

“Puerto Rico Solid Waste Authority Act”

Act No. 70 of June 23, 1978, as amended,

(Contains amendments incorporated by:

Act No. 53 of May 27, 1980

Act No. 64 of August 16, 1989

Act No. 59 of August 22, 1990

Act No. 60 of August 23, 1990

Act No. 15 of January 20, 1995

Act No. 104 of August 4, 1996

[Act No. 233 of October 31, 2006](#)

[Act No. 68 of July 13, 2007](#)

[Act No. 83 of July 19, 2010](#)

[Act No. 149 of October 8, 2010](#)

[Act No. 159 of July 27, 2011](#))

To create the Puerto Rico Solid Waste Management Authority; to establish its organization and duties, to transfer functions; to authorize said Authority to plan, finance and operate services for the transportation, processing recovery and final disposal of Solid Waste to be offered to private and public collecting agencies; to provide for the issuance of bonds and the terms, payment, and securities thereof, and to exempt the income, property and bonds of said Authority from the payment of taxes.

STATEMENT OF MOTIVES

The magnitude of the demographic, economic, and geographic forces in Puerto Rico tends to accelerate the deterioration of the environment, and submit the existing government structures to urgent claims for speedy and effective solutions of these acute problems.

There is a critical problem related to the production of solid waste in Puerto Rico, which threatens to overwhelm the Commonwealth's economic and environmental resources.

The relative density and increase of Puerto Rico's population, land shortage, and the variety of costly solid waste disposal systems, varying in degree of performance in the different municipalities, provide Puerto Rico with no other alternative than to assume, decisively and courageously, full responsibility for providing and operating services for the transportation, processing, recovery and final disposal of solid waste in the Commonwealth.

The creation of a state-level, quasi-public structure with adequate resources and powers is an important legislative achievement needed for the proper management of a solid waste disposal program on the Island. It is through a structure of this nature that this issue shall be faced at the proper physical, economic and social levels. It is only at this level that it is feasible to raise

sufficient capital, apply the most advanced technology and dispose of sufficiently large quantities of waste; and to integrate, in turn, functions and regulations which will result in an economic, physical, and socially feasible system.

The creation of a structure such as has been described shall permit the development of a new basic industry for the recovery and recycling of solid waste, which promises benefits never before attained in the management of solid waste. The environment and the economy in general will benefit from new industrial opportunities arising from the development of new industries, with the creation of systems for the recycling of solid waste as a means of disposal.

New sources of energy and raw materials will be obtained for industry. The aforementioned legislative action is required to implement and coordinate a central regional system to dispose of solid waste throughout the Island, to achieve these benefits.

Be it enacted by the Legislature of Puerto Rico:

Section 1. — Short Title. (12 L.P.R.A. § 1301)

This Act shall be known as the “Puerto Rico Solid Waste Authority Act”.

Section 2. — Creation of the Authority. (12 L.P.R.A. § 1302)

In order to continue the government's purpose of protecting and improving the environmental conditions of the Commonwealth of Puerto Rico, and to face the ever-increasing demand for greater and better solid waste disposal controls and facilities, a body politic and corporate is hereby created in the nature of a public corporation and government instrumentality of the Commonwealth, which shall be known as the Puerto Rico Solid Waste Authority, to be known hereinafter as the "Authority".

The powers of the Authority shall be exercised by a Governing Board composed of the Director of the Puerto Rico Energy Office, the Executive Director of the Puerto Rico Electric Power Authority, the Executive Director of the Aqueduct and Sewer Authority and the Administrator of the Municipal Services Administration as ex officio members; three mayors, and four representatives of the private sector appointed by the Governor with the advice and consent of the Senate. The three mayors shall hold office for the term for which they were elected. The Governor shall designate the Chairman of the Board from the members thereof.

Six members of the Governing Board of the Authority shall constitute a quorum and the affirmative vote of the Board members present shall be necessary for all decisions.

The initial appointments of members who are not officials of the Government of the Commonwealth of Puerto Rico shall be made by the Governor for one (1), two (2), three (3), and four (4)-year terms, respectively; and said members shall hold office until their successors are appointed and qualify. Successive appointments shall be made for four years.

In the event of a vacancy, the person appointed by the Governor to fill said vacancy shall exercise his functions for the official's unexpired term.

The members of the Board who are not public officials shall be entitled to per diems at the rate of fifty dollars (\$50) per day for each meeting they attend, and to reimbursement for travel and any other necessary expenses which they may incur while discharging their official functions.

The Authority thus constituted shall exercise public and essential government functions, and shall adopt the necessary or expedient policies, rules, regulations and procedures to exercise the powers and achieve the objectives conferred by this Act. The exercise of the powers and faculties conferred by this Act shall in no way invest the Authority with the nature of a private enterprise.

Section 3. — Executive Director. (12 L.P.R.A. § 1303)

The executive functions of the Authority shall be performed by an Executive Director who shall be appointed by the Governing Board for a term of six (6) years and shall hold office at its will until his successor is designated. The Executive Director shall be charged with the exercise of the faculties and powers conferred upon the Authority by this Act and its general administration, representing it in all acts and contracts, entered into the exercise of its functions, and shall fulfill the duties and shall have the responsibilities, faculties, powers and authority delegated to him/her by the Board and assigned by this Act. He/she shall supervise all the officials, employees and agents of the Authority, and he/she shall exercise all other powers and duties conferred on him/her by the Governing Board.

