the rural land. It shall include a discussion on the characteristics of the types of land and the possible and recommended uses.

Section 13.006. — Extension Program and Plan. — (21 L.P.R.A. § 4604)

The Extension plan shall be based on the extension program. Its objective shall be to establish specific urban guidelines and a detailed statement on the development of the programmed urbanizable land and shall be carried out on the basis of the determinations of the territorial plan. The extension plan shall contain the following basic documents:

(a) Design plans and regulations

- (1) Extension design plan which shall establish, among others, the road system, the public space and the area to be developed or parceled.
- (2) Conceptual design plan of the infrastructure, including the main lines and elements of the infrastructure and their capacity.
- (3) Regulations and ordinance plans to provide for the use of the land in the extension design plan. The substantive and procedural provisions which lend legal authority to make feasible the territorial ordinance used in the ordinance plans shall be part of the regulations and the ordinance design plans.

(b) Analysis and implementation program

- (1) Economic evaluation of the cost to implement the development projects and works of infrastructure that correspond to the municipality and the financing and resources plan to be used for the execution of these works.
- (2) Program for the execution of the development projects and the works of infrastructure that correspond to the municipality or to the public agencies.
- (3) Investment projects program, certified by the corresponding public agencies.
- (4) General sectioning of the land for its development by stages, when the same are deemed necessary. This sectioning by stages shall be identified in a design plan.

Section 13.007. — Area Plan. — (21 L.P.R.A. § 4605)

The Territorial Ordinance Plan shall require an area plan to regulate land use in areas that require special attention, and to program rehabilitation projects in the urban centers.

Every area plan shall require:

- (a) A document of the inventory, diagnosis, and recommendations and a statement of the goals and objectives of the Plan.
- (b) The program of works to achieve the goals and objectives, including as an obligation in the case of the area plans for urban centers, and as an option with respect to other area plans, an Investment Projects Program certified by the corresponding public agencies.
- (c) Drafting of regulations and ordinance plans The regulations for the urban center area plans shall provide for the protection of structures, squares, streets and other components of the urban center according to their type and shall attend, among other factors, to use land [sic], the intervening levels of the structure, restoring and restructuring of real properties, new construction, business or professional office construction, open spaces, and vegetation, routing, accessing and parking areas, works and installations in the infrastructure and equipment of the public roads, and the procedures for permits. The substantive and procedural provisions of the new competencies to make the territorial ordinance used in the ordinance plans feasible, shall be part of the Regulations and Ordinance Plans.

In addition to the area plans for the urban centers several types of area plans for the municipality may be developed, among which the following may be found:

- (a) Area plan for urban areas of special architectural value.
- (b) Area [plan] for the protection of natural areas as well as for areas of agricultural value.
- (c) Area plan for internal reform of urban areas.
- (d) Area plan to urbanize extensive uncultivated land on urban soil.
- (e) Area plan for the ordinance of isolated settlements.

(f) Area plan for settlements located in areas prone to natural disasters such as areas susceptible to floods or landslides.

The regulations of the urban centers area plans approved in this section, exclude the application of Planning Regulation No. 5, "Historic Zones and Sites Regulation," and shall be negotiated by the corresponding municipal offices.

No area plan may be drafted to convert rustic land into an urban or urbanized land, said action shall require a revision of the Territorial Plan.

Section 13.008. — Adoption and Review of Ordinance Plans. — (21 L.P.R.A. § 4606)

The ordinance plans shall be drafted or reviewed by the municipalities in close coordination with the Planning Board and with other public agencies concerned to ensure their compatibility with state and regional plans and those of other municipalities. The municipalities may enter into agreements with the Planning Board for the drafting of said plans or parts thereof.

As an indispensable instrument for the evaluation of the ordinance plans that are submitted to the consideration of the Planning Board, the public agencies concerned shall continually update and make available to said agency a physical inventory which shall include, among others, the location of the natural resources that should be protected, the use of the land, areas susceptible to natural risks, zones of agricultural, historical, archeological or tourist value, as well as a list of the infrastructure available.

Any municipality which decides to develop or entirely review an ordinance plan should notify this fact to the Planning Board before beginning its work. When a municipality notifies the Planning Board of its intention to draft or entirely review a territorial plan, or to draft or entirely review an ordinance plan which has a significant impact on another municipality, the Planning Board shall determine, through a resolution to that effect, the set of factors that shall be considered in the plan, which may include but not be limited to, the following: minimum densities to be required for the use of the land, urban morphology, transportation systems, regional infrastructure systems, regional landfills, dams and the general interrelationship with its region.

Two (2) or more municipalities may agree on the drafting of joint ordinance plans, through an agreement to that effect, with the previous authorization of the corresponding Municipal Legislatures and the endorsement of the Planning Board. Said Board shall take care that the territory covered by said plan be reasonably contiguous, that the municipalities have similar characteristics, that the objectives and requirements set forth in this chapter are met and that other municipalities are not adversely affected. The Planning Board shall approve, through resolution, those complementary provisions that are needed to govern the form and content of the ordinance plans that are drafted jointly by two (2) or more municipalities.

The drafting or review of the ordinance plans shall be developed by stages and through the sequential and concurrent preparation of a series of documents. It shall follow an intense process of citizen participation through public hearings pursuant to the provisions of this chapter. It shall also comply with what is established in Act No. 170 of August 12, 1988, as amended [3 L.P.R. A §§ 2101 et seq.], known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico". The municipality shall hold mandatory public hearings in the cases listed hereinbelow.

During the drafting or entire review of the territorial plan, public hearings shall be required for the evaluation of the following documents:

- (a) Statement of objectives and work plan;
- (b) general report;
- (c) advance of the territorial plan, and
- (d) territorial plan (complete).

In the drafting or entire review of the extension plan, public hearings shall be required regarding the following documents:

- (a) Statement of objectives and work plan; and extension program;
- (b) proposal of the extension design plan and the ordinance regulations; and
- (c) extension plan (complete).

In the drafting or entire review of the area plan, public hearings shall be required to analyze the following documents:

- (a) Statement of objectives and work plan;
- (b) inventory, diagnosis and recommendations, program and proposal of the plan, and
- (c) area plan (complete).

The municipality shall notify the Planning Board of all the public hearings and shall send it a copy of the documents to be presented at them. The Planning Board shall remit its comments to the municipality on the documents received within a term not greater than sixty (60) days after their receipt.

In order for the ordinance plans to become effective, they shall require the approval of the Municipal Legislature, their adoption by the Planning Board and the approval of the Governor. In the case of ordinance plans which include more than one municipality, these shall be approved by the Municipal Legislatures of each of the municipalities concerned. If the Planning Board does not consider a plan adequate, it shall state, through a resolution, the grounds for its determination. If an agreement for adoption is not produced by the Planning Board, the plan shall be submitted to the Governor stating the position assumed by the Planning Board and the municipality; the Governor shall take the corresponding final action.

The ordinance plans shall be reviewed within the term determined therein or when the circumstances so merit. The territorial plan shall be reviewed in its entirety at least every eight (8) years.

The ordinance plans may be reviewed partially. The partial review of the ordinance plans shall require that public hearings be held in the corresponding municipality, the approval of the Municipal Legislature through an ordinance, its adoption by the Planning Board and ratification by the Governor, regarding the following elements of an ordinance plan; in the case of plans adopted jointly by more than one municipality, each plan shall require a public hearing and the approval of the Municipal Legislature:

- (a) Territorial plan
 - (1) Documents regarding the policies of the plan included in the general report;
 - (2) The following design plans included in the program:
 - (i) Infrastructure,
 - (ii) road plan,
 - (iii) general communal uses;
 - (3) The section of the investment projects program, certified by the public agencies;
 - (4) Land classification design plan;

(5) ordinance design plans (except those amendments to the design plans pursuant what is established in Section 13.012), and

(6) ordinance regulations.

(b) Extension plan

(1) Extension plan;

(2) ordinance design plans (except those amendments to the design plans pursuant what is established in Section 13.012), and

(3) ordinance regulations.

(c) Area plan

(1) Ordinance design plans (except those amendments to the design plans pursuant what is established in Section 13.012), and

(2) ordinance regulations.

The review of the ordinance plans as to other matters, including those amendments to the ordinance design plans pursuant to the provisions of Section 13.012 of this Act, shall only require that public hearings be held in the corresponding municipality and in the case of those plans adopted jointly by more than one municipality, in each of them, and require as well the approval of the Municipal Legislature or Legislatures through an ordinance and a notice of the review approved to the Planning Board. Said review shall be effective forty-five (45) days after the notice to the Planning Board, as evinced by the corresponding acknowledgment of receipt. During that period the Board may determine whether the partial review is contrary to the policies of the plan or whether it has an impact beyond the municipal boundaries, reasons for which the Board may not accept the partial review. In that case the Board shall issue said determination through resolution and a notice of the aforesaid to the municipality.

The Planning Board may determine, through resolution, that the partial review requested by the municipality requires a thorough review of the Ordinance Plan in its totality; this determination must be duly explained.

Section 13.009. — Moratorium. — (21 L.P.R.A. § 4607)

The Planning Board and the municipalities are hereby empowered to decree moratoriums for the total or partial suspension of new authorizations or permits for the use, construction or installation of billboards or notices. The moratorium may be decreed for the drafting or total or partial review of the ordinance plans, as may be pertinent, according to the provisions of this section. The municipality may only decree said moratoriums regarding those authorizations or permits that are part of the territorial ordinance powers which have been transferred to it according to Section 13.012 of this Act. The Planning Board may decree the moratorium when the municipality has failed to receive the transfer of powers pertaining to the authorizations or permits concerned. In both cases the procedure shall be as follows:

(a) Procedure to declare a moratorium when the municipality lacks territorial ordinance powers. A municipality that wishes to draft or review an ordinance plan and has failed to obtain the total or partial transfer of the territorial ordinance powers by virtue of Section 13.012 of this Act, may request that the Planning Board decree, through resolution, a moratorium for the total or partial suspension of new authorizations or permits that are within the jurisdiction of the Board or the Regulations and Permits Administration. The moratorium may be applied to a specific area or to the territory in its totality and may entail the suspension of procedures still pending on case filed

with the Planning Board or the Regulations and Permits Administration, except for granting use permits for constructions carried out legally before the date of effectiveness of a moratorium. In those cases in which more than one municipality agrees to jointly draft an ordinance plan, or review one already in effect, the moratorium petition must be drafted and subscribed by each of the municipalities. The moratorium to be decreed by the Planning Board must comply with the following:

(1) The moratorium petition of the municipality to the Planning Board shall require the approval of the Municipal Legislatures through ordinance and be accompanied by a detailed and thorough report stating all the grounds which justify the same. Should more than one municipality be engaged in the process of drafting or reviewing a joint ordinance plan, the approval of the various Municipal Legislatures of the municipalities involved shall be required. Said petition and report shall be available at the town hall of the petitioning municipality or municipalities and at the Office of the Secretary of the Planning Board for public examination.

(2) The Planning Board shall evaluate the petition and may request additional information or studies on those matters it deems pertinent, as well as hold public hearings to receive information on the same. After evaluating the petition and all the information compiled, the public policies, the legislation and applicable regulations, the Board may issue a resolution ordering the moratorium as requested by the municipality or may modify or reject it in its totality, indicating the grounds for upholding its determination.

(3) The designation of a moratorium by the Planning Board shall be published in at least one of the newspapers of general circulation in Puerto Rico and shall be notified to the petitioning municipality or municipalities, as the case may be, to the Regulations and Permits Administration and to the other government agencies concerned. The moratorium shall be put in effect by the Planning Board, the Regulations and Permits Administration and the other agencies concerned.

(b) Procedure to decree a moratorium when the municipality has territorial ordinance powers. A municipality may, after obtaining total or partial transfer of the territorial ordinance powers pursuant to Section 13.012 of this Act, order a moratorium for the total or partial suspension of new authorizations or permits included within the powers it has acquired to draft or review an ordinance plan. Said moratorium, which may apply to the municipal territory in its totality or to a part thereof, as the case may be, may entail the suspension of procedures still pending on cases filed, except for granting use permits for constructions carried out legally before the date of effectiveness of a moratorium. Any moratorium decreed by a municipality, or decreed by more than one municipality, when they are to draft an ordinance plan jointly, must comply with the following:

(1) The moratorium shall require the approval of the Municipal Legislature, through ordinance, and be accompanied by a detailed and thorough report stating all the grounds which justify the same. Should more than one municipality be engaged in the process of drafting or reviewing a joint ordinance plan, the approval of the various Municipal Legislatures of the municipalities involved shall be required. The report shall be made available at the town hall of the petitioning municipality or municipalities.

(c) Other considerations Any moratorium ordered by virtue of this section shall have an effectiveness of not more than one year and its objective shall be to expedite the drafting or review of the ordinance plans. The moratorium shall establish the conditions, if any, that allow

exempting from its provisions certain works or projects. The Planning Board shall establish the procedures and limitations of the moratorium through regulations.

The Planning Board is furthermore authorized, should it believe that it is desirable or necessary, to decree total or partial moratoriums in order to draft or review the design plans for the use of the land and their regulations.

Section 13.010. — Community Boards. — (21 L.P.R.A. § 4608)

During the process of drafting a territorial plan and before public hearings are held to consider the completed territorial plan document, the municipality shall create one or several Community Boards pursuant to the provisions of this section. Each Board shall be constituted by not less than seven (7) members nor more than eleven (11). None of these may be an official who holds an elective public office, or a person who introduces development projects to the municipality or has direct or indirect economic interests in such projects. Neither can those persons who have been contracted by the municipality to render professional or consulting services or to construct, improve or reconstruct, alter, extend or repair public works, nor the directors, officials, partners, representatives, agents or employees of the above mentioned contractors, be members of a Community Board.

The mayor shall appoint the members of the Community Board for a term of two (2) or three (3) years, keeping not less than one-third (1/3) of the members during any change in the constitution of the Board. The Community Board shall be appointed according to the procedures provided in this Act for the appointment of municipal employees. The members shall hold office during the effectiveness of their appointments or until their successors have taken office. Said Boards shall be the representative bodies of the various ideological, social and economic sectors of the community in which they are constituted. To that end, the municipality shall not discriminate because of race, color, sex, birth, origin or social condition, nor for political or religious belief when appointing or confirming the members of the Community Boards.

A minimum of one Community Board shall be appointed for every fifty thousand (50,000) inhabitants or fraction thereof. The following criteria shall be taken into consideration within the territorial boundaries of the area covered by a Community Board: the natural or artificial barriers of a community, the spatial continuity, the contiguity and compatibility of the area in relation to the uses and nature thereof.

The majority of the members of each of the Community Boards whose creation is directed by virtue of this section shall be residents of the geographic area they represent; the rest may be business people who do business or professionals or workers who render services in the area.

The duties of the Community Boards shall be to advise the municipality in the drafting and review of, and compliance with, the ordinance plans and the ordinance regulations and plans within a specific geographic area. They shall also oversee the implementation of, and compliance with, said documents including the execution of the powers on territorial ordinance that have been transferred to the municipality pursuant to this chapter, as well as promote citizen participation in said procedures and report their recommendations to the municipality.

The Community Boards shall refer to the Regulations and Permits Administration those cases related to complaints and violations of the planning laws and regulations whose handling remains under the jurisdiction of said Administration. They shall furthermore give the proper

follow-up to said public agency to promote the effective implementation of the above mentioned laws and regulations in their particular geographic areas.

Each year the members of every Community Board shall elect a Board of Directors that shall direct its work and shall at least consist of a President, a Vice-president and a Secretary. The aforementioned Boards shall meet when necessary or required to exercise their functions, or at least once every two (2) months, and shall keep minutes of their meetings. Said minutes shall constitute public documents and shall be maintained and preserved in an adequate and orderly manner.

Each Community Board shall approve those by-laws that are necessary for its operations. For the purpose of its meetings a majority of the members of each of said Boards shall constitute a quorum and all its agreements shall be reached by a majority thereof.

The municipality, through the Territorial Ordinance Office, shall provide the technical support required by the Community Boards for the proper compliance of its duties. The municipal government shall establish in its annual budget the appropriations that are needed for the operation of said Boards.

The territorial boundaries corresponding to each Community Board may be modified by the municipality for just cause and after public hearings are held to that effect. After each population census, the municipality shall adjust the area boundaries as may be necessary, not later than one year after the date of receipt of the final and official numbers for each census.

Section 13.011. — Conformity and Compatibility of Ordinance Plans. — (21 L.P.R.A. § 4609)

The ordinance plans shall be in conformity with all the public policies, laws, regulations or other documents of the central government related to territorial ordinance and construction, except for those regulations which are substituted or amended according to the following indications.

At the time of drafting or revising the ordinance plans, a municipality may, regarding those matters under its jurisdiction, propose substitutions or amendments to the regulations or to other documents of the Planning Board or the Regulations and Permits Administration, except for the Building Regulations, the Floodable Zones Regulations, the Historic Zones or Sites Regulations, the Coastal Zone, Beaches and Coast Access Zoning Regulations and other regulations or documents adopted specifically for regional or general application in Puerto Rico.

In matters within its jurisdiction, the municipality shall coordinate with other public agencies a process directed to harmonizing its plans in the municipal area with the plans and programs of said agencies in a manner that is mutually satisfactory. The public agencies shall be bound to respond with a reasonably speedy process taking into consideration, to the extent possible, the concerns and interests set forth by the municipality.

The municipality shall make sure to keep a close liaison and collaboration with the planning in all that concerns the drafting and adoption of the ordinance plans. It shall also establish the necessary coordination with other public agencies, especially those related to transportation, infrastructure, natural resources, agriculture and industrial development. The Planning Board shall see to the compatibility between what is proposed and other ordinance plans and other public policies relevant to the matters included in the plan under consideration and may allow criteria that are stricter but not more lax than those established in the public policy documents of

general application in Puerto Rico. The ordinance plan adopted shall be the end result of the consultation and coordination efforts between the public agencies and the municipality.

Once approved by the Governor, the Ordinance Plan shall bind the public agencies to comply with the works and projects programs included in the Investments Projects Program Section agreed on with the public agencies. The Planning Board shall give priority consideration to said section in the drafting of its Four Year Investments Program provided by Act No. 75 of June 24, 1975, as amended [23 L.P.R.A. §§ 62 et seq.], as shall the Management and Budget Office in the Annual Budget to be submitted to the Legislature. Public corporations shall be bound by their own budgets.

Once an ordinance plan has been adopted, the central government shall reserve the power, through the Planning Board, to adopt determinations of application for one or several municipalities addressed to propitiating better health and the safety and welfare of the region or addressed to the consideration and approval of central government works and projects. During the process of considering these determinations the affected municipalities shall be notified and heard. These determinations shall be accomplished and notified to the Territorial Ordinance Office and to the Permits Office of the municipality through a resolution of the Planning Board and the same shall prevail over any ordinance plan. If these determinations are not compatible with the ordinance plans, the latter shall be revised to harmonize them within a term not to exceed one year from the date on which the Planning Board adopted the resolution. Any determination on the use of the land by a municipality shall respect what has been established in the Planning Board resolution even though at the time of its application the ordinance plans have not yet been revised. These determinations of the Planning Board shall not apply to the projects included in the section of the investment projects program certified by the public agencies.

The ordinance plans and all the regulations adopted and actions undertaken by the municipalities pursuant to the powers conferred upon them by this chapter, shall comply with the provisions of Act No. 9 of June 18, 1970, as amended [12 L.P.R.A. §§ 1121 et seq.], known as the "Environment Public Policy Act", and with the regulations approved by the Environmental Quality Board for the implementation of said act.

Section 13.012. — Transfer of Jurisdiction on Territorial Ordinance. — (21 L.P.R.A. § 4610)

The municipality, following the procedures and norms established in Chapter XIV of this Act, may request that the Governor transfer certain powers of the Planning Board and the Regulations and Permits Administration on the territorial ordinance, including complaints, authorizations and permits. The transfer shall be effected according to the following:

(a) The mayor shall submit a petition to the Legislature for the latter to issue an authorization to request that the Governor transfer the categories of territorial ordinance powers in question. Said petition must be drafted in the manner provided in Section 14.006 of this Act and shall be accompanied by a detailed estimate of the costs to implement said powers that are chargeable to the municipal budget, including those related to the technical, financial and human resources needed to that effect. Before being submitted to the Governor, the petition shall require the approval of the Legislature through ordinance, with the favorable vote of not less than two-thirds (2/3) of its members.

(b) The municipality shall submit a petition for the transfer to the Governor, which shall be evaluated to reach the corresponding determination using, among others, the following criteria:

(1) That the municipality prove that the powers to be transferred are to be exercised or applied exclusively within the territorial boundaries of the municipality to which they are delegated and that its effects shall not transcend the territorial perimeter of municipal jurisdiction.

(2) That the municipality prove that it shall have the technical, financial and human resources needed to enforce the powers whose transfer it is requesting.

(c) The transfer of powers shall require that the municipality establish a Permits Office.

(d) The transfer of powers shall require that the municipality have a territorial plan in effect.

(e) The notice of any transfer of powers arranged by virtue of the provisions of this section shall be published in at least one of the newspapers of general circulation in Puerto Rico and shall also be posted in a visible place in the town hall of the municipality concerned. Said notice shall specify each of the powers that are transferred.

The municipality shall provide the necessary standards to ensure a close liaison and collaboration with the Planning Board and the Regulations and Permits Administration in every process for the transfer of powers. The agreement may set limitations to the powers thus delegated according to the capabilities of the municipality. The power whose transfer is authorized shall be exercised according to the norms and procedures established in the legislation, regulations and public policy that apply to the power transferred, including Act No. 170 of August 12, 1988, as amended [3 L.P.R.A. §§ 2101 et seq.], known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico". Together with the transfer of a power, the power to handle, denounce, resolve and process complaints and violations related to said power shall also be transferred.

The transfers shall be granted by categories, by sequential stages or simultaneously and once a category has been transferred the total evaluation process of said category is also transferred, except for those powers reserved by the public agencies or through an agreement. Once the category has been transferred, the corresponding incidental procedures such as conformity consultations, authorizations for demolition, structure transfers, land moving, submittals to the Horizontal Property Act, [31 L.P.R.A. §§ 1291 et seq.], and surface area rectification, among others, shall also be transferred. Once a municipality grants an authorization or construction permit in a category, it shall also grant the use permit for said construction. Likewise, if it is the public agency that grants that grants an authorization or a construction permit, that same agency shall be the one to grant the use permit, except when established otherwise in an agreement.

