“Commonwealth of Puerto Rico Teacher’s Retirement System Organic Act”

Act No. 91 of March 29, 2004, as amended

(Contains amendments incorporated by:
Act No. 272 of September 14, 2004
Act No. 94 of August 26, 2005
Act No. 163 of August 20, 2006
Act No. 38 of April 24, 2007
Act No. 148 of October 26, 2007
Act No. 11 of February 18, 2008)

(Amendments non-incorporated:
Act No. 208 of December 21, 2010
Act No. 114 of July 5, 2011
Act No. 45 of February 29, 2012)

To establish a new “Commonwealth of Puerto Rico Teacher’s Retirement System Organic Act”; to create a new organizational structure in order to grant the System agility and promptness in the processes it carries out; to ensure teachers that they shall receive the benefits corresponding to them in a reasonable time; to establish a penalty for noncompliance for lack of agility and promptness in the granting of benefits by the System in favor of the Teacher; to incorporate administrative practices; establish a provision to implement an anti-corruption policy and penalize these types of acts committed by participants and employees of the System; to repeal Act No. 218 of May 6, 1951, as amended; among other things.

STATEMENT OF MOTIVES

Approximately one hundred years ago, an initiative was made to tend to a professional class whose ministerial duty consists of educating and forming the leaders and citizens that integrate the Puerto Rican society. The responsibilities and sacrifices that must be made to form useful individuals with a high sense of commitment with our Island makes the teaching class deserving of the highest esteem, respect and consideration of all those that were one day educated by them.

By virtue of the stated above and recognizing that in spite of the efforts made in the past to offer them a better quality of life, we have fallen behind in providing them prompt services of excellence, is that this initiative to create this legislative measure arises.

In attention to the problems that affect the retired teaching class, the Legislature of the Commonwealth of Puerto Rico, through the approval of this Act, shall provide to the

Teacher’s Retirement System the mechanisms needed to direct their efforts to solidify their fiscal base, to enable it to honor the pensions that it grants and to extend the benefits for which it was created, within a tern of at least ten (10) years as of its effective date. Furthermore, the provisions set forth shall grant the System the capacity to expedite its processes in an extraordinary manner, thus ensuring the receipt of the rights and benefits corresponding to teachers in a reasonable time, as it should be in this stage in their lives in which they are to reap the fruits of their efforts.

The Teacher’s Retirement System, whose members are teachers and now also the employees of the System, is not a public corporate instrumentality of the Government of the Commonwealth of Puerto Rico. Likewise, it does not have the commercial function nor does it operate for profitable purposes. With the approval of this Act, we are not designing and agency of the Central Government to operate as a private enterprise or business, since its main purpose is to administer the annuities and pensions system of the teachers of Puerto Rico as a service organization for their members. It is the legislative intention that this agency of the Central Government operates pursuant to Act No. 45 of February 25, 1998, as amended.

Be it enacted by the Legislature of Puerto Rico:

Section 1. — Title. (18 L.P.R.A. § 391 note)

This Act shall be known and cited as “Commonwealth of Puerto Rico Teacher’s Retirement System Act.”

Section 2. — Definitions. (18 L.P.R.A. § 391)

The following words and terms, when used or referred to in this Act, shall have the meaning indicated hereinbelow unless another meaning clearly arises from the context. The tenses used in the present shall also include the future and the male gender includes the female, except in those cases in which said interpretation would be absurd. The singular number includes the plural and the plural includes the singular.

(a) Credit Classifying Agencies. — Are those recognized entities widely used in the United States to the effect of establishing the quality of the credit regarding the assets to be issued in the market.

(b) Annuity. — Shall mean the annual lifetime amount that can be acquired or purchased with a teacher’s accumulated fees plus the composed interest thereon at the time of retiring from service. Said annuity shall be calculated in accordance with the value of the annuities approved by the Teacher’s Retirement System.

(c) Risk Capital. — Shall mean the investment of capital in new enterprises or in development or of high risk, where there is a high potential of appreciation of value.

(d) Fees. — Shall mean those amounts that have been deducted or shall be deducted from a teacher’s salary to be covered into the Fund.

(e) Accumulated Fees. — Shall mean the total amount of all fees deducted from a teacher’s salary and covered into the Fund.

(f) Executive Director. — Shall mean the Executive Director of the Teacher's Retirement System of the Commonwealth of Puerto Rico.
(g) Highest Credit Scales. — Are the first four (4) categories in the classification of securities regarding credit quality.
(h) Fund. — Shall mean the Teacher's Annuities and Pensions Fund of Puerto Rico, created by the provisions of this Act.
(i) Futures. — shall mean the contracts negotiated in established markets that specify a future date of delivery or receipt of a defined sum of a tangible or intangible product of a specific nature. They shall be made in accordance with the investments guidelines for government pension plans, established by the Government Development Bank.
(j) Government. — Shall mean the Government of the Commonwealth of Puerto Rico and its institutions, all the municipalities of Puerto Rico, and those other government organizations that shall avail themselves of the provisions of this Act.
(k) Salary. — Shall mean the gross cash compensation received by the teacher or employee. When calculating the retribution, all bonuses granted in addition to the salary as well as all payment for overtime work shall be excluded.
(l) Average Salary. — Shall mean the average of the thirty-six (36) highest salaries that the participant has received. This does not apply to the calculation of pensions for disability.
(m) Money Market Instrument. — Covers short-term (a year or less) securities, such as commercial paper, certificates of deposits,
deposits at fixed terms and bank acceptances and shares in liquid mutual funds, among others.
(n) Compound Interest. — Shall mean a type of interest constituted by from two (2) to four (4) annual percentages computed in June 30 of each year, as determined by the Board of Trustees of the Commonwealth of Puerto Rico Teacher's Retirement System. However, the Board shall have the power to establish a different type of interest through regulations.
(ñ) Board of Trustees. — Shall mean the Board of Trustees of the Commonwealth of Puerto Rico Teacher's Retirement System.
(o) Teacher. — Shall mean the teachers who teach in the classrooms, the School Directors and Deputy Directors and other denominations and category of teachers that exist or can exist within the nomenclature of the Department of Education of the Commonwealth of Puerto Rico, the Secretary of the Department of Education and other officers and those other teachers, employees or officials who avail themselves of the benefits of this Act, pursuant to the provisions thereof, provided they hold a valid certificate to work as a teacher.
(p) Teacher in Active Service. — Shall mean the teacher who makes a monthly contribution to the Teacher's Retirement System. The period during which a teacher has availed himself/herself of a leave without pay or is on sabbatical shall also be considered as active service.
(q) Inactive Teacher. — Refers to that teacher that at one point made a contribution to the system and left the service without subsequently requesting the devolution of the fees.
(r) Members of the System. — Shall refer to the teachers and employees who are members of the Teacher's Retirement System, as established in subsections (a), (b), (c), (d), and (e) of Section 15 of this Act.
(s) Options. — Shall mean the right to sell or buy a fixed amount of a specific financial instrument at a fixed price for a limited period of time.

(t) Pension. — Shall mean that annual amount contributed by the Government of the Commonwealth of Puerto Rico to constitute the lifetime annual income to which teachers are entitled when retiring from service, according to the provisions of this Act.
(u) Pensioner. — Shall mean any teacher who receives a pension for years of services rendered, disability or due to his or her age, according to the provisions of this Act.
(v) Lifetime Annual Income. — Shall mean the total amount of the annuity plus the pension. The lifetime annual income shall be paid in monthly installments due.
(w) System or Retirement System. — Shall mean the Commonwealth of Puerto Rico Teacher's Retirement System and the whole of the organization created by the provisions of this Act.
(x) Forward Delivery Securities. — Shall mean negotiable contracts in interbank or brokerage markets that specify the future delivery or receipt date of a specific quantity of a tangible or intangible product of a specific nature.
(y) System Employee. — Shall mean any employee of the Teacher's Retirement System who agreed to transfer his or her accredited fees and years of service to the Retirement System of the Employees of the Government of the Commonwealth of Puerto Rico and its Instrumentalities or to any other Commonwealth of Puerto Rico retirement system to the Teacher's Retirement System. It shall also mean any other employee who joins the System after the approval of this Act.