The Board may designate on the Executive Director any of its powers, except the Authority's power to regulate and formulate public policy. The Executive Director may attend all meetings of the Board.

The Executive Director may appoint an Assistant Executive Director who, under his/her direction, will aid him/her in carrying out his/her functions. In case of the absence or temporary disability of the Executive Director, the Assistant Director shall exercise all the functions and duties of the former, as Acting Executive Director until a successor is designated.

Section 4. — Definitions. (12 L.P.R.A. § 1304)

The following words or terms as used or referred to in this Act shall have the meanings set forth hereinafter, unless the context clearly states otherwise:

(a) Authority. — Shall mean the Puerto Rico Solid Waste Authority established pursuant to Section 2 of this Act, or, should said Authority be abolished, the public body or agency succeeding it in its principal functions, or in which the rights conferred by this Act to the Authority are vested.

(b) Bonds. — Shall mean the bonds, provisional bonds, refunding bonds, obligations, notes, interim receipts or provisional bonds, certificates or other evidence of indebtedness issued under the provisions of this Act.

(c) Compactor. — Shall mean a machine that reduces the volume of waste, usually forcing it into a container for its storage.

(d) Final disposal site. — Shall mean the site upon which structures, equipment, and other facilities are to be located, for the final disposal of solid waste through sanitary landfill, or any other authorized site for disposal.

(e) Food waste. — Shall mean organic or putrescible waste resulting from the handling, processing, storage, sale, preparation, cooking, serving, or consumption of food.

(f) Junk. — Shall mean every motor vehicle, as defined in Act No. 141 of July 20, 1960 [*Note: Current Act 22-2000, “Puerto Rico Vehicle and Traffic Act”*], a trailer, air or maritime carrier; industrial, commercial or household equipment, or part thereof, which is not working, constitutes, because of its useless condition, a solid waste.

(g) Municipality. — Shall mean any government subdivision created by the Legislature, in accordance with the authority vested in it by Article VI, § 1 of the Constitution of the Commonwealth of Puerto Rico and pursuant to the provisions of Act No. 26 of March 28, 1914, as amended.

(h) Person. — Shall mean any natural or juridical private or public person or group of persons, including government agencies, instrumentalities, municipalities and quasi-public corporations.

(i) Recovered material. — Shall mean material in the recovery plants that is economically processable.

(j) Putrescible material. — Shall mean any matter that can be anaerobically decomposed by microorganisms with such rapidity as to become a nuisance due to odors, gases, etc. **(k) Sanitary landfill.** — Shall mean a method for disposing of solid waste which consists of placing waste on land, spreading it in layers, compacting it to the smallest practical volume, and applying cover material daily, so as to minimize health and environmental hazards.

(l) Service. — Shall mean the solid waste collection services.

(m) Solid waste. — Shall mean any trash, garbage, residues, sludge or other discarded material including solid, or semi-solid materials, liquids or containers that contain gaseous materials generated by industry, trade, mining, agricultural operations or domestic activities. This definition includes:

- Matter that has been discarded, abandoned or disposed of.
- Discarded material, matter whose utility has expired or that is no longer useful unless processed or recovered.

(n) Solid waste collection service. — Shall mean any public or private activity for the collection and transportation of solid waste.

(o) Solid waste facility. — Shall mean any facility for the storing, processing and disposal of solid waste, including among others the following: transfer stations, compactors, shredders, incinerators, pyrolysis plants, sanitary landfill, salvage facilities, pulverizers, compost plants, and recycling plants.

(p) Composting. — Shall mean the controlled microbial decomposition of organic waste yielding a stable product with a potential value as a soil conditioner.

(q) Solid waste storage. — Shall mean the temporary holding of solid waste after its generation.

(r) Transfer station. — Shall mean an intermediate solid waste storage, processing or handling facility for transferring loads of solid waste to a transportation unit having a greater capacity.

(s) Hazardous toxic waste. — Shall mean the residues, solid waste or a combination of waste which, due to their amount, concentration or physical or chemical characteristics could represent a substantial or potential hazard to human health or to the environment when handled, treated or disposed of improperly, or could cause, or significantly contribute to a rise in the mortality rate or an increase in serious reversible or non-reversible disabling diseases.

(t) Recovery. — Shall mean solid waste process which produces materials or energy that may be used in manufacture, agriculture, or for other purposes.

(u) Board. — Shall mean the Authority's Governing Board.

(v) Bondholder. — Shall mean any person bearing any outstanding bond or bonds whether registered in his name or not, or the owner, according to the register, of any outstanding bond or bonds which are registered as of such date in the name of some person other than the bondholder.

(w) Operational activities. — Shall mean the activities inherent and necessary to the planning, development, implementation and evaluation of the tasks proper to the recollection, transshipment, processing, recovery and final disposal of solid waste.