Pursuant to what has been stated above, the municipality may request the following powers concerning territorial ordinance:

(a) Category I—

(1) Use permits for existing structures or lots, and permits for the installation and display of billboards and notices; both permits are for uses or installations which conform to the regulations in effect and do not require variations or exceptions and which are not uses or structures that do not legally conform. "Use permit for existing structures or lots" shall be understood to mean that permit granted to structures or lots that had been previously occupied and whose use permit differs from the one which is granted immediately after a construction project or a segregation is carried out; should this be the first time that the use permit is granted, the latter shall be granted by the entity responsible for evaluating the

preliminary plan or the construction project or segregation, thus avoiding that two (2) different entities, one a central government and the other a municipal entity, may analyze the same project at different stages in their evaluation and permit process.

(b) Category II —

(1) Use permits for existing structures or lots, and permits for the installation and display of billboards and notices; both permits are for uses or installations which do not conform to the regulations in effect and require exceptions, variations in the construction, or variations in the installation of billboards and notices. It does not include permits that require variations in use or intensity of use, a power reserved to the public agencies as established hereinbelow in this section. "Use permit for existing structures or lots" shall be understood to mean that permit granted to structures or lots that had been previously occupied and whose use permit differs from the one which is granted immediately after a construction project or a segregation is carried out; should this be the first time that the use permit is granted, the latter shall be granted by the entity responsible for evaluating the preliminary plan or the construction project or segregation, thus avoiding that two (2) different entities, one a central government and the other a municipal entity, may analyze the same project at different stages in their evaluation and permit process.

(2) Authorizations for preliminary plans, construction permits (conventional or by the certifications act) and use permits, all on urban or urbanizable land: Consideration of projects whose construction area is less than one thousand (1,000) square meters, whose height does not exceed four (4) stories and which conform to the regulations in effect concerning the use and intensity of use. Including the consideration of urbanization projects that are incidental and inherent to the construction that is authorized. For the projects in this category to be considered by the municipalities, they must be located on lots on urban or urbanizable land with a surface area of less than fifteen hundred (1,500) square meters.

(3) Authorization to segregate up to ten (10) lots, including the remnants thereof, on urban or urbanizable land pursuant to the ordinance plans.

(c) Category III —

(1) Authorizations for preliminary plans, construction permits (conventional or by the certifications act) and use permits, all on urban or urbanizable land: Consideration of projects whose construction area is less than twenty-five hundred (2,500) square meters, whose height does not exceed four (4) stories and which conform to the regulations in effect concerning the use and intensity of use. Including the consideration of urbanization projects that are incidental and inherent to the construction that is authorized. For the projects in this category to be considered by the municipalities, they must be located on lots on urban or urbanizable land with a surface area of less than twenty-five hundred (2,500) square meters.

(2) Preliminary development authorizations, construction permits for urbanization works and authorization of registration plans, all on urban or urbanizable land: Consideration of urbanization projects of up to fifty (50) lots, pursuant to the regulations in effect.

(3) Amendments to the ordinance plans on urban or urbanizable land: Consideration of lots with a surface area not greater than one thousand (1,000) square meters, located on urban or urbanizable land.

(d) Category IV —

(1) Authorizations or preliminary plans, construction permits (conventional or by the certifications act) and use permits, all on urban or urbanizable land: Consideration of projects

whose construction area is less than five thousand (5,000) square meters, whose height does not exceed four (4) stories and which conform to the regulations in effect concerning the use and intensity of use. Including the consideration of urbanization projects that are incidental and inherent to the construction that is authorized. For the projects in this category to be considered by the municipalities, they must be located on lots on urban or urbanizable land with a surface area of less than four thousand (4,000) square meters.

(2) Amendments to the ordinance plans on urban or urbanizable land: Consideration of lots with a surface area not greater than two thousand (2,000) square meters.

(e) Category V —

(1) Transfer of other powers of the Regulations and Permits Administration and the Planning Board, except the authorizations for industrialized construction systems, those reserved in the agreement and those mentioned herein below.

In the exercise of these powers and at the time of issuing an authorization or permit, the municipality shall insure that the infrastructure needed to serve the project is available or that the effective and feasible manner to mitigate the effects of the project on the infrastructure has been identified before the project is ready to receive a use permit. A municipality may not grant a use permit if the infrastructure is not available.

Regardless of the transfers made, the Planning Board and the Regulations and Permits Administration, shall reserve the power to consider the following:

- (a) Private projects of a regional nature or impact not included in an ordinance plan and that are important to the health, safety and welfare of the region.
- (b) Public agency projects not included in the ordinance plan.
- (c) Variations in the use and variations in the intensity of the construction or the use.
- (d) Municipal projects which have not been expressly delegated in an agreement or included in the ordinance plan.

No municipality with the power to evaluate and issue permits for the type of works or project whose power for consideration remains with the public agencies may refuse to approve the works or the project, should said works or project conform to the provisions established by the public agencies, nor may it modify the conditions imposed by the latter.

The regulations adopted for this purpose by the Planning Board shall provide the procedures for filing and evaluating the projects whose power for evaluation is reserved to the public agencies, taking into consideration the following:

- (a) The public agency concerned shall consider the provisions of the ordinance plan that are applicable when evaluating the petition and shall take the necessary steps to establish harmony with the plan as much as possible.
- (b) The public agency concerned shall elicit comments from the municipality in the evaluation of the petition.

In those cases in which the municipality has acquired the transfers up to Category V, inclusive, all petitions for authorizations or permits, including those reserved to the Planning Board or the Regulations and Permits Administration, shall be filed with the Permits Office of the municipality. Said Office, after examining the file, regarding those projects whose power for consideration belongs to the central agencies, shall forward the file to the corresponding agency within a period not to exceed ten (10) days after the date on which the petition was filed so that the latter may act according to the law.

Once the power established by the various categories has been transferred, the municipality shall assume all responsibility for the actions taken in the exercise of said power.

The municipalities may request from the Planning Board and the Regulations and Permits Administration a certified copy of those files, plans and other documents relative to the previous history of the cases and matters pertaining to the powers concerning the territorial ordinance that have been transferred to it by virtue of this section. In such cases, said public agencies shall be bound to provide, within a reasonably brief period of time, a certified copy of the aforementioned documents.

Any agreement that transfers those powers concerning the territorial ordinance to the municipalities must establish the causes for their suspension or revocation by the Governor.

Any procedure pending before the Planning Board, the Regulations and Permits Administration, the Board of Appeals for Constructions and Parceling, or before any court, on the date in which the transfer of the powers concerning territorial ordinance to a municipality is effected, shall continue to be processed by the state entities concerned until a final decision is reached regarding the procedure under consideration.

Section 13.013. — Office of Territorial Ordinance; Office of Permits and Internal Regulations. — (21 L.P.R.A. § 4611)

Prior to or during the drafting of an ordinance plan the municipality shall create an Office of Territorial Ordinance, whose functions, among others, shall be the following:

- (a) To prepare and review ordinance plans, and carry out all the necessary activities for the effective execution of these processes.
- (b) To hold public hearings relative to the ordinance plans and carry out all the activities incidental to the latter.
- (c) Supervise the development of and compliance with the ordinance plans.
- (d) Compile and update information, and keep files related to the territorial ordinance of the municipality.
- (e) Provide technical advisory support to the Community Boards so that they may properly perform their duties.

The Office of Territorial Ordinance shall be directed by a Director appointed by the mayor and confirmed by the Municipal Legislature. Said Director shall be a professional with expertise in territorial ordinance matters. The municipality shall revise its administrative organization in order to locate said offices and coordinate their operations with other existing or future planning offices.

Prior to receiving the transfer of powers from the Planning Board or from the Regulations and Permits Administration, the municipality shall create a Permits Office whose functions shall be the following, among others:

- (a) Process petitions for authorizations and permits pursuant to the powers transferred to the municipality under an agreement.
- (b) Keep a file on each petition for authorization and permits, as well as the decision made to such respects.
- (c) Hold public hearings related to the procedure for granting authorization or permits and carry out all activities pertinent to these.

(d) Promote the filing of legal actions, whether administrative or judicial, to process violations or complaints related to the powers transferred to the municipality under an agreement.

The Permits Office shall be directed by a Permits Official, who shall be an architect or engineer licensed under the standards of the Commonwealth of Puerto Rico. Prior to making a discretionary decisions regarding a power that has been transferred, the Permits Official shall require that a Permits Committee be created. The Permits Committee shall be constituted by three (3) members, one of whom shall be the Director of the Office of Territorial Ordinance. The two (2) remaining members shall be professionals in the fields of architecture, engineering or surveying; both shall be appointed by the mayor and confirmed by the Municipal Legislature. These two (2) members may be full or part-time employees of the Permits Office of the municipality, or may be volunteers. The Permits Committee shall evaluate the various authorizations or permits that require variations in the construction, in the installation of billboards and notices, exceptions or determinations of use or legally nonconforming structures and shall issue its written recommendation to the Permits Official who shall decide whether to approve or disapprove said action.

The municipality shall establish the appropriations needed for the operation of the Office of Territorial Ordinance and the Permits Office in its annual budget.

Two (2) or more contiguous municipalities, as the case may be, may constitute a consortium in the manner provided in this Act to establish an Office of Territorial Ordinance with the same director, or a Permits Office with the same Permits Official, or both, to provide common services. The distribution of costs for the maintenance and operation of these offices shall be prorated between the participating municipalities as provided by the agreement. In the case of offices in consortium, the Mayors of the municipalities concerned shall appoint the Director or Official of these Offices and the Permits Committee. These appointments shall be subject to the confirmation of a majority of the total members of the Municipal Legislatures of the municipalities which constitute the consortium.

The Legislatures may hold public hearings and special joint sessions to consider and evaluate said appointments. The joint sessions shall be agreed to by the Presidents of the Legislatures of the municipalities in consortium and shall neither be considered as regular or as special sessions. They shall be convened under the signatures of the Presidents of the Legislatures concerned regarding the date, time and place agreed by them and concerning the duration of the special joint session authorized herein; its other procedures and formalities shall be governed by the provisions which apply to the regular sessions of the Municipal Legislatures and shall be considered as such regarding the payment of per diems to Municipal Legislators.

The municipality or municipalities, as the case may be, shall adopt two sets of regulations, through ordinance, to govern the substantive and procedural provisions of both Offices. The regulations of the Office of Territorial Ordinance shall establish the provisions for the operations and procedures of the Office and shall be in effect within or before the six months after the Office has been created and a Director has been appointed. The regulations of the Permits Office must be adopted before the powers concerning territorial ordinance have been transferred.

In order to comply with the requirement to adopt the regulations for the Office of Territorial Ordinance and the Permits Office, the municipality may adopt, through ordinance, the regulations of those agencies whose powers have been transferred without the need for holding public hearings or it may, by previously holding a public hearing, adopt new regulations.

The municipality shall revise its administrative organization in order to locate said offices and coordinate their operations with other existing or future planning offices.

Section 13.014. — Decisions in Special Cases. — (21 L.P.R.A. § 4613)

When the Permits Office evaluates a project which, although compatible with the ordinance plans approved, exhibits characteristics that are so special that the application of the regulations and ordinance plans in effect, and the approval of the project, would be undesirable or harmful because of factors such as health, safety, order, public improvements and the more adequate use of the land, or because of the aesthetic, environmental or natural beauty conditions, the Permits Office may deny the authorization of the permit for such a project for the protection of the general welfare and taking into consideration said factors as well as the recommendations of the public agencies concerned. In the exercise of this power, the Permits Office shall take the necessary measures so that it is not used for the purpose of disregarding or dispensing with the regulations and ordinance plans in effect in cases in which truly special circumstances are not present. In these cases the Permits Office shall hold a public hearing before making a decision on the project being evaluated. The Permits Office shall deny said petition while the unfavorable conditions for the project exist, and shall state, in writing, the grounds for denying the authorization for the project.

Section 13.015. — Remittance of Files on Projects Whose Powers are Retained by the Public Agencies, Notice of Filing of Urbanizations Projects and Notice of the Decisions of the Permits Office. — (21 L.P.R.A. § 4613a)

The Permits Office shall submit to the Planning Board or the Regulations and Permits Administration the complete record of every project filed with the municipality whose evaluation power has not been transferred to the municipality of whose power has been reserved by the public agencies.

During the evaluation process of an urbanization project whose evaluation power has been transferred to a municipality, the Permits Office shall submit to the Planning Board a copy of the complete record filed and shall keep said file up to date through an evaluation and a decision-making process. The file, or its copy, as the case may be, shall be submitted to the agency concerned within a term not to exceed ten (10) days after being filed. Regarding projects other than urbanization projects, the municipality shall submit to the Planning Board the information concerning all decisions on authorizations or permits filed with the Permits Office according to the regulations adopted the Planning Board for such a purpose as provided in Section 13.004. Regarding projects other than urbanization projects, but considered by the Planning Board to have regional impact, the Board may request a copy of the file of the project submitted to the municipality for its evaluation.

The notice of the decisions whose evaluation power has been transferred to a municipality shall include a notice of the agreements requiring variations or exceptions and their evaluation by the Permits Office which shall be notified through a resolution of the Permits Office that establishes the reasons for its decision. Ministerial permits shall be notified by means of an official permit. The Permits Office shall remit to every public agency or interested person or official whose

address appears in the file, certified copies of all the agreements adopted that are of their concern.

Section 13.016. — Referrral of File; Annulment of Decision or Municipal Action; Reconsiderations, Appeals, and Reviews of Municipal Decisions. — (21 L.P.R.A. § 4614)

Regarding those projects which, through agreement, have been transferred to a municipality upon receipt of a copy of a file on an urbanization project or a project other than the urbanization project for which it has requested a copy of the file due to its possible regional impact, the Planning Board may, during the evaluation process of the project by the municipality and prior to making a decision on the latter, determine that the project has a regional impact that has not been taken into consideration in the plan and may require that the file be referred to the consideration of the Planning Board *in plenum*. Said requirement shall be made through a resolution in which the Board states the grounds for justifying its determination. Once the municipality has made a decision regarding any authorization or permit whose consideration has been transferred to the municipality, the Planning Board may appeal to the pertinent judicial or administrative forum to request any legal remedy needed to achieve faithful compliance with the provisions of this chapter.

The terms, procedures and conditions for the petitions of reconsideration, appeal or judicial review of the decisions of the municipality shall be:

- (a) Those applicable to decisions of the Regulations and Permits Administration if the jurisdiction in question was transferred from said agency to the municipality.
- (b) Those applicable to decisions of the Planning Board if the jurisdiction was transferred from said agency to the municipality.

The municipality shall not have the power to make any decision or take any action on cases whose evaluation power has remained with the public agencies even though the case has been filed with a municipality. Should the municipality make any decision or take any action in said cases, the Planning Board, through a well-founded resolution, may annul the aforesaid, in which case the municipality may appeal to the Court of First Instance to challenge the same having the burden to prove that the matter lies within its powers pursuant to the agreement and the law.

These actions within the legal framework of the applicable statute shall be carried out according to the provisions of Act No. 170 of August 12, 1988, as amended [3 §§ 2101 et seq.], known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico".

Section 13.017. — Powers and Legal Resources for Compliance with the Regulations Effect. — (21 L.P.R.A. § 4615)

The transfer of the powers of the Planning Board and the Regulations and Permits Administration to a municipality, pursuant to what is established in Section 13.012 of this Chapter, shall entail the transfer of all legal powers that said agencies have to promote the compliance and implementation of the regulations in effect on land use. The municipality is authorized to use the pertinent legal resources, represented by the mayor or any official designated by him/her to handle, denounce, process and resolve the complaints for use and construction violations related to the powers or jurisdictions transferred.

Section 13.018. — Approvals, Authorizations, Permits and Amendments to the Ordinance Plans Once an Ordinance Plan is in Effect and There Are No Transfers of Jurisdictions to the Municipalities. — (21 L.P.R.A. § 4616)

Once a municipality has an ordinance plan in effect but has not had any territorial ordinance powers transferred to it, according to the provisions of Section 13.012, any approval, authorization or use or construction permit petition, and any petition for amendments to the ordinance plans that is presented before the Planning Board and the Regulations and Permits Administration, shall be notified to the corresponding municipality through a copy of the document in question, so that it will have the opportunity to evaluate it and present its position in that respect. Said notice shall be made within the term of ten (10) days after the petition has been filed. The municipality shall submit its comments, through certified letter, to the Planning Board or to the Regulations and Permits Administration, as the case may be, within a term not to exceed fifteen (15) days after the date in which it obtains knowledge of the filing of the petition.

The Planning Board and the Regulations and Permits Administration, at a public hearing held concerning territorial ordinance matters in a municipality having an ordinance plan, shall provide for the participation of a representative of the municipality so that the latter may have the opportunity to question those participating in said hearing.

The Planning Board shall establish through regulations, any additional mechanisms or procedures that will promote the effective participation of the municipalities in all matters that affect their physical development or entail determinations that substantially commit the resources of the municipalities. Both agencies shall take whatever measures are needed so that the administrative proceedings under their jurisdiction are not unnecessarily delayed.

Section 13.019. — Territorial Plans in Development on the Effective Date of this Act. — (21 L.P.R.A. § 4617)

Any territorial plan which is being developed on the effective date of this act and which significantly meets the requirements established in this chapter, may be approved by the Municipal Legislature, adopted by the Planning Board and approved by the Governor.

Section 13.020. — Regulations of the Planning Board and the Regulations and Permits Administration in Effect and Applicability of Said Regulations During the Period of Transition to the Ordinance Plan. — (21 L.P.R.A. § 4618)

The regulations of the Planning Board or the Regulations and Permits Administration shall continue in effect and shall apply to the municipalities. Those regulations of these agencies, or parts thereof, that the municipality considers substituting according to what is established in this chapter, shall apply until the new regulations and ordinance plans take effect.

The new regulations shall establish the criteria for extending or terminating the effectiveness of the location consultations, the use, construction or billboard or notice installation authorizations or permits authorized prior to the date of effectiveness of the plan.

Section 13.021. — New Jurisdictions to Make Territorial Ordinance Viable; Judicial Revision of the New Jurisdictions. — (21 L.P.R.A. § 4619)

Once a territorial plan is in effect, the municipalities and the public agencies indicated in this Chapter are empowered to use six (6) jurisdictions to make the territorial ordinance viable. These jurisdictions may be used according to the provisions of this chapter and within the regulations adopted by the Planning Board to that effect as provided by Section 13.028. The use of the jurisdictions shall not be linked to the transfer of powers regarding authorizations or permits as provided by Section 13.012 of this Chapter. The new jurisdictions may be exercised individually or all at once, as needed. The new jurisdictions are the following:

- (a) Designation of land for communal use.
- (b) Exaction by impact.
- (c) Transfer of development rights.
- (d) Linkages.
- (e) Requirement of communal facilities.
- (f) Reparceling.

These new jurisdictions are granted to propitiate the effective implementation of the ordinance plans or the land use plans and guarantee that the public benefits that are derived from them for the health, safety and general welfare of the citizens are distributed among the citizens of the municipalities efficiently, fairly and equitably, while at the same time insuring the best use of the vital although limited land resources and optimizing municipal investments through planning that will allow the limited resources of the municipality or of the state available to attend to the needs of its inhabitants to be used in the most advantageous way for the public good. The purpose of these jurisdictions is furthermore, to provide various mechanisms that can handle particular or sectorial situations and offer reasonable remedies and options to the citizens to distribute the costs and encumbrances of the works required for the benefit of the entire population.

In case there is an ordinance plan or a land use plan that applies to more than one municipality, the jurisdictions may be exercised throughout the various municipal boundaries included in such a plan.

Appeals or petitions for judicial review concerning the requirements or the administration of the various jurisdictions shall be made directly to the Court of First Instance once the process for the petition of the review has been finalized at the public agency or instrumentality concerned.

Section 13.022. — Designation of Land for Communal Uses. — (21 L.P.R.A. § 4620)

The Planning Board, the Regulations and Permits Administration or the municipalities are each hereby empowered, as may be pertinent according to their jurisdictional scope, to provide, administer or require the designation of land in fee simple for communal use of the community, municipality or region under the following conditions:

- (a) In those programmed urbanizable lands identified in an extension plan;
- (b) in those non-urbanizable lands, in urban lands, identified in an area plan, or
- (c) in urbanization projects to urbanize open areas identified in a land use plan.

This requirement shall be made at the time in which said plans become effective and according to the regulations adopted by the Planning Board for such a purpose. The designated land may be

transferred to another public agency or instrumentality responsible for the communal use to be provided.

The designation of lands shall not exceed in value or area, ten (10) percent of the total land usable for development as indicated in the ordinance plan or the land use plan, and the exact extension of the land to be designated, its location and use shall be established in said plans. The computation of the extension of land to be used for development that shall be designated for communal uses shall exclude the land needed for infrastructure systems identified in the plan, including the system of roads as well as areas excluded for development by the plan for economic or security reasons.

The Planning Board shall establish the procedures to determine in which cases may the substitution of the required land for a cash contribution be allowed or demanded and the substantive and procedural elements of this transaction.

Section 13.023. — Exaction for Impact. — (21 L.P.R.A. § 4621)

The municipalities, the Planning Board, the Regulations and Permits Administration and the public agencies concerned are hereby empowered, as may be pertinent to each according to its jurisdictional scope, and pursuant to the provisions of an ordinance plan or a land use plan, to provide, administer or require the collection of a fee for the new development projects to defray expenses for the provision of public communal uses including infrastructure such as roads, mass transportation, aqueducts, sanitary sewers, electric energy, telephones and ports and airports, within or outside the boundaries of the project, as a direct result of said project. This power shall be exercised according to the regulations adopted by the Planning Board for such a purpose. A development project shall be liable to exaction by impact when it has an impact on the provision of communal uses, including the infrastructure.

Exactions by impact shall meet the following requirements:

- (a) They shall be determined systematically and with due justifications which show the criteria used to establish the exaction; the service levels may be specified for various types of areas.
- (b) They shall be determined with regard to the demands of the infrastructure of the project and of other communal uses, according to the cost of satisfying said demand.
- (c) They shall not exceed a fee proportional to the cost incurred or to be incurred to provide the infrastructure or other communal uses required to meet the new demands.
- (d) They shall avoid duplication, taking into consideration other payments, if any, that are made to provide infrastructure or other communal uses.
- (e) They shall have a relationship between the fees collected and the benefits received and shall be proportional to their impact.
- (f) They shall pay for the direct costs of the new development and not arise from the needs of the existing established communities or from the recurrent expenses of the municipality.
- (g) The calculation of the exactions and their application shall be documented and justified in an ordinance plan or a land use plan.

The collection of the exactions shall be covered into a special fund for the provision of the infrastructure or other communal facilities related to the impact of the project and may and shall not be used to defray recurrent expenses of the municipality or the infrastructure agencies. The regulations adopted for this purpose by the Planning Board will provide the procedures for

collecting fees, including their relationship with the powers transferred and provide the terms and conditions for the use of the funds collected.