Section 3. — Creation. (18 L.P.R.A. § 391a)

A retirement and benefits system is hereby created that shall be known as the "Teacher's Retirement System". The funds of the System shall be used and applied, as provided in this Act, for the benefit of the members of the system, their dependants and beneficiaries, for the payment of retirement and disability annuities, death annuities and benefits and other benefits.

Any change in the benefits structure of this System shall be backed by prior actuarial studies whereby the cost and source of financing have been determined.

Section 4. — Independence of the Teacher's Retirement System. (18 L.P.R.A. § 391b)

The Teacher's Retirement System created by the provisions of this Act shall be organized as an entity independent and separate from others of the Government of the Commonwealth of Puerto Rico. The Board of Trustees and the Administration of this System shall not be subject to the provisions of Act No. 164 of July 23, 1974, better known as the "General Services Administration Act."

Section 5. — Human Resources Administration. (18 L.P.R.A. § 391c)

The Teacher's Retirement System shall be an agency of the Central Government excluded from the provisions of Act No. 5 of October 14, 1975, as amended, known as the "Puerto Rico Public Service Personnel Act" and from all regulations promulgated by virtue thereof, except for those areas that are essential to the merits principle, as defined in said Act. Said areas shall be incorporated into the regulations adopted in their by-laws to be most energetically implemented. Furthermore, the provisions of Act No. 45 of February 25, 1988, as amended, better known as the "Puerto Rico Public Service Labor Relations Act", shall apply to the System.

The above notwithstanding, within the ninety (90) days following the approval of this Act, the System shall approve regulations to govern its personnel system to be based on the merit principle.

All personnel rendering services for the Teacher's Retirement Board shall be transferred to the System by the date of effectiveness of this Act. The employees of the Teacher's Retirement System shall be members of the System. Regarding the personnel transferred from the Teacher's Retirement Board to the System, the fees accrued, to wit, the employer and the individual contributions, plus the interest accrued, as well as the years of service of said personnel accredited by the Retirement System of the Employees of the Government of the Commonwealth of Puerto Rico and its Instrumentalities or any other Commonwealth of Puerto Rico retirement system, shall be transferred to the Teacher's Retirement System. The personnel thus transferred shall retain their vested rights when transferred, as well as the rights, privileges, obligations and status regarding any existing pension, retirement or savings and loan funds system or systems to which they have been affiliated, with the exception of the provisions of all other subsections of this Act.

Ten (10) days after the date of effectiveness of this Act, the Teacher's Retirement System shall establish a mechanism through which to allow the employees of the System to determine whether they wish to be transferred from the Retirement System of the Employees of the Government of the Commonwealth of Puerto Rico and its Instrumentalities to the Teacher's Retirement System. Said employees shall have ninety (90) days as of the date they are notified to reject their having their fees and years of service transferred to the Teacher's Retirement System.

Those teachers under the Reform 2000 established by Act No. 305 of September 24, 1999, who wish to transfer from the Central Retirement System to the Teacher's Retirement Board, must pay the employer's contribution as of the date on which they joined under Reform 2000. They shall furthermore defray the difference in the percentage of the individual contribution of 8.275 to 9% as required by the Board. They shall likewise have their time worked under Reform 2000 acknowledged.

All employees under Act No. 1 of February 16, 1990 must pay the difference in the percentages of individual contribution and in their case the Teacher's Retirement Board promises to pay the difference of the employer's contribution. The difference in the percentages of individual contribution must be paid under Act 447 of May 15, 1951, as amended, and it shall be established that those employees under the coordinated plan must pay the difference in the individual contribution.

The Teacher's Retirement Board shall establish a payment plan for any debt that may arise with the System according to the provisions of Section 5 of this Act. Employees shall have up to 84 months to pay the totality of the amount agreed upon and the compound interest that shall prevail shall be of 3%, which shall be computed from the date the transfer of the contributions is accepted.

All employees shall have their time worked acknowledged. Should differences arise surpluses shall not be returned under any circumstances, it being understood that the Teacher's Retirement Board must invest several million dollars to grant that benefit.

Any employee who separates him or herself from service in the Teacher's Retirement System to enter into service with another employer who maintains a retirement plant with the Government of the Commonwealth of Puerto Rico shall become an active member of the corresponding retirement system under its existing conditions and requirements.

All provisions of the Personnel Regulations and the Collective Bargaining Agreement in effect in the Teacher's Retirement Board upon approval of this Act shall continue in effect until a new collective bargaining agreement is signed.

Section 6. — Powers and Faculties of the Board of Trustees. (18 L.P.R.A. § 391d)

In order to carry out the duties provided in this Act, the System shall have the following powers and faculties:

(a) Sue and be sued.

(b) Draft, approve, adopt, amend and repeal rules and regulations for the due enforcement of the provisions of this Act, which once approved and promulgated by the Board of Trustees shall have the force law.

(c) Prepare and approve an expense budget for its government and administration.

(d) Conduct investigations concerning all matters incumbent to it; demand the appearance of witnesses by a summons to that effect which may be transacted through the Office of the Superintendent of the Puerto Rico Police and to take the oath of said witnesses.

(e) Adopt an official seal.

(f) Establish the Board of Trustees with the authority to establish the administrative organization of the System.

(g) Request and obtain from the Office of the Government of the Commonwealth of Puerto Rico those reports believed convenient in relation to the good administration of the System and keep the proper accounting books to determine its condition.

(h) Pay the lifetime annual income to the pensioned teachers of the System, return the fees in those cases considered under the provisions of this Act, pay the salaries of its employees and all expenses legally incurred.

(i) In the case of benefits financed with appropriations from the General Expenses Budget of the Commonwealth of Puerto Rico, the Secretary of the Treasury shall transfer the sums appropriated by the Legislature to the Teacher's Retirement System.

(j) Invest the funds in the manner indicated in the provisions of this Act. To carry out this function, the System shall contract the necessary specialized professional services including consulting and investment broker services. It shall furthermore designate one or more banks as securities custodian with the approval of the Board of Trustees.

(k) The Board of Trustees shall adopt the policy for the administration of the investments authorized by the provisions of this Act. The investment policy shall include, without it being understood as a limitation, the following:

(1) The criteria, requirements and conditions for selecting, contracting and evaluating the performance of the fund administrators and custodian banks that must be contracted to effect the investments authorized by the provisions of this Act.

(2) The policy for investing the resources of the System in capital markets.

(3) The standards for administering, leasing, selling, encumbering or executing real property acquired to generate revenues.

(l) Order actuarial investigations to determine the economic solvency of the Fund, adopt the standards needed to guarantee the payment of the pensions granted and approve the proper mortality schedules for the actuarial valorization of all life annuities and other benefits granted by the provisions of this Act. To carry out this task, the System is hereby authorized to contract and pay for the services of the necessary technical personnel.
(m) Sell, assign or transfer the amount of the mortgage credits held by the System. The interest accrued by said mortgages shall be exempt from the payment of income tax to the Commonwealth of Puerto Rico, in the hands of any subsequent holder of the same.
(n) Delegate on the Executive Director or his or her authorized representative the approval of loans authorized by the provisions of this Act, pursuant to the regulations approved by the Board of Trustees by virtue of its inherent powers granted by this Act.
(o) Establish through regulations one or more insurance plans in relation to loans of any nature that the System may grant to its teachers or participants. The System may act as insurer for any of said plans. To this end the System is hereby empowered to authorize that the funds needed to establish the special reserve funds for each of said insurance plans be taken from the general fund of the System with the approval of the Board of Trustees.