Section 5. — Powers. (12 L.P.R.A. § 1305)

Subject to the provisions of Section 6 of this Act, the Authority is hereby empowered:

- (a)** As a corporation, to be endowed with perpetual succession.
- (b)** To adopt, alter, and use a corporate seal, which shall be judicially noticed.
- (c)** To adopt, amend, and repeal bylaws, to regulate its affairs and establish guidelines for the conduct of its business.
- (d)** To plan, finance, and operate throughout the Commonwealth of Puerto Rico services for the transfer, processing, recovery, and final disposal of solid waste for the use of municipalities and public and private agencies.
- (e)** To have complete control over and supervise any of the solid waste facilities, and the transfer stations owned, operated, constructed or acquired by the Authority under this Act, including the limiting and control of the use of such facilities, and the construction materials, and the construction, maintenance, repair, and operation thereof.
- (f)** To prepare or provide for the preparation of plans, designs, cost estimates for the construction, expansion, improvement, enlargement or repair of any solid waste facilities or part thereof, and to modify such plans, designs and estimates.
- (g)** Designate the Solid Waste Management Regions in the Commonwealth, pursuant to a Regional Solid Waste Management Plan, each with the necessary transfer, processing, recovery, and final disposal facilities. The Authority may reorganize or restructure the regions or subregions as needed to maintain the processing and final disposal of solid waste operations in an economical and environmentally safe manner. Any person, as defined in this Act, shall adhere to said plan which is an integral part of the public policy.
- (h)** Provide and operate the sites and facilities for the processing, recovery, final disposal or storage of hazardous solid waste, at its discretion.
- (i)** To establish a program, and the facilities for the control of locations and procedures to discard, collect, store, dispose of and sell junk and any other recovered material such as metal, glass, paper, etc.
- (j)** To adopt, amend and repeal regulations and procedures for the users of the Authority's facilities and services.
- (k)** To sue and be sued, to plead and defend in all courts of justice and administrative bodies.
- (l)** To enter into contracts for the acquisition or sale of goods or services, or, with private enterprises, to operate solid waste facilities in behalf of the Authority or with all the municipalities of the Commonwealth of Puerto Rico, to receive or to collect solid waste therefrom, or those collected by private firms, and to execute any documents or instruments necessary or convenient in the exercise of its powers.
- (m)** To acquire any property or interest therein in any legal manner, including, but without being limited to, the purchase of property whether through agreement, condemnation of private property, or through lease, mandate, legacy, or donation, and to possess, preserve, use and exploit said property or interest therein.

(n) To determine, fix, impose and alter rates or other terms and conditions for the services of public and private facilities for the collection, processing, recovery, final disposition or storing of solid waste in Puerto Rico; and charge the public and private users fair and reasonable rates and charges for the facilities and services operated by the Authority.

(o) To employ such experts and employees as may be required to perform its duties under this Act. The Authority may also contract consultants as may be necessary to carry out its functions hereunder.

(p) To borrow money for any of its corporate purposes, and to issue Authority bonds in evidence of such obligations, and to secure payment of such bonds and the interest thereon by pledge or any other lien on all its properties, revenues or earnings and, subject to the provisions of § 8, Article VI of the Constitution of Puerto Rico, to pledge the payment of said bonds and interest thereon, the proceeds from any taxes, or any other funds that may be made available to the Authority by the Commonwealth of Puerto Rico.

(q) To issue bonds for the purpose of consolidating, refunding, purchasing, paying or retaining any of the bonds or obligations already issued.

(r) To accept, receive and administrate donations, loans or funds from public, semi-public or private entities and to execute contracts, leases, agreements and other transactions with any agency or department of the United States of America, of any state, of the Commonwealth of Puerto Rico or any political subdivision thereof, or private entities, and invest the proceeds of such donations, loans or funds for any of its corporate purposes.

(s) To sell, lease or in any other way to dispose of any personal or real property of the Authority, or any interest thereon which, in its judgment, is no longer needed to achieve the Authority's objectives and the purposes of this Act.

(t) To enter, with the previous authorization of the owners, holders or representatives, any land, body of water, or property, for the purpose of measuring, sounding, or conducting studies pursuant to this Act. If the owners, holders, or their representatives should refuse to grant permission to enter the land, body of water or property for the stated purposes, any judge of a court of first instance, upon being presented an affidavit indicating the Authority's intention of entering said land, body of water or property for the stated purposes, shall issue an order authorizing any Authority official or employee to enter such land, body of water or property described in the affidavit, for the purposes stated therein. In the event the owners, holders or known representatives cannot be located, the Authority, through its officials or employees, may enter without permission.

(u) To perform all required and advisable acts or things, in order to carry out the powers vested in the Authority by this Act or any other act enacted by the Legislature of Puerto Rico; Provided, however, That neither the Commonwealth of Puerto Rico nor any of its political subdivisions shall be responsible for the payment of the principal or interest of any of the bonds issued by the Authority; and such principal and interest shall only be payable from Authority funds pledged or encumbered for such purpose, according to subsection (r) of this section.

(v) To adopt, promulgate, amend and repeal such rules and regulations as may be necessary or pertinent to fulfill its duties and powers, in accordance with this Act, including those rules and regulations authorizing the management of solid waste facilities in municipalities or in other final disposal areas, which shall be available to the Authority.

(w) To construct or reconstruct any solid waste facility or part thereof, and any additions, enlargements, improvements or expansions to any solid waste facility of the Authority, by contract

or contracts or under the direction, or through, or by means of its own officials, agents or employees.

(x) To request, accept, and obtain the cooperation and the technical and financial assistance of federal agencies (according to the provisions of the Solid Waste Disposal Act, [“Federal Resource Conservation and Recovery Act”](#) and the [“Federal Water Pollution Act”](#), as amended, and any other Federal Act approved to such effects) and of Commonwealth or municipal agencies, as well as of industries and other private entities to carry out the purposes of this Act.

(y) Establish, by regulation, the requirements that in its judgment are needed for the control of public or private operations for the collection, transfer, processing, recovery and final disposal of solid waste, including hazardous waste, in harmony with the norms, rules and requirements established by the Environmental Quality Board and the Environmental Protection Agency (E.P.A.).