Section 13.024. — Transfers of Development Rights. — (21 L.P.R.A. § 4622)

The municipality is hereby empowered to provide, administer or require the mechanism for the transfer of development rights, where it has been determined in an ordinance plan. The Planning Board, the Regulations and Permits Administration and the Puerto Rico Land Administration are also empowered, as may be pertinent to each according to its jurisdictional scope, to provide, administer or require the mechanism for the transfer of development rights, to comply with the provisions in an ordinance plan or a land use plan, as said mechanism has been provided in said plans. This mechanism shall be used pursuant to the regulations adopted by the Planning Board for this purpose.

The transfers of development rights may be used in the following situations, among others:

- (a) To permanently preserve structures and properties of a historic, architectural, symbolic or cultural value.
- (b) To permanently open lands for agricultural use or for natural reservations.
- (c) To distribute charges and profits among the various proprietors within the area comprised by an ordinance plan or a land use plan.

Said mechanism will allow a project developer to acquire the development rights of other properties, as established in an ordinance plan or in a land use plan. These plans shall establish the areas among which transfers may be made, clearly establishing the areas that will cede the development rights and the areas that will have the power to acquire these rights. Any alteration to the areas shall represent a revision of the plan.

The regulations to be adopted to enact the mechanism for the transfer of development rights shall meet the following conditions:

- (a) The transfer of development rights may be conducted as a normal purchase and sale transaction between two (2) free agents. Any transfer shall obtain an authorization of the municipality or the public agency concerned which shall attest to its compliance with the ordinance plan or the land use plan and an authorization of the registered real rights title holders, if any, prior to its transaction.
- (b) The person who cedes or purchases the development rights may do so through one or several transactions.
- (c) Any transfer of development rights, regarding one or more pieces of property, as well as its modification or encumbrance, shall be recorded in the Property Registry through the presentation of a public deed accompanied by evidence of the authorization of the municipality or the public agency concerned, as well as of all the registered real rights title holders, if any.
- (d) Once the development rights of a property are sold or transferred, the rights to said property that are sold or transferred are extinguished.
- (e) The municipality or the public agencies concerned shall have the power to create a special transfer fund with the capacity to acquire or sell development rights, as any other agent.
- (f) The Permits Office of a municipality or the Regulations and Permits Administration shall maintain an inventory of the development rights used as part of a construction permit.

Section 13.025. — Linkages. — (21 L.P.R.A. § 4623)

The municipalities, the Planning Board, the Regulations and Permits Administration and the Housing Department, as may be pertinent to each according to its jurisdictional scope, and pursuant to the regulations adopted by the Planning Board for that purpose and the provisions of an ordinance plan or a land use plan, are hereby empowered to provide, administer or require a project developer to accompany a project by an investment or cash contribution for the provision of affordable housing. Said investment or contribution shall not exceed five (5%) percent of the construction cost of the project. It shall be understood that the terms "investment" or "contribution" for the provision of affordable housing may include both the cession of land as well as the construction, reconstruction or improvement of buildings used or to be used as affordable housing.

The linkages shall have the purpose of propitiating that the less-favored social groups benefit from the economic growth of the municipality.

The linkage mechanism may only be imposed on highly profitable projects with a construction area of more than twenty-five hundred (2,500) square meters. Public works and improvements as well as residential projects shall be exempted from linkages, except for those whose sale price per unit is more than one hundred and seventy-five thousand dollars (\$175,000). The Planning Board shall review periodically and at least every five (5) years, the limit of the aforementioned sale price, taking as a basis the fluctuations in the general consumer price index for an entire family as established and certified by the Department of Labor and Human Resources.

The moneys collected by virtue of the imposition of linkages shall be covered into the corresponding municipality or public agency and shall be used exclusively for the purpose provided in this section. In the case of a municipality the prior approval of the Municipal Legislature for the use of the funds shall be required.

Section 13.026. — Communal Facilities Requirement. — (21 L.P.R.A. § 46)

The municipalities, the Planning Board and the Regulations and Permits Administration, as may be pertinent to each according to its jurisdictional scope, are hereby empowered to provide, administer or require the construction of facilities, as well as the designation of lands and buildings, or to require the bonds or equivalent cash contributions, to serve the internal communal needs generated by each construction project that is authorized. Said power shall be exercised pursuant to the regulations adopted by the Planning Board for such a purpose.

A facility, or improvements to a facility planned and designed to provide the proper service level to a particular development project which is necessary for the use and convenience of its occupants or users shall be deemed to be an internal communal necessity but shall not constitute a communal necessity for the community in general. Consideration of whether the improvement or the facility is located within or outside the property shall not be deemed to be a determining factor when deciding whether the communal necessity is internal and shall only be deemed to be an external communal necessity if the improvement or the facility serves persons other than the occupants or users of the particular project.

Section 13.027. — Reparceling. — (21 L.P.R.A. § 4625)

The municipality and the Planning Board may authorize or require the reparceling of properties in an area within their jurisdiction pursuant to the provisions of the regulations adopted by the Planning Board for such a purpose and subject to an ordinance plan or a land use plan. [The Land Administration will be the public agency that cooperates with the Planning Board, as far as their resources allow, in the operational phase of implantation of reparceling that said Board requires.]

Reparceling is the procedure by which more than one property is merged with others with the ulterior motive of modifying their boundaries or surface area to create new properties to be segregated according to a reparceling project approved by the competent entity.

(a) Factors to be considered for reparceling

(1) The rights of the proprietors shall be related to the original characteristics of the property, including its use, surface area, accessibility, quality and capacity of the land, among others.

(2) The resulting properties shall be valued according to the laws in effect, taking into consideration their relationship with the ordinance plan or the land use plan, their use and buildable area, as well as their location, characteristics, degree of urbanization and use of the buildings.

(3) When the rights of one or more proprietors are limited and do not allow the adjudication of an independent property to each according to the provisions of the plan, a fraction of a property shall be adjudicated in common pro indiviso, or the adjudication may be substituted by a monetary compensation.

(4) The worth of the works, buildings, facilities and improvements of the existing properties which cannot be preserved shall be considered in the reparceling project and their relationship with the rights of the proprietor.

(b) Voluntary Reparceling. — Is that agreed to voluntarily by all the proprietors of the properties included in the reparceling project.

(c) Obligatory Reparceling. — Shall be that required by the municipality or the Planning Board pursuant to the provisions of an ordinance plan or a land use plan, respectively.

The properties of the proprietors who do not voluntarily agree to the reparceling shall be acquired by expropriation. After being expropriated, the municipality of the Land Authority may retain the property or sell it at public auction.

(d) Property Administration During Reparceling Process. — The merger of the properties during the reparceling process shall produce a tenancy in common for the time said process lasts. The joint tenants may constitute a corporation or a partnership regulated by the civil code for the purpose of administering the merged properties during the reparceling process. The joint tenants shall have the option of constituting the merged property under the regulations governing horizontal properties of a permanent nature.

(e) Segregations. — Once the reparceling process has been concluded, the individualized properties shall be segregated and adjudicated to the joint tenants.

(f) Fees. — Legal instruments for merger, partnership, joint tenancy and segregation shall pay an internal revenue fee of one dollar (\$1.00) for the original and fifty cents (\$0.50) for each certified copy. The filing and registering in the Property Register shall entail the purchase of only one internal revenue stamp of two dollars (\$2.00). Filing the joint tenancy instrument with the Department of Consumer Affairs shall entail the payment of a fee of ten dollars (\$10.00) to be

covered into the fund created by Section 52 of Act No. 104 of June 25, 1958. as amended [31 L.P.R.A. § 1294d]. The fees and charges provided in this subsection shall be the only amounts levied on the documents and transactions herein described.

(g) Granting of Permits. — The initiation of the reparceling process, as provided by regulations, shall constitute an impediment to granting parceling, construction or use permits that are incompatible with the ordinance plan or the land use plan.

(h) Sale of land to make reparceling or development viable. — The title holders of the properties which are the object of reparceling may agree to sell or in any manner transfer common land resulting from the segregation of the property previously merged, to be delimited in the reparceling plan, whose sale or transfer generates funds to finance the infrastructure, the reparceling itself or the communal use property needed to develop the area.

(i) Municipal and Land Administration Costs. — The costs incurred by a municipality and the Land Administration for conducting the reparceling project shall be defrayed proportionately by the joint tenants of the properties created by the reparceling process. The Planning Board shall establish in the regulations adopted for that purpose, the criteria to exempt from the payment of the expenses those title holders of limited financial resources who are affected by the reparceling.

(j) Supplemental Rights. — The provisions Act No. 104 of June 25, 1958. as amended [31 L.P.R.A. § 1294d], known as the "Horizontal Property Act", and its regulations shall be supplemental to the provisions of this section, even in those cases in which the joint tenants fail to constitute a horizontal property system.

Section 13.028. — Regulations for New Jurisdictions. — (21 L.P.R.A. § 4626)

In order for the jurisdictions established in Sections 13.022 to 13.026 of this Chapter to be exercised by a municipality or by a public agency, they shall require the drafting and adoption of the regulations adopted by the Planning for this purpose. The Planning Board is hereby ordered to adopt, within the term of one year from the date of approval of this act regulations which shall provide for the use of the new jurisdictions. The regulations may determine the conditions for considering exemptions or substitutions to the terms established for the use of said jurisdictions.

Section 13.029. — Funds for Drafting Territorial Plans and Extension Plans. — (21 L.P.R.A. § 4627)

The funds appropriated to support the municipalities in the drafting of Territorial Plans and Extension Plans shall be competitive. The municipalities concerned shall submit a request to obtain of such funds to the Commissioner by means of proposal. The Commissioner shall regulate through regulations the procedures for requesting and appropriating funds.

Chapter XIV. — Delegation of Legal Authority. [21 L.P.R.A. , Subtitle 6, Chapter 227]

Section 14.001. — Relationship Between Central and Municipal Governments. — (21 L.P.R.A. § 4651)

In order to avoid conflicts of competence or jurisdiction, interference or duplication of efforts, services or expenses, the agencies of the central government shall maintain adequate communication with municipal governments and inform them of the plans, projects, programs and activities from their initial phase, that could be of interest to the municipality in order to achieve the coordination or integration of activities or operations with municipal plans.

Likewise, when any of the powers and duties conferred on the municipalities by this Act are also within the province of other public agencies, the central government may delegate full or partial execution of same to the municipality, subject to applicable laws and the provisions of this chapter. When such delegation is not possible, the municipal government and the public agency shall try to coordinate the corresponding activities or join together and provide the resources needed to execute and administer them in a joint or common manner.

In those cases where some public work is to be carried out in the municipality, whether under the legal authority of the municipality, a public agency or both, the corresponding agencies and municipal governments shall consult and coordinate the project in order to best serve the public interest. In order to achieve effective coordination, the agencies and municipalities, in their reciprocal relations, shall:

- (a) Respect the legitimate exercise on the part of the agency and the municipality of the powers and responsibilities within their legal authority or jurisdiction and the results derived from them.
- (b) Weigh the sum of public interest involved in their determinations and decisions.
- (c) Provide information to each other about the steps taken and decisions made that are relevant to the proper execution of their respective duties and commitments.
- (d) Provide, to the extent that their organic statutes allow, the necessary cooperation and assistance for the effective fulfillment of their respective duties.

Except where mandatory by virtue of any law, or regulations, adopted under such law, or where a contract of delegation of legal authority exists that is binding on the municipality, any economic, technical and administrative cooperation between the municipalities and public agencies, in local services as well as matters of common interest, shall be developed on a voluntary basis in the manner and under the conditions allowed by applicable laws and the resources of each.

For the purpose of granting the municipalities the opportunity to participate in the execution of capital works and improvements defrayed in whole or in part with funds proceeding from legislative appropriations or from any other source, every head of a public agency that has plans to execute a public work shall notify it in writing to the municipality in whose territorial limits the same shall be carried out from its initial planning phase and prior to submitting it for bid or to any other procedure for the contracting of its development or execution. The municipality shall have a term not greater than sixty (60) working days after receiving said notice to submit an offer to the pertinent public agency to execute the work through its own administration. In the cases in which the public agency requires or requests as a condition to consider the municipality's offer that it prepare and presents the design, plan and any other similar documents of the work object

of said offer, the public agency concerned shall reimburse said expenses, even when the offer to execute the work of the municipality is not accepted or favored.

Every head of public agency, including, but without it being understood as a limitation, the Electric Power Authority, the Aqueducts and Sewers Authority and the Highways Authority, among other public corporations, when contracting the execution of capital works or improvements and from the initial planning phase thereof, shall have the obligation to notify the municipality of the proposed construction, the cost and date of beginning the work, if said information is available. In the event the head of the agency or the director of the public corporation fails to comply with the duty imposed in this provision, the municipality may claim and collect from the agency or public corporation the payment of a sum equal to the amount of the construction fee as compensation and reimbursement for the damages and inconveniences caused by the omission or delay in the compliance of the duty to notify to the municipal government and the citizenry.

Section 14.002. — Contracts for Services, Works, and Others Between Municipalities and Agencies. — (21 L.P.R.A. § 4652)

The municipality may contract with any agency of the central or federal governments to undertake, through its own administration or under contract, any study, job or public works or improvements of any public agency of the central or federal government, or for the agencies of the central or municipal government to develop or carry out any study, job or municipal public work or improvement for the municipality. It may also execute contracts with those agencies and with any other municipality for the development, administration and operation, of facilities to provide services to the citizenry, jointly, or in coordination or by delegation.

In addition, any municipality may contract with other municipalities to jointly perform any study, work or activity and develop any project, program or public work or improvement, or fulfill any duty or activity authorized by law, or jointly acquire services, advice, property or supplies, or provide each other with any other common services.

All contracts executed in accordance with this section must comply with the following:

(a) Be approved by means of a resolution to such effects by the legislature of each municipality that is a party to the contract. Contracts with public agencies shall be approved by the chief executive or highest ranking official thereof, subject to the applicable provisions of law. Contracts that imply a commitment or obligation to transfer to the municipality, or invest a larger amount than what was approved in the agency's budget to carry out or perform the activity contracted for, shall require the approval of the Governor of Puerto Rico.

(b) Determine the cost of the contracted activity; the source of the funds to defray it, which may be totally or partially by municipal, central or federal government funds, and the form conditions or terms to transfer the funds to the agency or municipality, as the case maybe.

(c) Specify the human resources needed to carry out the execution or performance of the activity. Both the municipal government as well as the agencies may assign or transfer, on a temporary or permanent basis, the personnel needed to fulfill the terms of the contract, subject to the applicable legal provisions regarding personnel administration, and without prejudice of their vested rights at the time of the transfer, nor the fringe benefits to which they are entitled by virtue of any applicable law, ordinance, rule or regulations.

(d) Provide for the property, equipment or other material, if any, that is to be transferred on a temporary or permanent basis to the municipality or agency contracted to carry out or execute the activity subject to the contract, and the restrictions and rules for its custody, maintenance, use and disposal.

(e) Establish the general conditions to which the activity to be carried out by virtue of the contract will be subject, the contributions of each of the parties and the effective term of the contract.

(f) Determine the control and degree of supervision and monitoring of the activity that will be retained by the contracting agency or municipality, including the power to evaluate, supervise, examine and audit the way in which the contracting municipality or agency is performing the contract.

The contracting agency or municipality, as the case may be, may request information at any time about the undertaking, work or service under contract and make the necessary recommendations to correct any deficiencies that are found.

Section 14.003. — Delegation of Legal Authority. — (21 L.P.R.A. § 4653)

Regardless of the provisions of the preceding Section, the central government may delegate any of its own legal authority to the municipalities so that they may carry out specific activities, provide certain public services, implement programs, plans or proposals, or carry out any public works project. The legal authority to implement and monitor any law or regulation may also be delegated. Wherever the term "delegation" is used in this Chapter, it shall be understood to include and comprise the authorization to make transfers. The delegation of legal authority maybe done only after complying with the conditions, requirements and procedures provided in this chapter, and when:

(a) The municipality to which the legal authority is transferred commits itself to exercise it within the framework of public policy and the legal provisions that govern it.

(b) It is determined that such delegation will expedite or improve the attainment of the public purpose pursued, or that the cost of carrying out, executing and implementing it by the municipality will be the same or less than the public agency.

(c) The municipal government has the personnel and a level of operational efficiency to properly comply with or execute the legal authority to be delegated to it.

(d) The delegated legal authority is to be implemented or executed solely within the municipality's territorial limits. However, if the statutes of the legal authority establish administrative fines, the municipality may apply the delegated legal authority to actions carried out outside of the municipality when the result or effect of the prohibited action or omission is produced within municipal limits.

(e) The municipality implements and monitors the regulations in question subject to the rules and general guidelines adopted by the central government agency.

(f) The fragmentation of rules, procedures, proceedings and regulations is averted and provisions are made for the uniform application or execution of the legal authority, regardless of the municipality to which it is delegated or the portion thereof that remains in the central government agency.

(g) The uniformity of administrative fines and penalties fixed by the by-laws of the legal authority is maintained. When the administrative fines are larger than those that the

municipalities may impose under this Act, the execution of and agreement delegating the legal authority to the municipal government shall constitute sufficient authorization for it to impose administrative fines up to the limits established in the by-laws of the delegated legal authority.

Section 14.004. — Agreements for the Delegation of Legal Authority. — (21 L.P.R.A. § 4654)

All delegation of legal authority to a municipal government will be made by agreement, which shall provide:

- (a) The total or partial delegation of the legal authority in question so that one party or the other has exclusive jurisdiction over the legal authority or it is exercised concurrently.
- (b) Direct delegation to the municipality, or through the designation of an official of the corresponding public agency to work in the municipality and carry out the duties and powers proper to the delegated legal authority in all or part of the municipality's territorial limits.
- (c) A supervised delegation with the central government retaining the power to evaluate, supervise, examine, intervene and audit the execution, implementation or operation of the delegated legal authority at any time.
- (d) Modify the central government's duties and obligations towards municipalities, except the obligation to provide specific appropriations or funds, expressly provided by law.
- (e) The transfer of personnel, funds, property, and others between the central government and the municipality. The municipality, with the prior authorization of the Legislature, may waive the funds that the delegating agency has earmarked for the execution or implementation of the project and carry it out with its own resources.

Section 14.005. — Clauses of Agreements for the Delegation of Legal Authority. — (21 L.P.R.A. § 4655)

The provisions of the agreements for the delegation of jurisdiction granted in accordance with this Chapter shall be supplementary to those of the statutes governing the jurisdiction to be delegated, and to this Act. Every agreement for the delegation of jurisdiction shall specifically provide:

- (a) The specific legal authority, powers and responsibilities to be delegated, stating as precisely as possible their scope and extent of jurisdiction.
- (b) The administration, operation, mechanisms, sources of financing and funds that the delegating agency will provide, the restrictions and rules that said funds will be subject to, and the monies to be contributed by the municipality, if any.
- (c) The human resources of the central government that will be transferred to the municipality, if any; the duties, supervisory standards, rights and benefits that shall be guaranteed, as well as anything else needed to comply with the legal provisions that apply to said personnel.
- (d) The evaluation, monitoring, examinations and audits to be performed by the central government to determine the municipality's degree of compliance with the public policy covering the delegated legal authority, and the public benefit or profit obtained.
- (e) The ordinances, resolutions or regulations the municipal government must adopt to make the delegation effective, and the regulations or rules the public agency should adopt. The central government shall adopt uniform regulations to regulate the procedures to be followed by public

agencies in the delegation of jurisdiction to the municipalities, pursuant to the provisions of Chapter XIII and XIV of this Act, on or before May 31, 1995. The jurisdiction delegated to the municipality shall comply with the provisions of Act No. 170 of August 12, 1998, [3 L.P.R.A. §§ 2101 et seq.], known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico", and any other applicable laws that establish the rules for the standards of application or execution of the delegated jurisdiction.

(f) The procedures, rules and proceedings for any application, petition, motion, or any other action or resource required or allowed under the delegated legal authority, and the procedure for the reconsideration or review of the determinations made by the municipality in the exercise thereof. In the case of legal authority subject to the provisions of Act No. 170 of August 12, 1998, [3 L.P.R.A. §§ 2101 et seq.], known as "Commonwealth of Puerto Rico Uniform Administrative Procedures Act", all administrative actions and proceedings to monitor and adjudicate shall be performed pursuant to said sections. If this Act does not apply, it shall be handled as provided by the law or laws of the delegated legal authority, and in the absence of such provisions, it shall be provided for all matters to be heard before an administrative unit, office or municipal dependency, or before the delegating public agency. When the by-laws and regulations of the delegated legal authority do not provide for administrative reconsideration of the municipality's determination, provision will be made for direct recourse to judicial review before a court.

(g) The period of time during which the municipal government will exercise the legal authority or that the agreement will be in effect, the grounds for revoking or precluding the delegated legal authority, and the consequences of failing to comply with or violating the agreement on the part of the municipality or the delegating agency.

(h) The commitment of the delegating agency and the municipality to submit to arbitration for the settling of any dispute related to the delegated legal authority, pursuant to Act No. 376 of May 8, 1951, as amended [32 L.P.R.A. §§ 3201 et seq.], after exhausting the conciliation procedures before the Commissioner of Municipal Affairs.

Section 14.006. — Draft of an Agreement for the Delegation of Legal Authority. — (21 L.P.R.A. § 4656)

Any Mayor interested in a delegation of legal authority shall submit a petition to the Legislature for authorization to request such delegation from the Governor of Puerto Rico. In his/her petition to the Assembly, the Mayor shall include all information, data, and a description of human and economic resources, as well as the municipality's facilities, that will tend to show that:

- (a) The municipality has the capacity, systems, procedures, infrastructure, and others, to execute or implement the legal authority sought;
- (b) the reasons of public interest that serve as grounds for the petition and the general benefit that the residents of the municipality will receive; and
- (c) that the exercise of the legal authority of the central government shall not affect or interrupt the duties, activities, actions, programs, services and operations of a municipal character or nature.

The mayor's petition shall be approved by two thirds (2/3) of the total number of members of the Legislature, through a resolution to such effect.

Section 14.007. — Approval by the Governor. — (21 L.P.R.A. § 4657)

All proposed Agreement[s] for the delegation of legal authority shall be submitted to the Governor of Puerto Rico, together with a certified copy of the resolution passed by the Legislature. The Governor shall refer the municipality's petition to the public agencies concerned, including the Commissioner, for their evaluation, comments and recommendations within a reasonable period of time that shall not exceed sixty (60) days counted from the date of its receipt.

