

***“Employees Retirement System of the Government of the Commonwealth of  
Puerto Rico”***

Act No. 447 of May 15, 1991, as amended

(Contains amendments incorporated by:

Act No. 1 of December 29, 1951

Act No. 210 of May 8, 1952

Act No. 43 of April 16, 1952

Act No. 177 of April 30, 1952

Act No. 427 of May 13, 1952

Act No. 16 of May 12, 1953

Act No. 7 of April 9, 1954

Act No. 8 of April 9, 1954

Act No. 73 of June 19, 1954

Act No. 35 of May 11, 1955

Act No. 40 of May 17, 1955

Act No. 70 of June 20, 1956

Act No. 39 of June 12, 1957

Act No. 2 of April 22, 1959

Act No. 136 of July 19, 1960

Act No. 132 of June 28, 1961

Act No. 26 of June 15, 1965

Act No. 103 of June 22, 1966

Act No. 127 of June 10, 1967

Act No. 91 of June 19, 1968

Act No. 95 of June 19, 1968

Act No. 160 of June 29, 1968

Act No. 161 of June 29, 1968

Act No. 31 of May 20, 1970

Act No. 62 of May 30, 1970

Act No. 5 of February 28, 1972

Act No. 11 of March 28, 1972

Act No. 19 of April 26, 1972

Act No. 24 of June 20, 1972

Act No. 123 of June 8, 1973

Act No. 269 of July 30, 1974

Act No. 27 of May 26, 1975

Act No. 14 of December 10, 1975

Act No. 6 of February 18, 1976

Act No. 103 of June 2, 1976

Act No. 44 of June 12, 1978

Act No. 34 of May 12, 1980

Act No. 5 of September 8, 1980  
Act No. 14 of June 15, 1981  
Act No. 28 of June 1, 1982  
Act No. 17 of May 23, 1984  
Act No. 51 of July 2, 1985  
Act No. 11 of April 13, 1986  
Act No. 61 of July 1, 1986  
Act No. 15 of April 24, 1987  
Act No. 38 of May 31, 1988  
Act No. 46 of June 29, 1988  
Act No. 122 of July 21, 1988  
Act No. 71 of August 17, 1989  
Act No. 1 of February 16, 1990  
Act No. 16 of July 20, 1990  
Act No. 10 of May 21, 1992  
Act No. 51 of August 28, 1992  
Act No. 116 of December 9, 1993  
Act No. 149 of December 22, 1994  
Act No. 42 of May 15, 1995  
Act No. 122 of August 9, 1995  
Act No. 127 of August 9, 1995  
Act No. 184 of August 12, 1995  
Act No. 205 of August 12, 1995  
Act No. 255 of December 28, 1995  
Act No. 3 of February 13, 1996  
Act No. 49 of June 7, 1996  
Act No. 53 of June 10, 1996  
Act No. 57 of June 24, 1996  
Act No. 134 of August 13, 1996  
Act No. 31 of July 6, 1997  
Act No. 217 of August 9, 1998  
Act No. 254 of August 20, 1998  
Act No. 305 of September 24, 1999  
Act No. 193 of August 24, 2000  
Act No. 218 of August 29, 2000  
Act No. 234 of August 30, 2000  
Act No. 261 of August 31, 2000  
Act No. 302 of September 2, 2000  
Act No. 316 of September 2, 2000  
Act No. 98 of March 27, 2003  
Act No. 156 of June 27, 2003  
Act No. 181 of August 15, 2003  
Act No. 112 of September 2, 2003  
Act No. 112 of May 9, 2004

Act No. 296 of September 15, 2004  
Act No. 524 of September 29, 2004  
Act No. 22 of June 30, 2005  
Act No. 79 of May 1, 2006  
Act No. 33 of April 5, 2007  
Act No. 35 of April 24, 2007  
Act No. 195 of December 13, 2007  
Act No. 7 of February 15, 2008  
Act No. 234 of August 9, 2008)

(Amendments non-incorporated:

Act No. 116 of July 6, 2011  
Act No. 196 of September 18, 2011  
Act No. 279 of December 24, 2011  
Act No. 45 of February 29, 2012)

To establish a retirement system and other benefits for the officers and employees of the Government of the Commonwealth of Puerto Rico; the members and employees of the Legislature, the officers and employees of all public enterprises and of all municipalities; to provide whatever is necessary for financing such system and to establish a retirement savings account program.

*Be it enacted by the Legislature of Puerto Rico:*

CHAPTER 1. — CREATION OF THE EMPLOYEES RETIREMENT SYSTEM OF THE GOVERNMENT OF PUERTO RICO AND ITS INSTRUMENTALITIES. —

**Section 1.101. — Creation; effective and operative dates; coordination with Federal Social Security.** — (3 L.P.R.A. § 761)

There is hereby created a retirement and benefit system to be designated as the “Employees Retirement System of the Government of the Commonwealth of Puerto Rico”, which shall be deemed as a trust. The funds of said System created hereby shall be used and applied as established in this Act for the benefit of the participating members of its membership, and for the benefit of their dependents and beneficiaries for the payment of retirement annuities, disability annuities, death benefits and annuities and other benefits, upon fulfillment of conditions set forth hereinafter, in order to achieve economy and efficiency in the administration of the Government of the Commonwealth of Puerto Rico.

The system shall be established as of the effective date of this act, and shall begin operations on January 1, 1952, when contributions by members shall begin and benefits shall be payable as provided in this Act. The period from the effective date of the act to January 1, 1952, shall constitute a period of organization of the system. January 1, 1952, shall be known

as the "operative date of the system". In the case of public enterprises and municipalities, the operative date shall be the date their participation in the system commences.

As of the effective date fixed in the modification of the Agreement signed between the Agency in Charge, the Secretary of Health and the Secretary of Education, pursuant to the provisions of Act No. 396 of May 12, 1952, as amended, the benefits of Chapter 2 of this Act shall be coordinated with the benefits of Title II of the United States Social Security Act. In no case shall the combined payments of annuities of the Social Security and the Retirement System under Chapter 2 of this Act be less than the annuity that would have corresponded to the participant of the System under Chapter 2, pursuant to the provisions of this Act. Retirement benefits provided under Chapter 3 of this Act shall not be coordinated with the benefits of Title II of the United States Social Security Act.

**Section 1-102 — Retirement Benefits for the Employees of the System.** — (3 L.P.R.A. § 761a)

This Act shall consist of four chapters. Chapter 1 shall contain the provisions related to the creation of the System. Chapter 2 shall contain the provisions related to the retirement benefits program defined for the employees who become a part of the System prior to January 1, 2000. Those employees who become a part of the system prior to January 2000, shall only enjoy the benefits provided in Chapters 2 and 4 and shall not be entitled to any other benefit provided by this Act, unless, pursuant to the provisions of Section 3-102 of this Act, they choose to participate in the Retirement Savings Account Program. Chapter 3 shall contain the provisions related to the Retirement Savings Account Program. The participants of the Retirement Savings Account Program shall only enjoy the benefits provided in Chapters 3 and 4 of this Act, and shall not be entitled to any other benefit provided by this Act. Chapter 4 shall contain the provisions related to the administration of the System and the investment of the System's funds.

**Section 1-103. — Superseded pension funds or plans.** — (3 L.P.R.A. § 762)

Beginning January 1, 1952, the System herein created shall supersede and take the place of the pension funds or plans now constituted and operating under and in pursuance of the following acts:

Act No. 70, approved May 3, 1931, as subsequently amended.

Act No. 23, approved July 16, 1935, as subsequently amended.

Act No. 155, approved May 9, 1938.

The pension funds herein above named shall be merged into and become part of the System herein created and such System shall be construed to be a continuation of the said pension funds which it shall supersede and replace. All moneys, securities and other assets of each of the said superseded pension funds and all books, accounts, properties, files and records, shall be transferred on the operative date or as soon as possible thereafter by the Board of Trustees of each of such superseded pension funds, and the Administrator of the System is hereby authorized and empowered to receive the same, to become the property of the said System, and thereupon each such superseded pension fund shall cease to exist.

All annuities, pensions and other benefits granted prior to the operative date shall from and after the said operative date be paid by the System herein created, according to the acts named above.

All amounts deducted and withheld from the salaries or compensation of the participants of the superseded pension funds shall be credited to the said participants who shall become members of the System if they are in active service, or if not, then when they enter into active service.

All claims for annuities, pensions, benefits, refunds or other benefits against the superseded pension funds, which may be pending on the operative date of the System, shall be allowed or disallowed by the Administrator according to the provisions of the respective superseded acts. Such claims as are allowed shall be paid by the System.

**Section 1-104. — Definitions. —** (3 L.P.R.A. § 763)

The following terms and phrases as used in this Act , unless a different meaning is plainly required by the context, shall have the following meanings:

(1) *Board*. Shall mean the Board of Trustees of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico.

(2) *Administrator*. Shall mean the Administrator of the Retirement System created by this Act.

(3) *Government of Puerto Rico or Government*. Shall mean the Government of the Commonwealth of Puerto Rico, its departments, divisions, bureaus, offices, agencies and dependencies.

(4) *Public enterprise*. Shall mean any government instrumentality of the Commonwealth of Puerto Rico heretofore or hereafter created. It shall, however, not include those subsidiary enterprises of government instrumentalities whose employees, in the judgment of the Board of Trustees of the Retirement System, do not have a clear relationship of employee and employer with regard to the Government of Puerto Rico. Any officer or employee who is a participant of the System and becomes or has become an officer or employee of a subsidiary enterprise of any public enterprise without interruption in service shall continue to have the same rights and privileges as participant of the System, even if said subsidiary enterprise is not covered by the System, it being understood that the necessary employer contribution shall be made by the subsidiary enterprise in accordance with the provisions of this Act.

(5) *Municipality*. Shall include the Municipality of San Juan.

(6) *Municipal Legislature*. Shall include the Municipal Legislature of San Juan.

(7) *Employer*. Shall mean the Government of Puerto Rico, or any public enterprise, or any municipality, as herein defined.

(8) *Employee*. Shall mean any officer or employee of the Government of Puerto Rico, or its instrumentalities or municipalities, regularly employed on a full time basis. This shall include:

(a) Any member of the Police of Puerto Rico;

(b) any Justice of the Peace of Puerto Rico;

(c) the elective officers of the People of Puerto Rico and the employees of the Legislature;

(d) officers and employees of public enterprises;

(e) officers and employees of the municipalities, and

(f) irregular personnel employed in accordance with the provisions of Act No. 110 of June 26, 1958, as amended [3 L.P.R.A. §§ 711-711g ].

(9) *Member or participant*. Shall mean any employee covered by or belonging to the membership of the system.

(10) *Prior services*. Shall mean any service that, prior to the effective date of the System, a participant has rendered as an employee, and for which he/she shall receive the corresponding credit pursuant to Section 1-106 of this Act. It shall also mean every creditable service under subsection E of Section 1-106 of this Act rendered by a participant at any time, regardless of the date of his/her enrollment in the System.

(11) *Subsequent services*. Shall mean every service from said effective date of the System rendered as an employee, as provided in Section 1-106 of this Act.

(12) *Creditable service*. Shall consist of membership service and prior service.

(13) *Compensation*. Shall mean the gross and cash remuneration earned by an employee.

In computing the compensation, any bonuses in addition to the salary and overtime pay shall be excluded.

(14) *Average compensation*. Shall mean the highest average annual rate of compensation of a member of the system during any three (3) years of creditable service.

(15) *Beneficiary*. Shall mean any person in receipt of any annuity or benefit provided by this Act.

(16) *Accumulated contributions*. Shall mean the sum of all contributions made by a member together with regular interest additions thereto.

(17) *Regular interest*. Shall mean the interest rate prescribed by the Board. Interest shall be compounded annually. Regular interest shall be credited annually to the participants' accounts and computed on the balance reflected by such accounts at the beginning of the fiscal year. Interest shall be credited at the end of each quarter. Interest shall be credited to the contributions made by the participants during the current fiscal year for the average time they have been in the system in that fiscal year. In no case shall interest be credited to contributions which have been in the system for less than three (3) months during any given fiscal year.

(18) *Actuarial tables*. Shall mean such indices of mortality and rates of interest as shall be adopted by the Administrator in accordance with recommendations of the actuary.

(19) *Actuarial equivalent*. Means an annuity or benefit of equivalent value to the accumulated contributions, when such annuity or benefit, as the case may be, is computed upon the basis of the funding methods herein prescribed and actuarial tables in current use by the system.