(z) Adopt rules and regulations to establish a permit and licensing mechanism to control the operations for the collection, transfer, processing and recovery of solid and hazardous waste, in harmony with the norms, rules and requirements established by the Environmental Quality Board and the Environmental Protection Agency (E.P.A.).

(aa) To prepare and develop projects and programs for the disposal of solid waste.

(bb) To adopt rules and regulations and issue orders establishing the operating standards in harmony with the Integral Plan for Puerto Rico for the recovery, use, storage, collection, separation, compacting, processing and final disposal of solid and hazardous waste, in harmony with the norms, rules and requirements established by the Environmental Quality Board and the Environmental Protection Agency (E.P.A.).

(cc) To carry out the reasonable and needed planning and public policy development functions related to the handling and disposal of solid waste in Puerto Rico.

(dd) To provide services of solid waste collection services at the Authority's discretion.

(ee) Exercise its powers to require, direct, control and enforce the flow of solid waste and the delivery thereof to designated disposal facilities; it may delegate the power on a municipality to require, direct, control and enforce the flow of waste and the delivery thereof to designated disposal facilities; or may concurrently exercise the power with any municipality to require, direct, control and enforce the flow of waste and the delivery thereof to designated disposal facilities.

(ff) To require any person or entity subject to its jurisdiction to file before it the reports and carry out inspections or investigations needed to achieve the purposes of this Act.

(gg) To establish agreements to partially or totally delegate to the municipalities the power to manage, require, direct, control and enforce the delivery of the flow of solid waste to specific solid waste handling and disposal facilities as established in Section 12 of this Act.

(hh) To issue orders to do or not do, cease and desist and prescribe the corrective terms and conditions to take such preventive control measures which are necessary to achieve the purposes of this Act.

(ii) To hold, at its discretion, public hearings with regard to any of the matters related to the implementation and administration of this Act. It may compel the appearance of witnesses and presentation of documents and the admission or rejection of evidence in these endeavors.

(jj) The Authority is empowered to impose sanctions and administrative fines for violations of this Act and the orders, rules and regulations issued and approved by the Authority under this Act. The administrative fines shall not exceed twenty-five thousand dollars (\$25,000) for each violation, it being understood that each day that the violation subsists shall be deemed as a separate violation.

The Authority may also impose to [on] violators as an additional penalty the compulsory attendance to [at] courses or workshops prepared, organized or approved by the Authority whose participation shall be subject to regulations for the purpose of protecting and improving environmental conditions, particularly all matters relative to the management of solid waste in the Commonwealth of Puerto Rico. In the event that the Authority determines that there has been contumacy in the commission or continuation of acts for which an administrative fine has already been imposed in violation of this Act and its regulations, or contumacy in noncompliance of any order or resolution issued by the Authority, it may, in the exercise of its discretion impose an additional administrative fine of up to a maximum of fifty thousand dollars (\$50,000) for any act indicated herein.

(kk) None of the faculties granted to the Authority herein shall repeal, conflict or duplicate the powers and faculties granted to the Environmental Quality Board through Act No. 9 of June 18, 1970, as amended [Note: Current Act 416-2004, as amended, “Environmental Public Policy Act”]. Both agencies shall coordinate prior to the promulgation of their respective regulations so that they comply with this mandate and avoid any jurisdictional incompatibility.

(ll) To acquire, possess, encumber, alienate, and dispose of common and/or preferred stock and certificates with the right to acquire stock or shares (with or without preference) in partnerships, joint ventures or corporations and any other securities, as defined by the Uniform Securities Act, [10 L.P.R.A §§ 851 et seq.], issued by businesses that provide solid waste collection, reduction, transportation, processing, recovery, and final disposal services and/or businesses engaged in the collection, processing, recovery and/or marketing of recyclable and/or recycled materials and/or businesses engaged in the construction, or operation of any of the above, located in, or authorized to do business in Puerto Rico and to exercise each and every one of the powers and rights related thereto. This faculty does not limit the Authority's faculty to invest established in subsection (nn) of this section. Within one hundred-eighty (180) days following the approval of this act, the Authority shall adopt regulations that provide safeguards and criteria for a sound investment pursuant to the norm of a prudent and reasonable institution, so that the public monies and funds to be invested shall promote and advance the environmental public policy. The regulations shall include the investment criteria and the form and manner of carrying out the investments so that the Authority can ensure that the enunciated public policy is promoted through investments whose risk is prudent and reasonable in keeping with the economic situation of the Island, and the present environmental condition. The regulations shall also include a procedure for the delegation to the Authority of all granting of permits, authorizations, endorsements and the control and supervision of the businesses in general in which the Authority decides to invest and thus prevent the possible existence of conflicts of interest.

(mm) To participate in common enterprises with, and purchase and sell goods produced or distributed by businesses engaged in providing solid waste transportation, processing, recovery and final disposal services, and/or businesses engaged in the construction and operation of solid waste reduction and recycling installations.

(nn) To invest its funds primarily in obligations of the Commonwealth of Puerto Rico, or in obligations whose principal as well as interest is secured by the Commonwealth of Puerto Rico; or in obligations of any agency, dependency, commission, authority, municipality or other political subdivisions of the Commonwealth of Puerto Rico; or in direct obligations of the United States or in obligations whose principal as well as interest is secured by the United States, or in obligations of any agency, dependency, commission, authority or other political subdivisions of the United

States; or in obligations issued by domestic or foreign public or private corporate institutions rated by a credit rating agency nationally recognized in the United States, in one of its three (3) highest generic scales. The Authority may also invest its funds in banker's acceptances or certificates of deposit endorsed or issued, as the case may be, by banks organized under the laws of Puerto Rico or of the United States of America; or any foreign bank with proven financial solvency authorized to do business in Puerto Rico or the United States of America. This faculty shall not limit the power to invest established in subsection (ll) of this section.