The Governor shall decide whether to approve the delegation of legal authority sought in view of the reports of said agencies, and also shall consider the following factors:

- (a) The nature and scope of the powers, duties and responsibilities included or implied in the delegation of legal authority sought.
- (b) The effect of such delegation on the rules, procedures and proceedings and whether it would interfere with the maintenance of normal standards or divide decision-making processes.
- (c) Whether the delegation of legal authority to one or several municipalities, while the central government retains such authority in the rest of the municipalities, could limit the public's equal access to any program, services, plans, facilities, benefits, or others that should be provided, rendered, or made available by virtue of the legal authority involved.
- (d) The public necessity and convenience of the delegation, and whether it would have the effect of increasing the degree of complexity of the governmental system in general and of creating new structures, supervisory entities, agencies or offices that are parallel to those of the central government.
- (e) The measures to be adopted to restructure the delegating agencies and to adapt them to the reduction of duties and responsibilities implied by the delegation of their legal authorities, or a part of them, to the municipalities.
- (f) The economic and financial record of the municipality, its managerial and administrative ability, and the facilities available to exercise the powers, responsibilities and duties involved in the legal authorities to be delegated.
- (g) The funds to be provided by the delegating agency, the restrictions and norms to which such funds will be subject, and the moneys to be contributed by the municipality, if any, as well as any other sources of financing.
- (h) The human resources to be transferred from the delegating agency to the municipality, if any, the terms of such transfer, the duties to be carried out, the standards of supervision to which they will be subject, and the rights and benefits to be guaranteed to them.
- (i) The mechanisms, systems and procedures of the central government to evaluate, monitor and carry out the examinations and audits needed to ensure that the delegated legal authority is exercised, executed or developed in accordance with the public policy and applicable laws.
- (j) The period of time proposed to exercise the delegation of legal authority.

The Governor may modify the contract and impose the conditions, requirements and restrictions he/she deems convenient or necessary for the best public interest. The Governor shall notify the mayor of his decision regarding the agreement with a copy to the Legislature, and upon its approval, will attach all of his/her modifications to the final document. The mayor shall submit it to the Legislature for ratification, and the Legislature shall consider it at the regular or special session following its presentation, by two thirds (2/3) of the total number of members.

Upon ratification, the Secretary of the Legislature shall issue a certification indicating said fact and the date of ratification, and the number of votes in favor of the ratification. The delegation agreement shall be signed by the Governor and the mayor, and the certification of ratification by the Legislature shall become a part of the contract.

Copies of the agreement for delegation of legal authority will be sent to each Chamber of the Legislature [of Puerto Rico] and to the Department of State of Puerto Rico.

Section 14.008. — Non-Compliance with Agreement. — (21 L.P.R.A. § 4658)

The consequences of non-compliance with the main obligations by any of the parties, shall be stated clearly in the delegation agreement and can provide a financial penalty for non-compliance and its resolution. In such cases, the powers, duties, functions, responsibilities or activities delegated shall revert to the delegating agency and, after an audit and inventory, the municipality shall return the property, personnel and unused funds transferred, and the Governor may require the municipality to pay the penalty agreed upon.

Section 14.009. — Prohibition of Discrimination. — (21 L.P.R.A. § 4659)

Neither the Governor nor any agency may refuse to consider and evaluate a petition for delegation of legal authority that is properly presented and documented in accordance with this chapter, and the petitions of all municipalities shall receive equal treatment. No standards, criteria or conditions that are arbitrary or unreasonable may be imposed on any municipality nor may the Governor or any agency refuse to consider a petition for delegation of legal authority for political reasons.

Any municipality that feels that arbitrary standards, criteria or conditions are being required for a delegation of legal authority, or that its petition has been subject to discrimination, may resort to the Court of First Instance, San Juan Part, with an extraordinary remedy of injunction. The municipality that promotes said remedy must allege and prove that other municipalities with similar fiscal, administrative, population and social conditions and with similar systems, procedures and infrastructure have not had the allegedly arbitrary, unreasonable or political conditions imposed on them. The court's intervention shall be limited to the allegation of discrimination and it shall not enter into consideration of the need, convenience or justification of the delegation of legal authority sought by the petitioning municipality.

Section 14.010. — Territorial Ordinance Jurisdictions. — (21 L.P.R.A. § 4660)

The delegation of transfers of the Puerto Rico Planning Board and the Regulations and Permits Administration regarding the planning and urban zoning shall be done in the measure, scope, reach and framework of the delegation authorized in Chapter XIII of this Act and in accordance with the procedures and standards provided therein.

Section 14.011. — Repair of Roads and Facilities Affected by Works of Instrumentalities.
— (21 L.P.R.A. § 4661)

It is hereby prohibited that any agency, public instrumentality or private or quasi-public entity may develop aerial cabling projects in areas in which there [are] underground lines. Provided, further, That any private or public service entity, agency or public instrumentality that, as a consequence of any construction work, improvement, project or power line installation work, aerial cabling, installation of power poles, installation of underground systems or services or of any other undertaking or work, breaks up to surfacing or curbing of the sidewalks, squares, boulevards, parks, or sidewalks, or removes the pavement of streets or lots in any municipally owned road, facility or easement, or removes the underground lines installed by the municipality or the agency or other entity or public or private corporation, shall restore the same to its former state before the construction, improvement, project or installation in question was initiated within five (5) days following the completion of the works.

When the private, quasi-public or public service agency or instrumentality fails to comply with the above provision, the municipality may require it to restore the public road or facility or easement, or the removed underground lines within a term of not more than two (2) days after receiving said notice according to the acknowledgement of receipt thereof. The following shall be included with the notification:

(a) A sworn statement or declaration from at least one person stating that on the date indicated in the notification, an employee, agent or contractor of the private, quasi-public or public service entity, agency or instrumentality in question was carrying out work on the public road or facility, public easement or underground installation whose restoration or repair is being required.

(b) A certification by the Director of Municipal Public Works that the underground installation, public road or facility has not been repaired or restored to the state in which it was prior to the work by the private or quasi-public entity in question.

(c) A warning that if the municipal underground installation, public road or facility or easement is not repaired or restored within the above-mentioned period, the municipality shall proceed to do so chargeable to any monies it has to pay or apportion to the entity, agency or public instrumentality, or shall claim the payment of an amount equal to the sum of the construction excise tax corresponding to the works, improvements, project or installation work as compensation for the damages and inconveniences caused to the municipal government and the citizens.

The municipalities shall be authorized to regulate the use, occupation and intervention of their easements, as said term is defined in this Act, including but not limited to the imposition of fees for licenses, rights of use, occupation and intervention.

Section 14.012. — Reduction of Water Supply; expenses. — (21 L.P.R.A. § 4662)

Municipalities may engage in efforts leading to providing water supplies to their citizens, medical and school facilities, hotels and industries, when the service rendered by the Aqueduct and Sewer Authority is interrupted by said agency and/or is substantially reduced or there is no service at all for any reason whatsoever; Provided, That the expenses incurred by municipalities shall be billed to the Aqueduct and Sewer Authority, which shall be under the obligation to pay

the same, once said expenses have been certified by the director of finances of the municipality or a competent official. The acquisition of water supply services by the municipalities shall be conducted pursuant to the provisions contained in Sections 10.001 and 10.002 of this Act.

Before proceeding to procure and/or distribute the water supplies, municipalities shall notify by any electronic means or in person through their representatives, the absence or substantial reduction of the service with a specific statement of the area or areas and a description of the problem being experienced. Said notice shall be given to the official assigned with tending to local matters of the municipality, or in default thereof, to the executive director of the agency. The Authority shall address the matter thus brought to its attention, provide the water service and take any additional measures within a term of twenty-four (24) hours of this request. Should the agency not address the issue, the municipality may provide the water supply service to its population, and the Authority shall be under the obligation to reimburse the cost of said service to the municipality, pursuant to the provided above. The water to be used for these purposes shall be taken from the official Aqueduct and Sewer Authority containers or from municipal containers duly certified by the Department of Health. In any of these cases, representatives from both the Authority and the municipality shall be present at the time of dispatch to certify jointly the volume of the water being supplied. Municipal governments that opt to get involved in this activity shall contract the responsibility of complying with the protocols required by the Department of Health, in order to ensure the quality of the water distributed, and thus, the health of the public receiving it.

Section 14.013. — Maintenance of Public Facilities. — (21 L.P.R.A. § 4663)

The Central Government agencies and the municipalities are hereby authorized to enter agreements for the transfer of public facilities and the corresponding delegation of the administration and maintenance of said facilities. The Central Government and the municipalities may negotiate agreements with resident associations and other private entities, duly authorized under the laws of the Commonwealth of Puerto Rico, as well as with members of the community, to carry out maintenance works and other related activities in public facilities within their communities.

Chapter XV. — Jurisdiction of the Courts. [21 L.P.R.A. , Subtitle 6, Chapter 229]

Section 15.001. — Court of First Instance. — (21 L.P.R.A. § 4701)

The Court of First Instance shall take cognizance of violations to municipal ordinances.

Section 15.002. — Court of First Instance of Puerto Rico and Circuit Court of Appeals. — (21 L.P.R.A. § 4702)

(1) The Court of First Instance of Puerto Rico shall hear and resolve, with exclusivity, at the request of the injured party, over the following matters:

- (a) Review any legislative or administrative action of any municipal official or organism that damages the constitutional rights of the claimants, or that is contrary to the laws of Puerto Rico.

(b) Stay the execution of any ordinance, resolution, agreement, or order of the Legislature, the mayor, or of any municipal official who damages the guaranteed by the Constitution of the Commonwealth of Puerto Rico, or state laws.

(c) To compel municipal officials to fulfill their ministerial duties.

(d) To resolve, by plenary action, the suits filed for damage claims for acts or omissions by officials or employees of a municipality do to malice, negligence or unexcusable ignorance.

In those cases contemplated under clauses (a) and (b) of this subsection, the legal action may only be filed within the twenty (20) days following the date in which the legislative or administrative action is performed, or that the ordinance, resolution, agreement, or order is notified by the mayor or authorized municipal official to the claimant in writing by means of copy and sent by regular and certified mail, unless otherwise disposed by law. It is hereby set forth that the term of twenty (20) days set forth in this subsection shall begin to elapse on the date in which said notification is deposited in the mail; and that same must include, but without limitation, the right of the injured party to resort to the Court of First Instance, Superior Court with jurisdiction; term for the appeal of the decision; date of filing in records of the copy of the notification, and from which date the term of prescription begins to elapse.

(2) The Circuit Court of Appeals shall review, with exclusivity, the final agreement or adjudication of the Bidding Board, which shall be notified in writing and by written copy sent to the affected parties by regular and certified mail. The review request shall be filed within the jurisdictional term of twenty (20) days, starting from the date of deposit in the mail of the copy of the notification of the final agreement or adjudication. The notification shall include the rights of the affected parties to resort to the Circuit Court of Appeals for the judicial review; the term to appeal the decision; the date of filing in records of the copy of the notification, and from which date the term begins to elapse. The territorial jurisdiction shall be the Regional Circuit corresponding to the judicial region to which the municipality belongs.

Section 15.003. — Action against a Municipality. — (21 L.P.R.A. § 4703)

Any person who has a claim of any kind against a municipality for personal or property damages due to the fault or negligence of the municipality shall so notify the mayor, in writing, stating clearly and concisely the date, place, cause and general nature of the damages suffered. Said notification shall also specify the amount of monetary compensation or the kind of relief appropriate for the damages suffered, the names and addresses of his/her witnesses, the claimant's address and, in cases of personal damages, the place where medical treatment was first received.

(a) *Form and time period to serve notification* Said notification shall be presented to the mayor either by certified mail or personally, or in any other authentic manner recognized in law.

Said written notification shall be presented to the mayor within ninety (90) days of date on which the claimant learned of the damages claimed. If the claimant is mentally or physically unable to make said notification within the term established above, he/she shall not be bound to comply with it, but must make said notification within thirty (30) days of the date on which the disability ends.

If the injured party is a minor or a ward, the person exercising patria potestas or the custody of the minor, or the guardian, as the case may be, shall be obliged to notify the mayor of the claim within ninety (90) days of the date on which he/she learned of the damages claimed. The above

shall not be an obstacle to the minor or ward's making said notification on their own initiative within the specified term, if the person exercising patria potestas, or custody or guardianship fails to do so.

(b) *Jurisdictional requirement* No legal action of any kind shall be initiated against a municipality for damages due to negligence unless written notification is made in the form, manner and terms provided in this Act.

(c) *Exception* This section shall not modify the prescriptive term in Item(2) of Article 1868 of the Civil Code of Puerto Rico, 1930 Edition [31 L.P.R.A. § 5298(2)], in any way, for those claimants who comply with its provisions.

Section 15.004. — Limits on Liability for Damages. — (21 L.P.R.A. § 4704)

Claims against municipalities for personal or property damages caused by the fault or negligence of the municipality, shall not exceed the amount of seventy-five thousand (75,000) dollars. When damages are claimed by more than one person in a single cause of action or omission, or when a single claimant, is entitled to several causes of action the compensation shall not exceed the sum of one hundred and fifty thousand dollars (\$150,000). If the court finds the damages to each of the persons exceed one hundred and fifty thousand dollars (\$150,000), the court shall proceed to distribute or prorate said amount among the plaintiffs, on the basis of the damages suffered by each of them.

When a suit is filed against any municipality in accordance with the terms of this section, the court shall order that notice be given, by publication of edicts in a newspaper of general circulation, to all persons who could have a common interest, who shall appear before the court on the date specified in the edicts, to be tried jointly in order to proceed to distribute the amount of one hundred and fifty thousand dollars (\$150,000) among the plaintiffs, as provided in this section.

Section 15.005. — Unauthorized Damages Actions. — (21 L.P.R.A. § 4705)

Claims against a municipality for personal or property damages caused by acts or omissions of an official, agent or employee of any municipal government shall not be authorized:

- (a) In compliance with a law, regulation or ordinance, even when they are null.
- (b) In exercising discretionary functions, even when there is an abuse of discretion.
- (c) In the imposition or collection of taxes.
- (d) For assault, aggression or other crimes against the person, malicious persecution, calumny, libel, defamation, and false pretenses and imposture.
- (e) If they occurred outside the territorial jurisdiction of the Commonwealth of Puerto Rico.
- (f) In the performance of combat operations by naval or military forces in case of war, invasion, insurrection or other emergency duly declared as such by the pertinent authorities.

Judgment entered against any municipality in accordance with Section 15.003 of this Chapter shall in no case include payment of interest for any period prior to the judgment, nor shall it award punitive damages or impose attorney's fees. The imposition of costs shall be governed by regular procedures.

Section 15.006. — Legal Aid. — (21 L.P.R.A. § 4706)

The Department of Justice shall assume legal representation in all legal actions by and against any municipality when the complexity and nature of the action and the budgetary situation do not allow the municipality to contract the needed professional legal services.

Municipalities may enter into agreements with each other to jointly contract professional legal services for purposes of consultation and to handle any legal claim initiated by or against them. Such an agreement shall provide for the prorating of expenses and each municipality may make the corresponding payments as if it were its exclusive undertaking or action.

Section 15.007. — Exemption from Fees. — (21 L.P.R.A. § 4707)

Municipal governments shall be exempt from payment of all fees required for the handling of court proceedings. They also shall be exempt from payment and use of stamps and others required by law on notarized documents or for the registration of deeds and other documents, as well as for obtaining certifications from the Property Registry. They shall further be entitled to receive free any certifications, plans, photographs, reports and documents from any state agency.

Section 15.008. — Free Legal Services. — (21 L.P.R.A. § 4708)

The municipalities may offer free legal services to persons of limited economic resources to the extent and under the terms and conditions provided by municipal ordinance. For such purposes, the municipalities may establish contracts with attorneys, professional legal services corporations or corporations, whether for profit or nonprofit. All cases, actions, matters or documents in which any municipal administrative office or unit intervenes on behalf of persons with limited economic means shall be exempted from the payment of fees, stamps, duties and taxes of any kind required by law for the handling of court procedures and the issuing of certifications at all centers of the Commonwealth Government.

Persons to whom the municipality provides free legal services shall, be entitled to the services of court officials and employees, and to all court writs and rulings, as if they had paid the fees required by law.

Court documents and requests for certification of public documents handled according to the provisions of this section shall be signed by a municipal attorney and bear the seal of the municipal government involved.

Chapter XVI. — Citizen Participation. [21 L.P.R.A., Subtitle 6, Chapter 231]

Section 16.001. — General Purposes. — (21 L.P.R.A. § 4751 note)

The municipal reform process embraces and requires creative and innovative measures that propitiate the real and effective participation of the residents of the municipality in the planning, development and improvement of their communities, and the contribution of the local government as well as those governed, in dealing with and resolving local problems and needs. For this reason, the main purpose of the provisions of this chapter is to provide new measures for the groups of citizens to channel their initiatives and, through their own associations, designate

areas with common interests and problems and adopt a scheme for finding solutions and the plan for the works and services they deem necessary.

In order to achieve the aforementioned objectives and foster the solidarity and coparticipation between the municipal government and the citizens in the development and improvement of the local communities, the 'Citizen Participation Program for Municipal Development' is hereby created. Said program shall be financed with the funds appropriated annually by the Legislature and with any other contributions or programs of the Federal and the Central Governments consigned to the Center to be distributed among the municipalities in the manner provided in Subsection (w) of Section 4 of Act No. 80 of August 30, 1991, as amended [21 L.P.R.A. § 5803(w)], known as the 'Municipal Revenues Collection Center Act'.

Every municipality shall make use of the corresponding funds for said program so as to promote the organization and participation of the Citizens and Commercial District Associations for the improvement of their communities from the definition, identification and planning of capital works and improvements stages to their execution, operation and maintenance.

The funds for said Program may only be used for the development of capital works and improvements introduced by said associations through proposals for improvements which comply with the criteria established in this chapter and which must also be accompanied by a financial contribution from the association making the proposal that must be in proportion to the total cost of the works.

The municipality, not later than thirty (30) days after the date of receipt of the notice of the Center indicating the amount of funds corresponding to it under said Program, shall notify the citizens as to the availability of said funds and the requirements for submitting proposals for improvements. This notice shall be issued through the publication of an announcement in two (2) newspapers of general circulation or regional circulation distributed within the territorial boundaries of the municipality.

When no Citizens or Commercial District Associations, organized pursuant to the provisions of this chapter, exist in the municipality or when they do exist but fail to request the delegation of funds by filing a proposal for improvements, the funds of the Program shall be used for public works and improvements projects proposed by the Mayor with the approval of the Assembly.

Section 16.002. — Community Affairs Division . — (21 L.P.R.A. § 4751)

Municipalities may establish a Community Affairs Division by ordinance, to develop and implement divulgation, promotion and consultation programs on the mechanisms, systems and procedures provided by law or ordinance to channel the direct collaboration and participation of the citizens.

The ordinance which creates such a Division shall provide for all matters concerning its organization and operation, including the requirements that the director or chief administrative official shall meet.

In those municipalities in which it is unnecessary or onerous to establish a Community Affairs Division, the mayor may assign the responsibility for implementing the provisions of this chapter to any administrative unit with compatible functions. In that case, an ordinance must also be approved establishing all that is necessary to reorganize the administrative unit in question and specifically assign to it the aforementioned functions.

Section 16.003. — Functions of the Community Affairs Division. — (21 L.P.R.A. § 4752)

The Community Affairs Division shall have, without being limited to, the following functions, duties and powers:

(a) Coordinate with the various administrative units of the municipal government the development of capital work and improvements projects, as well as programs to benefit the community initiated by the Division and those submitted by any citizens association or commercial district association or group of citizens.

(b) Advise the mayor and the Directors of administrative units on systems and methods to coordinate and implement suggestions in the areas of public works and services submitted by residents of the municipality.

(c) Offer technical assistance to the municipal administrative units for the review and evaluation of public works programs and services.

(d) Promote the participation of the inhabitants of the municipality in the solution of common problems. By virtue of the above, this unit or the program that is in charge of the responsibility to advise the mayor regarding territorial planning, may recommend to the latter to extend the powers and faculties delegated to the existing Community Board, or if there is no Community Board in said municipality, it may recommend to the mayor the creation of one or several Boards granting them, in addition to the function conferred to the Community Boards in Section 13.010 of this Act, the following duties and powers:

(1) Advise the mayor on the drafting, revision and compliance of the laws and ordinances that affect the community.

(2) Advise the different administrative units of the municipality, for the review and evaluation of the municipal works and public service programs.

(3) Promote the participation of the citizens of the municipality, residents associations, merchants associations, council of citizens or other similar organizations, in the solution of common problems, as well as promoting the development and adoption of mechanisms that enable and stimulate the citizen's participation, such as consultations or public hearings.

(4) Prepare and submit to the mayor an evaluation of the level of efficiency of the programs that the municipality promotes for the solution of the problems and needs of the citizens.

(5) Evaluate and recommend, through opinions, comments and suggestions, the proposals for capital works and improvements of public use to attend to the needs of the citizens.

(6) See to the establishing and compliance of the laws and regulations applicable to the municipality. In order to comply with this purpose, each municipality shall provide the Community Board such information related to the performance of the municipality contained in the public reports prepared by supervisory agencies. The Community Board may make suggestions or file complaints directed to enforce compliance of the laws, ordinances and regulations regarding the protection of the health, welfare, peace of mind and the quality of life of the communities represented by said Board.

After conducting a study on the population and the characteristics of each community of the municipality, the mayor, on his/her own initiative or by recommendation of the Community Affairs Division or of the Territorial Ordinance Office, shall:

(1) Determine the number of Community Boards to be established according to the needs of the municipality. In the event that the functions of the Community Board previously established for the preparation, review and compliance of the Territorial Ordinance Plans are

affected, the mayor may authorize the creation of additional Boards subject to the requirements and conditions set forth in Section 13.010 of this Act.

(2) Create regulations to establish the criteria for the selection of the members of the Board so that will ensure the representation of the broadest sectors of the community. This provision shall also be subject to compliance of the requirements and conditions previously established in Section 13.010 of this Act.

(3) Assign resources for the adequate operation of the Boards.

(4) Offer training to the designated members so that they may faithfully perform their responsibilities.

(5) Expedite communication among the Boards of the different municipalities.

(6) Propitiate regular meetings between the officials and public employees, and the members of the Board.

(7) Provide that the Program of Citizen's Participation for Municipal Development, other unit or existing program with similar purposes serve as support unit for the Community Boards. The mayor may adopt other initiatives to develop and implement any program to inform, promote and advise on the mechanisms, systems, and procedures provided by law or regulations, to channel the direct participation of the citizens.