(20) *Fiscal year*. Shall mean the period beginning on July 1 of any year and ending on June 30 of the next succeeding year.

(21) *Social security*. Shall mean Title II of the Federal Social Security Act, approved August 14, 1935, Chapter 531, 49 Stat. 620, officially known as the "Social Security Act" as heretofore or hereafter amended, including the regulations and requirements approved thereunder.

(22) *Date of coordination with social security.* Shall mean January 1, 1955, or any later date fixed for the inclusion of the participants under the Federal Social Security Act.

(23) *Superseded pension funds.* Shall mean any pension fund or plan constituted or in operation as provided in the various acts listed in Prior law note under Section 1-103 [3 L.P.R.A. § 762].

(24) *Program.* Shall mean the Retirement Savings Account Program established under the System pursuant to the provisions of Chapter 3 of this Act.

(25) *Initial transfer balance.* Shall mean the individual contributions plus the accrued interest of the participant of the Program under the System or any other retirement system of the employer that are transferred to the Program.

(26) *Joint and Survivorship Annuity Contract (50%).* Shall mean a non-cancelable annuity contract issued by an insurance company authorized by the Insurance Commissioner of Puerto Rico to conduct business in Puerto Rico, under which the insurance company shall make equal monthly payments during the life of the participant of the Program, and after his/her death, when the surviving spouse reaches the age of sixty (60) and until his/her death, the insurance company shall pay an amount each month equal to fifty percent (50%) of the monthly payment that the participant received when living.

(27) *Life annuity contract.* Shall mean a non-cancelable annuity contract that is issued by an insurance company authorized by the Insurance Commissioner of Puerto Rico to conduct business in Puerto Rico, under which the insurance company shall make equal monthly payments during the life of the participant of the Program.

(28) *Surviving spouse.* Shall mean the person who is [legally] married to the participant of the Program when the separation from service occurs and who survives the participant.

(29) *Savings account.* Shall mean the retirement saving account established and maintained under Section 3-103 of this Act for each participant of the Program.

(30) *Normal date of retirement.* Shall mean under Chapter 3 of this Act:

(a) *General rule.* The first day of the month that coincides with or is subsequent to the date that the participant of the Program reaches the age of sixty (60), except as provided in clause (b) of this subsection.

(b) *Police officers and firefighters.* In the case of members of the Puerto Rico Police and the Puerto Rico Firefighters Corps, it shall mean the first day of the month that coincides with, or is subsequent to the date that the Participant reaches the age of fifty-five (55) years.

(31) *Transfer option.* Shall mean the choice to participate in the Program pursuant to Section 3.102 of this Act by each participant of the System who is an employee as of December 31, 1999, or by each employee who is a member of an employer's retirement system as of December 31, 1999, and who subsequent to this date becomes a participant of the System.

(32) *Participant of the Program.* Shall mean every person for whom the Administrator maintains an account under the Retirement Savings Account Program pursuant to the provisions of Chapter 3 of this Act.

(33) *Investment yield.* Shall mean the investment yield that shall be credited to the savings account of the participant of the Program pursuant to Section 3.107(a)(3) of this Act.

(34) *System.* Shall mean the Employees Retirement System of the Government of the Commonwealth of Puerto Rico.

(35) *Totally and permanently disabled.* Shall mean, for the purposes of Chapter 3 of this Act, being totally and permanently disabled as determined by the Federal Social Security Administration. In the case of those employees who are not covered by the Federal Social Security Act and for purposes of Chapter 2 of this Act, the Administrator, or the person designated by him/her, shall determine whether the person is disabled, pursuant to the rules established through regulations.

(36) *Permanent separation from service.* Shall mean a complete and definite separation from public service. Resignation used as a temporary mechanism to move from one position to another position in public service is not sufficient.

(37) *Code.* Shall mean the Puerto Rico Internal Revenue Code of 1994, as amended.

The masculine gender of the pronoun, wherever it is used, shall encompass both genders.

**Section 1-105. — Membership. —** (3 L.P.R.A. § 764)

(a) The membership of the system shall be constituted by every person who holds a regular position as a career or confidential employee or with [probationary] personnel status in any executive department, agency, administration, board, commission, committee, office or instrumentality of the Executive Branch, by the Justices of the Peace, the regular employees and officials of the Judiciary Branch and the regular officials of the Legislature of Puerto Rico, and by all regular officials and employees of the municipalities, including the mayors.

(b) Officials and regular employees of those public enterprises and municipalities who are participating employers of the system shall also be participating members of the system, subject to what is established in Section 1-110 of this Act.

(c) For purposes of membership in the system, the Office of the Citizens' Investigating Official shall be deemed to be a public instrumentality, and the Puerto Rico Commonwealth Employees Association shall be deemed to be a public enterprise.

(d) Membership in the Retirement System shall be optional for the Governor of Puerto Rico, for all the Secretaries of Government, heads of public agencies and instrumentalities, the Governor's aides, the members of commissions and boards appointed by the Governor, for the members of the Legislature of Puerto Rico and for the Controller of Puerto Rico. These officials may, at any time, request to be discharged from, or reinducted into the system. The period of services rendered to the Government while separated from the system, shall be credited as creditable service, provided said officials pay the individual and employer contributions, plus interest, that correspond to the period of separation, to the system.

(e) Admission into the Retirement System shall be optional for employees of departments, divisions, bureaus, offices, dependencies, public corporations, and instrumentalities of the Commonwealth of Puerto Rico who work and reside outside the territorial limits of the Commonwealth of Puerto Rico. These employees may, while working outside of Puerto Rico, opt not to participate in the System or discontinue their participation. This decision shall be irrevocable. Once they return or begin to work within the territorial limits of the Commonwealth of Puerto Rico, they shall participate compulsorily in the Retirement System. Provided, That those employees who when exercising said option have their accumulated contributions in the System, may request the reimbursement thereof by waiving their vested rights in the System, if any.

(f) The age of an employee shall be no impediment to be admitted into the System as a participating member.

(g) The Administrator, with the approval of the Board, shall establish and put into effect the regulations necessary to establish the eligibility requirements, contributions, computation of pensions, annuities and death benefits, accreditation for services not credited and all other terms and conditions for the payment of retirement pensions and benefits for the participating members enrolled in the System.

(h) Any employee who on the day immediately preceding the date of application of this Act is a member of any pension plan or fund superseded by the System hereby created, shall maintain all vested rights under the pension plan or fund to which he/she belonged and any other vested rights under this System.

(i) Any person employed or to be employed pursuant to the provisions of Act No. 110 of June 26, 1958 of this Act [3 L.P.R.A. §§ 711 et seq.] , shall be entitled to be admitted into the System as a participating member, provided said person has rendered services to the Government of Puerto Rico for a period to be established by the Administrator, with the approval of the Board, which shall be of not less than three (3) years.

All persons who are receiving a pension, benefit or have vested rights that entitle them to receive a deferred pension under this Act , administered by the Employees Retirement System of the Government of the Commonwealth of Puerto Rico, who were working at the Puerto Rico Telephone Authority and were participants of the Government Retirement System at the time of the sale of such company in 1999, shall have the right to obtain credit for the years in service required to be eligible for a pension for merit if such years have been already served or are being served in any government branch including the "Puerto Rico Telephone Company", "Verizon" or "Claro", or the right to have the pension recalculated or readjusted under the same terms.

In the event that any such employee had withdrawn all his/her contributions, he/she may return the same in order to avail him/herself of the retirement benefits that he/she was entitled under this Act , as of the date in which such contributions were withdrawn and pursuant to the provisions of this act.

The interest on account of un-credited years in service and returned contributions shall be payable at a special simple interest rate which shall not be greater than two and a half (21/2) annual percentage rate.

Such participants, who opt to avail themselves of the payment plan benefit granted by this act, may have not more than twenty (20) years of service left to be eligible for a pension for merit pursuant to this Act , which years in service may be credited according to the provisions of this act and shall have ten (10) credited years in services within the system.

To be eligible to opt for the payment plan at a two and a half (21/2) annual percentage rate accrued on the un-credited services or the return of withdrawn contributions, every participant must pay in full the amount due on principal plus interest on contributions owed after the PRTC Retirement Plan returns to the Retirement System any contributions held for each participant. To pay the amount due, the participant shall have a five (5)-year period or the period of time left to complete thirty (30) years in service to be entitled to a pension for merit, whichever period is greater, to be counted as of the date of approval of the payment plan by the Retirement System or the notice of the cost of un-credited services.

These participants shall not pay the employer's contribution, since a large portion of the proceeds of the sale of Puerto Rico Telephone were allotted to the Employees Retirement System of the Government of the Commonwealth of Puerto Rico for cover its actuarial deficit.

**Section 1-106. — Creditable services. — (3 L.P.R.A. § 765)**

(a) *Creditable service.* Creditable service shall [always] be served by an individual as a regular employee participating in the system and during which he pays the corresponding contributions as provided in this Act.

(b) *Prior service.* On and after the operative date, any service rendered by a member since he last became a member of the [system], with respect to which the corresponding contributions have been paid, shall count as subsequent service. Commencing on the date of his/her first appointment, services rendered prior to the operative date by any member in any department, division, agency, instrumentality or municipality of the Commonwealth of Puerto Rico, shall be credited as prior service if said member has paid or pays to the system, in the manner provided by the Administrator, the contributions corresponding to the years of service rendered on and after January 1, 1924, according to the rates in force provided by the laws to establish the retirement of permanent officials and employees of the Government of Puerto Rico, approved September 22, 1923, September 2, 1925, and July 16, 1935, or according to the rates in force under the systems superseded as of the date said services were rendered. Employees who have received refunds of contributions paid to pension funds superseded by this system, shall not receive credit for the period of service represented by such refunded contributions, unless such employees repay amounts equal to such refunds to the system.

(c) *Computation of services.* For the computation of the length of services prior or subsequent to the operative date, and until April 1, 1990, as the case may be, the following schedule shall govern: nine (9) or more months of service during any fiscal year shall constitute one (1) year of service; six (6) to nine (9) months, three-quarters (3/4) of a year; three (3) to six (6) months, one-half ( 1/2) year of service. Less than three (3) months of service shall not be considered for the effects of this computation, nor shall less than fifteen (15) days of service in any one (1) month be considered as a month of service. Not more than one (1) year of service shall be creditable for all services rendered by a member during any one (1) fiscal year. Pursuant to the provisions of Section 1-109 of this Act, services rendered by any new participant shall be computed on the basis of completed months. The Board shall prescribe in its rules, the number of hours or days constituting a month of service, and the equivalence of services rendered by public officials or employees based on compensation that is not for a monthly salary.

(d) *Non-Creditable service.* In no case shall credit be granted for services for the following concepts:

(1) For services rendered in a department, division, agency, instrumentality or municipality of the Government of Puerto Rico, that have been credited for the enjoyment of a pension in any pension fund or plan to which the Government of Puerto Rico or any of its agencies, instrumentalities or municipalities contribute in whole or in part, directly or indirectly.

(2) For services paid on a per diem basis.

(3) For services contracted to be rendered in some way other than daily and during the regular working hours.

(4) *For any period of leave without pay, nor for any unpaid service.* If a participant has a break in service due to a disability resulting from a work accident protected under Act No. 45, of April 18, 1935 [11 L.P.R.A. §§ 1 et seq.], whereby, because the employee has used up his vacation and sick leave, has to be discharged from service; if such participant, after totally or partially recovering his fitness for work, returns to the service, the period during which he was out of the service due to his disability, shall be included as creditable service, provided the participant:

A) Has not received occupational disability benefits from the Retirement System.

(B) Has not held remunerated employment during said period.

(C) Pays to the system, in the manner provided by the Administrator, the individual and employer contributions for the period corresponding to the break in services caused by the disability.

(D) Returns to the public service within thirty (30) days following the date that the State Insurance Fund determines he has recovered from the disability.

(e) *Other creditable services.* In addition to the preceding provisions, the following services shall be credited to any person who is a member of the System at the time accreditation is requested:

(1) For all purposes of this chapter, any member of the system shall receive credits for the period of military service rendered in the Armed Forces of the United States of America during any armed conflict, provided such member received his unconditional, other than dishonorable discharge from such military service. If the military service was rendered in peacetime, he shall receive credits up to a maximum of two (2) years as creditable service. Also creditable shall be the time in active service rendered by a member of the Reserve Corps or the Puerto Rico National Guard who has been called to active service or transferred from the Reserves to active service in the Armed Forces of the United States during any period of armed conflict or during peacetime, from the date of the call or transfer, and until the date that the call or transfer order ceases or is rendered ineffective. To be credited for these services, the participant shall pay the corresponding contributions to the system, based on the salaries received during his service in the Armed Forces, or on the salary received on entering or returning to government service if the services were rendered in peacetime. The participant shall also pay the corresponding employer contribution as determined by the Administrator of the Retirement System.