Section 6. — Coordination. (12 L.P.R.A. § 1306)

The Authority shall exercise its powers and shall fulfill its obligations under this Act in coordination and in harmony with the Environmental Quality Board and the Planning Board for the benefit and best interests of the Commonwealth of Puerto Rico. The Authority shall need a permit from the Environmental Quality Board to establish and operate solid waste facilities, and for the storage, recycling and/or final disposal of solid wastes. The Authority shall comply with the regulations and public policies of the Environmental Quality Board.

Section 7. — Transfers of Powers. (12 L.P.R.A. § 1301 note)

The powers, faculties, and functions of the Environmental Quality Board conferred by Section 11, subsection 34(a) and (d) of Act No. 9 of June 18, 1970, as amended, are hereby transferred to the Authority.

Section 8. — Officials and Employees. (12 L.P.R.A. § 1307)

(a) The Authority is constituted as an Individual Administrator pursuant to Act No. 5 of Oct. 14, 1975. The officials and employees of the Authority shall have the right to be reimbursed for all necessary travel expenses or the corresponding per diems as authorized by regulations approved by the Board. The officials and employees of any board, commission, agency, instrumentality or public corporation or Department of the Commonwealth of Puerto Rico, appointed by the Authority, who, at the time of their appointment, were beneficiaries of any retirement plan, or any savings or loan plan, shall continue to hold, after the appointment, the rights, privileges, obligations and status thereof, as prescribed by the act for officials and employees holding similar offices in the Government of the Commonwealth of Puerto Rico.

(b) No person having a direct or indirect economic interest in any private enterprise engaged in business with the Authority, or in any business whose principal activities are related to the acquisition, building, design, operation or maintenance of solid waste facilities, storage and final disposal thereof, shall hold office as member, official, employee or agent of the Authority. When the incompatibility affects a member of the Board, he shall vacate his office, which shall be filled for the duration of such incompatibility, by the Governor's appointment of any other official heading any other Department or agency of the Commonwealth of Puerto Rico, or by some other mayor, or by any other citizen of the private sector of the economy or the citizenry in general, as the case may be. When issues concerning a municipality are being discussed, the mayor of such municipality who is a member of the Board shall not participate in the discussion before the Board, and the municipality shall be represented by some person other than the mayor.

Section 9. — Funds and accounts of the Authority. (12 L.P.R.A. § 1308)

The monies of the Authority shall be deposited in any banking institution authorized for the deposit of Commonwealth of Puerto Rico funds, but shall be maintained in separate accounts, under the name of the Authority. Disbursements shall be made by the Authority, pursuant to the budget regulations approved by the Board.

The Authority, upon consultation with the Secretary of the Treasury, shall establish the proper accounting system for the adequate control and statistical register of all expenditures and revenues belonging to, administered, or controlled by the Authority. The Authority's accounts shall be kept in such a way that they may be properly segregated with regard to the various types of operations, projects, enterprises and activities of the Authority.

Section 10. — Acquisition of property by the Commonwealth for the Authority. (12 L.P.R.A. § 1309)

Upon request by the Authority, the Government of Puerto Rico may acquire the title deed to any property or interest thereon by purchase, condemnation or any other legal means in behalf and in representation of the Commonwealth of Puerto Rico, for the use and benefit of the Authority, as it may deem necessary or convenient for carrying out its purposes, including its future needs, pursuant to the provisions of this Act and the laws of Puerto Rico related to the condemnation of private property. The Authority may make available, in advance, to said officials such funds as may be needed to purchase said property, and after the property has been acquired it may reimburse any amount paid, which had not been provided previously, to the Government of the Commonwealth of Puerto Rico. Once such reimbursement has been paid to the Government of the Commonwealth of Puerto Rico (or in a reasonable period of time, if the total cash or price has been paid by the Authority, as determined by the Governor), the title deed to the property thus acquired shall pass to the Authority. When property has been acquired by condemnation, the title deed to said property shall be transferred to the Authority by order of the Court in said jurisdiction, through a document stating that the Authority has advanced or reimbursed the cost or total price of such property. The faculty that is hereby being conferred shall in no way limit or restrict the vested power of the Authority to acquire property. The title deed to any property of the Commonwealth of Puerto Rico that has been acquired or may be acquired in the future, which is deemed necessary or convenient for the purposes of the Authority, may be transferred to it by the official in charge of said property or having it in his custody under the terms and conditions established by the Governor, or the official or agency designated by him.

Section 11. — Transfer of Funds and Property Between the Authority and Other Governmental Agencies, Including Municipalities. (12 L.P.R.A. § 1310)

Notwithstanding any other legal provision to the contrary, all the municipalities and political subdivisions of Puerto Rico are hereby authorized to assign and transfer to the Authority by its request, subject to any reasonable terms and conditions, any property or interest thereon (including property already devoted to public use) which the Authority may deem necessary or convenient to carry out its own purposes.