(8) Identify other areas compatible to those mentioned in this section, in which additional participation means should be implemented, and draft plans to promote said citizen participation. The Community Boards appointed pursuant to this chapter shall inform and manage their affairs in coordination with the Community Affairs Division, the Citizen's Participation Program for Municipal Development, or any other unit in the municipality that is pertinent to its functions, such as the Territorial Ordinance Office.

None of the functions, duties and powers of the Community Affairs Division granted by virtue of this section shall not be construed as denying or limiting the powers of the Community Boards, granted in Section 13.010, which creates the Community Boards, and Section 2.008 of the Chapter on Powers and Faculties of the Municipal Government of Act No. 81 of August 30, 1991, as amended, known as the Autonomous Municipalities Act of the Commonwealth of Puerto Rico, of 1991, in order to propitiate the adoption and implementation of the Codes of Public Order in the municipalities.

(e) Provide orientation and advice to citizens' associations, commercial district associations or any other community organization or entity, as well as individual citizens, on the mechanisms provided by law or by ordinance to facilitate and achieve citizen participation in the handling and solving of community problems.

(f) Do everything possible to expand the level of citizen participation in the municipality and promote the development and adoption of mechanisms that facilitate and stimulate said participation, with special emphasis on the promotion of residents and commercial district associations.

(g) Use any viable and available means of communication in the municipality to disclose and publicize municipal programs and the activities and services of the Community Affairs Division, as well as spur the interest and initiative of residents in promoting the economic and social-welfare of the community.

(h) Prepare and submit for the mayor's approval, rules to coordinate and guide administrative units and other dependencies or entities of the municipality in the formulation and execution of programs and public works projects and services.

- (i) Recommend to the mayor affirmative action plans that it deems should be established to ensure full compliance with the public policy on citizen participation.
- (j) Establish the systems and procedures needed to evaluate the level of efficiency of municipal programs in the solution of the problems and needs of the municipality's residents.
- (k) Hold any public hearings that are needed to comply with the purposes of this chapter, anywhere in the municipality.
- (l) Execute the procedures, norms and regulations promulgated by the mayor that are necessary to achieve the proper and effective delegation and use of the funds proceeding from the "Citizen Participation Program for Municipal Development."
- (m) Insure and guarantee that the delegation and use of the funds proceeding from the "Citizen Participation Program for Municipal Development" be conducted for the purposes provided in this chapter and that any proposal for improvement be considered taking into account the criteria established in subsection (n) of this section, and that the funds be matched with contributions from the Residents and the Commercial Improvement Associations in a proportion of up to fifty percent (50%) of the municipal contribution.
- (n) Evaluate the proposals for capital works and improvements projects that request the delegation of funds for the projects of the "Citizen Participation Program for Municipal Development" submitted by the citizens and the commercial district associations and determine whether they comply with the requirements of the law and the regulations; prepare a summary and evaluation of each and submit its recommendations and observations to the mayor. Proposals for improvements for public use capital works and improvements projects that solve or attend to the urgent needs of the municipal population shall only be allowed. Likewise, any capital works and improvements project shall conform to the public policies, laws, regulations and other central and municipal government documents related to territorial ordinance and the environmental public policy. The following criteria shall apply in the evaluation and adjudication of the capital works and improvements requested in the proposals for improvements:
 - (1) That they encourage the organization of residents and commercial district associations and their joint participation with the municipal government in the planning, financing, execution or maintenance of the capital works or improvements that are proposed;
 - (2) that they foster the intensive use of the human resources residing in the municipality;
 - (3) that they be capital works and improvements projects that complement other works of the same municipality, the public agencies or other municipalities;
 - (4) that they propitiate development projects in cooperation or partnership with the citizens and the commercial district associations of other municipalities;
 - (5) that they sponsor and support other socioeconomic activities and be inclined to effectively foster the development of the municipality, giving priority to its less developed areas, and
 - (6) that they be able to contribute in mitigating and controlling environmental damage.

The citizens and the commercial district associations shall not discriminate against any person or entity whatsoever in the planning, determination, introduction and execution of the projects contemplated in their proposals for improvements. Likewise, the municipalities must observe and see to it that in exercising their faculties for considering, evaluating, adjudicating and supervising the proposals for improvements introduced and adjudicated according to this chapter, no acts of discrimination are incurred as prohibited by the Constitution of the Commonwealth of Puerto Rico.

(o) Send to each of the district representative and senatorial legislators corresponding to the municipality in question, a copy of the proposal for the use of the funds proceeding from the "Citizen Participation Program for Municipal Development" after its approval.

Section 16.004. — Establishment of Residential Improvement Zones and Commercial Improvement Districts. — (21 L.P.R.A. § 4753)

The municipal governments are hereby authorized to designate residential improvement zones and commercial improvement districts, the limits of which shall be proposed by the citizens' associations and commercial district associations which are constituted in accordance with this Act and the ordinances enacted by the municipality or municipalities within whose territorial limits the residential or commercial area or sector thus designated is located. Such zones or districts shall constitute an area with common characteristics, interests and problems in which, through mechanisms provided in this chapter, schemes for solutions and improvements proposals can be adopted to promote and develop those planned public works and improvements and services deemed necessary.

To that end, the municipalities are hereby authorized to establish by ordinance, general rules compatible with the provisions of this chapter to govern or regulate the operation of the residential improvement zones and the commercial improvement districts in order to fully comply with the public policy of encouraging and attaining greater citizen participation in improving the quality of life in the municipalities.

Section 16.005. — Creation of Provisional Committees. — (21 L.P.R.A. § 4754)

Provisional committees can be created in those residential and commercial areas that wish to, for the purpose of coordinating efforts and essential jobs and presenting to all residents of a specific area or residential or commercial section, as well as all interested parties, a proposal for forming an association under the provisions of this Chapter, which shall include, among other things, the following:

- (a) The need and convenience of designating a residential improvement zone or commercial improvement district and creation of an association;
- (b) the prospects for formal delimitation of the zone, including options regarding its limits and boundaries;
- (c) the works, programs and services that could be performed in the area;
- (d) cost projections and options, and
- (e) potential funding sources to defray them and their economic impact on area residents.

After the initial presentation, consultation and consensus, the provisional committee may promote the creation of an association in the corresponding area.

Section 16.006. — Creation of Associations. — (21 L.P.R.A. § 4755)

Owners and tenants in a specific residential or commercial area or section may voluntarily form citizens associations or commercial district association, as the case may be, under the provisions of this Chapter. Such associations shall be organized as nonprofit corporations in accordance with Act Jan. 9, 1956, No. 3, and shall also comply with the provisions of this

chapter and with applicable municipal ordinances. The existence of the citizens associations and commercial district associations shall be specified in their articles of incorporation, and they may be indefinite or for a fixed period coinciding with the duration of the project or projects their members agree to carry out. Once an association is incorporated, it shall comply with all requirements of the tax laws in order to enjoy the benefits those laws provide for nonprofit entities.

Said associations shall have as their chief purpose, the search for alternatives and solutions to the problems that affect the specific residential or commercial area or section in which they are constituted, as well as establishing procedures, mechanisms, and, where deemed appropriate, setting quotas to carry out the public works, programs and services that have been agreed upon in the area or section involved.

The association's regulations shall provide for voting rights of the owners and tenants who are members, regulations and rules for internal procedures, regulations for handling and managing its activities and affairs, the duties of the association's officers, and all other essential norms to ensure the participation of its members and the smooth operation of its affairs.

Each citizens and commercial district association formed under the provisions of this chapter shall present to the mayor, their respective certificates of incorporation together with an improvement proposal duly-approved by the members of the association in question.

Within five (5) days of the date the mayor receives these documents, he shall submit them to the Legislature which, by means of an ordinance to such effects, will extend official recognition to the association involved and approve the improvement proposal submitted.

For purposes of this chapter, the phrase "improvement proposal" shall mean the public works, programs and services agreed upon by a citizens' association or commercial district association for a given sector through which the owners and tenants of a residential or commercial area constituted into an association agree and propose to undertake or defray, partially or totally, the works, programs or services described in the document in benefit of a specific area.

When the proposal for improvements includes capital works and improvements projects to be executed with the funds proceeding from the "Citizen Participation Program for Municipal Development", the proposal shall state the total cost of the works or project and the financial contribution to which the association shall be committed through an agreement with the municipality, which may amount to up to fifty (50) percent of the works or project. The proposal for the use of these funds must comply with the criteria established in Subsection (n) of Section 16.003 of this Act.

Each municipality shall establish, through ordinance, the minimum percentage of said contribution, which shall be in proportion to the total cost of the proposed capital works and improvements.

Residents and commercial district associations to which funds are delegated from the Citizen Participation Program for Municipal Development, shall render to the municipalities the fiscal reports required by the municipality and shall administer said funds pursuant to the rules provided in Section 16.014 of this Act and by those others established by the municipality. Furthermore, the provisions of Subsections (h) of Section 16.014 of this Act notwithstanding, they shall provide the municipality, within sixty (60) days after the date in which the capital works and improvements or that phase of the latter for which funds have been delegated are concluded, with the checks, invoices, purchase orders, service payment vouchers, payrolls,

records, minutes and any other documents related to the funds of the Citizen Participation Program for Municipal Development, for their conservation and custody.

Section 16.007. — Board of Directors. — (21 L.P.R.A. § 4756)

The association shall select a Board of Directors from among its members at a general assembly.

The Board of Directors shall be responsible for making administrative decisions regarding the functioning of the association and ascertaining that the general assembly's agreements are carried out. The Board of Directors' decisions shall be reached through a majority of its voting members. The Board shall meet at least once every three (3) months through a notice to such effects signed by its Chairperson.

The Board of Directors may contract in behalf of the association, the services needed to carry out the projects, chargeable to the funds appropriated for their development. Operational expenses incurred in monitoring the works and programs shall not exceed ten percent (10%) of the funds collected for their execution. Neither the association nor its Board of Directors may appropriate funds for donations to civic, political, religious or labor campaigns, or for lobbying, travel expenses or expense accounts.

Section 16.008. — Association Meetings. — (21 L.P.R.A. § 4757)

The association shall meet at least once a year in general assembly to elect its Board of Directors and to consider the annual report on achievements and a financial statement, which shall be certified by a certified public accountant. Any other matters that the Board of Directors decides to bring to the attention of the general assembly, may also be considered.

The association may hold as many special assemblies as the Board of Directors deems necessary. However, it shall be the duty of the Board of Directors to call a special assembly provided it is requested by thirty percent (30%) of the total number of the association's members.

The Board shall notify all the association's members by certified mail with acknowledgement of receipt or messenger of the date, time and place of the general assembly. It will also notify all the members of the association, the municipality or municipalities with jurisdiction, and the pertinent agencies, in writing, of the agreements adopted by the assembly and the reports presented during the meeting.

Section 16.009. — Adoption of Agreements. — (21 L.P.R.A. § 4758)

Agreements about the matters indicated below shall be reached in general assembly by affirmative majority vote of the association's members.

- (a) Approval of the limitation of a residential improvement zone or commercial improvement district and subsequent amendments.
- (b) The monthly or periodic dues to defray the association's operational costs.
- (c) The scheme of works, programs and services needed in the zone or district and follow-ups.
- (d) The cost and origin of resources.
- (e) Approval of loans to be executed by the association for the construction of projects.

- (f) The mechanisms to establish dues or voluntary special contributions to carry out specific works or projects.
- (g) formulas for liquidating unused funds at the completion of the project.
- (h) The intention to halt a project before it has been completed.

Section 16.010. — Special Requirements for the Adoption of Agreements. — (21 L.P.R.A. § 4759)

The following agreements shall also be made at the association's general assembly but with the affirmative vote of at least seventy-five percent (75%) of the owners of properties located in the zone, in the case of residential improvement zones, and seventy-five percent (75%) of the appraised value of all real property in the district's area, in the case of commercial improvement districts:

- (a) Authorization for the municipality to impose a special tax on all real property located within the zone or district, which would be in addition to any other tax imposed by law, for the development of works or improvements of benefit to the entire zone or district;
- (b) the project or works to be defrayed with the proceeds of said tax;
- (c) the tax rate to be imposed;
- (d) the term for which the special tax will be imposed.

Once the association's general assembly approves a resolution authorizing the imposition of a special tax, the Board of Directors shall remit a duly certified notification, to the Municipal Legislature no later than five (5) days from its date of approval. The certification shall contain the date, time and place of the general assembly, the number of property owners who are members of the association who were present, and the number of votes for, against and abstentions.

The ordinance passed by the Municipal Legislature imposing a special tax must clearly establish the tax rate, the area or zone that will be subject to the payment thereof, the fiscal year in which it will become effective, the length of time for which it will be imposed and collected, and any other necessary provisions.

Once said ordinance becomes effective, all real property within the zone or district covered by it, without any exception whatsoever, shall be subject to the special tax thus imposed, and the property owners of the zone or district in which the capital works or improvements are to be carried out shall be bound to pay the tax, regardless of whether they were in favor or not of performing the capital works or improvements to be financed by said special tax.

The special tax shall be established by ordinance and shall not exceed two percent (2%) of the appraised value of the property in the case of residential improvement zones and four percent (4%) in the case of commercial improvement zones, as reflected in the files or records of the Municipal Revenues Collection Center.

The Secretary of the Legislature shall remit a certified copy of the ordinance that imposes the special tax, to the municipal Revenues Collection Center so that it can proceed to levy, notify and collect the special tax and remit it to the association. The provisions applicable to property tax, with the exception of the discount for prompt payment, dates and penalties, will be applicable to the special tax provided herein.

The special rates will be collected in the same way that property taxes are, and their proceeds shall constitute an encumbrance imposed by law with respect to property taxes.

Revenues resulting from the special tax will be used solely to defray the construction cost of the public improvement work for which it was imposed or to redeem the loan contracted to carry out that work.

Property owners may, if they so desire, pay in one lump sum in advance, the total amount of the tax for the number of years for which it was imposed, and the association may grant them, in return, the discount it deems appropriate, which must be identical for all taxpayers.

Section 16.011. — Voluntary Fees or Contributions. — (21 L.P.R.A. § 4760)

The payment of fees or contributions to carry out specific projects must be approved by a majority of association's members, as required in this chapter, and will be of voluntary nature. The works or projects to be financed with these voluntary fees or contributions may be of general benefit to the entire zone or district, or of particular benefit to the members who have assumed said responsibility.

Association members who agree to assume the special economic responsibility approved by the association shall sign a sworn statement to that effect. The association shall prepare a draft contract for this purpose with all the information it deems necessary to include in the document.

Owners and tenants who have voluntarily assumed payment of the fees or contributions approved by the association, will contribute proportionately to the cost of the works, programs and services carried out in the residential zone or commercial district, as the case may be, as well as the association's administrative expenses. These persons shall not avoid payment of the contribution for such expenses by waiving the use and enjoyment of the benefits created by the association's agreements, or by moving out of the encumbered property.

The proportional amount each property owner must contribute to common expenses shall be determined, set and imposed in the association's general assembly. The contribution or fees shall become due and payable in accordance with the agreements adopted by the association, in keeping with the provisions of this Chapter.

Section 16.012. — Collection of Special Contributions. — (21 L.P.R.A. § 4761)

The association is hereby empowered to collect the fees or voluntary contributions imposed pursuant to the provisions of this Act.

However, the association may request the corresponding municipality to take custody of these funds. In such cases, the association may remit directly or ask its members to remit the corresponding payments to the municipality as they become due. The association may likewise ask the municipality to take custody of any other funds the association receives from other sources.

The association shall take the legal steps it deems necessary to ensure the continuity of the collections of its revenues.

Section 16.013. — Works, Programs and Services of the Association. — (21 L.P.R.A. § 4762)

The association shall agree to carry out those works, programs and services it deems necessary to improve the quality of life in the zone or stimulate commercial activity in the district. The association's improvements proposal may cover, but is not limited to, the following matters:

(a) Proposals for specific works on private properties with the consent of the owner, and in common and public areas, with the prior authorization of the pertinent agencies.

(b) Appropriate resources to programs such as control and uniformity of signs and billboards; public beautification; maintenance or improvement of store fronts; security or garbage collection services; improvements to streets, sidewalks, parks and plazas, including curbs, lighting, planting of trees and other similar improvements. These improvements may be carried out by the association itself or by government agencies or the corresponding municipality, in which case the association shall transfer the resources needed to carry out such activities. Infrastructure improvements must be of a kind that complement those programmed by state agencies or municipalities.

(c) Follow-up and maintenance programs of the improvements carried out by the association. The association shall coordinate efforts with the agencies concerned, so that improvement programs of those government entities are not affected.

(d) Recreational and cultural programs and activities for the benefit of residents of the sector.

The association may accept contributions, gifts and donations from any natural or juridical person, the municipalities, the Commonwealth of Puerto Rico and its agencies, and the government of the United States of America, to carry out the works, programs and services it deems necessary. The association may also match its funds with any others received to carry out its purposes. It may likewise borrow money up to the limit authorized by its general assembly of members.

Section 16.014. — Rules for Administration of Funds. — (21 L.P.R.A. § 4763)

All citizens' associations and all commercial district associations must comply with the following norms and provisions:

(a) Keep a strict accounting system of the funds received, their use and surplus, in accordance with recognized public accounting practices.

(b) Deposit the moneys in a bank account no later than the business day following its receipt.

(c) Require at least two (2) signatures to draw on said account.

(d) Designate an accounting official who shall have the responsibility of receiving, accounting, and making disbursements of the money, as well as keeping all receipts and related documents. This person will have the legal obligation to see that corresponding records and documents are preserved to prepare and substantiate the financial statements that must be rendered to the general assembly.

(e) Make disbursements solely by check, and for the payment of purchase orders, invoices, payroll, services or other necessary expenses directly related to the association's activities.

(f) No checks to bearer shall be drawn nor shall payments in cash be made from association funds.

(g) Keep minutes of the general assemblies and meetings of the Board of Directors specifying, among other things, the decisions or resolutions approved with respect to the use and disposal of association funds.

(h) Keep updated and properly filed in a safe place the checks, invoices, purchase orders and payments of services, payrolls, records, minutes and any other documents related to the funds during the term established by the association's bylaws, that shall not be less than five (5) years. In the case of associations constituted for a specific period of time, and in all cases of dissolution, documents related to the association's funds, such as disbursements, receipts and any others of a fiscal nature or related to the use of funds, shall be turned over to the municipality for their preservation and custody, no later than thirty (30) days from the date that the period of existence of the association ends, or the dissolution of the association in question is decreed.

Section 16.015. — Dissolution. — (21 L.P.R.A. § 4764)

The dissolution and liquidation of citizens' associations and commercial district associations shall be carried out pursuant to Act Jan. 9, 1956, No. 3, and any remainder after liquidation will be transferred to the municipal government for exclusive use in works and improvements in the area that had been delimited as a residential improvement zone or commercial improvement district, as the case may be.

Chapter XVII. — Special Corporations for Municipal Development. [21 L.P.R.A. , Subtitle 6, Chapter 233]

Section 17.001. — Authorization to Create Special Corporations for Municipal Development. — (21 L.P.R.A. § 4801)

The municipalities are hereby empowered to authorize the creation of nonprofit special corporations for municipal development, hereinafter "special corporations", for the primary purpose of promoting in the municipalities whatever activities, enterprises and municipal, commonwealth and federal programs addressed to their integral development and that will result in the general welfare of the inhabitants of the municipality through the growth and extension of diverse areas, such as social services, the development of public lands, affordable housing, commerce, industry, agriculture, recreation, health, the environment, sports and culture, as well as the generation of power from renewable sources of energy.

The corporations or organizations that are strictly nonprofit, organized under the laws of Puerto Rico, and whose functions are strictly of a civic and community nature, are hereby exempted from the application of this Section, and the nonprofit corporations referred to in Section 17.016 of this Chapter.

Section 17.002. — Creation. — (21 L.P.R.A. § 4802)

Three (3) or more natural persons who are of legal age, residents of the municipality and are not officials or employees of the municipal government, may submit an application to the mayor to be authorized to register with the State Department as a nonprofit special corporation to

operate under the provisions of this chapter. The application shall be signed by all of the incorporators.

If the mayor, after the corresponding evaluation, determines that the special corporation to be formed is for one of the purposes contemplated in this chapter and believes it to be in the best interests of the municipality, he will submit a draft resolution to the Legislature to authorize the creation of the special corporation under the privileges and provisions of this chapter.

Once the resolution authorizing the formation of said entity under the provisions of this chapter is passed by the Legislature, the incorporators may file a certificate of incorporation with the Secretary of State, together with a certified copy of the resolution passed by the Legislature.

The Secretary of State shall not authorize the registration of a special corporation without the prior approval of the Legislature of the municipality in question.

No municipality shall authorize the creation of more than one special corporation for the same purpose.

Section 17.003. — Certificate of Incorporation. — (21 L.P.R.A. § 4803)

In addition to the requirements of the General Corporations Act, the certificate of incorporation shall include the following information:

- (a) The name and residential address of each of the incorporators, and an affirmation or statement that they are residents of the municipality in which the special corporation is constituted and that none of them is an official or employee of the municipal government, nor has been for one year prior to the date of the certificate of incorporation.
- (b) The official name of the special corporation, which must include the words "Corporation for the Development (economic, urban, industrial, recreational, cultural, health, agricultural, environmental or any other area it is interested in developing), followed by the name of the municipality and the initials C.D.
- (c) The location of the main office of the corporation and of the resident agent, which must be located within the territorial limits of the municipality in which the corporation is constituted and organized.
- (d) The public purposes or ends for which the corporation has been formed, and that it is a nonprofit entity.
- (e) A certified copy of the legislature's resolution authorizing the creation of the corporation.
- (f) A statement that said corporation is created under the protection of this chapter.
- (g) The number of directors on the Board of Directors shall not be less than twelve (12); but may be larger, as long as it is composed of multiples of three (3). Of these, the mayor may appoint no more than two-thirds, who may be officials of the municipality, excluding those who may have a direct or indirect intervention in the negotiating procedures of the corporation and the municipality, or private citizens, preferably representatives of communities in need of development. The directors appointed by the mayor shall enjoy all of the rights and privileges of a director, as provided in the bylaws of the special corporation, except those who are municipal officials who shall not have voting rights.
- (h) The term of appointment of the members of the Board of Directors; Provided, That the directors, appointed by the mayor pursuant to subsection (g) of this section, shall hold office for staggered terms of one to three (3) years, until their successors take office. The mayor may

appoint the same municipal official or employee, or private citizen as a director, up to a maximum of two (2) consecutive terms.