(2) The time invested in studies for veterans attended under a state or federal plan for veterans, shall also be creditable, provided it does not constitute a double credit, if the participant served in the Army of the United States of America and received his unconditional, other than dishonorable discharge. If the participant was a member of the system and availed himself of leave without pay in order to study, he shall only pay the corresponding individual contribution based on the salary he received at the time he availed himself of leave without pay, or on his initial salary upon returning to the public service, whichever is higher. The government employer who [is] granted leave without pay to attend studies shall pay the contribution determined by the Administrator, plus the

corresponding interest. If the participant was not a member of the system, he shall pay the corresponding individual and employee contributions based on the salary received upon entering the system or on the salary received at the time he requests the credit, whichever is higher.

(3) Services rendered as mayor to a municipality shall also be computed as creditable service for all purposes of this Act. The participant shall pay to the system the corresponding individual and employer contributions based on the salary received as a mayor at the time of rendering services. If at the time the participant requests credit he is serving as a mayor and has procedures pending against him which might entail removal from office, no credit shall be granted until the charges or procedures pending against him are elucidated finally and in his favor.

(4) Any service rendered in federal agencies shall be creditable up to a maximum of ten (10) years if the participant has ten (10) or more years of computed service in the System. The participant shall pay to the System the individual and employer contributions, plus the corresponding interest based on the salary he/she received in the federal agency. Provided, That said earned salary shall not be considered when computing the average compensation at the time of retirement.

(5) Any service rendered by a participant who avails himself of leave without pay in order to direct a government workers' union shall be creditable. The participant shall pay to the system the corresponding individual and employer contributions, based on the salary received at the time of the temporary separation from service to direct the government workers' union, or the salary earned upon his return to the government agency, whichever is higher.

(6) Any service rendered by a participant who avails himself of leave without pay in order to render services to a main political party in Puerto Rico shall be creditable, if the salary received in such service was paid by the Electoral Fund and the participant did not avail himself of the benefits of Act No. 69 of June 20, 1962 [16 L.P.R.A. §§ 610 and 611]. The participant shall pay to the system the corresponding individual and employer contributions based on the salary received on the date of temporary separation from service to serve the political party, or on the salary he began to earn upon his return to the government agency, whichever is higher.

(7) Any service rendered as a regular employee of the Puerto Rico Teachers Association; the Puerto Rico Legal Services Corporation; the Legal Aid Association; the Corporation Pro-Bono, Inc.; the Puerto Rico Police Members Association; and the bona fide organizations which represent the police officers and the civilian employees of the Puerto Rico Police covered by the provisions of this chapter; the Oficina Legal de Santurce, Inc.; the Asociación de Pensionados del Gobierno de Puerto Rico, Inc. and the San Juan Legal Services Incorporated, shall be creditable. The participant shall pay an individual contribution based on the salaries received plus the corresponding employer's contribution determined by the Administrator. In these cases, the Administrator may receive total or partial payment of the corresponding employer's contribution from any of the employers mentioned in this clause.

(8) Any service rendered in a child day-care center under the "Head Start" program shall be creditable, provided no fee has been charged for the care of, and services rendered to

the children. The participant shall pay the individual contribution based on the salary received, plus the corresponding employer contribution determined by the Administrator.

(9) The services rendered by a participant outside of the territorial limits of Puerto Rico shall be creditable, provided the services are rendered:

(A) In any agency, division, office or branch of the Commonwealth of Puerto Rico established outside of Puerto Rico;

(B) in any technical aid program sponsored by the Government of the United States of America in benefit of countries abroad by virtue of the agreement established in Act No. 63 of June 20, 1962, as amended [3 L.P.R.A. §§ 66-66j], between the Government of the Commonwealth of Puerto Rico and the Government of the United States of America.

In any of these cases, the participant shall pay the corresponding individual and employer contributions based on the salary he received during the rendering of services, plus the corresponding employer contribution determined by the Administrator.

(10) Any time served under contract in any department, division, agency, instrumentality, public enterprise or municipality of the Commonwealth of Puerto Rico shall be creditable, if the services were rendered on a daily basis, during regular working hours, at the employer's workplace, and the pay or compensation for the services rendered was based on a fixed monthly rate or on a fixed hourly rate and, in every case, for a minimum of one hundred and twenty (120) hours per month. The head of the agency or the nominating authority, as the case may be, shall certify that the participant rendered services under contract, that the services were equivalent to those of a position, and shall specify the position classification to which the services were equivalent. The participant shall pay the individual and employer contributions determined by the Administrator based on the salary earned under contract before entering or reentering to the system. Provided, That the salary earned under contract shall not be considered for the purposes of computing the pension upon the retirement of the participant.

(11) The time served by a participant as a transitory employee, the services rendered based on an hourly wage, shall be creditable, provided the time worked has been no less than eighty (80) hours a month, and services rendered as an irregular employee in the Legislative Branch, the Judiciary Branch or in any department, division, agency, instrumentality, or municipality of the Commonwealth of Puerto Rico. The participant shall pay the corresponding individual and employer contributions based on the salary earned while he rendered the services.

(12) The time served as municipal legislator shall be credited provided the latter has neither been a participant of the System nor has been in government service in any department, division, agency, instrumentality, public enterprise or municipality of the Commonwealth of Puerto Rico while serving as municipal legislator. The participant shall pay the corresponding individual and employer contributions on the basis of the salaries received when joining the System or on the basis of the salaries received when accreditation is requested, whichever is greater.

(13) The time served by physicians, nurses and other health professionals in hospitals or branches of the Government of the Commonwealth of Puerto Rico during an internship or residence shall be creditable, provided said period of internship or residence has been a

requirement to obtain the degree or license. The participant shall pay the corresponding individual and employer contributions based on the salary earned when becoming a member of the system.

(14) The time served as a regular employee in public enterprises, branches and instrumentalities of the Government of Puerto Rico and in municipalities, which were not participating employers of the system at the time the services were rendered, shall be creditable. If the services were rendered as a regular employee in a municipality, the cost of the corresponding individual and employer contributions, plus interest, shall be paid in equal parts by the participant and the municipality that he served, which shall be computed on the basis of the salaries received by the participant while he rendered the services. In all other cases, the participant shall pay the individual and employer contributions based on the salaries received during the period the services were rendered, or based on the salaries earned when becoming a member of the system, whichever are higher.

(15) The time in which a participant was out of the service due to dismissal, if a competent court or administrative forum directs his reinstatement with the payment of any unpaid salaries, and recognizes the right to the fringe benefits of the office. The participant shall pay the individual contribution, and the employer to whom the reinstatement was directed shall pay the employer contribution plus interest corresponding thereto. Computation of the contributions shall be based on the salaries to which the participant would have been entitled to earn if he had not been dismissed.

(16) Any service rendered by a participant as a member of the Legislature of Puerto Rico shall be creditable, after payment of the corresponding individual and employer contributions. An annual salary of one thousand dollars (\$1,000) shall be taken as a basis for those years in which he only received per diems for his services as legislator.

(17) The time invested by a participant in studies attended through a scholarship from a department, agency, division, instrumentality, public enterprise or municipality of the Commonwealth of Puerto Rico, shall be creditable, provided it does not constitute a double credit. In order to be entitled to credit, the participant must return to government service or join the service of the employer that granted the scholarship, within the term of ninety (90) days following the date the studies were concluded. If the participant was a member of the system and availed himself of leave without pay in order to study, he shall pay only the corresponding individual contribution based on the salary earned when availing himself of leave without pay. The government employer that granted the leave without pay for him to study, shall pay the contribution determined by the Administrator plus the corresponding interest. If the participant was a member of the system and resigned his post to study, he shall pay the corresponding individual and employer contributions based on the salary earned on the date of his resignation. If the participant was not a member of the system, he shall pay the corresponding individual and employer contributions based on the salary earned upon induction into the system.

(18) The time served by a participant taking leave without pay to render services as a confidential employee in the Office of the Governor or the Legislature of Puerto Rico shall be creditable. The time served by a participant taking leave without pay, who has been elected in the general elections or designated to fill an elective public office vacancy

in the Executive or Legislative Branch shall also be creditable. In both cases the participant shall continue paying the corresponding individual and employer contributions into the system on the basis of the salary received by the date of the temporary separation from the career service position to serve as a confidential employee or to the elective office, or on the basis of the salary received while in the elective office or serving as confidential employee, whichever is higher.

The government entity for which the participant renders services as confidential employee, or in which he/she holds the elective office, shall withhold the contributions and the payments for loans to the system for the term he/she holds said position, and shall remit said contributions or payments to the system with the corresponding employer contribution.

(19) Every service rendered as a regular employee of any employer covered by the system, or other creditable services, who because of his/her age was not allowed to be a participating member of the system, shall be credited and the participant shall pay the corresponding individual and employer contributions, based on the salaries received while rendering said services.

(20) Those employees of the Department of Health and its dependencies who are participants and who have contributed a minimum of five (5) years of creditable services, and who, as a result of the privatization of the health facilities pursuant to the provisions of Act No. 190 of September 5, 1996 as amended [24 L.P.R.A. §§ 3301-3325], known as the "Act to Regulate the Government Health Installations' Privatization Process", lose their eligibility as participants under this Act, may credit an additional period of time as service which shall not exceed a maximum of five (5) years provided they make the corresponding individual contribution on the basis of the salary they earned on the date of their separation from service within five (5) years after having ceased as public employees, or during the periods in which they are unemployed, the employer's contribution shall be made by the Government of Puerto Rico for a maximum period of twenty-four (24) months. Provided, that crediting shall only be made by periodic payments for the number of years that are to be credited.

(21) The time served by a participant who has availed him/herself of the benefits of the Right to Employment Administration under the provisions of the Right to Employment Act, [29 L.P.R. §§ 1101 et seq.], shall be creditable. The participant shall pay into the system the corresponding individual and employer contributions on the basis of the salaries earned while rendering services, plus the interest determined by the system.

**Section 1-107. — Payment and credit of uncomputed creditable services. — (3 L.P.R.A. § 765a)**

(a) Any payment for uncomputed creditable services shall be made while the member is in active service and shall include the corresponding interest at the rate determined by the Board, from the date of the total payment thereof if the payment is made in cash, or to the date in which the administrator grants a payment plan.

In the case of military service in the Armed Forces or while pursuing studies totally or partially paid with funds provided by the Department of Veterans Affairs of the Government

of the United States, formerly the Veterans Administration, the rate of interest to be paid shall be based at a simple interest rate of six percent (6%) per annum based on the lesser of the salary earned when entering government service or that received when entering into active service in the Armed Forces or on the date of their discharge therefrom.

In the case of any president or vice-president who has served in organizations or associations which represent police officers and civilian employees of the Puerto Rico Police until June 30, 1966, the interest to be paid shall be based at a simple interest rate of six percent (6%) per annum based at the salary earned while working for said organizations or associations at the time the accreditation of the services was requested.

(b) Any participant may request that the Administrator grant him a payment plan in order to cover the cost of uncomputed creditable services under this Act. These payment plans shall entail the imposition of the corresponding interest, and may be granted for over sixty (60) months, as established by the Board through regulations. Any payment plan shall be settled before requesting a pension for age, years of service or non-occupational disability. If a participant does not complete a payment plan, he shall receive partial credit of time equivalent to the paid services. In the event that a participant is involuntarily separated from service without having covered the total cost of the uncomputed services, he may continue making direct payments to the System until said cost is paid.

(c) The Administrator may grant to any participant that so requests it, a special personal loan for the global payment of the uncomputed creditable services. This special personal loan shall not be renewable and shall include the corresponding interest. The granting of these special personal loans shall be subject to the norms and conditions established by the Board through regulations. Credits for the uncomputed services covered by a special personal loan shall be recognized and credited as soon as the Administrator grants the loan.

**Section 1-108 — Calculation of average compensation for new participants. — (3 L.P.R.A. § 766b)**

The average compensation of all new participants who join the System for the first time after April 1, 1990 shall be calculated based on the average of the last five (5) years of creditable service. This period of five (5) years shall be the base period. If the annual compensation in any of the years covered in the base period, exceeds by more than ten percent (10%) the annual compensation of the immediately preceding year, the compensation in excess of said ten percent (10%) shall not be included in the calculation of average compensation.