Section 12. — Delivery of solid waste; delegation on municipalities. (12 L.P.R.A. § 1310a)

It is the public policy of the Commonwealth of Puerto Rico to submit to regulation any private activity that has not been regulated, or substitute it with a unique government service, granting the Authority the powers established hereby to require, direct, and enforce the delivery of solid waste to private disposal facilities. It is also the public policy to grant the Authority the power to delegate on the municipalities, pursuant to the provisions of this Act, independently, or concurrently with the Authority, to require, direct and enforce the delivery of solid waste to designated disposal facilities, including ashes or other waste generated by the disposal facilities.

Any municipality or consortium of municipalities wishing to participate in the development and administration of a solid waste facility may file a request with the Authority to be guaranteed the long-term flow of solid waste needed to be deposited in the disposal facilities. The Authority shall evaluate every request that is filed pursuant to the provisions of this Act, and shall determine whether the proposed facility is in accord with the Regional Facilities Location Plan. If the Authority determines, in the exercise of its discretion, that the proposed disposal facility is in accord with the Regional Facilities Location Plan, it may approve the request and grant a contract or other guaranty for the flow of solid waste to be channeled to the proposed facility, with whatever other determinations the Authority understands are in the best interests of the people of Puerto Rico.

Provided, That none of the powers granted hereby to the Authority shall repeal, conflict or duplicate the powers and faculties granted to the Environmental Quality Board through Act No. 9 of June 18, 1970, as amended [*Note: Current Act 416-2004, as amended, “Environmental Public Policy Act”*]. Prior to the promulgation of their respective regulations, both agencies shall coordinate them so that they will comply with this mandate and prevent any jurisdictional incompatibility.

Any contract or guaranty granted by the Authority shall be subject to:

- (a) It may be limited to a specific type of waste, a particular geographic source, a particular waste generator, or any other form determined by the Authority.
- (b) It may be issued for a definite period of time taking into consideration the type of financing that shall be used and any other factor that the Authority deems relevant.
- (c) It may be given in the form of a contract, guaranty, franchise or any other instrument which when granted shall be a valid and binding agreement and may be asserted against the Authority, by the municipality or municipalities to whom the guaranty was granted, and may be made irrevocable for the term determined by the Authority.
- (d) It may be modified by the Authority according to its terms, provided the modification does not substantially impede the guaranty of the flow of waste granted originally.

The Authority and any municipality which has received a waste flow guaranty, may grant licenses or permits concurrently to any solid waste hauler, collector, or transporter in a designated geographic area; and the Authority may revoke the licenses or permits if the hauler, collector or transporter does not comply with its obligation to deliver waste to a designated facility, or for other reasons.

Each municipality shall promulgate a municipality ordinance to implement the powers delegated by the Authority in the agreement or guaranty to direct the flow of waste and the delivery thereof to a designated disposal facility.

To ensure and preserve the feasibility of any disposal facilities to which a waste flow guaranty has been granted for a municipality or a consortium of municipalities, the Commonwealth of Puerto Rico shall neither alter nor amend the powers granted by this Act to the Authority while any guaranty issued by the Authority for any disposal facility is in effect. The Authority is authorized to include in any contract or guaranty that: neither the Authority nor the Commonwealth of Puerto Rico shall expose, nor allow the inclusion in any Regional Facility Location Plan of any disposal or serviced facility which may compete with any facility for which the Authority has granted a solid waste flow guaranty.

Section 13. — Construction and Purchase Contracts. (12 L.P.R.A. § 1311)

Every construction or service contract, excepting professional service contracts, and every purchase of the Authority, including contracts for the construction of solid waste facilities, must be made by announcements for competitive bids published within a reasonable period of time, prior to the date for opening the bidding forms, in order to insure adequate public notice and attendance; Provided, That when the sum estimated for property acquisition or construction does not exceed twenty-five thousand dollars (\$25,000) bidding procedures may be set aside. Bidding notice may be otherwise dispensed with when:

- (1) The immediate delivery of materials, appurtenances, and equipment, or the rendering of services is required due to an emergency;
- (2) whenever spare parts, appurtenances, fixtures, equipment or additional services for effects or services previously supplied or contracted for are required;
- (3) when the work or services of professionals or experts are required and the Authority deems that, in the interest of good administration, such services or work may be contracted without the publication of such notice;
- (4) whenever prices are not competitive because of a single source of supply or because they are regulated by law; in such cases, the purchase of materials, appurtenances, and equipment or the procuring of such services may be effected in an open market according to current business practice. When comparing bids and effecting adjudications, due consideration shall be given to factors (besides the proponent's compliance with the established specifications) such as the bidder's ability to provide repair and maintenance services, and the time of delivery or performance he has stipulated. The Authority may promulgate regulations for the submission of bids;
- (5) when purchasing from any Department or instrumentality of the Government of Puerto Rico, the United States, or any foreign country, and
- (6) when a minimum price has been stipulated by Government Authority.

Section 14. — Authority Bonds. (12 L.P.R.A. § 1312)

(a) By authority of the Commonwealth of Puerto Rico that is hereby vested, the Authority may, from time to time, issue and sell its own bonds and keep them outstanding, for any of its corporate purposes, including, but not limited to, exercising the power granted in Section 5 (ll) and (mm) of this Act, and to finance the Regional Solid Waste Management Plan.