The sums thus taken shall be returned to the general fund of the System as the special funds thus created accrue the needed reserves from the revenues proceeding from the premiums and surcharges collected. The Board of Trustees shall order an annual actuarial and risk study that would provide the basis for determining the total amount of the premium the insurers are to be charged in relation to each of said plans. Should any insurance plan were to be discontinued after having been in operation, the sums remaining in the special fund corresponding to the discontinued plan shall be covered into the general fund of the System after the obligations corresponding to said plan have been paid.

Section 7. — Constitution of the Board of Trustees. (18 L.P.R.A. § 391e)

The powers and faculties of the Retirement System and the responsibility for its general administration and proper operation shall fall on the Board of Trustees hereby created, known as the "Board of Trustees of the Puerto Rico Teacher's Retirement System", which shall be constituted by nine (9) members of which the following three (3) shall be Ex-Officio members:

(a) The Secretary of the Treasury of Puerto Rico or his or her representative, who shall be its Chairperson;

(b) The Secretary of Education of Puerto Rico or his or her representative;

(c) The President of the Government Development Bank or his or her representative.

Of the six (6) remaining members, one (1), or his or her representative, shall be the Chairperson of a teacher's organization, or his or her representative designated by the Governor of the Commonwealth of Puerto Rico, with the advice and consent of the Senate, for a term of four (4) years; three (3) teachers of the System, one (1) of which shall represent currently certified teachers in active service, and two (2) that shall represent retired teachers who upon retirement were duly certified. These shall be appointed by the Governor of the Commonwealth of Puerto Rico, with the advice and consent of the Senate, for a term of four (4) years and shall hold office until the successors are appointed and take office. One (1) of the members, or his or her representative, shall be Chairperson of the entity that represents the proper unit under Act No. 45 of February 25, 1998, as amended. The Chairperson of the teacher's organization and the representatives of the active and retired teachers, who at the time this Act is approved hold said positions in the Teacher's Retirement Board, shall continue to occupy said positions until their terms expire. There shall furthermore be one (1) additional member, as representative of the public interest, with knowledge of and experience in the administration and operation of financial systems, appointed by the Governor of Puerto Rico with the advice and consent of the Senate, for an original term of four (4) years. As said initial terms expire, the Governor of the Commonwealth of Puerto Rico shall appoint their successors for a term of four (4) years. Should a vacancy arise, in case of resignation, death or dismissal, the person selected to substitute the resigning, deceased or dismissed member shall occupy the position for the period of time remaining to the original incumbent.

Once sworn in, those trustees (or their representatives) upon which the responsibility of being Chairperson of any teacher's organization falls, shall not have the authority to represent their respective organizations, but shall act with full powers and responsibilities as trustees of the Teacher's Retirement System.

Section 8. — Organization, sessions; offices. (18 L.P.R.A. § 391f)

Once the Board of Trustees has been appointed and constituted, the Chairperson shall immediately summons in writing all members of said Board in order to hold an inaugural session. The Secretary of the Treasury shall act as Chairperson of the Board of Trustees. The Vice-Chairperson and Treasurer of the Board of Trustees shall be elected by the majority vote of its members. The Board of Trustees may appoint one Secretary in charge of the minutes as administrative officer under the supervision of the Executive Director, with the duties and obligations adopted in the regulations of the Board of Trustees that are consonant with this Act, for the proper operation of the Board and as support for the Executive Director. All matters the Board of Trustees may deem pertinent for its best administration and operation may be considered during this session. The Board of Trustees shall hold at least one (1) monthly regular session and special sessions when the needs of the service so warrant, through a summons to be delivered by the Chairperson of the Board of Trustees to all other of its members or at the request of a majority of the members of said Board.

Section 9. — Teacher per diems and expenses. (18 L.P.R.A. § 391g)

The members of the Board of Trustees shall receive no compensation whatsoever for their services but shall be entitled to a fixed per diem for an amount to be adopted through regulations. This right shall be granted for each day they conduct any business at the request of the Board or its Chairperson related to the duties imposed upon them by this Act. This provision shall not apply to the ex-officio members of the Board of Trustees of the System.

Section 10. — Quorum; resolutions by majority vote. (18 L.P.R.A. § 391h)

Five (5) members of the Board of Trustees shall constitute quorum so as to resolve any matter under their consideration and all resolutions adopted by the same shall be approved by the majority vote of those present.

Section 11. — Regulations of the Board of Trustees. (18 L.P.R.A. § 391i)

The Board of Trustees shall establish through regulations those provisions needed for its operation, including the powers and duties of its members.

Section 12. — Appointment of the Executive Director. [18 L.P.R.A. § 391j(a)]

The Board of Trustees shall appoint and fix the salary of an Executive Director of the System who shall execute the provisions of this Act.

Section 13. — Powers and duties of the Executive Director. [18 L.P.R.A. § 391j(b)]

The Executive Director shall be the chief executive officer of the System who shall have, without it being construed as a limitation, the following powers and duties:
(a) direct and supervise all technical and administrative activities of the System, consonant with the regulatory provisions in effect or with those to be subsequently adopted by the Board.
(b) be responsible for the proper operation of the System.
(c) adopt the regulations needed for the establishment of a personnel system for the Administration and the Board of Trustees of the System pursuant to the provisions of this Act, as approved by the Board of Trustees.
(d) be able to recruit, dismiss or remove employees, and contract professional and consulting services.
(e) ensure that the provisions of this Act are enforced.
(f) certify the necessary payments to be made according to the provisions of this Act.
(g) execute those other functions entrusted or delegated to him or her by the Board of Trustees.

Section 14. — Transfer of the Annuities and Pension Fund. (18 L.P.R.A. § 391 note)

The "Puerto Rico Teacher's Annuities and Pension Fund", created by virtue of Act No. 218 of May 6, 1951, as amended, is hereby transferred as follows:
(a) With the funds and assets of the Puerto Rico Teacher's Annuities and Pension Fund by the date of effectiveness of this Act.
(b) With the fees from the nine (9) percent withheld from the salaries of the teachers members of the System.
(c) With an amount equal to eight and half percent (8.5%) of the total monthly salary payroll paid by the Commonwealth of Puerto Rico to all teachers who avail themselves of the benefits of this Act. This amount shall be payable to the Fund by the Commonwealth of Puerto Rico at the same time the salaries of the teachers of the System are paid, chargeable to the appropriations made by the Legislature of Puerto Rico to cover this item.
(d) With the annual amount to be appropriated by the Legislature of Puerto Rico to cover the deficiencies arising in the Fund of the System by recognizing the years of service rendered by the teachers prior to the approval of the provisions of this Act, disability, retirement

because of age and minimum annuity, a sum to be determined by the actuaries designated by the Retirement System and covered into the Fund according to the provisions of this Act. The Teacher's Retirement System shall annually remit to the Office of Management and Budget the estimates of the amounts determined by the actuaries.
(e) With the contributions made by private institutions according to the terms established in this Act.
(f) With all donations and legacies made to this Fund.
(g) With the interest, dividends, revenues and net profits produced by said funds.
(h) With the appropriations covered into the General Expenses Budget of the Commonwealth of Puerto Rico to finance increases in the benefits and the special laws.
(i) With the individual and employer contributions of the employees who are members of the Teacher's Retirement System.

Section 15. — Members of the System. (18 L.P.R.A. § 391k)

The following persons shall be members of the System created by Sections 1 to 64 of this Act and be subject to all applicable provisions of the same:
(a) All teachers in active service and those who hold positions in the Teacher's Retirement System.
(b) All pensioned teachers.
(c) All teachers who have availed themselves of the benefits of the provisions of this Act who go on to hold positions of an administrative nature in the Department of Education or in any Office of the School Director attached to a Municipality or to any public education institution of the Commonwealth of Puerto Rico with the exception of the University of Puerto Rico, provided they provide evidence of their intention of continuing to abide by the provisions of this Act by means of a letter addressed to the Puerto Rico Teacher's Retirement System.
(d) The teachers who work for the Puerto Rico Teacher's Association, the Puerto Rico Teacher's Credit Union, the Puerto Rico Teacher's Federation and any other teacher or service organizations duly recognized by law; all teachers who practice in private institutions recognized by the Department of Education and the members of the Legislature of the Commonwealth of Puerto Rico, provided they hold a valid certification to practice as teachers.
(e) All employees, members of the Teacher's Retirement System.