**Section 1-109. — Accreditation of services of new participants. — (3 L.P.R.A. § 766c)**

Services rendered by all new participants who join the System for the first time after April 1, 1990, shall be accredited on the basis of complete months.

**Section 1-110. — Participation by public enterprises and municipalities. — (3 L.P.R.A. § 782)**

(a) Any public enterprise, as defined in this Act , may, by a resolution adopted by the Board of Directors or other government authority, in the case of a public enterprise, join the system created by this chapter and provide the annuities and benefits as herein prescribed for its employees who are participants in the system.

(b) A duly certified copy of this resolution shall be filed with the Supervisor. Said Joint Resolution shall contain a list of the officials and employees of the public enterprise who shall become members of the system. Participation in the system on the part of a public enterprise shall be subject to the approval of the Board. The operative date of participation in the system shall be January 1 or July 1, following the date of approval. The employees of the employer shall be subject to the conditions for membership imposed by this chapter and shall be entitled to participate in the annuities and benefits on the same basis as prescribed herein for the other members of the system. Likewise, they shall make the necessary contributions pursuant to the provisions of this chapter.

(c) For the purposes of Chapter 2 of this Act, the Administrator, pursuant to the procedure established in Section 2-116 of this Act, shall determine the rates of contributions or equivalent amounts which the public enterprises and municipalities shall contribute as employers. For the purposes of Chapter 2 of this Act, the Administrator may fix an employer contribution rate for a corporation that is lower than the maximum required to cover the total cost of its obligations as an employer, but if said rate were greater than 9.275 percent, the minimum rate to be paid shall be 9.275 percent.

(d) Prior to the beginning of each fiscal year the Administrator shall certify the types or equivalent amounts which shall be contributed by public enterprises and municipalities as contributions for the following fiscal year. The Administrator shall notify the enterprise of accumulated actuarial shortages, if any. The Administrator is authorized to require public enterprises or municipalities to make additional payments to eliminate said shortages, and the Administrator may exercise his discretion to establish the manner in which payment is to be made.

(e) If, within six (6) months after the notice of said shortage was provided by the Administrator to said public enterprise or municipality these entities have not made satisfactory arrangements for elimination of the shortage, the Administrator shall, in the manner described in this section, suspend said enterprise or municipality from the system.

(f) The contributions shall be made concurrently with the payment of compensation to employees who are participants in the system, as provided in this Act , and shall be due and payable within fifteen (15) days after the end of the period to which such compensation relates, and failure of a public enterprise or municipality to make such payment in full within ninety (90) days after the end of such fifteen (15) day period shall suspend such public enterprise or municipality from the system. The Administrator shall immediately give notice of such suspension to the public enterprise or municipality and thereafter the rights of such enterprise or municipality in the system and those of its employees who are participants of the system shall be the same as though the public enterprise or municipality had effectively withdrawn from the system in the manner hereinafter described in this section.

(g) The Administrator shall keep a separate account for each public enterprise and municipality and individual accounts for each of the employees thereof participants of the system, in the same manner as for other members of the system. For the purposes of this Act , payments made by a public enterprise or municipality and contributions by the employees thereof shall be credited, and all appropriate benefits charged to said accounts.

(h) Any public enterprise or municipality becoming delinquent in contributions as hereinabove provided shall be considered as having withdrawn from the system, and the effective date of such withdrawal shall be fixed by the Administrator. In such an event the procedure shall be as follows:

(1) Assets of the system accumulated from contributions of employers and employees of public enterprises or municipalities shall be applied, insofar as possible, to the payment of the following obligations in the order in which they appear:

(A) Present value of all pensions granted to employees of the corporation or municipality, based on actuarial tables adopted by the Board. These amounts shall be retained in the system to continue payment of said pensions.

(B) Present value of all benefits as to which the participants of said public enterprise or municipality have acquired a vested interest as provided in this Act. These amounts shall be retained in the system to continue payment of said benefits.

(C) Return of contributions and interest to all employees who have not acquired vested rights to benefits.

(D) Return of employer contributions with interest.

(2) The employer shall be responsible to pay the system for any shortage resulting from pensions or vested rights to benefits owing to participants and which cannot be made from the accumulated resources of the system.

(3) If available resources, after payment of the obligations listed in paragraphs (A) and (B) of clause (1) of this subsection are insufficient to meet the obligations mentioned in paragraph (C) in total, available resources for such payments shall be distributed among the persons who make up the category established in said paragraph (C) in the proportion that the amount accredited to each person has to the sum total of accredited quantities.

(4) Employees of the public enterprise or municipality who are not receiving a pension or who do not have vested rights and who do not receive from the system complete reimbursement for their contributions plus interest shall have the right to proceed against the public enterprise or municipality for the return of any portion of their accumulated contributions for which they have not been reimbursed.

(i) Once the system has liquidated all assets accumulated by a public enterprise or municipality which has withdrawn from the system as provided herein, said public enterprise or municipality and its employees shall have no right to make any claim whatsoever against the system.

(j) Any remainder which reverts to the public enterprise or municipality after provision is made for retirees and employees with vested rights and after reimbursement to employees without vested rights shall be considered a trust fund subject to equitable distribution among employees who were participants in the system as of the date of withdrawal of the enterprise or municipality from the system.

(k) Any public enterprise or municipality which, along with its employees, has been suspended from the system may be readmitted at any time with the approval of the Board and upon payment to the system of the amount reimbursed upon suspension, as adjusted for former employees who have not been replaced, together with appropriate amounts for contributions of the enterprise or municipality and its employees for the period of withdrawal from the system, all to include interest as determined by the Administrator.

(l) In the event a public enterprise shall be created within thirty (30) days prior to July 1, 1951, or at any time subsequent to the said effective date, and all or any part of the employees of any such public enterprise shall be members of a superseded pension fund or plan as herein defined, or of the system, the said public enterprise shall automatically come under the provisions of this Act and be subject to all of the conditions and obligations of this Act. The provisions for optional participation contained in this section shall not apply to any such public enterprise, but all other provisions shall be fully applicable to the same extent as in the case of any other public enterprise covered by this Act.

## CHAPTER 2. — DEFINED RETIREMENT BENEFITS PROGRAM. —

### **Section 2-101. — Retirement annuity. — (3 L.P.R.A. § 766)**

(a) Upon separation from service, on or after reaching the ages, and after completing the period of service indicated below, all participants who have not been reimbursed their accrued contributions shall be entitled to receive a retirement annuity. Said annuity shall commence on the date in which the participant files his/her application for retirement, but in no case before his/her separation from the service.

Retirement shall be optional for the members of the System in active service, on and after the date they have attained the age of fifty-five (55) years and have completed at least twenty-five (25) years of creditable service; and for members of the System who having reached the age of fifty-eight (58) years, and have completed at least ten (10) years of creditable service. The members of the Police Corps or the Firefighting Corps shall also have the option to avail themselves of a retirement annuity on and after the date on which they have attained the age of fifty (50) years and have completed at least twenty-five (25) years of creditable service.

Any participant whose separation from the service occurs prior to having attained the age of fifty-eight (58) years, who shall have completed at least ten (10) years of creditable service, and who shall have not applied for, nor received reimbursement of accumulated contributions shall be entitled to receive a deferred retirement annuity. Said participants shall receive a deferred retirement annuity which shall commence upon attaining the age of fifty-eight (58) years or after attaining the age of fifty (50) years in the case of policemen or firemen, and fifty-five (55) years in the case of the other participants, if they have completed at least twenty-five (25) years of service in one case or the other.

The amount of the annuity shall be one and one-half percent (1 1/2 %) of the average compensation multiplied by the number of years of creditable service up to twenty (20) years, plus two percent (2%) of the average compensation multiplied by the number of years of creditable service in excess of twenty (20) years. Said annuity shall be payable in full to

the members who retire at the age of fifty-eight (58) years or more, and to the members of the Police Corps [or] the Firefighting Corps who retire at the age of fifty (50) years or more and who have completed at least twenty-five (25) years of creditable service. The members or participants who become entitled to a deferred retirement annuity shall receive the percentage of their annuity as provided in this paragraph.

With the exception of the members of the Police Corps and the Firefighting Corps, those participants who apply for and are granted an annuity while under the age of fifty-eight (58) years, request and are granted an annuity, shall have their retirement annuity computed as stated above, except that [it] shall be reduced to an amount representing the actuarial equivalent, at said participant's age at retirement, of an annuity payable when the participant attains the age of fifty-eight (58) years; Provided, That when any member of the Police Corps or the Firefighting Corps who has completed the requirements of age and of years of service established by this Act to enjoy a retirement annuity passes or has passed without interruption to another position comprised within the membership of this System, he shall retain his right to an annuity under the provisions in force for the members of the Police Corps and the Firefighting Corps.

However, a minimum pension of four hundred dollars (\$400) per month is hereby fixed for those participants who retire in accordance with the provisions of this Act or of any of the pension plans superseded by it. Every pensioner who receives a pension of less than four hundred dollars (\$400) per month shall receive, effective the 1st of July 2007, an increase of one hundred dollars (\$100) or the difference between the pension he/she receives to June 30, 2007, and four hundred dollars (\$400) per month, whichever is less.

The provisions on minimum pensions set forth in this section shall not apply to persons who, having been participants of this System, retire under the jurisdiction of any other of the systems sponsored by the Government, in accordance with the provisions set forth in this Act.

The maximum retirement annuity for the participants shall be seventy-five percent (75%) of the average compensation.

(b) The preceding provisions shall not be applicable to officer participants of this System who have served for at least eight (8) years as mayors.

Mayors who while being in active service, are not participants of this System may choose to make the transfer of funds and adjustments of the System that may be necessary to avail themselves of the benefits of this Act, without being subject to the provisions of this Act.

Mayors who during their term of service to the Commonwealth as such, have been separated from their offices for just cause, shall not be considered as included in the above classification.

Provided, That if the mayor resigns while being investigated, or is afterward investigated, by the Office of the Comptroller of Puerto Rico, the Department of Justice and/or any other state or federal agency, or is convicted for actions related to duties as mayor, he/she shall [lose] the right to receive a pension, pursuant to this section and shall be obliged to return any amounts received as pension, pursuant to this section. Nevertheless, he/she shall have the right to a pension under the provisions of this section for the other participants.

The amount of the superannuation retirement annuity of mayors who are participants of the System shall be computed on the basis of the highest salary he/she may have received while discharging his/her government duties in the following manner:

- (1) For services performed as mayor, five percent (5%) of said salary for each year of creditable service up to a maximum of ten (10) years or fifty percent (50%), plus
- (2) for other services performed not included in the above computation, one and one half percent (1 1/2 %) of said salary multiplied by the number of years of such other creditable services up to twenty (20) years, or two percent (2%) of said salary multiplied by the number of years of such other creditable services in excess of twenty (20) years.

The maximum superannuation retirement annuity to be granted under this subsection shall be ninety percent (90%) of the highest salary that the mayor may have received.

The payments of the retirement annuity shall begin on and after the date of separation from service, but never before the mayor has attained fifty (50) years of age.

(c) Notwithstanding the fact that a superannuation retirement annuity is payable for life, annuitants who return to the service, except mayors annuitants for age and covered by the special provisions of this section related to retirement, may choose:

- (1) To refund all payments received from the System for pension, in which case upon his definite separation from service such pension shall be computed anew on the basis of all services rendered prior and after his return to the service in the manner prescribed herein for the retirement annuity; or
- (2) not to refund the pension payments already received, in which case, upon his definite separation from service, there shall be resumed the payment of the pension suspended and there shall also be paid a supplementary annuity on the basis of the services rendered and the average annual salary earned on and from his return to service. The supplementary annuity shall be computed in accordance with the formula established in this section for retirement annuities; and in the case that the period subsequent to his return to service is less than three (3) years, there shall be used the average salary that may result from the totality of said period of subsequent service.

Whenever a mayor annuitant by age and covered by the special provisions of this section regarding the retirement returns to a position covered by the System, he/she may choose to reacquire the condition of participant of the System or receive credit for the services rendered subsequent to said return.