(b) The bond issue may be authorized by resolution or resolutions of the Board, may be issued in series or groups, may bear a date or dates and expire within a term or terms which shall not exceed fifty (50) years from the respective dates of issue; they may accrue interest payable each semester,

at a rate or rates that shall not exceed the maximum legal rate at that time; may be of such denomination or denominations, in the form of coupons or registered bonds; may hold registration or conversion privileges; may be issued in the forms to be payable by payment facilities in the place or places, subject to the retirement terms with or without premiums; may be declared as matured or may expire prior to the date of maturity; may provide for the substitution of mutilated, destroyed, stolen or lost bonds; may be authenticated in such manner as provided, once the conditions have been complied with, and may contain other terms and conditions stipulated by said resolution or resolutions. The bonds may be sold publicly or privately, at the price or prices the Authority may determine; Provided, however, That refunding bonds may be exchanged for outstanding bonds issued by the Authority according to the terms that the Board considers beneficial to the best interests of the Authority. Notwithstanding their form and context, and in the absence of an express statement on the bond that it is not assignable, all bonds issued by the Authority shall be negotiable and deemed to be so for all purposes, at all times.

(c) The bonds issued by the Authority which are duly certified by the officials of the Authority in the exercise of their functions on the date of their signing shall be held valid and shall be binding even though, prior to the delivery and payment of such bonds, any or all the officials of the Authority whose signatures or legal facsimile thereof that appear on the documents have ceased in their official functions in the Authority. The validity of the authorization and bond issue shall not depend or be affected in any way by any procedure related to the construction, acquisition, expansion, or improvement of the project for which the bonds have been issued, or by any contract entered in connection with such project. Any resolution authorizing the bond issue may provide that such bonds shall contain a clause to the effect that they are being issued pursuant to the provisions of this Act, and any bond containing the referred clause, authorized by a resolution of the Authority, shall be deemed conclusively valid and issued pursuant to the provisions of this Act.

(d) Provisional or interim bonds, as well as receipts or certificates, may be issued until the final bonds are delivered in the manner and according to the provisions of the resolution or resolutions.

(e) Any resolution or resolutions authorizing any bond issue may include provisions that shall be part of the contract with the bondholders:

(1) Concerning the allocation of the present or future total gross or net income or revenues or any other funds of the Authority, including the pledge of all or any part thereof, to guarantee the payment of the principal and interest on the bonds, as provided in subsection (p) of Section 5 of this act;

(2) in relation to the rates, fees, and other charges to be imposed, and to the appropriation, use, and disposition of revenues delivered from the collection of said rates, fees and other costs by the Authority;

(3) in relation to the setting aside of reserves for a sinking fund and their regulation and use;

(4) in relation to the limits of the Authority's power to restrict and regulate the use of any solid waste facility or part thereof;

(5) in relation to the limitation of the purposes to which the product of the sale of any bond issue may be applied now or hereafter;

(6) in relation to the limitation of additional bond issues;

(7) in relation to the procedure to amend or set aside the terms of any resolution authorizing a bond issue, or any other trust deed or contract on behalf or in benefit of the bondholders in regard to the total amount of the bonds, whose holders may give their consent therefor, as well as the way in which such consent may be given;

(8) regarding the amount and type of insurance coverage that must be held on the Authority's solid waste facilities, and the use and disposition of the indemnity recovered;

(9) regarding the obligation not to pledge either in whole or in part, the revenues, income, or funds of the Authority, with regard to existing rights, or those arising in the future;

(10) in relation to default and the terms and conditions by which any or all of the bonds may mature or be declared matured prior to the date of maturity; and in relation to the terms and conditions by which said statement and the consequences thereof may be waived;

(11) in relation to the rights, responsibilities, powers and duties to be exercised in case of the Authority's violation of any of its commitments, conditions or obligations;

(12) in relation to vesting one or more trustees with the right to enforce any of the agreed stipulations for the surety, payment, or in connection with the bonds; in relation to the powers and duties of each trustee and in relation with the terms and conditions by which the bondholders, or any proportion or percentage thereof, may demand the compliance of any contractual agreement entered into under this Act, or the duties imposed by this Act;

(13) in relation to the way to collect the rates, fees or other charges for the use of solid waste facilities provided by the Authority, and

(14) in relation to any other acts or things which in no way conflict with this Act that may be necessary or convenient to secure the bonds or which would tend to make the bonds more negotiable.

(f) Neither the members of the Board, nor any other person issuing the bonds shall be held personally liable for the same.

(g) The Authority is hereby empowered to buy any of the outstanding bonds issued or in the possession of the Authority, at a price not exceeding the amount of the principal or the current redemption value premium thereof, in addition to the accrued interests, with any available funds allocated for that purpose.

Section 15. — The Commonwealth of Puerto Rico and its Political Subdivisions Shall Not Be Liable for the Bonds. (12 L.P.R.A. § 1313)

With the exception of those bonds of the Authority whose payment is secured by the Commonwealth of Puerto Rico, bonds issued by the Authority shall not constitute a debt of the Commonwealth nor shall any of its political subdivisions be liable for the same; nor shall the bonds or their accrued interest be payable from any funds not pledged for such payment, pursuant to the provisions of subsection (q) of Section 5 of this act.

Section 16. — Remedies of the Bondholders. (12 L.P.R.A. § 1314)

(a) Any bondholder or his trustee shall have the right and power, in benefit of and for the equal protection of all bondholders of similar status, including but not limited to the restriction of a specific proportion or percentage of such bondholders, to exercise any action to:

(1) Through a mandamus or other lawsuit, process or proceeding in law or in equity, to assert his rights against the Authority, and its officials, agents and employees, to execute and carry out his duties and obligations under this Act, as well as the agreements and contracts with the bondholders;

(2) through legal action or bill in equity to demand that the Authority assume liability as if it were the trustee in an express trust;

(3) through legal action, or bill in equity, to forbid any act or thing which could be illegal or in violation of the rights of the bondholders; and

(4) to file suit in relation to the bonds.