(i) State whether the corporation shall be constituted under the member system, in which case, the number of members must be stated as well as the nature of their representation of the following sectors: community groups, private nonprofit entities with ties to the areas of development, and persons of recognized prestige and capacity who contribute their knowledge and experience to achieve corporate ends.

(j) Authorization to all persons who are members of the Board of Directors to examine the books, documents and records of the corporation, upon request.

(k) A statement that the organization and its internal affairs shall be governed by corporate statutes.

The certificate of incorporation shall be filed with the Secretary of State for evaluation and registration, after payment of the corresponding fees. If it is found to be in compliance with the provisions of this Chapter and the General Corporations Act, the Secretary of State shall certify its registration and shall remit certified copies to the mayor and the Secretary of the legislature.

Section 17.004. — Amendments to the Certificate of Incorporation. — (21 L.P.R.A. § 4804)

The certificate of incorporation may be amended by the Board of Directors through a resolution approved by an absolute majority of the total number of Directors, after due notice to the mayor, and the approval of the Legislature. The amendments thus approved shall be registered in the Department of State.

Section 17.005. — Board of Directors. — (21 L.P.R.A. § 4805)

The Board of Directors shall be the body vested with the powers granted to the Corporation. The Board shall consist of a minimum of thirteen (13) directors who are residents of the corresponding municipality.

(a) The initial members of the Board of Directors shall be appointed by the incorporators at their first meeting, under the following terms: one-third of the original members shall be appointed for a term of one year, another third for a term of three (3) years, and the remainder shall be appointed for a period of five (5) years each. Directors appointed subsequently, except those appointed by the mayor, shall hold office for terms of five (5) years and shall be appointed by the members of the Corporation or by the Board of Directors, in accordance with its corporate bylaws.

(b) Board members will remain in office until their successors are appointed and take office. In case of a vacancy, the successor will serve the unexpired of his predecessor's term.

(c) Directors shall not receive salaries, compensation or remuneration of any kind for serving as such, nor for the work, duties or tasks performed for the Special Corporation.

However, board members may receive per diems in the nature of reimbursement for expenses incurred in the performance of their duties, subject to the amounts and conditions determined by the Board of Directors itself by vote of at least three-fourths of its members.

Board members may be reimbursed or advanced funds for training, travel expenses, lodging and meals incurred in any travel off-island to see to some matter or attend an official activity of the special corporation. The expenses for traveling, lodging and meals shall not be greater than

those that correspond to any official executive branch of the municipal government who directs an administrative entity, pursuant to the regulations in force to such effects.

(d) Except as provided for Subsection (h) of Section 17.003 of this Chapter, no municipal government employee or official shall be appointed or elected to the position of director.

(e) The directors, including those appointed by the mayor, may be removed from office before their term of office expires for dereliction of duties, negligence, improper conduct and incompetence in the performance of their responsibilities as a director, upon filing charges, with the opportunity to be heard, and with the vote of the absolute majority of the Board of Directors.

Section 17.006. — Transitional Procedures. — (21 L.P.R.A. § 4806)

The incorporators shall meet no later than fifteen (15) days following the registration of the certificate of incorporation and shall select the members of the Board of Directors. Board members shall represent the various groups or sectors of public interest that make up the corporation. The incorporators may also approve the corporate bylaws and make the necessary decisions for the special corporation, subject to subsequent ratification or rejection by the Board of Directors. The mayor shall be notified of the date, place and time of the meeting at which the directors will take office and constitute the Board of Directors. Once the directors take office and the Board of Directors is constituted, they will assume the direction of the corporation, approve the corporate bylaws and appoint corporate officers pursuant to the procedures established therein. The agreements approved by the incorporators shall be evaluated and the pertinent decisions shall be made. A corporate seal shall be adopted, the financial institution to safeguard corporate funds shall be chosen, and the officers of the Board of Directors shall be appointed. None of the officers may be an employee or official of the municipal government in question. The persons appointed as corporate officials of all special corporations shall meet the highest professional standards and have the experience required to administer and manage the entity they are to direct, and meet other requirements to be determined by the Board of Directors.

Section 17.007. — Conflict of Interests. — (21 L.P.R.A. § 4807)

No person who has direct or indirect financial interest, in any enterprise or entity whose business is in direct competition with the special corporation, shall be a member of the special corporation nor hold an executive or administrative position in it. This same limitation applies to any person who is the owner, shareholder, partner or employee, or has financial interest in a company that does business with the special corporation, or who holds any position or office in other public or private entities, whether profit-making or non-profit, that could conflict with the discharge of his duties and responsibilities as director or official of the special corporation.

Section 17.008. — Powers. — (21 L.P.R.A. § 4808)

The special corporations shall have the following powers, in addition to those conferred by their certificate of incorporation and the applicable laws in effect in the Commonwealth of Puerto Rico:

(a) Make donations, without limits as to value or capital, provided the payment of their administrative obligations or financial obligations are not jeopardized. No special corporation for

municipal development shall donate public funds or municipal property that have been donated, delegated or transferred to it by a municipality or by any public agency for any of the purposes provided in this Act, to another municipality, corporation, public or private dependency, unless there is a prior authorization of the municipality that cedes or transfers the same.

(b) Merge or consolidate with another non-profit corporation created under this Act §§ 2601 et seq. of Title 14, after due notice to the mayor and the approval of the legislature.

In the case of a merger or consolidation of special corporations constituted in different municipalities, the prior approval of the corresponding mayors and municipal legislatures shall be required. The special corporation resulting from a merger or consolidation shall comply with the requirements of this Act and with the regulations adopted by the Commissioner of Municipal Affairs to this end.

(c) Promote projects and activities for the exclusive benefit of the municipality, even if they fall outside its territorial limits.

(d) Issue any type of obligation for corporate ends.

(e) Offer as collateral the revenue from any enterprise or project as well as any property obtained or built, or the amount of the income resulting from the operation of any business or facility; including in the sum to be secured such principal, interest, insurance, premiums, reserves and maintenance and services expenses, and other inherent expenses generated by the establishment and issuing of financial obligations.

(f) Accept donation or assignment of municipal assets or funds, from any public agency and from the federal government, subject to the provisions of this Act, and any other donations or assignments from any private, natural or juridical person.

Section 17.009. — Members. — (21 L.P.R.A. § 4809)

The special corporation may opt to establish a membership system or not, in accordance with the regulations provided in their corporate bylaws.

(a) The members shall be residents of the municipality in which the special corporation is located and shall represent the community's different interest groups such as: government, institutions related to corporate ends, professional and technical people, private sector entities and persons who can share their knowledge and experience to attain corporate purposes.

(b) Decisions regarding the membership of a person shall be made strictly on the basis of the benefit said person can provide in forwarding corporate goals and purposes, and the search for a diversity of opinion among the members of the special corporation. There shall be no discrimination on the basis of sex, religion, age, political belief, race, or social or economic condition.

(c) All membership applications shall be considered by the Board of Directors, which must approve or reject them within a term of not more than ten (10) business days from the date of their submittal.

(d) Membership shall not be transferable and the exercise of the rights, privileges and duties it entails is individual. Each membership shall represent one vote in any election submitted to the consideration of the members.

(e) At least one general assembly of members shall be held annually which shall be notified to their last known address, as it appears in the corporation's registry of members, no later than thirty (30) days prior to the date of the assembly. Officers and directors shall discuss the detailed

report of their work and the audited financial statement of the previous fiscal year, as well as future plans and projects at the assembly. The financial statement shall include a record of corporate properties and assets, their location and appraised value, property acquired during the year and a breakdown of income, expenses, accounts, obligations and disbursements. The financial statement shall be sent to members no later than one hundred and twenty (120) days after the close of the fiscal year. Members may inquire about matters included in the agenda. They also may amend the agenda by the majority vote of the members present at the assembly.

(f) The corporate secretary shall call a meeting of members whenever a signed petition to such effects is presented by at least one-tenth (1/10) of the total number of members registered at the time the petition is filed, to discuss the matters stated in the required petition.

(g) Members shall have the right to examine the books, accounts and documents of the Corporation, after due notice to the designated custodian thereof, no less than three (3) days prior to the date requested.

(h) Corporate by-laws may be amended with the approval of an absolute majority of the members.

Section 17.010. — Bonds. — (21 L.P.R.A. § 4810)

The special corporation may issue bonds or financial obligations for its corporate purposes without any debt limit. Such obligations shall be subject to the conditions established by the Board of Directors in the document of approval of the transaction and to those established below:

(a) All obligations shall be approved by an absolute majority of the members of the Board of Directors.

(b) Activities to be financed through the issuing of obligations shall produce revenues for the payment of principal, interest and redemption premiums of said obligations, for the payment of the operation and conservation expenses of the project financed by such issue, and to create and maintain reserves inherent to the obligations. The means or sources of income, profits or revenues, of these projects shall be reviewed from time to time to ensure that they remain self-liquidating.

(c) The income, profits or revenue generated by the projects, as well as any related assets, may be encumbered to secure the obligations.

(d) Income, profits or revenue generated by the projects shall be deposited in special accounts or trusts under prearranged warranty terms, so that the payment of the financial obligations can be made in accordance with the balances.

(e) Financial obligations may be paid on or before maturity, by acceleration.

(f) Obligations shall be issued at an effective rate of interest that shall not exceed the legal maximum in effect in the Commonwealth of Puerto Rico at the time of issuance.

Section 17.011. — Tax Exemptions. — (21 L.P.R.A. § 4811)

The projects, assets and any property of the special corporations, as well as the income, revenue and profits it receives, shall be exempted from all taxes, permits, rates and municipal license fees, imposed by municipalities or by the Commonwealth of Puerto Rico. All financial obligations plus interest issued by special corporations shall be exempted from any Commonwealth of Puerto Rico tax.

Nothing in the above paragraph should be interpreted as exempting any private natural or juridical person who develops or carries out an activity, project or undertaking jointly with the corporation, from taxes, assessments, license fees, excise taxes, municipal license fees and duties.

Section 17.012. — Corporation Documents. — (21 L.P.R.A. § 4812)

The books, documents and records of special corporations shall be kept at their main office, in the custody of the chief corporate officer, and shall be kept for the term provided in their by-laws which shall not be less than the same term provided in the laws of Puerto Rico for the filing and conservation of the official documents of any other public agency.

Section 17.012. — Dissolution. — (21 L.P.R.A. § 4813)

The corporation may be dissolved by means of a resolution approved by the Board of Directors, after notification to the mayor and the President of the Municipal Legislature.

When the corporation ceases operations, the property ceded or transferred by the municipality shall revert to it, upon liquidation of any obligation acquired by the corporation with its own funds. If any funds remain after said liquidation of obligations, these shall be disbursed to the municipality.

Section 17.013. — Receivership or Court Administration. — (21 L.P.R.A. § 4814)

The mayor may ask the Court of First Instance to appoint a receiver or court administrator in the following situations, when:

- (a) In the process of dissolution of the corporation it is unable to pay its overdue debts.
- (b) Assets are being misspent or improperly distributed.
- (c) The special corporation is being administered fraudulently or improperly.
- (d) When the corporation becomes inactive or is abandoned by the officials, directors and members. This procedure shall be governed by the norms established to such effects by the General Corporations Act.

Section 17.014. — Conversion. — (21 L.P.R.A. § 4815)

Any nonprofit corporations created with the purpose of promoting the development of some aspect of a municipality in existence at the time this act becomes effective, and that have received or are receiving real or personal property, funds or annual donations, recurrent or not, from a municipality, shall avail itself to the provision of this Act to become special corporations by amending the certificate of incorporation to restructure its configuration under the norms established in this Act and registering it with the Secretary of State after the amendment has been approved by the legislature. If the Secretary of State finds that it meets the provisions of subtitle, he/she shall register it and remit certified copies to the mayor and the assembly. This conversion shall be initiated within a term of one hundred and twenty (120) days from the effectiveness date of this Act.

As of the date of enactment of this act, no municipality shall sponsor or patronize any nonprofit corporation to promote the development of any municipal public purpose, unless said corporation is constituted, organized, validated and operated according to the provisions of this Act.

Any nonprofit corporation created under the General Corporations Act to promote some municipal public purpose, which is in operation on the effective date of this act, and that does not choose to avail itself of the provisions of this Act, may continue to operate exclusively under the legal regime of the General Corporations Act. In this case, upon prior notice to the board of directors of said corporation, the municipality is empowered to cancel any agreement or contract that compels it to cede property or funds as of the date of approval of this act, when the corporation does not avail itself of the provisions of this Act.

Every nonprofit corporation that chooses to continue to function exclusively under the General Corporations Act and has received real or personal property, or chattels, or donations shall be subject to periodic audits by the municipality, and the Office of the Comptroller of Puerto Rico shall audit everything regarding funds or public property ceded, assigned, or transferred to the corporation for its operation, at least every two (2) years.

Section 17.015. — Nonprofit Corporations. — (21 L.P.R.A. § 4816)

(a) The municipalities may be a part of, participate promote, and sponsor nonprofit corporations organized under Act No. 144 of August 10, 1995, as amended [14 L.P.R.A. §§ 2601 et seq.], for the purpose of promoting the economic and cultural development or the social improvement of a municipality or the region of which it is a part, provided that:

(1) The corporation is organized through the efforts, participation and commitment of the municipality in addition to that of the entities and organizations of the following sectors:

(A) Higher education entities (accredited by the applicable laws), and

(B) private commercial and industrial enterprises and/or associations that group industries or businesses, such as the Puerto Rico Manufacturer's Association and the Puerto Rico Chamber of Commerce;

(2) that the corporation obtains a tax exemption from the Department of the Treasury under Section 1101 of Act No. 120 of October 31, 1994, as amended [13 L.P.R.A. § 8501], known as the Internal Revenue Code of 1994, and

(3) the entities that participate in the corporation sign an agreement to contribute that identifies and specifies the nature and amount of the contributions and the obligations of the participants. This contribution agreement shall be notarized by a lawyer licensed to practice the profession in Puerto Rico. Said agreement shall be available in the municipalities that sign it and shall be filed at the Office of the Controller of Puerto Rico no later than thirty (30) days after its signing.

(b) Every nonprofit corporation organized under Act No. 144 of August 10, 1995, as amended [14 L.P.R.A. §§ 2601 et seq.], pursuant to the criteria established in subsection (a) of this Section may choose to establish, or not, a membership system pursuant to the norms provided in their corporate documents. In the event that the corporation chooses a system of membership, the municipality or municipalities that participate therein may appoint up to one third (1/3) of its members.

(c) The municipality or municipalities that participate in this nonprofit corporation shall have participation in the Board of Directors, with voice and vote of the mayor and the municipal officials who are authorized to be part of it through a resolution approved by two thirds (2/3) of the members of the Municipal Legislature. The participation of the municipality or municipalities on the Board of Directors of this corporation shall not exceed one third (1/3) of the members that compose it. The nonprofit corporation may contract services and works with the entities that compose it, provided that the majority of the uninvolved members of the Board of Directors, approves said contracting (even though they do not constitute quorum) and the directors designated by these entities to the Board of Directors do not participate in said decision-making process (even though they are counted for the effect of the quorum).

(d) With the exception of the mayors and/or municipal officials who are members of the Board of Directors, the Directors of the Board shall not be considered employees or officials of the Commonwealth. The nonprofit corporation organized pursuant to this section shall have juridical existence and personality separate from the participating municipality or municipalities and shall not be subject to the provisions regarding the special municipal corporation authorized by Section 17.001 of this Chapter.

(e) The operations of this nonprofit corporation shall be subject to auditing by the Office of the Controller of Puerto Rico.

Chapter XVIII. — Commission to Hear Municipal Complaints. [21 L.P.R.A. , Subtitle 6, Chapter 235]

Section 18.001. — Creation of the Commission. — (21 L.P.R.A. § 4851)

The Commission to Hear Complaints, hereinafter denominated "the Commission", is hereby created, as the body with primary jurisdiction to hear complaints brought against any mayor or municipal official by the Governor of the Commonwealth of Puerto Rico, the Director of the Office of Government Ethics, the Municipal Legislature or any citizen.

(a) Composition of the Commission. —

The Commission shall be composed of a President and two (2) Associate Commissioners appointed by the Governor of Puerto Rico with the advice and consent of the Senate of Puerto Rico. The President shall be an attorney who has practiced law for at least five (5) years. The President and the Associate Commissioners shall be appointed for terms of four (4) years each and shall hold office until their successors are appointed and take office. It is preferable that the persons designated as members of the Commission have been members of the Judiciary of Puerto Rico or attorneys who have practiced law for at least five (5) years.

Members of the Commission shall not incur financial liability for any action taken in the performance of their duties and powers, provided their actions have not been intentional, illegal, for their own benefit or in the knowledge they could cause damages.

(b) Emoluments. —

The Commissioners shall receive no compensation whatsoever for the performance of their duties. However, they shall receive per diems of one hundred dollars (\$100.00) for each meeting they attend at which they conduct business related to the duties imposed on them by this chapter. Every four (4) years from the date of approval of this act, the amount of the per diems to which the Commissioners are entitled shall be revised pursuant to the proportional increase in the cost

of living, as determined and certified by the Planning Board. They shall also be entitled to the reimbursement of necessary expenses incurred in the performance of their official duties, subject to the applicable regulations of the Department of the Treasury.

(c) Commission Personnel. —

The president of the Commission shall appoint a Secretary and all personnel needed for its operations, who shall perform their duties at the President's volition.

Section 18.002. — Powers of the Commission. — (21 L.P.R.A. § 4852)

(a) Deal with and resolve complaints or charges brought against any mayor by the Governor of Puerto Rico, the Director of the Office of Government Ethics, the municipal legislature or any person.

(b) Hear and resolve situations of friction between the legislature and the mayor.

(c) Request, at its discretion, to the Secretary of Justice [Attorney General] of Puerto Rico the appointment of an attorney to represent a complainant who is a private citizen, after having found that the case is exclusively a question of public interest.

(d) Approve, amend and repeal internal regulations for the Commission's operation.

Section 18.003. — Taking of Oaths, Summons and Production of Documents. — (21 L.P.R.A. § 4853)

The Commission, its Associate Commissioners and its Secretary shall be empowered to take oaths, summon witnesses and compel the production of books, documents or other evidence that the Commission deems necessary or pertinent to the performance of its powers and duties.

When a witness summoned by the Commission fails to appear to testify or to produce the books, papers, records or documents as ordered, or when any witnesses that is summoned refuses to testify about any matter before the Commission, the Commission, its president or any of its associate commissioners may resort to the Court of First Instance of Puerto Rico to compel, under penalty of contempt, the appearance and testimony of the witnesses summoned and the production and delivery of the requested documents.

The Secretary of Justice [Attorney General] of Puerto Rico shall provide the Commission with the legal assistance to request the court's assistance for the above purposes, when so requested by the President of the Commission. The Secretary shall also provide said legal assistance when the same is requested pursuant to the provisions of subsection (c) of Section 18.002 of this Act.

Upon presentation of a petition, the court shall peremptorily issue the requested subpoena enjoining and ordering the witness to appear before the Commission and testify, or produce the evidence and documents requested, or both matters. Any claim that a witness whose appearance is ordered through this mechanism may have, shall be settled in a separate action, aside from the petition made by the Commission and it shall not have the effect of preventing the appearance of the witness of staying the order issued to produce documents. Any constitutional or statutory right or privilege the witness may have with respect to his/her testimony or the production of documents shall be submitted to the Commission for adjudication.

Section 18.004. — Procedures Regarding Complaints or Charges Against a Mayor. — (21 L.P.R.A. § 4854)

All procedures shall be initiated with the filing of a duly sworn writ of complaint or charges, in writing, at the Secretariat of the Commission, accompanied by the necessary evidence to evaluate the substantiality of the complaint or charge, and service of notice to the mayor, together with a certified copy of the writ.

When the complaint or charge is brought by a private citizen, the Commission shall provide him or her with the legal assistance needed for the complainant to furnish the information, evidence and pertinent documents that will allow the Commission [to] evaluate the substance of the complaint, including the determination of public interest.

Said notice shall inform the mayor thus charged that he/she has fifteen (15) days to answer the writ, and advise him/her of his/her right to appear before the Commission to defend himself (her), per se or through counsel, and present any documentary or testimonial evidence deemed pertinent, and of his/her right to a public or private hearing. The mayor may file a motion within the original term granted, for an extension of an additional fifteen (15) days.

Once the mayor files his/her answer to the complaint, the Commission shall study the record and within thirty (30) days from its receipt, may either dismiss it or schedule a hearing to air the charges. When the Commission dismisses a complaint without a hearing, it shall notify its decision through a copy of the resolution to such effect. The resolution shall contain the Commission's findings of fact, rulings and conclusions of law.

When the Commission decides to proceed with the complaint, it shall hold a hearing, which shall be public or private of which the mayor thus charged and the complainant shall be notified at least fifteen (15) days prior to the date on which it will be held. When the complainant is a private citizen, the commission shall exercise its discretionary power, pursuant to the provisions of subsection (c) of Section 18.002, in which case, it shall notify the mayor thus charged and the Secretary of Justice of Puerto Rico.

The hearing may be conducted before the full Commission or an Associate Commissioner designated by it to hear the case. If the hearing is held before an Associate Commissioner, he shall submit a report to the full Commission with his/her findings of fact, a summary of the evidence presented and admitted, his/her conclusions of law and any consideration pertinent to the case for evaluation by the full Commission. The Commission must arrive at and issue its ruling within fifteen (15) days after the hearing is concluded when it was held before the full Commission, or from the date the Associate Commissioner who held the hearing renders his/her report. In case the hearing is presided by an Associate Commissioner, he/she shall submit his/her report within fifteen (15) days from the date the hearing was concluded.

The terms established herein are compulsory in nature. Should the maximum period expire without a decision having been rendered, the complaint shall be dismissed with prejudice.

Section 18.005. — Protective Orders. — (21 L.P.R.A. § 4855)

The Commission is empowered to issue interlocutory protective orders, under penalty of contempt, to protect the integrity of the proceedings the Commission is carrying out and for the purpose of averting any injury or misappropriation of funds and property, and to protect the

public interest, or to safeguard any document or evidence relevant to the complaint under its consideration.

Section 18.006. — Procedures for the Suspension of a Mayor. — (21 L.P.R.A. § 4856)

After the charges brought in accordance with the provisions of Section 18.004 of this Chapter, have been filed and the mayor has been notified, if the Commission determines that the public interest so requires it, it may file a petition that shall be called a "Special Procedure" before the Court of First Instance, San Juan Part, for the Court to rule, with priority over any other action and within a term of not more than twenty (20) days, on whether the extent of the charges filed require that the mayor be suspended from office without pay while the administrative procedures are conducted before the Commission.