(d) Any person who may have been pensioned on a superannuation retirement annuity under the provisions of this Act may serve the Government and its instrumentalities and public corporations thereof, including the municipalities without prejudice to the pension being received, subject to the standards the Administrator may establish and to the following:

He/she may serve as a member of a board or commission where his/her services are compensated on a per diem basis; serve as a legislator without receiving compensation, except per diems and mileage; or may render professional or consulting services on a fee basis, or render services of any other nature at the corresponding compensation, provided such services constitute a contractual relation which clearly does not constitute a regular employment. Any annuitant retired because of age and years of creditable service may hold a part-time regular employment whose time and compensation does not exceed one-half ( 1/2) of the regular working hours and for which he receives compensation not greater than one-

half ( 1/2) of the compensation that would correspond to same employment were it on a full-time basis. The persons covered by this provision shall not be active participants of the System and shall be, for all purposes, considered as annuitants for retirement purposes.

(e) Except the members of the Police Corps and mayors, the annuity of the rest of the participants under the Coordinating Plan and receiving Social Security benefits, and who meet other requirements shall be subject to the following conditions:

(1) If retirement occurs at the age of sixty-five (65) or later, and the participant has attained the status of fully insured under the Federal Social Security Act, the amount of the annuity shall be equal to the sum of the following products: one percent (1%) of the average compensation up to the maximum salary in effect for the computing of the pensions by the Social Security on the date of retirement of the participant, multiplied by the years of creditable service, up to twenty (20) years; (2) one and one-half percent (1 1/2 %) of the average compensation up to the maximum salary, multiplied by the years of creditable service in excess of twenty (20) years; (3) one and one-half percent (1 1/2 %) of the average compensation in excess of said maximum salary, multiplied by the years of creditable service, up to twenty (20) years; and (4) two percent (2%) of the average compensation in excess of said maximum salary, multiplied by the years of creditable service in excess of twenty (20) years. If the participant has not attained the status of fully insured and is not eligible for primary benefits under the provisions of the Federal Social Security Act, he/she shall be entitled to receive a retirement annuity as described above and subject to the conditions set for in subsection (a) of this section, until he/she shall have qualified for primary benefits pursuant to the provisions of the Federal Social Security Act. When he/she qualifies, the retirement annuity shall be recomputed according to the formula given in this subsection.

(2) If retirement occurs before the age of sixty-five (65) years, the participant shall be entitled to a retirement annuity as described above and subject to the conditions established in subsection (a) of this section, until he/she shall have attained the age of [sixty]-five (65) years. When he/she attains the age of sixty-five (65) years, the retirement annuity shall be recalculated on the basis of the formula provided in this subsection. On and after such date, such member shall receive payments from the System at the resultant rate.

(f) The deferred annuity provided in this section shall take effect at the participant's request.

**Section 2-102. — Merit annuity for thirty (30) or more years of service. — (3 L.P.R.A. § 766a)**

(a) Retirement shall be optional for any participant of the System in active service who shall have completed at least thirty (30) years of creditable service. Said participant shall be entitled to receive the Merit Annuity for thirty (30) years or more of service in accordance with subsections (b) and (c) of this section thereof.

(b) Participants of the System under the Coordinating Plan and receiving Social Security benefits, who have not attained sixty-five (65) years of age, shall receive a merit annuity to be computed as provided for hereinafter:

(1) For those participants who have completed thirty (30) years or more of creditable services and have not attained fifty-five (55) years of age or more, sixty-five percent (65%) of the average compensation.

(2) For those who have completed thirty (30) years or more of creditable services and have attained fifty-five (55) years of age or more, seventy-five (75%) of the average compensation.

(3) Years in excess of thirty (30) may only serve as basis to calculate the average compensation.

(c) As soon as the participants mentioned in subsection (b) of this section attain sixty-five (65) years of age or more, and the status of fully insured under the Federal Social Security Act, their pension shall be recomputed on the basis of the formula provided in subsection (d) of this section.

(d) Except members of the Police Corps and mayors, if the participant who retires has attained sixty-five (65) years of age or more and the status of fully insured under the Federal Social Security Act, the amount of the merit annuity for thirty (30) years of service or more shall be one and one-half percent (1 1/2 %) of the average compensation up to six thousand six hundred dollars (\$6,600) annually, multiplied by the number of years of creditable services, plus the percent applicable to each participant in accordance with the provision of subsection (b) of this section of the average compensation in excess of six thousand six hundred dollars (\$6,600) annually.

**Section 2-103. — Annuities for new participants. — (3 L.P.R.A. § 766d)**

(a) *Annuity for years of service.* Retirement shall be optional for new participants joining the System for the first time after April 1, 1990, as of the date in which they reach the age of sixty-five (65), have completed a minimum of ten (10) years of accredited services and have not requested or received the reimbursement from the accrued contributions. The amount of the annuity shall be one point five percent (1.5%) of the average compensation multiplied by the years of accredited services. However, a minimum pension of four hundred dollars (\$400) per month, effective the 1st of July 2007, is hereby fixed for those participants who retire in accordance with the provisions of this Act. Every pensioner who receives a pension of less than four hundred dollars (\$400) per month shall receive, effective July 1, 2007, an increase of one hundred dollars (\$100) or the difference between the pension he/she receives up to June 30, 2007 and four hundred dollars (\$400), whichever is less.

(b) *Annuity for high-risk service.* Members of the Police Corps and Firefighters Corps who join the System for the first time after April 1, 1990, shall have the option of availing themselves of a retirement annuity as of the date on which they reached fifty-five (55) years of age and have completed thirty (30) years of creditable service. The amount of this annuity shall be seventy five percent (75%) of average compensation. These participants may avail themselves of a retirement annuity upon completing thirty (30) years of creditable service and before reaching the age of fifty-five (55), and in this case the annuity shall be sixty-five percent (65%) of average compensation.

(c) *Annuity for early retirement.* Participants who enter the System for the first time after April 1, 1990, whose separation from service occurs upon reaching fifty-five (55) years of

age and who have completed at least twenty-five (25) years of creditable service, shall be entitled to receive the, annuity for years of service provided in subsection (a) of this section with an actuarial reduction calculated according to the Actuarial Tables adopted by the Board of Trustees.

(d) *Annuity for deferred retirement.* Participants who enter the System for the first time after April 1, 1990, whose separation from service occurs upon reaching sixty-five (65) years of age and who have not requested or received reimbursement for accumulated contributions, shall be entitled to receive an annuity for deferred retirement upon reaching sixty-five (65) years of age. This annuity shall be calculated according to the formula established in subsection (a) of this section.

**Section 2-104. — Periodic increase in pensions. — (3 L.P.R.A. § 766e)**

Commencing January 1, 1992, and subsequently, every three (3) years, all annuities paid under this Act for reason of age, years of service, or disability that are in effect on that date and which have been received for at least three (3) years before, shall be increased by three percent (3%). In years after 1992, the triennial increase shall be subject to there being a favorable recommendation of the Actuary of the System and to compliance with the provisions of Section 4-101 of this Act with regard to the financing of the increase. Upon compliance with these requirements, the Board of Trustees shall submit the increase to the Legislature of Puerto Rico for its approval.

The triennial increase in years subsequent to 1992 shall also benefit participants under Act No. 127 of June 27, 1958 [25 L.P.R.A. §§ 376 et seq.], commencing July 1, 1996. Said increase shall cover all of the annuities paid under this chapter for reason of age, years of service or disability, which are in effect on January 1 of the year the increase is granted and that have been received for at least three (3) years before that date. If in any year the system should have reserves for only twenty-four (24) months or less, no increase whatsoever may be granted.

Any other increase granted by law to benefit all annuities to be paid under the provisions of this Act for reason of age, years of service or disability shall also apply to the participants of Act No. 127 of June 27, 1958 [25 L.P.R.A. §§ 376 et seq.], as of the date of the granting of the aforementioned increase.

**Section 2-104-A. — Police Officers and Firefighters - Mandatory retirement. — (3 L.P.R.A. § 766g)**

The members of the Police and the Firefighters Corps of Puerto Rico may voluntarily opt to retire after reaching the age of fifty-five (55) and thirty (30) years of service. Retirement shall be mandatory on the date the participant reaches both thirty (30) years of service and the age of fifty-eight (58). Provided, That the Superintendent of the Puerto Rico Police and the Chief of the Firefighter Corps may respectively grant dispensations to authorize the members of their respective agencies to work for an additional maximum period of two (2) years performing the functions assigned to them; provided that their health and safety are not

compromised. Such a request for dispensation shall be made by the member, not later than ninety (90) days before his/her retirement date.

It is hereby provided that the Superintendent of the Puerto Rico Police and the Chief of the Firefighter Corps, respectively, shall make the necessary regulatory provisions to comply with this Act.

**Section 2-105. — Reversionary annuity; optional privilege at retirement. —** (3 L.P.R.A. § 768)

Any member may elect at the time of retirement to receive a lesser amount of retirement annuity than that to which he has a right and provide with the remainder of his equity as actuarially determined, one or more annuities for persons who are dependent upon such member at the time of retirement, as named in a written direction filed with the Administrator. Such a privilege shall be extended provided that the member submits to a medical examination and meets medical standards of good health which shall be established by the Board in its rules and regulations, provided the persons named to receive the reversionary annuity are proved to be dependent on the member to the satisfaction of the Administrator; and provided further that no reversionary annuity resulting from such election is found to be less than two hundred and forty (240) dollars per annum; and that the amount of such annuity or annuities does not exceed the amount of the reduced retirement annuity to which the member is entitled under his election.

The amount of the reversionary annuities shall be determined by the Administrator in accordance with the written direction of the member. Any such reversionary annuity shall begin to run as of the day following the date of the death of the member. If one or more of the persons designated as beneficiaries do not survive the member, the corresponding reversionary annuity or annuities shall not be payable under the provisions of this Act. No change shall be permitted by the Administrator in the written direction filed in the System after the retirement annuity has been granted and has become effective and payable, except that if the member passes away within thirty (30) days from the date of his retirement, his demise shall be considered as a death in active service.

**Section 2-106. — Coordination of reversionary annuity with social security benefits. —** (3 L.P.R.A. § 768a)

Any participant who opts for a transferred annuity after the date of coordination with Social Security, and whose annuity is recomputed pursuant to the provisions of subsection E of Section 2-101 upon reaching the age of 65, and becomes fully insured and is thus eligible for Social Security benefits, shall have his/her transferred annuity recomputed on the basis of the resulting recomputed retirement annuity. A new transferred retirement annuity benefit shall be established in this case in harmony with the reduction of the annuity resulting from the application of the provisions of said section.

**Section 2-107. — Occupational disability annuity. — (3 L.P.R.A. § 769)**

Any participant who as a result of a disability that originated due to his/her employment and arises during its course, is rendered disabled for service, shall be entitled to receive an occupational disability annuity, provided that:

(a) Sufficient medical evidence is received with regard to the mental or physical disability of the participant pursuant to normally accepted criteria in the disability compensation field fixed by the Administrator through regulations.

(b) The participant or the employer notifies the [Administrator] of said disability, in accordance with the regulation of the Board.

(c) The State Insurance Fund determines that the accident or illness originated from any work duty or that it is inherently related to the work or employment.

**Section 2-108. — Coordination of occupational disability annuity with social security benefits. — (3 L.P.R.A. § 769a)**

Any participant who is receiving an occupational disability annuity, shall receive a recomputed annuity from the System, as of the date he/she reaches the age of 65 and acquires a fully insured status under the United States Social Security Act, and is eligible for primary benefits under said Act, based on the formula and subject to the conditions prescribed in subsection E of Section 2-101 of this Act.

**Section 2-109. — Non-occupational disability annuity. — (3 L.P.R.A. § 770)**

Any member who shall have at least ten (10) years of creditable service who shall become totally and permanently disabled because of a mental or physical condition, and as a result thereof shall be unable to discharge the duties of any assigned position in the service of the employer, shall be entitled to a non-occupational disability annuity. Retirement of the member shall occur upon his/her request or application, or upon petition of the head of his/her department or office while such member is in service, and in accordance with the rules covering disability annuities, provided in Section 2-101 of this Act.

The amount of the annuity shall be one and one-half percent (1 1/2 %) of the average compensation, multiplied by the number of years of creditable service up to twenty (20) years, plus two percent (2%) of the average compensation multiplied by the number of years of creditable service in excess of twenty (20) years.

**Section 2-110. — Coordination of non-occupational disability annuity with social security benefits. — (3 L.P.R.A. § 770a)**

Any participant who is receiving a non-occupational disability annuity from the System, as of the date he/she reaches the age of 65 and acquires a fully insured status under the United States Social Security Act and is eligible for the primary benefits of said Act, shall receive an annuity recomputed on the basis of the formula and subject to the conditions prescribed in

subsection E of Section 2-101 of this Act [3 L.P.R.A. § 766(e)], without said recomputed annuity exceeding fifty percent (50%) of the average compensation.