Section 16. — Teacher and Fund employee fees. (18 L.P.R.A. § 391*l*)

As of the date of approval of this Act all teachers and employees of the System shall make a contribution of nine (9) percent of their monthly total salary earned to the Fund.

The fees contributed to the Fund by the teachers and employees, as well as the employer's contribution shall be evaluated by means of the corresponding actuarial study as deemed necessary by the System. Said evaluation shall never exceed a period of more than five (5) years.

Section 17. — Salary deductions. (18 L.P.R.A. § 391m)

The Secretary of Education or the pertinent nominating authority or any other person in charge of preparing teacher or System employee salary payrolls shall withhold the corresponding fees to be contributed by the teachers or the System employees and order said fees to be covered into the Retirement System Fund. The Secretary of the Treasury of the Commonwealth of Puerto Rico is hereby authorized to transfer the total of said fees to the Fund.

Section 18. — Accounts of the fees; property of the teachers. (18 L.P.R.A. § 391n)

The Teacher's Retirement System shall maintain an individual account for each teacher or System employee so as to credit them with the total amount of all fees contributed to the Fund as to the date of effectiveness of this Act, as well as the future fees contributed, according to the provisions of this Act. Said fees shall be the exclusive property of the teacher or System employee and shall not be subject to any type of tax nor to embargo or transfer, but according to the provisions of this Act, except for the provisions of Section 54.

Section 19. — Devolution of fees plus interest. (18 L.P.R.A. § 391o)

Teachers or System employees who stops practicing shall be entitled to have the total amount of the fees they contributed to the Fund returned, plus the compound interest for up to six (6) months after the date of separation from service, less any debt owed to the Fund. The System may collect any debt contracted with the Fund from the accrued fees.

Whenever teachers or employees who have been given back their fees return to service, they may request to have the prior years of service accredited, but only after paying to the Fund the total amount of the fees that were returned plus their applicable interest in the form and manner provided by the System. Said teachers must have been working for at least a year prior to making such a request for accreditation.

Section 20. — Applications by teachers who hold office in the Government; reciprocity. (18 L.P.R.A. § 391p)

(a) Teachers of any category who hold office or occupy administrative positions in the Department of Education, or in any Office of the School Director Attached to a Municipality or in any charitable learning institution for boys or girls, have all the rights and duties that by the provisions of this Act are granted to the teachers, this condition being indispensable for enjoying those rights and that, in such cases the Secretary of the Treasury, at the request of said teachers, orders the monthly withholding of nine percent (9%) of their salaries for the Retirement Fund. Any of the aforementioned teachers who chooses to belong to the Teacher's Retirement System and who has accrued funds in the Retirement System of the Employees of the Government of the Commonwealth of Puerto Rico and its Instrumentalities may request the transfer of said funds to the Teacher's Retirement System and the years corresponding to said transferred funds shall be taken into account when computing the lifetime annual income.

(b) Teachers of any category who work as teachers in any state or territory of the United States that has a reciprocity clause with Puerto Rico may request that the Teacher’s Retirement System transfer their fees in the Fund to the pension fund of the corresponding state or territory, accompanied by a certification accrediting the number of years of services rendered.

Section 21. — Teachers who do not work in public schools. (18 L.P.R.A. § 391q)

(a) The time served by all teachers in the Puerto Rico Teacher’s Association, the Puerto Rico Teacher’s Credit Union, the Puerto Rico Teacher’s Federation and any other teacher or service organizations duly recognized by law; or in the private schools of the Commonwealth of Puerto Rico whose study plan has been approved by the Department of Education and/or the Puerto Rico General Council on Education and that are subject to inspection by said Department or Council, shall be computed for the purposes of the provisions of this Act, as if said services had been rendered in public schools, provided that said teachers file a petition in writing to that effect with the Retirement System and provided they contributed to the Fund the fees established in Section 16 of this Act. The institutions to which said teachers belong must contribute a sum equal to the current fees set by the Government, and the Retirement Fund shall establish the regulations deemed necessary for collecting said fees, it being understood that said deduction shall never be less than the one a teacher in the same category working in a public school must pay according to the basic salary fixed by law and the fees paid by the teacher as well as by the private school, the Puerto Rico Teacher’s Association, the Puerto Rico Teacher’s Credit Union, or the Puerto Rico Teacher’s Federation and any other teacher or service organizations duly recognized by law shall be for the time worked during the year. Those private schools or institutions where said teachers work shall commit themselves in writing to accept and comply with all provisions of Sections 1 to 63 of this Act, with respect to these teachers.

(b) The time served by all teachers in the Puerto Rico Teacher’s Association, the Puerto Rico Teacher’s Credit Union, the Puerto Rico Teacher’s Federation and any other teacher organizations duly recognized by law; or in the private schools of the Commonwealth of Puerto Rico whose study plan has been approved by the Department of Education and/or the Puerto Rico General Council on Education and that are subject to inspection by said Department, shall be computed for the purposes of the provisions of this Act, as if said services had been rendered in public schools, provided that said teachers file a petition in writing to that effect with the Retirement System and provided they pay into the Fund the fees established in Section 16 of this Act, corresponding to the accredited years of service and furthermore contribute for the services to be credited with a sum equal to the current contribution of the Government. These fees shall never be less than the one a teacher in the same category working in the public schools of Puerto Rico would have had to pay during that time. To be entitled to this recognition, teachers must be teaching in the public schools of Puerto Rico or in recognized private schools or working for the Puerto Rico Teacher’s Association, the Puerto Rico Teacher’s Credit Union, the Puerto Rico Teacher’s Federation or any other teacher or service organizations duly recognized by law or practicing as teachers in any other department or agency of the Government of the Commonwealth of Puerto Rico.

(c) The time served by all teachers or employees of the System in any agency, instrumentality or public corporation of the Government of the Commonwealth of Puerto Rico, municipality, municipal consortium, the Commonwealth Vocational, Technical and High Skills Education Board or in any agency of the Government of the United States located in Puerto Rico, for a period during which no deduction whatsoever was made for the Teacher’s Annuities and Pensions System, nor for the any other retirement system, shall be computed for the purposes of the provisions of this Act, as if said services had been rendered in public schools, provided said teachers or System employees file a petition in writing to that effect with the Teacher’s Retirement System and provided they comply with the following requirements:

(1) Be members of the System created by the provisions of this Act and in active service at the date the petition is made.

(2) Present a certification from the entity in which they rendered services accrediting the time worked at that entity, the position held and the monthly salary earned.

(3) Pay into the Teacher’s Retirement Fund the fees they would have had to pay on the basis of the salaries earned during the time covered by the certification and the type demanded by the laws in effect when they rendered their services. They shall also have the obligation to pay the fees the Government of the Commonwealth of Puerto Rico would have had to pay.

(d) The time served by all teachers in the armed forces of the United States or the Puerto Rico National Guard after having

been discharged from said armed forces and after returning to teaching in the public schools of Puerto Rico shall be taken into account, for the purposes of their retirement, provided that said teachers file a petition in writing to that effect with the Retirement System and provided they pay into the Teacher’s Retirement Fund the fees corresponding to all that time on the basis of the same salary earned as teacher after leaving the school system in order to serve in the armed forces.

(e) The time served by all teachers in the public schools of a state or territory of the United States shall be computed for the purposes of the provisions of this Act, provided said territory or state has a reciprocity clause with Puerto Rico and provided the fees corresponding to the years that should be accredited are paid into the Fund; provided that said sum shall never be less than the sum that would have been paid by a teacher of equal category during said period plus the fees from the Commonwealth of Puerto Rico; Provided, furthermore, that when there is no such reciprocity clause said time may be computed provided the teacher pays into the Fund the employer and individual contributions based on the salary earned, plus the interest the System may determine so as to allow the Fund to credit said years of service without detriment to the economic solvency of the Fund.