(b) No remedy granted by this Act to any bondholder or his trustee shall have the effect of excluding any other remedy, but each of said remedies shall be cumulative and in addition to all the others, and may be exercised without detriment or consideration of any other remedy conferred by this Act or any other act. If any bondholder or his should fail to object to any default or violation of the duties or contract, this action shall not shelter nor affect future default or breach of contract or duties, nor shall it limit any right or remedy thereon. No delay or omission by any bondholder or his trustee in exercising any right or power he may have in case of infringement shall limit said right or power, nor shall it be construed as overlooking or concurring with such fault. Every substantive right and every remedy conferred on the bondholders may be enforced or exercised from time to time, and as often as it may be deemed expedient. In case any lawsuit, action or proceeding to enforce any right or exercise any remedy should be filed or inchoated and then interrupted, desisted or ruled against the bondholder or his trustee, then, and in each of such cases, the Authority and said bondholder or trustee shall be restored to their former office, rights, and remedies as if such suit, action or proceeding had never been filed.

Section 17. — Reports. (12 L.P.R.A. § 1315)

The Authority shall submit to the Legislature, each year at the commencement of each regular session, a master development plan containing the program to be carried out during the following fiscal year.

The Authority shall also submit to the Legislature and to the Governor of Puerto Rico, as soon as possible after the close of the Government of Puerto Rico's fiscal year but before the close of the calendar year:

(a) A complete financial statement of account and a complete report of all the Authority's transactions during the preceding fiscal year, and

(b) a complete report of the status and progress of all solid waste facilities and activities undertaken from the creation of the Authority, or from the date of the last of these reports.

The Authority shall also submit to the Legislature and to the Governor of Puerto Rico official reports of its transactions and activities pursuant to this Act whenever they are requested.

Section 18. — Bonds Shall Be Legal Investments for the Trustees and Security for Deposits. (12 L.P.R.A. § 1316)

The Authority's bonds shall be legal investments and may be accepted as legal security for every trust fund or public funds whose investment or deposit is under the authority or control of the Government of Puerto Rico, or any official or officials thereof.

Section 19. — Tax Exemption. (12 L.P.R.A. § 1317)

(a) It is hereby resolved and declared that the purposes for which the Authority is created and should exercise its powers are: the betterment of the general well-being, the improvement and protection of the environment, the prosperity, and the safeguarding of health, which are all public goals for the benefit of the people of the Commonwealth of Puerto Rico in every sense, and, therefore, the Authority shall be exempt from the payment of taxes or duties on any of the properties acquired by it or under its jurisdiction, dominium, ownership, or supervision or on its activities for the operation and maintenance of any solid waste facility or on the income from any of its undertakings or activities.

(b) The Authority shall also be exempt from the payment of all fees, taxes or duties, heretofore or hereafter, required by law, for the prosecution of a lawsuit, the issuing of certificates in all offices and agencies of the Commonwealth of Puerto Rico, and the execution of public documents and the recording thereof in any public registry of Puerto Rico.

(c) For the purpose of expediting the procurement of funds for the Authority that will allow it to accomplish its corporate purposes, the bonds issued by the Authority and the revenues accrued therefrom, shall be and shall remain exempt from income taxes [, property] and payment of municipal licenses at all times.

Section 20. — Declaration of Public Utility. (12 L.P.R.A. § 1318)

For the purposes of Sections 5(o) and 10 of this act, every solid waste facility, and every other property that the Authority deems necessary or convenient to use in order to carry out the purposes of this Act, are hereby declared to be a public utility.

Section 21. — Appropriation of Funds for Initial Expenses. (12 L.P.R.A. § 1301 note)

The Authority is allotted the amount of two hundred thousand (200,000) dollars from unencumbered funds of the Commonwealth Treasury to account for initial expenses of the Authority's organization and administration until other funds are available to the Authority. The Authority is also authorized to incur obligations up to the additional sum of four hundred thousand (400,000) dollars for such purposes. The funds used by the Authority from the General Fund shall be reimbursed as soon as the Authority has sufficient financial resources to do so.

Section 22. — Injunctions. (12 L.P.R.A. § 1319)

No injunction shall be issued to prevent the enforcement of this Act or any of its sections.

Section 23. — Supplantation of Conflicting Provisions. (12 L.P.R.A. § 1301 note)

The provisions of this Act shall be construed in harmony with the provisions of Act No. 70 of September 18, 1992. In those cases in which the provisions of this Act are in conflict with the provisions of any other Act of the Legislature of Puerto Rico, the provisions of this Act shall prevail, and no other Act regulating the Commonwealth Government or any of its parts, offices, bureaus, departments, commissions, dependencies, municipalities, branches, agents, officials or

employees thereof, approved previously or thereafter, shall be construed as applicable to the Authority, unless it is so conditioned.

Section 24. — Constitutional Interpretation. (12 L.P.R.A. § 1301 note)

The provisions of this act are independent and if any of its provisions were to be declared unconstitutional by any court of competent jurisdiction, the decision of said court shall not affect or invalidate any of the remaining provisions.

Section 25. — Effectiveness. — This Act shall take effect immediately after its approval.

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