**Section 2-111. — Rules governing disability pensions. — (3 L.P.R.A. § 771)**

For purposes of an occupational or non-occupational disability annuity, a participant shall be considered disabled when the disability is supported by sufficient evidence in accordance with usually accepted criteria in the area of disability compensation as established in regulations of the Administrator, and said evidence demonstrates that the participant cannot perform the duties of any position assigned to him by the employer. The Administrator as he/she deems necessary and convenient, may require the participant to undergo further medical examinations by physicians selected by the Administrator. Periodical examinations shall not be necessary if medical evidence demonstrates that the participant is totally and permanently unable to perform the duties of any position.

The payment of occupational and non-occupational disability annuity shall be retroactive from the date the disability was determined by the Administrator, up to a maximum of one (1) year.

The Administrator shall require each retiree who is receiving a disability annuity to undergo periodic examinations by one or more physicians appointed by the Administrator to determine the state of health of the retiree and the extent of his/her disability. If it is determined as a result of this examination that the retiree has recovered from his/her disability sufficiently to work at any compensated employment, he/she shall have the right to be reinstated in any position in the agency from which he/she was separated due to the disability, in which he/she would receive compensation equal to that of the position from which he/she was separated due to disability. If the retiree should hold a position with compensation less [than] the compensation he/she received at the time of retirement, he/she shall have the right to receive, for one (1) year from the date of reinstatement, compensation equal to the difference between the salary he/she was receiving at retirement and the compensation he/she is receiving in the new position, as long as the difference does not exceed the amount of the disability annuity.

When the Administrator decides that the disability of a participant has ceased, he/she shall advise said participant of his/her right to require the nominating authority of the agency where the participant rendered services at the moment he/she started to receive the disability annuity to proceed to reinstate him/her pursuant to the provisions of the preceding paragraph. Said nominating authority shall be obliged to proceed with the reinstatement within a term of not more than ninety (90) days following the Administrator's notice. If there is no vacant position in which to place the participant once he/she recovers from his/her disability, the nominating authority must seek the creation of a regular position. The Administrator shall adequately advise participants that recover [from] their disability of the right they have to exercise said right.

The provisions as to reinstatement shall not be applicable to participants who held a confidential position on the date of their retirement, unless they were entitled to reinstatement to a position [in] the career service by virtue of the provisions of Act No. 5 of October 14, 1975 as amended [3 L.P.R.A. §§ 1301 et seq.], in which case the reinstatement shall be to a

position equal or similar in remuneration to the career position they occupied immediately before entering the confidential service.

The suspension of the annuity shall occur after it is determined that the disability has ceased and that ninety (90) days have passed since notification to the nominating authority to proceed with the reinstatement of the participant in accordance with this section. In addition, the Administrator shall suspend annuity payments if the participant refuses to submit to a medical examination.

Moreover, the annuity payments shall be suspended when the pensioner starts to earn any remuneration from the Government of Puerto Rico for services rendered, or when he engages in non-governmental occupations or in self-employment.

**Section 2-112. — Occupational death annuity. — (3 L.P.R.A. § 772)**

If death of a member shall arise out of and in the course of employment, from causes of a character compensable under Act No. 45 of April 18, 1935, as amended [11 L.P.R.A. §§ 1 et seq.], the surviving spouse shall be entitled to receive an occupational death annuity equal to fifty percent (50%) of the member's rate of compensation at date of death, payable during his or her widowhood. If the member first entered the System after April 1, 1990, his surviving spouse shall be entitled to receive an occupational death annuity equal to forty percent (40%) of the member's rate of compensation at date of death, payable during his or her widowhood. If children of the member under eighteen (18) years of age or children pursuing studies also survive the member, the surviving spouse shall be entitled to receive an additional amount of ten (10) dollars per month on account of each such child, subject to the limitation of 100% of said rate of compensation for the combined payments to a surviving spouse and such children. If the spouse does not survive the member, or death of the surviving spouse occurs while in receipt of the annuity, and children of the member under eighteen (18) years of age or children pursuing studies survive, each such child shall be entitled to receive an annuity equal to twenty (20) dollars a month until attaining the age of eighteen (18) years, or until finishing his studies, subject to a maximum payment of 100% of the member's rate of compensation at date of death, to all such children.

The annuities payable hereunder shall be additional to the compensation received by the surviving spouse and children of the member under the provisions of the Workmen's Accident Compensation Act, [11 L.P.R.A. §§ 1 et seq.].

If the wife and children under eighteen (18) years of age or children who are studying do not survive the participant, the payments shall be made as provided in the first paragraph of Section 2-113 of this Act. If the sum of the payments made to a widow or children were less than the total payments provided in the first paragraph Section 2-113 of this Act, the remainder shall be paid to the heirs of the deceased participant.

**Section 2-113. — Payments upon death; active members; retired members. — (3 L.P.R.A. § 773)**

Upon the death of a participant while rendering services or while enjoying a regular leave with pay or authorized sick or disability leave, or for studying, the following shall be paid to

the person or persons that he/she has designated in a written order duly recognized and filed with the Administrator, or to his heirs, if no such designation has been made:

(a) Contributions accrued in behalf of the participant up to his/her date of death. These contributions shall not be reimbursed in the case of a participant who dies for causes that are compensated under the Work Accident Compensation Act, except as provided in Section 2-112 of this Act. Contributions shall not be reimbursed, either, when the beneficiaries of the deceased employee are granted a pension under special acts.

(b) Death benefits provided with contributions made by the employer if within a period of twelve (12) months prior to the date of death the participant had been receiving a compensation, unless he leaves dependents entitled to receive an annuity for the death of the participant due to occupational causes, as provided in Section 2-112 of this Act. This death benefit shall be equal to the annual compensation in effect on the date of death, if the employee was in active service, or on the date that he last rendered services. In the case of new participants who enter the System for the first time after April 1, 1990, the death benefit shall be equal to one hundred percent (100%) of the compensation in effect on the date of the death, if the employee was in active service, or on the last date that he rendered services.

Upon the death of a participant who receives a retirement or disability annuity, unless a reversionary annuity is payable under the provisions of this Act, a death benefit shall be paid in a single cash lump sum to such person or persons as he/she has designated by written instructions duly acknowledged and filed with the administrator, or to his/her heirs if such a designation has not been made, consisting of the excess, if any, of the contributions of the participant accrued to the time of retirement, over the total amount of all retirement or disability annuity payments received by the participant prior to his/her death, subject to a minimum of one thousand dollars (\$1,000). In the event a pension is granted to beneficiaries or heirs pursuant to the provisions of special laws, the death benefit under the provisions of this Act shall be limited to one thousand dollars (\$1,000).

The minimum death benefit of one thousand dollars (\$1,000) shall also be paid upon the death of a pensioner who has availed him/herself of a reversionary annuity according to the provisions of this Act.

Should the death of any retired participant occur within the thirty (30) days after the retirement date, said death shall be deemed to have occurred during the time of service regarding any and all provisions of this Act; regardless of any other provisions of this Act.

**Section 2-114. — Refunds. — (3 L.P.R.A. § 774)**

Upon separation from service, provided such separation is permanent, any member who is not entitled to a retirement annuity shall be paid upon application, except as otherwise provided herein, a refund equal to the amount of his/her contributions to the system. Any member shall also be entitled to a refund of contributions made to a superseded pension fund, if any.

Contributions made on and after the operative date of the system and the contributions made to any superseded pension fund shall bear interest in the system at the current rate, as of July 1, 1957. The refund of contributions shall include the corresponding interest.

Contributions of participants separated from service shall earn interest up to six (6) months after the date of the employee's permanent separation.

Any member receiving a refund shall there by forfeit and waive all accrued rights in the system. If such person again becomes an employee and a member of the system, he/she may repay the amounts previously received by him/her as a refund, together with current interest earned thereby for the period from the date of their refund to their return to the system. Upon such reimbursement, such member shall again receive credit for the period of accredited service which he/she forfeited upon his/her separation from service. The Administrator may grant a payment plan to refund contributions.

**Section 2-115. — Contributions by Participating Members. — (3 L.P.R.A. § 780)**

As of April 1, 1990, participants shall contribute the following amounts to the Retirement System:

(a) Participants in the complete supplementation plan between the Retirement System and the Federal Social Security, as provided by Act No. 93 of June 19, 1968 as amended, [3 L.P.R.A. §§ 829-829e], and present participants who opt to join this plan in the future, shall contribute a sum equivalent to 8.275% of monthly compensation. These contributions shall be in addition to those required by the Federal Social Security Act. Participants shall be entitled to receive benefits provided by this Act and these shall not be reduced by benefits for which the participants may be eligible under the Federal Social Security Act. All new participants joining the System for the first time after April 1, 1990 shall join the plan of complete supplementation.

(b) Mayors shall contribute a sum equivalent to 8.275% of monthly compensation.

(c) Members of the Police Corps shall contribute a sum equivalent to 8.275% of monthly compensation.

(d) Participants in the coordination plan shall contribute 5.775% of monthly compensation up to five hundred and fifty (550) dollars and 8.275% of monthly compensation in excess of that amount.

(e) Employees participating in the existing coordination plan who choose in the future to join the complete supplementation plan between the Retirement System and Federal Social Security, as provided by Act No. 93 of June 19, 1968 as amended, [3 L.P.R.A. §§ 829-829e], shall pay to the Retirement System, retroactive to July 1, 1968, or date of entry in the System, whichever is later, the amounts necessary to complete contributions for the period of retroactivity, based upon 8.275% of compensation received during said period, plus accumulated interest accrued as of the date at which services commenced, at the rate to be determined by the Board.

(f) These contributions shall be in the form of a deduction from the compensation of the employee. The Secretary of the Treasury of Puerto Rico or other disbursing officer of an employer is hereby authorized to make these deductions, notwithstanding that the compensation paid in cash to such employee shall be reduced thereby below the minimum prescribed by law. It shall be understood that every employee who is a member of the System consents and agrees to the deductions made from his compensation as provided in this Act. In consideration of such consent and agreement, each member shall obtain a vested interest in

the contributions made by him under the provisions of this Act. Payment to said employee of his compensation, less said deduction, shall constitute a full and complete discharge of all claims and demands whatsoever for the services rendered by such employee during the period covered by such payment, except as to the benefits provided for by this Act.

**Section 2-116. — Contributions by Employer. —** (3 L.P.R.A. § 781)

(a) The employer's contributions should cover the difference between the total cost of the benefits provided by the System as well as costs of administration, reduced by the portion contributed by participants.

(b) The benefits to be considered in determining the cost shall include retirement annuities for age and length of service, for occupational and non-occupational disability, rights to which were accumulated due to prior or subsequent services provided, or due to superseded pension or annuity funds which were in effect as of the date that Act No. 447 of May 15, 1951 as amended, was originally adopted, as well as death benefits.

(c) The Administrator shall determine annually, at the beginning of the fiscal year, the percentage of monthly compensation necessary to cover costs of the System, as follows:

(1) The present value and expenses of all future benefits shall be determined, both for active participants and for retirees.

(2) From the total, the following should be subtracted:

(i) accumulated assets of the fund at the beginning of the fiscal year, and

(ii) the present value of the future employee contributions, calculated on the basis of the rates of the contributions established by Section 2-115 of this Act and the actuarial guidelines, including a projection of the salaries, used in the determination of the present value of the total obligations for benefits.

(3) The net balance obtained according to clause (2)(ii) of this subsection shall be divided between the present value of future payrolls, determined based on the actuarial tables used in the preceding calculations, and shall multiplied by one hundred (100) to obtain the percentage of contribution necessary to cover total costs of the System.

(d) As of April 1, 1990, the employer shall contribute to the System a minimum percentage equal to 9.275% of the compensation regularly received by the participants, said contributions to be made concurrently with employee contributions as provided by this Act.

(e) Any difference between the contribution required by subsection (c)(3) of this section and the minimum contribution of 9.275% mentioned above shall constitute a deficiency in the employer contribution. The obligation accrued as a result of this deficiency shall constitute an actuarial deficit for the System and an obligation of the employer.

(f) The amount to be contributed by the employer shall be determined applying the type of contribution to the compensation of all employees who are members of the System and as of the time at which said compensation should be paid to said members and the Secretary of the Treasury shall credit all such contributions to the account of the System.