(f) The time served by all teachers as school directors in any municipality of Puerto Rico shall be computed for the purposes of the provisions of this Act, as if the services had been rendered in the schools, provided that said teachers file a petition in writing to that effect to the Teacher’s Retirement System within six (6) months of the approval of this Act and provided that said teachers pay into the Fund the fees they would have had to pay for all that time on the basis of the salary earned during their tenure as school directors.

(g) The time served by all teachers performing teaching or administrative work related to the teaching profession outside of Puerto Rico through a license granted for such a purpose by the Puerto Rico Department of Education, shall be computed for the purposes of the provisions of this Act, as if the services had been rendered in the public schools of Puerto Rico, provided that said teachers file a petition in writing to that effect with the Teacher's Retirement System if they return to render services at the Department of Education and provided that said teachers pay into the Fund the fees established in Section 16 of this Act on the basis of the last salary earned as teachers after leaving, a fee equal to the percentage corresponding to that of the Commonwealth of Puerto Rico on the basis of that same salary, plus the annual compound interest at four percent (4%) from the date on which said teachers returned to service to the date on which they request accreditation.

(h) The time served by all teachers after 1960, at a day care center for children under the Head Start program where no fees are paid for the care and services rendered and operated by any church or non profit entity or private corporation, shall be computed, for the purposes of the provisions of this Act, as if the services had been rendered in the public schools, provided said teachers pay the individual fees on the basis of the salary earned plus the corresponding employer's contribution. In order to acknowledge the time worked by each of these teachers, they must be active participants in the Teacher's Retirement System at the time they request such an acknowledgement.

Section 22. — Credit for services rendered for the Government of the Commonwealth of Puerto Rico. (18 L.P.R.A. § 391r)

All teachers or members of the System who rendered prior services for the Government of the Commonwealth of Puerto Rico, its instrumentalities, dependencies, agencies or any other government body, whose services were not credited by certain of the Retirement Systems in effect in Puerto Rico for public service employees, for being unable to contribute to said systems because of their job classification, may obtain credit for said services by contributing to the Teacher's Retirement System.

Said services may have been rendered for the Government of Puerto Rico, its agencies, instrumentalities or any other government body in regular, transitory, emergency, irregular or substitute positions or within any other classification.

In order to obtain credit for the aforementioned services, the teachers or System employees who claim said credit must make the corresponding payments, determined on the basis of the salary earned during the period that was not covered and on the basis of the type of individual and employer contribution in effect by the date on which said services were rendered plus the interest to be adjudicated.

These uncovered services may be paid in a single payment or through monthly deductions or partial payments not to exceed sixty (60) installments, while the employee is in active service.

In those cases covered under Sections 21 and 22 of this Act, the employer's contribution may be paid, indistinctly, by the applicant or the former employer. In the case of the employer, payment of the contribution is voluntary.

The credit for years of service shall be granted when the debt has been totally settled. Should the participant leave service without having settled the debt in its totality, he or she may withdraw the amount contributed on that account, or at the request of the participating teacher, obtain credit for the years of service corresponding to the amount paid up to the effective date of separation from service.

Section 23. — Payment of interest. (18 L.P.R.A. § 391s)

The Board of Trustees shall evaluate the actuarial effect the services that may be accredited shall have on the fund and determine the percentage of the interest to be collected for those services that may be accredited.

Section 24. — Contribution of the Teachers upon Return to Active Service. (18 L.P.R.A. § 391t)

The Retirement System shall grant retirement for years of services rendered to all teachers who so request in writing after having served for a period of twenty-five (25) years and having reached the age of fifty (50). If the teacher has ceased working as such and subsequently returns to render teaching or administrative services and solicits retirement according to the preceding provisions of this Section, retirement shall be granted after having contributed to the System for at least a year or more as of the date of reinstatement; Provided, that this last requirement shall not apply in those cases indicated in subsection (d) of Section 15 of this Act. Reinstated teachers who continue to hold a position covered under the System may acquire standing as participant and obtain credit for former unaccredited services rendered before and after reinstatement through the payment of the corresponding contributions. Said teachers may also, if they so desire, request that any services to which they are entitled that may be accredited be acknowledged. The pensioner reinstated into the service may choose to:

(a) While in active service as a teacher, return all payments received from the System on account of the lifetime annual income, in which case, at his or her definitive separation from service, his or her lifetime annual income shall be newly computed on the basis of all services rendered before and after reinstatement in the manner provided in Sections 1 to 64 of this Act regarding retirement annuities, or

(b) not return the already made payments on account of the lifetime annual income, in which case, at his or her definitive separation from service, payment of the suspended pension shall be renewed and, in addition, a supplementary annuity shall be paid on the basis of services rendered and the average annual salary earned after reinstatement to the service. The supplementary annuity shall be computed according to the formula provided in Sections 1 to 63 of this Act regarding retirement annuities; in case the period of the services rendered after reinstatement is less than five (5) years, the average salary resulting from the whole aforementioned period of former services rendered shall be used.

Section 25. — Minimum annual lifetime income. [18 L.P.R.A. § 391u(a)]

The minimum annual lifetime income for all teachers who retire from service shall be four hundred (400) dollars per month.

Effective the 1st of July 2007, the minimum pension to be received by the participants who retire according to the provisions of Act No. 91, supra, or from any of the pension plans the latter supersedes, shall be raised to four hundred (400) dollars per month. Every pensioner shall have his/her pension increased in an amount equal to the difference between the pension he/she receives and the proposed pension of four hundred (400) dollars that goes into effect. The funds needed to cover the cost which the increase in the pensions of the teachers entails shall proceed from appropriations from the General Fund for the pensioned teachers.

Section 26. — Suspension of payment of the annual income or pension when the pensioner is again employed. [18 L.P.R.A. § 391u(b)]

Payment of the annual lifetime income or pension received by any teacher who retires from the service for years of services rendered or because of his or her age shall be immediately suspended as soon as said teacher begins holding a compensated position in the Government of the Commonwealth of Puerto Rico.

No amount shall be withheld from the salary of said teachers as a contribution to the Fund. Full payment of said annual lifetime income or pension shall be continued the day after said teacher has ceased working for the Government of the Commonwealth of Puerto Rico.

Section 27. — Computation of years of service. (18 L.P.R.A. § 391v)

The basis for computing the years of service to which a teacher is entitled shall be the date of the first original appointment for rendering services. All periods involving separation from service and leave without pay shall be excluded from said computation and shall not be taken into account for the purposes of retirement, except for those periods involving leave with or without pay and scholarship grants, provided said leaves and scholarship grants are used for professional improvement. In the case of leave with pay and for scholarship grants, a deduction of nine (9) percent of the salary or scholarship grant shall be made to the retirement payroll and in the case of leave without pay, teachers shall be bound to contribute to the Fund a sum equal to the sum they would contribute if in service and provide evidence that they have successfully taken at least twelve (12) university credit hours at a recognized university for each year of leave. In the case of teachers about whom the Department of Education has no documentation providing evidence of their having been granted leave, and as long as the Teacher’s Retirement Fund has evidence indicating that said teachers were in service before and after enjoying said leave, it shall be sufficient for the teachers to submit official evidence from the university where they studied vouching for the fact that they improved professionally in the field of education.

Section 28. — Retirement because of age. (18 L.P.R.A. § 391w)

The Retirement System shall grant retirement because of age at the request of teachers in active service who reach the age of sixty (60), provided they have completed ten (10) years of services that may be accredited.

Section 29. — Computation of lifetime annual income for disability. (18 L.P.R.A. § 391x)

The teacher who has retired from service for disability shall be entitled to receive a lifetime annual income for an amount equal to:
(a) One point eight (1.8) percent of the highest average salary of five (5) consecutive years, or the number of years of service if less than five (5) years, multiplied by the number of years of services rendered. This lifetime annual income shall never be less than the minimum established by law.