The court shall take the following into consideration in evaluating the petition:

- (1) Whether the charges against the mayor evidence an administration that is corrupt, fraudulent and irresponsible, or of abuse of authority;
- (2) the Mayor's former administrative record;
- (3) the notoriety or public perception attributed to the Mayor prior to the filing of charges;
- (4) the accuracy or weight of the evidence that arises from the investigative reports of the facts that gave rise to the complaint;
- (5) the urgency of taking measures to protect municipal property, or the life and health of its citizens;
- (6) the intimate linkage of the alleged facts to the municipality's administration.

Any mayor against whom a ruling is issued suspending him/her from office without pay while the administrative proceedings are carried out before the Commission, may ask the Supreme Court to review the decision through a writ of certiorari within a term of not more than ten (10) days from the date the copy of said notice is filed in the case.

Unless the court issues an order or ruling staying the administrative proceedings before the Commission, the filing of a Special Procedure and its subsequent review by the Supreme Court shall not impede the continuation thereof.

Section 18.007. — Ruling by the Commission. — (21 L.P.R.A. § 4857)

After the charges against a mayor have been heard in depth, and before the procedures provided in this chapter have been carried out, the Commission may:

- (a) Issue an admonition when the evidence proves that, while the mayor incurred improper practices or actions, they do not constitute recklessness, gross negligence or conduct injurious to the public interest in the performance of his/her duties.
- (b) Exonerate the mayor, and if he/she has been suspended from office without pay, provide for his/her reinstatement and order the payment of his/her salary and fringe benefits retroactive to the date the suspension took effect.
- (c) Remove the mayor from office.

A decision to remove the mayor from office shall take effect immediately.

Section 18.008. — Sanctions. — (21 L.P.R.A. § 4858)

The Commission may impose fines or sanctions for the filing of complaints or charges that are frivolous and without grounds, or if they are not accompanied by the evidence needed to weigh the substance of the complaint or charges.

Proceedings before the Commission shall not be used as mechanisms to seek information if they are not based on a filed duly-substantiated complaint.

Section 18.009. — Procedure for a State of Friction Exists Between the Legislature and the Mayor. — (21 L.P.R.A. § 4859)

When a state of friction exists between the Legislature and the mayor to the extent that municipal credit or municipal public affairs are delayed or prejudiced, or run the risk of such a thing happening, the mayor or the Legislature shall submit a report on the situation to the Governor. The Governor shall order all department heads to immediately place at the disposal of the Commission to Hear Municipal Complaints all documents and information they have concerning the public affairs of the municipality involved. The Governor shall refer the aforementioned report to the Commission immediately upon receipt.

Once the investigation is completed and a hearing is held, the Commission shall render a report with its recommendations within a term of not more than fifteen (15) days from the date the hearing was concluded. When none or both of the parties abides by the Commission's recommendations, and the situation is of such a nature as to cause irreparable damage to the citizenry the Commission shall declare the office of mayor or of any number of municipal legislators vacant. Vacancies in the offices of mayor or municipal legislators shall be filled as provided in this Act for vacancies in said offices because of total and permanent disability, death or resignation. The Commission shall not adopt any resolution whatsoever until a hearing has been held at which all of the parties concerned shall be heard, and shall have the right to evidence on the matters involved.

Section 18.010. — Reconsideration, Judicial Review. — (21 L.P.R.A. § 4860)

Any party adversely affected by a decision issued under the provisions of this chapter may request its reconsideration and judicial review pursuant to Act No. 170 of August 12, 1986, as amended, [3 L.P.R.A. §§ 2101 et seq.], known as "Commonwealth of Puerto Rico Uniform Administrative Procedures Act". The Court of First Instance, San Juan Part, shall have jurisdiction to deal with petitions for judicial review.

The court shall give the highest priority on its calendar to consideration of petitions for review in the light of the public interest involved and the need to avoid unnecessary prolongation of a situation where there is an acting mayor in cases where the Commission has decreed the mayor's removal from office.

Section 18.011. — Quorum. — (21 L.P.R.A. § 4861)

In cases of inhibition, absence, temporary disability or vacancy in the office of any commissioner, the remaining two (2) Commissioners shall constitute quorum and may exercise all of the powers and functions of the Commission.

Section 18.012. — Penalties. — (21 L.P.R.A. § 4862)

Any person who engages in improper or disorderly conduct, or displays a lack of discipline or disrespect to the Commission or to any of its Commissioners, or who refuses to give or affirm oath, will incur a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars (\$500), or imprisonment for a term of not more than six (6) months, or both penalties, at the discretion of the court.

Section 18.013. — Duties of the Secretary. — (21 L.P.R.A. § 4863)

The Secretary of the Commission to Hear Municipal Complaints shall be appointed by the President and shall hold office at his/her volition. The Secretary shall be custodian of the files of the Commission and shall keep a complete and accurate record of all its proceedings and maintain an indexed compilation of the final decisions issued by the Commission as of August 30, 1991. The Secretary shall make available for reproduction, at the request of [any] interested person, the final decisions of the Commission, with the prior payment of reasonable reproduction fees. The Secretary shall report the decisions, priorities and resolutions of the Commission, under the direction of the President.

Section 18.014. — Budget. — (21 L.P.R.A. § 4864)

The funds necessary for the operations of the Commission to Hear Municipal Complaints and the administration of the provisions of this chapter shall be appropriated annually in a separate item in the name of the Commission, in the Joint Resolution of the General Budget of Expenses of the Government of Puerto Rico.

Section 18.015. — Transitory Provision.-(21 L.P.R.A. § 4851 note)

The Commission to Hear Municipal Complaints shall succeed the Commonwealth Commission to Hear Municipal Complaints. Those persons who, on the effective date of this Act, are members of the preceding Commission shall proceed to hold the office of Commissioners in the Commission created hereunder for the remainder of their terms of office and until their successors are appointed and take office.

The Commission to hear municipal complaints created by this chapter shall continue all proceeding initiated by its predecessor and shall maintain control of and be responsible for all records, property, accounts and documents of said predecessor. Since personnel of the preceding Commission hold their positions at the volition of the President pursuant to Sections 5.01 of Act No. 146 of June 18, 1980, as amended, as amended, and repealed by the present, shall remain in their positions unless the President of the succeeding Commission replaces them.

Chapter XIX. — Commissioner of Municipal Affairs. [21 L.P.R.A. , Subtitle 6, Chapter 237]

Section 19.001. — Creation of the Office of the Commissioner of Municipal Affairs. — (21 L.P.R.A. § 4901)

The Office of the Commissioner of Municipal Affairs of the Commonwealth of Puerto Rico is hereby created. This Office shall have, among other duties provided in this Act, the main responsibility of advising and approving regulations for purposes of ensuring the application of the generally accepted accounting principles, compliance with the standards of the Office of the Comptroller of Puerto Rico and the correction of practices that constitute sources of administrative and/or accounting irregularities.

Section 19.002. — Duties and Responsibilities of the Office of the Commissioner. — (21 L.P.R.A. § 49)

The Office of the Commissioner, in addition to other duties provided in this Act in any other statute, shall have the following duties and responsibilities:

- (a) Regulate, advise and provide technical and professional assistance to the municipalities in those matters related to their organization, administration, functioning and operations.
- (b) Regulate, advise and provide technical assistance to the municipalities in drafting and presenting the municipalities general budget of income and expense bill.
- (c) Establish general guidelines to regulate the process of drafting of the general income and expense budget bill resolution of the municipalities and the administration thereof.
- (d) To receive a copy of the Budget Resolution Bill, as provided in Chapter VII.
- (e) Design or approve, subject to this Act, the fiscal organization, uniform computerized accounting system and disbursement, income and property procedures that every municipality must establish and follow.
- (f) Require the municipalities to keep their accounts, records, registries, property controls and anything else provided in this Act, in order, pursuant to the rules and regulations adopted to such effects.
- (g) Adopt the norms and regulations needed to govern the accounting of municipal income and disbursements, the custody, control, care and accounting of municipal property, and intervene, from time to time, to determine and require compliance of said norms and regulations.
- (h) Audit the fiscal organization and the accounting systems and procedures established in the municipalities, from time to time, in order to verify that they are being applied as provided by law and regulations and whether they fully meet their purpose.
- (i) Verify that the payment in lieu of taxes that public corporations are obliged to pay to the municipalities is correct.
- (j) Establish, by regulations, the requirements, standards and procedures for the contracting of services of external auditors, which each municipal government must hire to carry out their single audits.
- (k) Advise the Governor with regard to the petitions of any municipality for authorization to grant contracts in which a member of the legislature, official or municipal employee has a direct or indirect monetary interest.

- (l) Promote contracts between municipalities for jobs, works, public improvements, rendering of services, acquisition of materials, equipment, supplies and other, as well as any activity or operation within municipal jurisdiction, provided they are of benefit to the municipalities.
- (m) See that technical aid and professional advice is made available to the municipal legislatures at their request.
- (n) Promote continuing education programs for the mayors, legislature members and municipal officials and employees, so as to orient them on the municipal laws, regulations, procedures and systems, as well as on the options and programs used in other jurisdictions to handle the various problems, needs and matters of municipal concern. In the case of the directors of administrative units, the Office of the Commissioner of Municipal Affairs shall establish a Compulsory Training and Continuing Education Program, according to the corresponding position or administrative unit. The Compulsory Training and Continuing Education Program, for the Director of the Office of Human Resources and Finance, shall be drafted taking into consideration the recommendations of the Central Personnel Administration Office.
- (o) Prepare and keep an updated catalogue or handbook of municipal procedures and systems, which shall include the laws, regulations, orders, standards and decisions that apply to municipalities in general, with the annotations and comments that are necessary or convenient for the orientation of its users about the municipal government's processes and systems.
- (p) Establish and keep an updated central system of statistics by municipality where municipalities and public agencies shall provide the Commissioner, at his/her request, the information needed for the purposes of said system.
- (q) Evaluate laws that apply to municipalities and submit recommendations to the legislature about legislative actions he/she deems should be adopted.
- (r) Supply the Municipal Revenue Collection Center with the information required by the latter to determine and periodically review the relative and absolute contribution of the State or federal governments to the "Citizen Participation Program for Municipal Development" for each municipality, on the basis of the most recent statistical data collected for each municipality regarding its population and families with an income of less than two thousand dollars (\$2,000) per year.
- (s) Make the final pertinent decision whenever any discrepancies arise in a municipality between the mayor and the municipal legislature regarding the approval or disapproval of the ordinance concerning the proposal for improvements using funds proceeding from the "Citizen Participation Program for Municipal Development". To that effect, the mayor and the municipal legislature shall render a report to the Commissioner detailing the facts which motivated said discrepancy. The Commissioner shall make the final decision after consulting with the Municipal Revenues Collection Center and the Government Development Bank and must inform the mayor and the municipal legislature as to the latter.
- (t) Require the mayors of the municipalities of Puerto Rico to submit a report on the uses given to the legislative funds appropriated, accounted for and used by the municipalities during the fiscal year every six (6) months. These reports shall include documents, invoices and vouchers that document the use of such funds, shall be presented to the Commissioner of Municipal Affairs no later than July 31 and January 31 of each year. In the event that the legislative appropriation has not been used because of the requirement of additional matching funds that have not been budgeted, the required report must be rendered, stating said fact.

(u) Give advice and the necessary assistance to the municipalities for the implementation of the Public Law and Order Codes.

Section 19.003. — Commissioner. — (21 L.P.R.A. § 4903)

The Office of the Commissioner of Municipal Affairs shall be directed by a Commissioner appointed by the Governor with the advice and consent of the Senate of Puerto Rico. The Commissioner shall be directly responsible to the Governor of Puerto Rico in the performance of his/her duties. The Commissioner shall be a person of recognized moral probity. He/she cannot be a municipal legislator, nor have held the office of mayor during the eight (8) years prior to his/her appointment; nor during the four (4) years prior to his/her appointment to have sought or campaigned to hold office in the directorate or the organization of a political party or of a committee or body of a political party, be it at central, regional or municipal government level or at an electoral ward or unit, nor to have run for elective public office in general or special elections nor to have been nominated as candidate to elective public office during primary elections. While holding office, he/she may not seek or campaign to hold office in the directorate or the organization of a political party or committee nor run for or be nominated for an elective office.

The Governor of Puerto Rico shall fix the annual salary of the Commissioner in accordance with the standards applied in the central government for offices of the same or similar nature and level of responsibility. The Commissioner may avail him/herself of the benefits of Act No. 447 of May 15, 1951, as amended, [3 L.P.R.A. §§ 761 et seq.], known as the "Retirement System for Employees of the Government of Puerto Rico and its Instrumentalities", and of Act No. 133 of June 26, 1966, as amended, that created the Commonwealth Employees Savings and Loan Fund.

Section 19.004. — Deputy Commissioner. — (21 L.P.R.A. § 4904)

The Commissioner may appoint a Deputy Commissioner and delegate any of the powers provided in this Act, on him/her except the approval of regulations and the appointing of personnel. The Deputy Commissioner shall be a person of known capacity, moral probity and knowledge of matters related to the municipal government.

In the event of illness, disability or temporary absence, or when for any other reason, the office of the Commissioner becomes vacant, the Deputy Commissioner shall assume all the powers, duties and faculties of the office until a successor is appointed and takes office.

Section 19.005. — Powers and Duties of the Commissioner. — (21 L.P.R.A. § 4905)

The Commissioner shall have the following powers and duties, among others:

- (a) Determine the internal organization of the Office and establish the necessary systems for its proper operation, as well as taking the necessary administrative and managerial actions to carry out the powers and responsibilities delegated to the Office under this Act or any other law.
- (b) Appoint the personnel needed to carry out the responsibilities of the Office, fix their salaries or remuneration, and assign duties and responsibilities subject to the provisions of this Chapter.
- (c) Contract technical and professional services as needed to fulfill the functions, duties and responsibilities of the Office.

- (d) Delegate those functions, duties and responsibilities he/she deems necessary on any official or employee of the Office, in accordance with the provisions of this Act.
- (e) Acquire the materials, supplies, equipment, property and services needed for the operation of the Office, subject to Act No. 164 of July 23, 1974, as amended , [3 L.P.R.A. §§ 931 et seq], known as "General Services Administration Act".
- (f) Prepare and administer the general budget of expenses of the Office and the funds which, by virtue of any law, gift or any other legal means are provided to the Office pursuant to Act No. 230 of July 23, 1974 [3 L.P.R.A. §§ 283 et seq.], known as "Government of Puerto Rico Accounting Act", and the regulations adopted by virtue thereof.
- (g) Keep and safeguard all files, registries, records and other documents held by the Office, pursuant to the provisions of Act No. 5 of December 8, 1955, as amended [3 L.P.R.A. §§ 1001 et seq.], known as "Public Documents Conservation Act."
- (h) Execute agreements or contracts with public agencies to provide advisory services, and technical and professional help or assistance to the municipalities.
- (i) Report to the Governor, the Legislature [of Puerto Rico] and the public agencies on the fiscal affairs of the municipalities, and their problems, needs, resources and aspects of public policy and operations, in general. A complete and detailed report shall be submitted to the Governor of Puerto Rico and the Legislature [of Puerto Rico] no later than the second week of January of each year on the activities, achievements, programs, matters handled, complaints processed, funds received from different sources, disbursements and remaining funds, if any. A copy of this report shall be sent to each of the municipalities.
- (j) Be a regular member of the Board of Directors of the Municipal Financing Agency of Puerto Rico created by Act No. 29 of June 30, 1972, as amended.
- (k) To compile and keep up to date an account of suits for political discrimination and violation of civil rights of all municipalities that have been resolved by a competent court whose decision is final and binding, and remit a listing of the abovementioned cases resolved, the cost to the public treasury, the duration of the sentence, and the amount of attorney's fees, to the Governor, the Legislature [of Puerto Rico], and the Civil Rights Commission no later than the second week of January of each year. The Commissioner shall adopt the appropriate Regulations in order to put the provisions of this subsection into effect, pursuant to Section 19.011 of this Act.

Section 19.006. — Personnel System. — (21 L.P.R.A. § 4906)

The Office of the Commissioner of Municipal Affairs shall be an "Individual Administrator", pursuant to the definition of this term in Act No. 5 of October 14, 1975, as amended, known as the "Puerto Rico Public Service Personnel Act". The Commissioner shall adopt the rules and regulations provided by law that are necessary for the administration of its personnel system. Office personnel shall be classified as career and confidential. The Office may not approve more than twenty-five (25) confidential positions, among which are included the Commissioner and Deputy Commissioner and their personal secretaries and drivers, as well as the executive and administrative assistants who answer directly to the Commissioner. The remaining employees and officials of the Office of the Commissioner of Municipal Affairs shall be included in the career service.

The personnel rules approved by the Commissioner shall guarantee to every person who, prior to serving as confidential employee of the Office, had been a career employee in any other public

agency, or a municipality, the right to be reinstated in a position of the same or similar nature and category to that he/she held as a career employee at the moment he/she transferred to the confidential position.

The Commissioner may assign a larger salary than that received by other personnel of equal or similar levels in other public agencies, to the personnel required to have competency and special knowledge of the municipal government and its operation and functioning.

The personnel of the Office of the Commissioner may avail themselves of the benefits of Act No. 447 of May 15, 1951, as amended, known as the "Employees Retirement System of the Government of Puerto Rico and its Instrumentalities", and of Act No. 133 of June 26, 1966, as amended that created the Savings and Loan Fund of the Commonwealth of Puerto Rico Employees Association.

The officials and employees of the Office shall be governed by the provisions of Act No. 12 of July 24, 1985, as amended, known as the "Government Ethics Act of the Commonwealth of Puerto Rico". When the services of an official or employee of this Office are required in a municipality or vice-versa, and this Actor the Government Ethics Act of the Commonwealth of Puerto Rico does not allow it, the Governor may grant a dispensation for the application of said act[s].

Section 19.007. — Development of Municipal Community Organizations. (21 L.P.R.A. § 4906a)

(a) In order to promote the collaboration of the government sector with the people, establish an agile mechanism with municipal structure to channel and promptly attend to the needs of the population, as well as to promote self-determination of the communities so that they can tend to situations of

their respective sectors through public-private initiatives, the Community Organizations Unit is hereby created attached to the Office of the Municipal Affairs Commissioner.

The Unit created pursuant to this Section shall be responsible for promoting the cooperation and integration of the efforts made by civic entities and community leaders for the active participation of the citizenry in government and private processes that affect their neighborhoods and surrounding regions. This Unit shall coordinate, with the Community Affairs Division established in Section 16.002 of this Act and the Office of the General Coordinator for Socio-Economic Financing and Self-determination established in Section 3 of Act No. 1 of March 1, 2001, the existing efforts of community organizations to prevent the duplication of services and resources for the same projects, activities or purposes. For the purposes of this Section, it shall be understood that community organizations are those entities whose purpose is to tend to affairs or work for the improvement of the community such as: Community Boards, special communities, residents associations, merchants associations, citizens councils or other similar organizations.

The Community Organizations Unit shall orient and offer its support to the entities that have been established to promote citizen participation. The orientation and support measures carried out by this Unit shall be geared to advice on the operational, administration and financing aspects of the organizations, workshops on the mechanisms of effective communication with public and private entities, strategies for the appropriation of financial resources and the promotion of initiatives of community self-determination, efforts which propitiate the active participation of persons in government

and private processes that affect their neighborhoods and surrounding regions.

(b) To comply with its purposes, the Unit shall have personnel with broad experience in the planning and development of activities regarding the organization, administration, and implementation of community actions initiatives. An annual sum of \$206,000.00 is appropriated from unencumbered funds in the Commonwealth Treasury for the 2001-2002 year for the creation of the Community Organizations Unit attached to the Office of the Municipal Affairs Commissioner.

Section 19.008. — Gifts. — (21 L.P.R.A. § 4907)

The Office of the Commissioner may accept gifts of money or property and receive funds as appropriations, advances, or other similar benefits from non-profit institutions, municipalities, the central government or the federal government and its agencies and instrumentalities. Gifts or funds thus given and accepted by the Commissioner shall be subject, to the extent applicable, to §§ 1101 et seq. of Title 3, and its regulations. These funds shall be deposited in a special account in the name of the Office at the Treasury Department.

Section 19.009. — Bonding of Officials and Employees. — (21 L.P.R.A. § 4908)

The officials and employees of the Office who intervene in any way or have custody of money or any public property shall be covered by a fidelity bond that will guarantee the faithful compliance of their duties and responsibilities. The Commissioner, in consultation with the Secretary of the Treasury or his authorized representative, shall provide by regulations those officials and employees who shall be bonded and the amount of the bond for each of them.

The Secretary of the Treasury shall represent the Commissioner in all matters relating to obtaining the bond, the risk to be covered and the procedure to handle the claims that could arise under the terms of the policy in the way he/she deems most advantageous to the public interest. To that end, the Commissioner shall submit each year to the Secretary of the Treasury, on the date established by the latter, a list of the names of the officials and employees who shall be bonded pursuant to the applicable regulations.

Section 19.010. — Investigative Powers. — (21 L.P.R.A. § 4909)

In the exercise of the powers of the Office as an advisory entity for the municipalities, the Commissioner shall be authorized to:

- (a) Indicate and report to the Secretary of Justice and the controller of Puerto Rico, any irregularity discovered, pursuant to the provisions of § 82a of Title 3.
- (b) Notify the mayor of any municipal official or employee who incurs violations of any law that applies to the municipalities or any regulation adopted by virtue thereof, or when he has ground to believe that said official or employees has engaged in improper practices in the handling of the municipal affairs entrusted to him, or has induced or aided another to incur such practices.
- (c) In the performance of his/her functions the Commissioner shall have the power to summon witnesses or request documents under penalty of contempt.

When a municipal official or employee duly summoned by the Commissioner does not appear to testify, or does not produce the evidence requested, or when he/she refuses to answer any question, produce evidence or appear to testify with regard to an investigation and/or preauditing made by the Commissioner under the provisions of this chapter, he/she may request the assistance of any part of the Court of First Instance to require the appearance and the statement or reproduction of the requested evidence, as the case may be. The Secretary of Justice shall provide the legal assistance needed for such ends to the Commissioner. When deemed necessary, and the fiscal resources permit it, the Commissioner may request a dispensation from the Secretary of Justice to assume his/her own legal representation, or contract lawyers from private practice to file an appeal or request assistance before the Court of First Instance.

Section 19.011. — Examining Officers. — (21 L.P.R.A. § 4910)

In the exercise of the adjudicative powers conferred on him by this Act, the Commissioner may designate Examining Officers to chair the administrative hearings that are held. The Examining Officer thus designated shall submit a report to the Commissioner with his conclusions and recommendations within fifteen (15) days of the date the administrative hearing is concluded. The Commissioner shall issue a ruling on the matter investigated within ten (10) days of the date he receives the report from the Examiner. Any party adversely affected by a resolution or order of the Commissioner may petition the corresponding Court of First Instance for a review of said order or resolution within the terms established by law.