(g) The contributions of each employer shall be included in the budget and shall be appropriated annually together with appropriations for salaries or compensation of employees.

**Section 2-117. — Payments from State Insurance Fund, Industrial Commission, and Isabela Irrigation Service. — (3 L.P.R.A. § 783)**

The State Insurance Fund, the Industrial Commission and the Isabela Irrigation System shall pay the contributions related to its employees from its general funds, pursuant to the provisions of Section 2-116 of this Act.

**Section 2-118. — Interchange of Credits. — (3 L.P.R.A. § 784)**

Notwithstanding any provision elsewhere in this Act , any person in the employ of a public enterprise on December 31, 1951, who was a member of a superseded pension plan and whose corresponding rights therein have been acknowledged, shall, effective January 1, 1952, succeed to membership of the System created under this Act , with all the rights, privileges, and obligations prescribed by law for the members of the said System, in consideration whereof the said public enterprise shall pay monthly for such member as normal employer's contribution, the amounts prescribed by this Act.

Any member withdrawing from the service of any employer as herein defined to enter the service of another employer covered by the provisions of this Act who shall be maintaining an independent retirement plan, or pension fund, by whatever name called, shall not be entitled to a refund under the provisions of this Act. The accumulated contributions of such member, together with appropriate service credits shall be transferred to such independent retirement plan or pension fund, to the end that continuity of rights of such member shall be maintained. By such transfer, the member shall relinquish and forfeit any and all rights to creditable service that had accrued in this System.

With regard to every person who, upon becoming a member of this System, would have accrued certain contributions and creditable services in an independent retirement plan or pension fund maintained by any employer covered by this chapter, the Administrator is hereby authorized to receive the accrued contributions made by the participant from said plan or independent fund, and to register these contributions in behalf of the participant in this System. The Administrator shall also register, for the purposes of this System, the subsequent services of said participant, for the contribution periods accrued and hereby transferred, as well as the prior services subject to the provisions of Section 1-106 of this Act. If any contributions accrued and transferred to this System as indicated, exceed the amount that the employee would have accrued if he/she had been a member of this System for a period equal to that of his participation in the other pension or retirement plan, an adjustment shall be made through which the employee shall receive the corresponding reimbursement of whatever excess there is of his/her contributions. But, if the amount equal to the accrued contributions were less than said amount, the participant shall make the corresponding additional payment according to the rules prescribed to such effects by the Board.

Every participant who has been a member of an independent retirement plan or pension fund, and has lost his/her rights thereunder upon accepting the reimbursement of his/her contributions, or upon waiving any other benefits, shall not be entitled to the validation in this System of neither subsequent nor prior services corresponding to the period for which he would have lost his rights, upon receiving the said reimbursement. If said participant wishes

to validate his/her creditable services for the period of services rendered as a participant of said independent retirement plan or pension fund, he/she shall be required to contribute to this System, along with the corresponding interest at the prescribed rates, the amounts that he/she would have paid to this System, or any superseded pension fund, as defined in this chapter, during said period of services, subject to the provisions of Section 1-106 of this Act.

**Section 2-119. — Benefits as personal rights; exemptions. — (3 L.P.R.A. § 785)**

The right to retirement or disability annuities, death benefits, or any other benefits pursuant to the provisions of this Act, regardless of their designation, as well as the collection of reimbursements, is a personal right of the recipient thereof, and the transfer or assignment of said benefits and reimbursements, or any part thereof, shall be null, except as provided in this chapter. None of said pensions, benefits or reimbursements may be claimed for the payment of debts contracted by the recipients, except the loans contracted by participants of the Savings and Credit Unions, which shall encumber up to twenty-five percent (25%) of the pension, benefit, or reimbursement of the participant, and also excepting what is provided in Section 4-106 of this Act, nor may they be garnished nor impaired by any judicial proceeding. However, the amounts that were accredited to a member of the System through contributions made through wage or salary withholdings, including interest, and pursuant to the provisions of this chapter or the provisions of any law regarding superseded pension funds, which amounts are subject to reimbursement pursuant to the conditions provided herein, may be designated by the participant as security for any loan requested by him/her from any fund, association, public enterprise, or any other lending agency created by an employer to make loans to its employees, or by a Savings and Credit Union created to make loans to its members, and non-members, up to twenty-five percent (25%) of said amount. Said amounts may be withheld by the Secretary of the Treasury, or garnished through the pertinent judicial proceeding, to be applied to the payment of any loan made by any of these agencies and by Savings and Credit Unions, solely in those cases that the participant has been permanently separated from the employer's service without having made the pertinent arrangements for the repayment of said loan, to the satisfaction of said agency.

**Section 2-120. — Monthly Payments; life annuities. — (3 L.P.R.A. § 786)**

Any disability retirement annuity, or any other annuity provided in this chapter, shall be payable for life, in equal monthly installments, and shall not be increased, decreased, revoked or repealed, except when it has been granted through an error, or when it is explicitly provided otherwise. The cost of providing death benefits granted upon the death of a retiree who receives a retirement annuity, shall not be charged to the life annuity payable to the member.

The first payment of any annuity shall be made for the fraction of a month remaining until the end of the first month; and the last payment shall be made up to the end of the month that the death of the participant occurs.

The employers shall be bound to submit to the Administration all the required documentation within sixty (60) days following the date of the request for retirement benefits

or liquidation of funds is filed. The Administration shall process the request for retirement benefits or liquidation of funds within sixty (60) days following the filing of the request with all the documentation as required by the Retirement System.

If an employer does not comply with the obligation established in this section, he/she would be liable for the payment to the participant of an amount equivalent to one (1) month of the salary that the participant received on the date the request for retirement benefits or liquidation of funds was filed.

### CHAPTER 3. — RETIREMENT SAVINGS ACCOUNT PROGRAM. —

#### **Section 3-101. — Creation of the Retirement Savings Account Program. — (3 L.P.R.A. § 786-1)**

(a) *Creation of the Program.* A Retirement Savings Account Program is hereby created which consists in the establishment of a savings account for each participant of the System who becomes a part of said program as provided in this Chapter 3 of this Act. The contributions of each participant of the Program and the investment yield shall be credited to the savings account pursuant to Section 3-107 of this Chapter. The benefits to be provided to each participant upon separation from the service, whether by retirement or otherwise, shall depend on the total accrued in the savings account.

(b) *Participants of the Program.* The following persons shall participate in the Program:

- (1) Every new employee who enters the System for the first time on or after January 1, 2000.
- (2) Every person who has been a participant of the System before January 1, 2000, has been separated from the service before, on, or after January 1, 2000, has received reimbursement of his/her contributions to the System pursuant to Section 2-114 of Chapter 2 of this Act, and after December 31, 1999, becomes an employee and a participant of the System.
- (3) Every person who is an employee and a participant of the System as of December 31, 1999, and avails him/herself of the transfer option granted by Section 3-102 of Chapter 3 of this Act.
- (4) Every person who is an employee and a member of an employer retirement system as of December 31, 1999, and after that date becomes a participant of the System and avails him/herself of the transfer option granted by Section 3-102 of Chapter 3 of this Act.

#### **Section 3-102. — Transfer to the Program. — (3 L.P.R.A. § 786-2)**

(a) *Transfer to the Program.* Every employee who is a participant of the System as of December 31, 1999, and every employee who is a member of an employer retirement system as of December 31, 1999, and who after said date becomes a participant of the System, may choose to waive the benefits provided under this chapter and any other act that supplements this chapter, and commences his/her participation in the Program, effective January 1, 2000, or on the date he/she commences to participate in the System, respectively, as provided in this section. The employee's determination to avail him/herself of the transfer option or not,

is irrevocable. The savings account of every employee who participates in this System, or who participates in any other employer system and chooses to change to the Program, shall be initially credited with the amounts provided in Sections 3-107(a)(1) of this Chapter.

(b) *Notice of the transfer option.* The Administrator shall notify the employees who are participants of the System as of December 31, 1999, and every employee who is a member of an employer's retirement system as of December 31, 1999, and subsequently becomes a participant of the System, of the right to avail him/herself of the transfer option. The notice must be made on the date, and contain such information that be established by the Board.

(c) *Exercise of the transfer option, irrevocability.* Once the employees are notified as provided in subsection (b) of this section, they shall inform the Administrator of their decision to exercise the transfer option granted by this section or not, in the form, manner and on the date established by the Administrator. It shall be construed that any persons not exercising the transfer option in the form, manner, and on the date the Administrator provides, have chosen not to avail themselves of the transfer option.

**Section 3-103. — Establishing of Retirement Savings Accounts. — (3 L.P.R.A. § 786-3)**

The Administrator shall establish and maintain a savings account for each participant of the Program in the System, which shall be credited and debited pursuant to Sections 3-107 and 3-108 of this Chapter.

**Section 3-104. — Contributions of the Participants of the Program. — (3 L.P.R.A. § 786-4)**

(a) *Contribution to the Account.* Every participant of the Program shall compulsorily have to contribute eight point two hundred and seventy-five percent (8.275%) of his/her salary while he/she is an employee. In addition, every participant of the Program may voluntarily contribute an additional amount to his/her savings account which added to the compulsory contribution may not exceed ten percent (10%) of the annual salary of the participant of the Program. These contributions shall be credited to the savings account of each participant of the Program, pursuant to Section 3-107 of this Chapter.

(b) *Voluntary Contribution for the Purchase of Long-term Disability Insurance.* Every participant of the Program may voluntarily purchase the long-term disability insurance provided in Section 3-111 of this Chapter, for which he/she shall have to contribute such sums, fixed in dollars or a percent of the salary, that the Administrator, with the approval of the Board, determines that are needed to provide the long-term disability benefit. The contributions made pursuant to this subsection may be credited against and will reduce the contributions that the participant of the Program is bound to pay to the Commonwealth of Puerto Rico Employees Association as provided in Section 8 of Act No. 133 of June 28, 1966, as amended. The contributions made under this subsection shall not be deposited in the savings account.

**Section 3-105. — Employer Contributions under the Program. —** (3 L.P.R.A. § 786-5)

Every employer shall compulsorily contribute to the System a sum equal to nine point two hundred and seventy-five percent (9.275%) of the salary of each participant of the Program as long as the participant is an employee. These contributions shall be deposited in the System to increase the level of the assets of the System, reduce the actuarial deficit, and enable the System to meet its future obligations.

**Section 3-106. — Obligations of the Employer, Sanctions. —** (3 L.P.R.A. § 786-6)

Every employer who is bound to deduct and withhold the contributions of the participants of the Program and make contributions to the System pursuant to the provisions of Chapter 3 of this Act, shall have the following obligations:

(a) *Obligation to deduct and withhold the contributions of the participants and remit the employer and participants contributions to the System.* Every employer of a participant of the Program shall deduct and withhold the contributions provided in Section 3-104 from the salary of the participant. The Secretary of the Treasury, or any paymaster of the employer, is hereby authorized to make the deductions, even if the salary to be paid in cash to the participant as a result of these deductions is reduced to less than any minimum prescribed by law. The contributions of the participants of the Program shall be remitted by the employer along with the employer contributions that the employer is bound to make to the System, on or before the fifteenth day of the month following the date the withholding was made, as provided in Section 3-105. The Administrator shall establish the form and manner that the contributions shall be remitted.

(b) *Liability for the contributions.* Every employer that is bound to deduct and withhold the contributions of the participants of the Program and to remit the contributions of the participants and the employer provided in Chapter 3 of this Act, shall be liable to the System for the full payment of said contributions. If the employer should fail to make the deduction or remit the contributions, the sums that should have been withheld and the unpaid contributions shall be collected from the employer by the Administrator, following the procedure established in Section 4-109 of this Act.

(c) *Interest on indebted contributions.* Every employer who does not remit his/her contributions and those of the participants of the Program within the established term, shall be liable to the System for the payment of interest on the indebted contribution from the day the contribution should have been remitted to the System until the date that the contribution is remitted, at the rate determined by the Board. Interest owed by an employer shall be collected by the Administrator following the procedure established in Section 4-109 of this Act.

(d) *Crediting of investment yield.* If an employer does not remit the contributions of the participants of the Program within the established term, the Administrator shall credit the investment yield to the account of the participants of the Program affected thereby, as of the date set for the employer to remit the contributions, pursuant to Section 3-107(a)(3) of this Chapter.