Section 30. — Lifetime annual income shall be personal; assignment or embargo; prohibitions. (18 L.P.R.A. § 391y)

Entitlement to a lifetime annual income is personal and its assignment or transfer shall be null and void. The lifetime annual income shall not respond for debts contracted by the retired teachers, except those contracted with the System and may not be embargoed or affected by any judicial proceeding, except according to the provisions of Section 54 of this Act.

Section 31. — Retirement for disability. (18 L.P.R.A. § 391z)

All teachers disabled while in the course and as a consequence of their work or after having served for five (5) years, even if the disability is not related to their work, shall be granted retirement for disability by the System. Retirement from service for disability may be granted at the request of the teacher or of the nominating authority and with the approval of the Teacher's Retirement System. The teacher shall be examined by a physician duly authorized to practice the profession, designated by the Teacher's Retirement System. Said physician shall submit a report to the Executive Director on the matter in question.

Section 32. — Suspension of lifetime annual income for disability; examinations. (18 L.P.R.A. § 392)

The System teachers retired for disability shall stop receiving the lifetime annual income as soon as said disability disappears or after they return to government service. The lifetime annual income shall cease for those who devote themselves to nongovernmental occupations for which they are compensated in an amount of over one thousand (1,000) dollars per month.

The System teachers retired for disability according to the provisions of this Act or any other prior pension law shall be periodically examined by a physician appointed by the System. Should said disability disappear, payment of the lifetime annual income shall continue for a period of six (6) months from the date of the medical examination that indicates that the disability has disappeared. When a teacher retired for disability refuses to be subjected to the corresponding medical examination ordered by the System after being required to do so on three (3) different occasions at intervals of not more than one month, it shall be deemed that said teacher forfeits his or her lifetime annual income and payment of the same shall cease at the end of the month corresponding to the last requirement.

Section 33. — Distribution of fees at the death of a teacher inactive in the System. [18 L.P.R.A. § 392(a)]

When a teacher inactive in the System dies, his or her accrued fees plus the compound interest on these shall be returned after deducting those debts contracted with the Fund. The compound interest shall never be less than two (2) percent. The amount returned shall be paid to the beneficiaries designated by the deceased before the Teacher's Retirement System in his or her will or in its defect to his or her legal heirs.

Section 34. — Distribution of fees upon a death. [18 L.P.R.A. § 392(b)]

When a teacher dies while in active service his or her beneficiaries shall receive, in addition to the individual fees and interest, a sum equal to the salary of one year corresponding to the position he or she held when he or she passed away.

Section 35. — Payments after the death of a teacher. [18 L.P.R.A. § 392a]

Upon the death of a retired teacher, his or her lifetime annual income shall be paid in full for the month when the death occurred to be enjoyed by his or her beneficiaries. The lifetime annual income shall no longer be paid from the biweekly payment period following the time of death of the retired teacher but his or her beneficiaries or forced or legal heirs shall receive the balance of the fees provided there are no outstanding pension fees to be paid as beneficiaries after deducting the annuities paid, and in no case shall they receive less than one thousand (1,000) dollars in a single payment to defray the cost of the funeral expenses of the pensioned teacher. When the teacher is survived by children enrolled in a regular public or private school or college program and the laws concerning the studies of disabled children or minors under six (6) years of age do not apply, these shall continue to receive half the lifetime annual income distributed among said children in equal parts. Said payments shall cease as these children reach the age of twenty-two (22). Should there be disabled children, these shall continue receiving, while disabled, the portion corresponding to the first distribution. The payments made to those who reach that age shall increase the payment of the remaining children. All provisions concerning their studies shall apply to those children who are not disabled when they reach the age of six (6). The petition for an annuity for those minor children shall be filed by the surviving father or mother who is able to prove patria potestas, a guardian legally appointed by a court of justice or an administrative tutor appointed by the Agency and payment of the minors' annuity shall be made to the surviving father or mother or to the tutor. When the teacher is survived by a widow or widower, they shall receive half of said lifetime annual income and this provision shall be retroactive to cover those widows or widowers who do not receive this benefit. The widow or widower of those teachers who retired under laws approved prior to 1951 shall be covered by this benefit which shall be computed on the basis of the pension they received at the time of their death.

Section 36. — Penalties. [18 L.P.R.A. § 392b]

Those persons who unduly collect checks issued to active or pensioned teachers, or who knowingly make any false statements or falsifies or allows the falsification of any register or document of this System with the intention or defrauding the same, shall be guilty of a misdemeanor and if convicted shall be punished with a fine of five hundred (500) dollars or in its defect, with a term of imprisonment of not more than two (2) years, or with both penalties at the discretion of the court.

The System shall be entitled to recover any payments erroneously or unduly made before or after the effectiveness of this Act. The System shall determine the manner and conditions under which the amounts thus paid shall be recovered.

Section 37. — Exemption of the Employee's Association. [18 L.P.R.A. § 392c(a)]

The teachers of the System who avail themselves of the benefits of Section 1 to 64 of this Act shall be exempted from complying with all the provisions of Act No. 52 of July 11, 1921, as subsequently amended, provided they so indicate in writing to the Employee's Association within the sixty (60) days after the provisions of this Act are in effect or after having joined the System. Those teachers who continue working under Act No. 52 must comply with all the provisions set forth in that Act.

Section 38. — Withdrawal of funds from the Association. [18 L.P.R.A. § 392c(b)]

The teachers who choose not to avail themselves of the provisions of Act No. 52 of July 11, 1921, may only withdraw their funds from said Association in the manner provided in said Act.

Section 39. — Effectiveness of the Pension. (18 L.P.R.A. § 392d)

The date of effectiveness of the retirement annuity for those teachers or employees entitled to receive the same shall be the day following the date of their separation from service or the subsequent date specified by them in the application for retirement, but in no case before separation from service, except when the provisions of this Act otherwise provide.

Section 40. — Lifetime annual income upon retirement. (18 L.P.R.A. § 392e)

Those teachers or employees who retire from service for years of services rendered shall be entitled to a lifetime annual income which shall consist of:

(a) An annuity that may be acquired or purchased with the fees accrued with compound interest.

(b)

(1) A pension which shall be awarded by the Government of the Commonwealth of Puerto Rico in a sufficient amount so that together with the annuity, would provide a lifetime annual income equal to one point eight (1.8) percent of the average of the highest salaries earned in three (3) years, multiplied by the number of years of services rendered,

after having served more than twenty-five (25) and less than thirty (30) years and reached the age of fifty (50); Provided, that when the teacher or employee of the System reaches forty-seven (47) years or more but less than fifty (50) years of age and more than twenty-five (25) but less than thirty (30) years of service, he or she shall be granted ninety-five (95) percent of the lifetime annual income to which he or she would be entitled if the participant retired at the age of fifty (50); or

(2) if the teacher or employee of the System has completed thirty (30) or more years of services that may be accredited and has not reached the age of fifty (50), he or she shall be entitled to a lifetime annual income equal to sixty-five (65) percent of the average highest salaries earned in three (3) years; or

(3) if the teacher or employee of the System has completed thirty (30) or more years of services that may be accredited and has reached the age of fifty (50), he or she shall receive a lifetime annual income equal to seventy-five (75) percent of the average highest salaries earned in three (3) years; or

(4) those teachers who retired by June 30, 1973 with fifty-five (55) or more years of age and thirty (30) years of services rendered, shall receive a lifetime annual income whose amount shall be computed as indicated below: (A) for the first thirty years of services that may be accredited, seventy-five (75) percent of the average compensation; and (B) for each year of service that may be accredited in excess of thirty (30) and up to a maximum of five (5) years to the date formerly indicated, an additional two (2) percent of the average compensation. This provision shall also benefit those teachers who by the said date of June 30, 1973 had reached the aforementioned age of fifty-five (55) years and have thirty (30) years or more of services that may be accredited, even though they have not retired by that time. Only those years in excess of thirty (30) for which the fees have been paid or are paid after June 30, 1973, may serve as the basis for computing the average compensation. In no case shall a lifetime annual income be paid of over eighty-five (85) percent of the average salary used to determine said income.