Section 19.012. — Regulatory Powers. — (21 L.P.R.A. § 4911)

The Commissioner shall adopt the rules and regulations needed to implement the provisions of this Chapter and for the adequate performance of the powers and duties assigned to the Office by law, no later than one hundred and twenty (120) days after the approval of this act, except when provided otherwise. The regulations of the Office, except those related to its organization and internal operations, shall be approved pursuant to Act No. 170 of August 12, 1988, as amended, known as the "Uniform Administrative Procedures Act". The procedures to perform investigations and imposing [sic] administrative fines shall be governed wherever applicable and [where] not provided [for] in this Act by regulations adopted to such effects.

Section 19.013. — Administrative Fines. — (21 L.P.R.A. § 4912)

The Commissioner may impose and collect an administrative fine which shall not exceed five thousand dollars (\$5,000), after due notice and hearing, on any municipality, or municipal official or employee who:

- (a) Refuses to establish the fiscal organization, uniform computerized accounting system, and procedures for disbursements, revenues and property approved by the Commissioner, or who, after establishing them, does not comply with them in the manner provided by this Act and in [sic] the regulations adopted by virtue of said systems.
- (b) Incurs violations of the provisions of this Act and the rules and regulations adopted by virtue thereof for the accounting of municipal income and disbursements and the custody, control, care and accounting of municipal property.

(c) Fails to comply with the requirements, standards and procedures adopted by the Commissioner for contracting external auditing services which each municipal government must contract to perform the annual audits thereof.

(d) Violates the provisions of law and the regulations governing the administration of the municipality's general operating budget.

(e) Repeatedly refuses, even after being admonished in writing of the administrative fine he will be subject to, to provide or turn over to the Commissioner any information required by him/her and which may be pertinent to any investigation or audit that he/she must undertake by virtue of this Act that is necessary or pertinent to render any report to the Governor of Puerto Rico or to the Legislature [of Puerto Rico].

(f) Violates any other standards, rules or regulations that apply to the municipality that the Commissioner is called upon to adequately enforce and administer.

The amount of the fine shall be determined according to the gravity of the violation and no amount in excess of one thousand dollars (\$1,000) shall be imposed for each violation, except in the case of repeated violations, fraud or when the commission of a prohibited act or the omission of a required act could seriously compromise the effectiveness of the administration of the provisions of the law, rule or regulations that have been violated.

[(g)] Fails or refuses to take the courses of the Compulsory Training and Continuing Education Program established in this Chapter.

Section 19.014. — Public Agencies Obligations to the Office. — (21 L.P.R.A. § 4913)

For the purposes of the provisions of subsection (q) of 19.002 of this Chapter, all public agencies that offer, provide, administer or have jurisdiction over any applicable procedures, programs, activities, services, funds or appropriations, whether related to these or those in which the municipal government could have or have the right to participate, shall remit to the Commissioner at least five (5) copies of the regulations, standards, executive orders, decisions, opinions, manuals of the procedures or services in effect under applicable local and federal laws. Public agencies shall comply with these provisions within ninety (90) days from the date on which the operations of the Office officially begin. Subsequently, and in any case in which standards, regulations and procedures are approved, amended, modified or repealed, or new requirements are established, or programs, activities, funds or services related or having and effect on, in any way, the municipalities or broadened in scope, eliminated or altered, public agencies shall send copies thereof to the Commissioner within ten (10) days of the date that said decision is made or action is taken.

In addition, and in order to achieve the purposes of this chapter, the Commissioner may request the services, facilities and personnel of any public agency, which they may render or offer. Any official or employee of a public agency who is transferred or temporarily attached to the municipal Affairs Commissioner's Office by virtue of the provisions of this section, shall retain all rights, benefits, classification and position held in the original public agency.

Section 19.015. — Operating Expenses. — (21 L.P.R.A. § 4914)

The necessary funds for the functioning and operation of the Office of the Commissioner of Municipal Affairs shall be appropriated annually in a separate item under said agency's name in

the Joint Resolution of the Regular General Operating Budget of the Commonwealth of Puerto Rico.

Chapter XX. — Regulations for Itinerant Businesses. [21 L.P.R.A. , Subtitle 6, Chapter 239]

Section 20.001. — General Purposes. — (21 L.P.R.A. § 4951 note)

This chapter sets forth the general guidelines that shall be observed by the municipalities in exercising the power conferred upon them in Subsection (i) of § 2.004 to regulate the location and operation of itinerant businesses in order to:

- (a) Guarantee that the location and operation of itinerant businesses be only authorized to take place in premises or places and hours or days which do not affect vehicular and pedestrian traffic, do not impair the rights of the neighbors to live in peace and tranquillity and enjoy public safety, nor have any harmful effects on the health, the landscape, the aesthetics and the public welfare in general.
- (b) Protect the consumer, ensuring that itinerant businesses comply with the regulations that govern the prices in force and the health, environmental and advertising display standards.
- (c) Provide certain rules and requirements to be uniformly applied to all itinerant businesses in Puerto Rico, regardless of the municipality or municipalities in which they operate.
- (d) Provide for the municipalities to be able to authorize and supervise the operation of itinerant businesses which conduct their business continuously or regularly or occasionally or temporarily in the most effective and harmonious manner regarding the public policy provided in this Chapter."

Section 20.002. — Definitions. — (21 L.P.R.A. § 4951)

For the purposes of this chapter the following words, phrases and terms shall have the meaning expressed hereinbelow:

- (a) Sidewalks. — Shall mean that portion of a public road reserved for pedestrian traffic that lies between the curb line of said road and the line of a piece of property, lot, building or adjacent or contiguous structure.
- (b) Periodic Rent. — Shall mean the regular fee or payment required by the municipality to grant an authorization to locate and operate an itinerant business in any municipal sidewalk, road or installation.
- (c) Owner. — Shall mean the natural or juridical person who is the proprietor or usufructuary of an itinerant business and in whose name the license to operate said business is issued.
- (d) Public Facility. — Shall mean any tract and parcel of land, plot, lot and residue thereof and any structure, building, establishment, school, field, center, town or neighborhood square, park, stadium, parking area, including all annexes thereto, which are the property of or in use or usufruct by the Government of the Commonwealth of Puerto Rico or any municipality.
- (e) License. — Shall mean the document issued by a municipality by virtue of the requirements of the law, ordinance and regulations, authorizing its holder to operate an itinerant business within the territorial boundaries of the municipality in question and according to the type of license issued.

- (f) Itinerant Business. — Shall mean any continuous or temporary commercial operation for the sale of goods and services at retail, lacking a fixed and permanent establishment, and operated in mobile units, on foot or by hand, or at a place which is not attached to any one place or real property, or if so, has neither permanent electric energy or water connections nor sanitary facilities.
- (g) Operator. — Shall mean any natural person who not being the owner of an itinerant business operates, administers or has control over the latter.
- (h) Route. — Shall mean the public places or roads in which an itinerant business may travel or circulate, being able to stop only to conduct a sale when solicited.
- (i) Person. — Shall mean any entity, corporation, partnership, company, enterprise, society, organization, foundation, institution, cooperative or group of persons who conduct a profit-making or non-profit operation.
- (j) Itinerant Vendor. — Shall mean any natural or juridical person who operates or exploits an itinerant business as proprietor or as employee, agent, leaseholder, concessionaire, usufructuary, or in any other manner.
- (k) Sale at Retail. — Shall mean any transaction for the purchase and sale of goods and services directly to the consumer.
- (l) Public Road. — Shall mean any highway, avenue, street, path, walkway, portico, pedestrian pathway, alley, sidewalk and similar others for public use, be they municipal or state, excluding freeways and expressways.

Section 20.003. — Regulations for Itinerant Businesses. — (21 L.P.R.A. § 4952)

The municipalities shall regulate the location and operation of itinerant businesses within their respective territorial boundaries according to the public policy of the Commonwealth of Puerto Rico. Any ordinance regulating itinerant businesses shall contain sufficient standards to protect the public interest, thus preserving the peace, tranquility and public safety and health as well as vehicular and pedestrian traffic, the safety and beauty of the public roads and places, and likewise to protect the consumer by insuring the compliance with price, health and advertising displays standards.

- (a) To that end, the municipalities are hereby authorized to issue, deny, suspend, revoke, amend or modify the licenses required in this chapter for operating any itinerant business.
- (b) Likewise, the municipalities may impose and collect fees or charges for issuing or renewing the license or authorization for operating itinerant businesses as required in this chapter, pursuant to the power conferred upon them in Subsection (d) of Section 2.002 of this Act. The municipalities may also fix and collect a periodic rent for the location and operation of an itinerant business in municipal roads, sidewalks and public facilities.
- (c) Every municipality may also provide, through ordinance, the places in which the location and operation of itinerant businesses may be authorized, subject to the planning, territorial ordinance, traffic, health and public safety laws and regulations and others applicable. However, their location and operation in public roads known as toll roads, freeways, expressways and other roads is prohibited as determined by the Secretary of the Department of Transportation and Public Works pursuant to the applicable laws of the central and the federal governments.

The Office of the Commissioner of Municipal Affairs, in coordination with the Department of Commerce, shall advise the municipalities in all matters pertaining to the drafting and adoption

of ordinances necessary to regulate the location and operation of itinerant businesses. The Department of Commerce shall provide orientation for those municipal officials and employees upon whom the responsibility of implementing the provisions of this chapter is delegated.

Section 20.004. — Conditions for Granting a License. — (21 L.P.R.A. § 4953)

The municipalities shall observe the standards indicated below for applying and implementing the provisions of this chapter:

(a) Any license for operating an itinerant business shall be granted only when the municipality determines that granting the aforesaid is convenient and necessary or proper for the public convenience, advantage and interest, and in any case with the prior endorsement or written approval of the corresponding public agencies.

(b) The municipality shall deny the license for an itinerant business when its owner or operator has been convicted of any crime related to the distribution, traffic, sale or possession of controlled substances or narcotics.

(c) Every license shall be issued for the term of one year. The license may be renewed not later than thirty (30) days prior to its expiration date, as long as the business complies with the corresponding legal and regulatory requirements.

(d) In the case of the death of the itinerant business license owner, his/her heirs or successors, according to the statement of determination of the heirs, shall substitute the decedent as holders of said license during the period remaining for its expiration. Said heirs shall have the benefit of renewing the itinerant business license if the documents previously filed for granting the original license are applicable to them and if in compliance with the requirements of the corresponding ordinance.

(e) When the itinerant business is to be operated within the property occupied by a public road or facility, the itinerant business owner must have a contract, permit or authorization signed by the chief executive official of the public agency which owns, leases or controls and administers the public road or facility in question.

Section 20.005. — Requirements for an Itinerant Business License. — (21 L.P.R.A. § 4954)

Any itinerant business must have a license authorizing its operation at the place or places indicated in said license, which must be duly issued by the municipality or municipalities within whose territorial boundaries it operates.

(a) There must be a license for every itinerant business unit being operated.

(b) The license shall be issued in the name of the owner of the itinerant business in question and it must state whether the itinerant business is to be operated by the owner or by an operator. Likewise, it must indicate the merchandise, products and goods to be sold or the services to be rendered by the itinerant business and the specific place or places in which it is authorized to operate.

(c) Every municipality shall establish, through ordinance, the term of effectiveness of the itinerant business licenses, the procedures for applying for and granting said licenses, as well as the fees to be paid for their issue and renewal, those that shall be separate from any other charges that may be imposed by the municipality to cover investigation expenses and from any rent that

the aforesaid may or must collect when the itinerant business is located on a municipal public sidewalk, road or facility.

Section 20.006. — Duties of Itinerant Business Owners. — (21 L.P.R.A. § 4955)

Every owner and operator of an itinerant business must comply with the provisions of this Chapter, the ordinances and regulations adopted pursuant to the same, as well as with any other applicable law, regulation, order or standard. Without it being construed as a limitation, he/she must:

- (a) Be up to date in the payment of the license, income and property tax and any other fee or tax levied by the Central or the Municipal Governments. The municipality shall establish the procedures needed to insure compliance with the aforesaid and in the case of taxes and fees imposed by the Central Government, it shall establish the necessary coordination to achieve those ends.
- (b) Devote the itinerant business only to the retail sale of the goods and services indicated in the corresponding license and operate the latter in the place or places and hours specifically authorized.
- (c) Be diligent in renewing the itinerant business license.
- (d) Be up to date in the payment of the periodic rent inapplicable cases.
- (e) Refrain from conveying or transferring his/her license of [sic] from leasing or subleasing the itinerant business to another person, except with an authorization in writing from the corresponding municipality. Any change, transfer, conveyance, sale, donation, lease or any other transaction that affects or alters the authorization for a license granted previously by the municipality shall be null and void.
- (f) Obtain and maintain the license, permit or authorization required by law in effect in the case of retail sales of goods and services regulated by law.
- (g) Observe strict compliance with the price schedules and any other applicable regulations of the Department of Consumer Affairs, as well as the schedules and regulations of other public agencies that may be applicable.

Section 20.007. — Operation of an Itinerant Business Without License or in Violation of the Laws and Regulations. — (21 L.P.R.A. § 4956)

The municipality may intervene with any person who operates an itinerant business without the license required in this Act, with a prior written notice in which the person is granted a reasonable amount of time to cease operations of the itinerant business in question. When the operation of an itinerant business is creating irreparable or continuous harm which affects the public welfare and order, the municipality may issue a written cease and desist order requiring the immediate discontinuation of the business operations. Said order shall caution the owner as to the penalties to which he/she may be subject should he/she persist in the operation of the business and of his/her right to request that said order be reconsidered.

Likewise, the municipalities may intervene with any itinerant business that does not comply with the provisions of this chapter and with the ordinances and regulations adopted pursuant to the latter, and impose the penalties or administrative fines that may be established through ordinance for such noncompliance or infractions. In the case of violation or infractions of the

laws and regulations under the jurisdiction of other public agencies, a notice must be immediately sent to the latter requesting that the corresponding action be taken.

It shall be the responsibility of the Municipal Guard to maintain due vigilance and intervene in the violations of the provisions of this Chapter and its ordinances and regulations within the framework of Act No. 19 of May 12, 1977, as amended, [21 L.P.R.A. §§ 1061 et seq.], known as the "Municipal Guard Act".

Section 20.008. — Contents of Municipal Ordinances. — (21 L.P.R.A. § 4957)

Every municipal ordinance regulating the location and operation of itinerant businesses shall establish the requirements and procedures for granting, denying, modifying, altering, suspending, revoking and canceling the license and must include, without it being construed as a limitation:

- (a) The public and private areas and places in which the location and operation of an itinerant business is prohibited and the standards for its operation.
- (b) The various types of licenses to be issued according to the location, operation, manner of goods and services, type of itinerant business and period of time in which it shall operate and any other so deemed.
- (c) The amount to be paid for processing and conducting an administrative investigation of the license petitions, and their renewal, if any, and the fees to be paid for issuing and renewing said licenses.
- (d) The term of effectiveness of every type of license may not exceed one year and the restrictions and limitations to which it may be subject.
- (e) The requirements that every petitioner of a license and every owner and operator of an itinerant business must meet and the standards and procedures for supervising said requirements.
- (f) The procedure for filing complaints against itinerant businesses by any person who considers himself/herself harmed by the location or operation of the aforesaid or who has knowledge that an operation is being conducted in violation of the provisions of this chapter or the applicable ordinances and regulations.
- (g) The terms and procedures for the judicial reconsideration and revision of the decisions, resolutions, determinations and orders issued by the municipality under this chapter.
- (h) The administrative fines and penal sanctions that shall be imposed for violations of the provisions of the ordinances and regulations adopted pursuant to this chapter.
- (i) The administrative unit of the municipality to be delegated with the implementation of this chapter.

Prior to the approval of any ordinance or resolution to regulate the operation and location of itinerant businesses, the Municipal Legislature shall hold public hearings that shall be announced at least ten (10) days before the date of the hearings in a newspaper of general or regional circulation distributed within the territorial boundaries of the municipality in question.

The municipality shall adopt a uniform procedure for adjudicating all matters pertaining to itinerant businesses that shall contain the guarantees granted by due process of law and be similar to Act No. 170 of August 12, 1988, as amended [3 L.P.R.A. §§ 2101 et seq.], known as the "Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico".

Section 20.009. — Obligations of the Public Agencies Concerning Itinerant Business. —
(21 L.P.R.A. § 4956)

(a) The Department of Transportation and Public Works shall issue regulations specifying the state public roads in which the location and operation of itinerant business may not be authorized. Said regulations and all subsequent amendments to the aforesaid must be remitted to every municipality, with a copy of the aforementioned to the Municipal Legislature, not later than the five (5) days following the date of their approval.

(b) Likewise, every public agency with jurisdiction over government areas and installations susceptible to the location and operation of itinerant businesses must issue rules indicating the requirements, conditions and others under which authorization may be granted for the location of itinerant businesses within their premises. These rules shall be notified to the municipalities in the manner and under the terms provided above.

Chapter XXI. — Transitory Provisions. [21 L.P.R.A. , Subtitle 6, Chapter 201 § 4001 note]

Section 21.001. — Successor Municipality. — (21 L.P.R.A. § 4001 note)

The political and legal entity denominated a municipality that is created by this Act, shall be for all purposes, the successor of the entity of the same nature and capacity created under Act No. 146 of June 18, 1980 as amended, known as 'Organic Act of Municipalities of Puerto Rico', which is hereby repealed.

Section 21.002. — Mayors and Assembly Members. — (21 L.P.R.A. § 4001 note)

The provisions of this Act shall not affect nor interrupt the elective terms of Mayors and Assembly members, who shall continue in office without further procedures or formalities until the expiration of said terms or until they leave office for any of the reasons provided in this Act.

Section 21.003. — Directors of Administrative Units. — (21 L.P.R.A. § 4001 note)

Municipal officials whose appointments have been confirmed by the Assembly on the effective date of this Act may continue in their positions without need for confirmation or any additional procedure. The appointment of municipal officials who have been performing their duties without the Mayor having submitted the corresponding appointment to the Assembly or, having submitted it, the Assembly has not acted on it on the date of approval of this Act , shall be governed by the terms and provisions of law in effect up to the date of approval of this statute

Section 21.004. — Number of Assembly Members. — (21 L.P.R.A. § 4001 note)

The provisions of Sections 4.001 and 4.003 of this Act shall not apply to Municipal Assemblies elected in the general election of 1992 for the following four-year period. The number of members of the Assemblies elected in said general election and the other provisions for certifying their election shall be governed by Sections 4.02 and 4.03 of Act No. 148 of June 18, 1980 as amended, known as 'Organic Act of the Municipalities of Puerto Rico'.

Section 21.005. — Secretaries of Assemblies and Directors of Administrative Units. — (21 L.P.R.A. § 4001 note)

The provisions of Sections 5.010, 6.002 and 6.005 shall not apply to the Secretaries of the Assembly, Directors of Finance and other municipal employees as of January 1993, who are serving as such and do not meet the academic training [required] [established in said Section]. They may be designated, ratified and continued in their position or in positions that correspond to them or are similar in functions and responsibilities until their removal from service.

Section 21.006. — Contracts, Ordinances and Regulations in Force. — (21 L.P.R.A. § 4001 note)

This Act shall not affect contracts executed prior to its approval. They shall continue in full force until their expiration and shall be governed by the provisions of law, ordinances, resolutions or regulations under which they were executed. All administrative actions and judicial claims against, or initiated by a municipality that are pending final settlement on the date of approval of this Act, shall continue in accordance with the law under which they were initiated until a firm and final decision is reached. The ordinances, resolutions and regulations in force as of the date of approval of this Act that are not incompatible with its provisions, shall continue in force until they are amended or repealed.

Section 21.007. — Permits, Licenses, Grants and Others. — (21 L.P.R.A. § 4001 note)

All applications, petitions and handling of any endorsement, consensus, license, authorization or permit for permanent closure of streets, control of vehicular access, and any others that are pending consideration and final determination before the municipality or any agency or court on the date of approval of this Act shall continue until termination or a final decision is reached under the provisions of the law, ordinance or regulation under which their petition or handling was initiated.

Section 21.008. — Leasing of Space in Public Markets. — (21 L.P.R.A. § 4001 note)

The provisions of this Act shall not interrupt the term of the lease agreement of any municipal property. Such terms shall continue and be extended for the term provided by the contract in force on the date of approval of this Act

Section 21.009. — Transfers. — (21 L.P.R.A. § 4001 note)

All property, files, documents, equipment, supplies, obligations, funds, items and anything else belonging to, or in the custody of the Municipal Services Administration is hereby transferred to the Office of the Commissioner of Municipal Affairs.

The Governor of Puerto Rico may delegate on the official or officials he wishes, and may adopt such transitory measures and make the necessary decisions so that the transfer may be made in an orderly manner, without interrupting the transferred services nor affecting or interrupting the tasks, investigations, procedures, studies, transactions, or contracts initiated prior

to the effectiveness of this Act , or which are in the process of resolution or final determination by said agency. Likewise, until the agency that will receive and administer the federal funds of the Community Development Block Grant (CDBG) program is designated, the Municipal Services Administration or the Office of the Commissioner of Municipal Affairs shall continue performing said duties.

Section 21.009. — Repeal. — (21 L.P.R.A. § 4001 note)

Act No. 146 of June 18, 1980, as amended, known as "Organic Act of Municipalities of Puerto Rico", is hereby repealed, except for Sections 4.02 and 4.03, which shall remain in effect until the 1996 general election is held.

Also repealed are Act No. 67 of June 15, 1955; the Act of March 12, 1908, as amended; Act No. 166 of May 18, 1941, as amended; Act No. 140 of May 9, 1941, as amended; Act No. 98 of June 23, 1955; Act No. 42 of August 6, 1935, as amended; Act No. 102 of May 6, 1988, as amended; Act No. 6 of May 1, 1925, as amended; Act No. 1 of January 23, 1968; Act No. 75 of June 18, 1966; Act No. 18 of August 9, 1974, as amended; Act No. 30 of April 2, 1979, as amended; and Act No. 70 of June 11, 1979.

Act No. 18 of August 9, 1974, as amended, known as "Municipal Services Administration Act", shall be repealed ninety (90) days after this statute becomes effective.

Section 20.011. — Effectiveness. — This Act shall take effect immediately after its approval.

Note. This compilation was prepared by the Puerto Rico OMB staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text. Compiled by the Office of Management and Budget Library.