All teachers whose separation from service occurs before they reach the age of sixty (60) years who have rendered at least ten (10) but less than twenty-five (25) years of service that may be accredited, and who have not applied for nor received a reimbursement of their accrued fees, shall be entitled to receive a lifetime annual income for deferred retirement which they shall begin to enjoy when they reach the age of sixty (60) years or at their choosing, at any later date, determined according to the provisions of this Section. No pension or deferred annual income shall be less than that established in Act No. 128 of June 10, 1967, as amended.

(c) In regard to those cases mentioned in subsection (b)1, (b)2 and (b)3 of this Section, all members of the System must contribute fees to the Fund in the amount of nine (9) percent of the total monthly salary earned during a minimum period of five (5) years after availing themselves of such benefits.

Section 41. — Proof of date of birth. (18 L.P.R.A. § 392f)

No lifetime annual income shall be granted for age or years of services rendered until the teacher who has applied for the same has provided evidence to the satisfaction of the Retirement System, with the necessary documents, of his or her date of birth.

Section 42. — Investment of funds; rules and procedures. (18 L.P.R.A. § 392g)

The Teacher’s Retirement System shall invest its funds according to the provisions indicated below and to all those rules and procedures prescribed by said System.

The Teacher’s Retirement System shall be governed by the regulations approved by the Board of Trustees. Said regulations shall be guided by all restrictions established in the investment guidelines for government retirement plans promulgated by the Government Development Bank for Puerto Rico.

Section 43. — Types of authorized investments. (18 L.P.R.A. § 392h)

The System shall invest all available resources that are not required for its regular operations and it is hereby authorized to invest said resources in the following securities:

(1)

(a) *Fixed-income securities*. — Bonds, notes and obligations of the Government of the United States, its agencies and instrumentalities.

(b) Bonds, notes or titles of debts, be they exempted or taxable securities that represent direct obligations or that are secured by the good faith and credit of government entities, instrumentalities, public enterprises or public corporations and any other government entities created under the laws of the Government of the United States, any of its states or of the Government of the Commonwealth of Puerto Rico.

(c) Bonds, notes and corporate obligations.

(d) Bonds, notes and obligations issued and secured by central governments of foreign countries.

(e) Financial instruments constituted directly or indirectly on financial obligations, such as mortgage loans, collateral instruments for said loans, as well as car loans and lease contracts.

(f) Money market instruments; these must be recognized and hold the highest classification for this type of short-term instrument of any of the credit classifying agencies.

Those investments indicated in subsections (c), (d), (e) and (f) of this clause must be classified by credit classifying agencies within any of the four (4) highest credit schedules.

(2)

(a) *Stocks*. — The System is hereby authorized to purchase, sell or exchange common and preferred stock of any corporation created under the laws of any state of the United States or the Federal Government or of the Commonwealth of Puerto Rico or of any foreign countries, subject to the following criteria:

(i) The stock to be acquired must be openly quoted in one or more financial markets or national or international electronic quotation systems.

(ii) Securities may not be acquired through private placements.

(iii) The System may not invest more than sixty (60) percent of its total resources in these types of securities.

(iv) No investments may be made in enterprises whose market valorization is less than 100 million dollars (U.S. currency).

(v) The System may not hold more than five percent (5%) of the authorized stock in circulation of a given enterprise.

(vi) The System may not have more than twenty percent (20%) of its funds invested in a single economic sector.

(3) *Real property*. — The System may invest up to a maximum of fifteen (15) percent of its total resources in direct or indirect investments in real property that would generate revenues or for its own use. Said investments must have reasonable yield or savings expectations equal to or higher than other types of investments. No investments may be made in land which is not developed.

(4) *Risk capital*. — The System may invest in risk capital in newly created, developing, high growth or high risk enterprises with a high potential for appreciation. In this case the System may control over five (5) percent of the authorized stock provided that the funds devoted to this type of investment do not exceed five (5) percent of the total resources of the System and that they are executed through professional administrators of this type of investment.

(5) *Financial instruments*. — The Board of Trustees may authorize the System, through regulations to that effect, to make use of financial instruments such as options, futures, future delivery securities and transactions related to foreign currency exchange for the sole purpose of reducing the risk.

(6) The System investments, whether they are fixed yield or stock investments may be denominated in U.S. or foreign currency.

(7) *Authorization to incur debts*. — The Board of Trustees may authorize the Executive Director to borrow from any financial institution of the Government of the Commonwealth of Puerto Rico or the Federal Government of the United States, or through direct debt placements, securing said debt by the assets of the System. The interest said obligations accrue shall be exempted from the payment of income taxes to the Commonwealth of Puerto Rico.

Any investments made under the provisions of this Act shall be executed with the foresight and care and under the criteria that prudent, reasonable and expert individuals exercise in conducting their own affairs for investment and not speculative purposes, also taking into consideration the balance that must exist between yield and risk expectations.

The Secretary of the Treasury, in the performance of his or her duties as collecting and paying agent of the System, shall remit to the latter any surplus under its custody generated as a result of said operations.

Furthermore, all investments that are not excluded by the Investment Regulations of the System or the investment guidelines promulgated by the Government Development Bank for Puerto Rico are hereby included.

Section 44. — Nature of the loans to teachers of the System; documents; exemptions. (18 L.P.R.A. § 392i)

The funds of the System may also be invested, subject to the regulations adopted by the latter, for granting to those teachers who so request:

(a) Regular salary loans;

(b) loans secured by fees;

(c) special loans;

(d) mortgage loans. Any document on contracts or secure mortgage loans, mortgage renewals and cancellations, as well as the registration, annotation or any transaction related to said document which is part of the Retirement System and is executed before a notary, shall be declared exempted from the payment of any type of fees and taxes.
(e) Loans to temporary transitory and eligible transitory teachers at an interest rate to be determined by the Board of Trustees in its general b-laws.
(f) Any other type of loan or credit which the Board of Trustees of the System deems to be of benefit or necessary for its teachers.

The Board of Trustees of the Retirement System is hereby authorized to invest part of its available reserves to enable the granting of loans to the teachers of the System for cultural trips, subject to the regulations adopted by the System.

The Retirement System shall from time to time determine the amount of funds to be devoted to that type of investment. It shall also determine through regulations, the pertinent conditions and procedures for granting the loans authorized by the provisions of this Act. The payment to amortize those loans shall be deducted monthly from the salary of the teacher or employee of the System. The Government of the Commonwealth of Puerto Rico shall pay into the Retirement System fifty (50) percent of the interest corresponding to the loan made by the teacher to take such trips. Should the teacher resign from the position he or she occupies within eighteen (18) months of receiving the loan, he or she shall have to reimburse to the Government of the Commonwealth of Puerto Rico the interest paid on said loan. The monies deemed necessary for these purposes shall be annually consigned in the General Budget Act.

Section 45. — Deductions for loans and interest. (18 L.P.R.A. § 392j)

The deductions made to the salaries of the teachers for paying loans granted and the interest deducted in advance shall be covered into the Teacher’s Retirement System Fund by the Secretary of the Treasury simultaneously with the payment of the payroll.

Section 46. — Power to regulate lending procedures. (18 L.P.R.A. § 392k)

The Teacher’s Retirement System shall draft and enforce those regulations deemed convenient and necessary to regulate the granting of loans.

Section 47. — Regular and special appropriations. (18 L.P.R.A. § 392*l*)

In order to maintain the economic solvency of the System created by the provisions of this Act and so as to provide adequate retirement benefits for the teachers and employees of the System, the Government of the Commonwealth of Puerto Rico shall contribute the following amounts that shall be consigned by the Legislature of Puerto Rico in the General Government expenses Budget:
(a) A regular appropriation equal to eight point five (8.5) percent of the total amount of the annual salaries of all System teachers employed by the Government of the Commonwealth of Puerto Rico. The Teacher’s Retirement System shall be responsible for the regular

appropriation of eight point five (8.5) percent of the salaries of the employees who avail themselves of the System.

Section 48. — Contribution of the Government of the Commonwealth of Puerto Rico as Employer. (18 L.P.R.A. § 392m)

The Secretary of Education, when preparing the expenses budget for his or her Department, is hereby directed to include the necessary appropriations authorized by Section 47 of this Act and to order the monthly payments against said appropriations to be covered into the Fund. The Retirement System shall notify the Secretary of Education about the monthly amount to be covered into the Fund charged to the special appropriation created by Section 1 to 64 of this Act.

Section 49. — Use of surplus funds. (18 L.P.R.A. § 392n)

If for any reason the appropriations authorized by Section 47 of this Act were not included in the Regular General Expenses Budget of the Government of the Commonwealth of Puerto Rico, the Secretary of the Treasury shall be authorized and ordered to carry over to his or her accounting books the regular and special appropriations authorized by the provisions of this Act and shall be empowered and ordered to pay the same in the foreseen manner from any surplus funds available in the Treasury which have not been appropriated for other purposes. The surplus resulting from the appropriations must be transferred to the Fund by means of the corresponding mechanism approved by the Secretary of Education.

Section 50. — Transfer from one system to another. (18 L.P.R.A. § 392*o*)

(a) When a teacher or employee goes on to occupy a new position in any agency or body of the Government of the Commonwealth of Puerto Rico with an established retirement system for its employees, the Teacher’s Retirement System shall transfer to the same the fees paid by said teacher, who shall obtain in the system to which he or she transferred, the credit corresponding to all the years of service and the fees paid to the Retirement System.
(b) When a person who is a member of any other retirement system of the Government of the Commonwealth of Puerto Rico or of any of its agencies becomes a member of the Teacher’s Retirement System, he or she shall receive credit for all the years of services rendered, and the fees paid to the system from which he or she is transferred shall be credited to this System.

Section 51. — Transfer to the Office of the School Director. (18 L.P.R.A. § 392p)

The teachers who go on to work in any Office of a School Director who perform teaching functions and who wish to continue as members of the Teacher’s Retirement System must apply to do so in a letter addressed to the Teacher’s Retirement Board. Should their application be approved, they shall contribute to the Fund nine (9) percent of their monthly salary and the municipal entity to which it belongs shall contribute eight and a half (8.5) percent of said salaries; it being understood that this deduction shall never be less than a teacher working in the public schools would have to pay according to the basic salary they receive. Both the fees contributed by the teacher and the municipal entity shall appear in the monthly payroll.

From the fees to be transferred to other systems, any balance indebted to the system at the time of the transfer shall be retained or pledged, at the discretion of the System.

Section 52. — Obligation of the System to Expedite the Processes. [18 L.P.R.A. § 392q(a)]

The Teacher's Retirement System shall process the application for retirement within thirty (30) days after receipt of the resignation acceptance Certification and all corresponding documentation required by the Retirement System.

The employer is hereby bound to submit all required documents to the System within thirty (30) days as of the date of the application for retirement benefits or liquidation of funds.

Section 53. — Penalties for Noncompliance with the Terms for Expediting the Processes. [18 L.P.R.A. § 392q(b)]

As of May 1, 2004, if the Teachers' Retirement System fails to comply with the obligation provided in Section 52 of this Act, it shall be responsible for paying to the participant an amount equal to the monthly salary that the letter received by the date of the application of retirement, except in situations of force majeure not related to administrative procedures. Such penalty shall be established at the request of the teacher.

If it is the employer who fails to comply with the obligation established in said Section 52, he/she shall be responsible for paying to the participant an amount equal to the monthly of salary he/she received on the date of the
application for retirement benefits or liquidation of funds.

Section 54. — Loss of benefits for Acts of Corruption. (18 L.P.R.A. § 392r)

As of the date of effectiveness of this Act, any teacher or employee of the System who avails him or herself of this System and who commits and is convicted in a court of justice of Puerto Rico or in any other state or federal jurisdiction, of acts constituting fraud, extortion, acceptance of bribes, misappropriation, in addition to any other crimes contained in the Penal Code or special laws involving the use of public funds for his/her own benefit or for the benefit of another person or entity, shall loose all benefits under the Teacher's Retirement System.

In such case, the Teacher's Retirement System shall return to the teacher or employee of the System the balance of all accrued fees contributed to the Fund but not enjoyed, first collecting the debt, if any, contracted with the same. The Teacher's Retirement System shall establish the mechanism through which the teacher or employee of the System, when becoming a member of the Teacher's Retirement System, shall sign a document in which he/she certifies having been notified of said penalty.

Section 55. — The Retirement System is authorized to sell mortgage credits at public auction. (18 L.P.R.A. § 392s)

The Teacher’s Retirement System is hereby authorized to sell, assign or transfer the total amount of the mortgage credits held by the System.

Section 56. — Deduction from pension or lifetime annual income for fees or insurance. (18 L.P.R.A. § 392t)

Those teachers who are receiving or shall in future receive a pension or lifetime annual income may authorize the Teacher’s Retirement System to deduct from their pension or lifetime annual income a specific amount in order to pay the monthly membership fees in the Puerto Rico Teacher’s Association and the Commonwealth of Puerto Rico Employee’s Association to cover insurance, stocks and other obligations of the Puerto Rico Teacher’s Credit Union, as well as the fees for the health insurance policy to be administered by the Federal Social Security Administration and any other deduction the pensioned teacher may apply for.

Section 57. — Payment of deducted amounts. (18 L.P.R.A. § 392u)

The Teacher’s Retirement System shall make available to the Puerto Rico Teacher’s Association, the Commonwealth of Puerto Rico Employee’s Association, the Puerto Rico Teacher’s Credit Union or the Federal Internal Revenue Office, the amounts thus deducted in checks issued in favor of said entities.

Section 58. — Christmas Bonus. (18 L.P.R.A. § 392v)

Any teacher who has been receiving a pension under this Act shall be entitled to receive a Christmas Bonus of four hundred (400) dollars exempted from the payment of income taxes to be paid not later than the 20th of December of each year.

All teachers pensioned from the System shall be entitled to receive the Christmas Bonus provided in this Act as long as they are not entitled as government employees to the Christmas Bonus for the year in which the Bonus is granted.

The Christmas Bonus payroll shall be covered by the General Fund.

Section 59. — Procurement and budget. (18 L.P.R.A. § 392w)

The System shall not be subject to the provisions of Act No. 164 of July 23, 1974, as amended, known as the “General Services Administration Act”, as well as the provisions of its respective regulations.

Section 60. — Transfer of resources. (18 L.P.R.A. § 391 note)

All resources and facilities including the records, equipment, properties, buildings, land, funds, bank accounts, investment funds and appropriations that are being used in connection to the programs and functions of the Teacher's Retirement Board shall be transferred to the System to be used, owned or expended by the System in relation to the functions it is bound to perform according to the provisions of this Act.

Section 61. — Debt, obligations and responsibilities. (18 L.P.R.A. § 391 note)

All debts, obligations, and responsibilities, including the active pensions of the teachers and their beneficiaries, as well as the obligation to fulfill, and the right to receive the benefits of any judgment that may be pronounced against or in favor of the Teacher's Retirement Board after the approval of this Act, are hereby transferred to the System.

Section 62. — Repeal of laws in effect. (18 L.P.R.A. § 391note)

Act No. 218 of May 6, 1951, as amended, known as the "Teacher's Retirement Act", is hereby repealed. All participants in the System at the time of repeal of the Act shall continue receiving the benefits they have been enjoying besides remaining covered by the subsequent provisions.

Section 63. — Severability Clause. (18 L.P.R.A. § 391 note)

Should a competent court declare invalid, null or unconstitutional any provision of this Act, its remaining provisions, which shall preserve all their validity and effectiveness, shall not be affected.

Section 64. — Effectiveness.

This Act shall take effect immediately after its approval.