**Section 3-107. — Credit of Investment Yield. — (3 L.P.R.A. § 786-7)**

(a) *Credits.* The Administrator shall credit the following items to the savings account of each participant of the Program:

(1) *Initial Transfer Balance.* In the case of participants of the System or of employees participating in any other employer retirement system who availed themselves of the transfer option granted by this chapter, the initial transfer balance that is transferred to the Program when the savings account is established, shall be credited.

(2) *Contribution of the Participant to the Program.* The contributions made by the participant of the Program as required by this act shall be credited once they are remitted to the System by the employer.

(3) *Investment Yield.* The investment yield shall be credited at the close of each semester of each fiscal year pursuant to the investment option or combination of investment options selected by the participant of the Program, pursuant to subsection (b) of this section. The investment yield shall be computed on the last business day of each semester of the fiscal year, on the average monthly balance in the savings account of the participant of the Program during the semester in question.

(b) *Investment Options of the Savings Account of the Participant.*

(1) *Selection of investment.* Every new participant of the Program shall have to select the investment to be applied to his/her savings account, in multiples of ten percent (10%), from among the options or combination thereof provided in clause (3) of this subsection. The initial selection must be made in the form, manner and on the date prescribed by the Administrator.

(2) *Changes of selection.* The participant of the Program may change the investment selection to be applied to his/her savings account, in multiples of ten percent (10%), to any other investment option or combination thereof provided in clause (3) of this subsection, once during each fiscal year. The change of selection must be made in the form, manner and on the date prescribed by the Administrator and shall be effective on the first day of the month of the next fiscal year.

(3) *Investment options.* The participants of the Program may opt for the yield of his savings account to be determined from among the following investment options or combination thereof:

(i) *Fixed Income.* Under this option, the yield shall be equal to the average monthly yield of the Two-Year Constant Maturity Treasuries during each semester of each fiscal year.

(ii) *System's Investment Portfolio.* Under this option, the return shall be equal to ninety percent (90%) of the net yield of the investment portfolio of the System during every semester of each fiscal year minus management fees such as, but not limited to, fees payable to the custody of shares and investment consulting portfolio administrators.

(iii) *Additional Investment Options.* The Board may establish additional investment options through regulations, an order or a resolution.

(c) *Retirement Savings Account Rights.* The participants of the Program shall always have one hundred percent (100%) vested rights on the initial transfer balance provided in

subsection (a)(1) of this Section, their contributions to the savings account, and the investment option yield provided in subsection (a)(3) of this Section.

**Section 3-108. — Debits to the Savings Account. — (3 L.P.R.A. § 786-8)**

The Administrator shall debit the savings account established for each participant of the Program for record-keeping expenses and those sums used for the purchase of an annuity for the payment of benefits or to make a global distribution pursuant to Sections 3-109 and 3-110 of this Chapter. Once the annuity is purchased or the total balance of the savings account is distributed, the account shall cease to exist. The Administrator shall also be authorized to debit the account of the participant for the amount of the disability insurance premium or any other type of insurance through a program established to such effects by the Administrator and of which the participant avails himself whether voluntarily or compulsorily.

**Section 3-109. — Benefits on Separation from Service. — (3 L.P.R.A. § 786-)**

(a) *Retirement benefit.* Upon permanent separation from service, when the separation is not due to death or total and permanent disability, the balance in the savings account of the participant of the Program shall be distributed to the participant by the Administrator in the form and on the date provided hereinbelow.

(b) *Form of payment.*

(1) *Married Participants of the Program.* If the participant of the Program is married as of the date of his/her permanent separation from service, after the normal date of retirement, the Administrator shall use the balance in the savings account for the purchase of a fifty percent (50%) joint and survivorship annuity contract. The Administrator may give the participant of the Program the option of choosing from among several insurance companies authorized by the Insurance Commissioner to conduct business in Puerto Rico for the purchase of the fifty percent (50%) joint and survivorship annuity contract.

(2) *Single Participants of the Program.* If the participant of the Program is not married as of the date of his permanent separation from service after the normal date of retirement, the Administrator shall use the balance in the savings account of the participant to purchase a life annuity contract. The Administrator may give the participant of the Program the option of choosing from among several insurance companies authorized by the Insurance Commissioner to do business in Puerto Rico for the purchase of the life annuity contract.

(3) *Lump sum payment of the balance in the savings account.* Notwithstanding the provisions in clauses (1) and (2) of this subsection, and except for the cases mentioned in clause (4) of this subsection, any participant who permanently separates from service after the normal date for retirement may request from the Administrator the lump sum payment of the balance of his savings account. If the participant is married, the distribution shall be made in favor of both, the participant and the spouse, unless a written consent from the spouse of the participant for the payment of the distribution to be made only in the name of the participant is submitted to the Administrator.

The sum of this distribution in the amount that exceeds the sums contributed by the participant shall be subject to a tax rate of ten percent (10%) in lieu of any other tax imposed by the Code. This tax shall be withheld at the source by the Administrator and deposited with the Secretary of the Treasury pursuant and subject as pertinent to the provisions of clauses (3) to (8) of Section 1165(b) of this Code [13 L.P.R.A. § 8565(d)].

The provisions in Section 1022(b)(24) [13 L.P.R.A. § 8422(b)(24)] of the Code shall not apply in the case of these distributions.

(4) *Savings accounts of less than ten thousand dollars (\$10,000).* If the balance of the savings account of the participant of the Program is less than ten thousand dollars (\$10,000) at the time of his permanent separation from service, the Administrator shall distribute the balance to the participant in a single lump sum. The participant shall be bound to include said sum as income in his income tax return and shall pay the regular tax rates provided in the Code.

(5) *Rollovers of savings account balances into individual retirement accounts and qualified plans.* At the time of permanent separation from service, the participant may request from the Administrator a rollover of the total balance in his savings account into a qualified retirement plan, an individual retirement account (IRA), or a non-deductible individual retirement account, which complies with the requirements in 1165, 1169, or 1169B of the Code, respectively.

For purposes of this clause, the rollover into the qualified retirement plan, individual retirement account or the non-deductible individual retirement account shall be executed by the Administrator through the disbursement of the balance of the account of the participant directly to the trust that shall manage the account or plan. Any rollover made pursuant to this provision shall not be subject to taxation, except when the rollover is made into a non-deductible individual retirement account.

The rollover of the savings account balance of the participant into a non-deductible individual retirement account shall be considered as a qualified rollover for purposes of 1169B of the Code. The distributed amount shall be subject to a ten percent (10%)-tax in lieu of any other tax imposed by the Code, which shall be withheld at the source by the Administrator and deposited with the Secretary of the Treasury, pursuant and subject as pertinent to the provisions in clauses (3) to (8) of Section 1165(b) of the Code [13 L.P.R.A. § 8565(d)].

(6) *Contribution rollovers into another government retirement system.* In cases where the participant of the Program separates from service and afterwards occupies a position in public service and thus participates in another government retirement system, he may request from the Administrator, and the latter may authorize, rollovers of his contributions directly into the other government retirement system to be credited for years of service in the other government retirement system.

(7) *Payment options.* The Board may establish payment options through regulations, orders or resolutions. The selection of any payment option by a participant of the Program who is married at the time of his permanent separation from service must be agreed to by the spouse of the participant of the Program in writing before a representative of the Administrator or a notary public.

(c) *Purchase date of the annuity contract and commencement of distribution.* The purchase of any annuity contract provided in this section, or by the Board pursuant to subsection (b)(4) of this Section, shall be made after the normal retirement date of the participant of the Program, but not later than sixty (60) days from that date. The monthly payments provided in this section or under any other option provided by the Board pursuant to subsection (b)(4) of this Section, shall commence after the normal retirement date of the participant of the Program, but not later than ninety (90) days from that date. The distribution of the balance of the savings account of the participant of the Program, in one (1) lump sum, shall be made not later than sixty (60) days from the date the participant is permanently separated from service.

**Section 3-110. — Benefits upon Separation from Service; Death, Disability or Terminal Illness.** — (3 L.P.R.A. § 786-10)

(a) *Separation from service by death.* The balance in the savings account of every participant of the Program who dies shall be paid in one single lump sum to the person or persons that the participant has designated as beneficiary in the form and manner established by the Administrator. In the event that the participant had not designated any person as his/her beneficiary, the balance of the savings account shall be paid in a single lump sum to the persons entitled thereto under the applicable law provisions on community property, joint ownership, and estate.

(b) *Separation from service by disability or terminal illness.* The balance in the savings account of every participant of the Program who is permanently separated from service due to total and permanent disability as provided in this chapter, who is separated from service due to disability pursuant to Act No. 127 of June 27, 1958 as amended [25 L.P.R.A. §§ 376 et seq.], or due to terminal illness, as determined by the Administrator, shall be distributed to the participant by the Administrator, at the option of the participant, in a lump sum, or through the purchase of an annuity contract, or any other optional form of payment pursuant to Section 3-109 of this Act.

(c) *Date of purchase of the annuity contract and commencement of distribution.* The purchase of any annuity contract provided in this section shall be made after the separation from service due to total and permanent disability, disability under Act No. 127 of June 27, 1958 as amended [25 L.P.R.A. §§ 376 et seq.], or terminal illness, but not later than sixty (60) days from that date. Monthly payments provided in this section shall commence after the separation from service due to total and permanent disability, but not later than ninety (90) days from that date. The single lump sum distribution of the savings account of the participant of the Program shall be made not later than sixty (60) days from the date the participant of the Program is permanently separated from service.

**Section 3-111. — Long Term Disability Insurance.** — (3 L.P.R.A. § 786-11)

The Administrator, with the approval of the Board, may establish a long-term or a short-term disability benefits program, which shall provide an annuity in the event of total and permanent disability. Disability benefits may be provided through one or more disability insurance contracts with one or more insurance companies authorized by the Insurance

Commissioner of Puerto Rico to conduct business in Puerto Rico. The determination as to whether a person is totally and permanently disabled may be made by the insurance company that issues the insurance policy covering the person or by the Administrator. All the participants of the Program who are employees shall avail themselves of the disability benefits program in the manner and form established by the Administrator.

Provided, That the participants that have chosen the rollover option provided in Section 3-101 and those appointed as of January 1, 2000, shall be covered by the disability provisions established in Sections 2-107 and 2-109 until the Employees Retirement System of the Government establishes the disability benefits program provided in this section. However, those participants that avail themselves of the provisions of Sections 2-107 and 2-109 by mandate of this section shall continue with such benefit even after the System implements the disability benefits program.

After the Administrator determines and notifies the disability under the established rules and the participant avails himself of a disability pension under Sections 2-107 and 2-109 of this Act, the balance of the savings account of the participant shall be withheld by the Retirement System and shall be covered into a reserve account designated for the participant to defray said benefit, for which the provisions of Section 3-110 shall not apply. If the participant opts to receive the balance of his savings account, it is understood that he waives his right to request and/or receive a disability pension under the provisions of Sections 2-107 and 2-109 of this Act.

If the employee avails himself of a disability pension under 2-107 and 2-109 of this Act and afterwards the Administration, pursuant to Section 2-111, conducts an examination and determines that his reinstatement into his job is in order, the amount, if any, in the reserve account of the participant that has not been used as a disability pension benefit shall be restored to his savings account.

Upon the death of a participant who is covered by the provisions of this Act, the person or persons designated by the participant shall be paid the amount, if any, in the reserve account of the participant not used as a disability pension benefit.

The Retirement Systems Administration shall notify the participants by means of a circular letter of the implementation of the Disability Insurance Program. Once said program is implemented, the participants who avail themselves of the same shall exclusively enjoy the benefits granted by the program and be excluded from the benefits under 2-107 and 2-109 of this Act. Those participants who do not avail themselves of the Disability Insurance Program shall not enjoy the benefits of said program nor the benefits under 2-107 and 2-109 provided in this Act.

**Section 3-112. — Application of the Uniform Securities Act. — (3 L.P.R.A. § 786-12)**

The interest of any participant in the Program shall not constitute a security for the purposes of Act No. 60 of June 18, 1963, as amended [10 L.P.R.A. §§ 851 et seq.], known as the "Uniform Securities Act".

CHAPTER 4. — SYSTEM ADMINISTRATION AND INVESTMENT. —

**Section 4-101. — Administration.** — (3 L.P.R.A. § 775)

The system created by this Act shall be considered a trust. Any change in the benefit structure of the trust, which results in an increase in the amount of annuities or other benefits, shall be sustained by prior actuarial studies to determine its cost, and the corresponding legislation shall provide for its financing.

A Board of Trustees is hereby created and established, which shall be responsible for the enforcement of the provisions of this Act. Said Board shall consist of seven (7) members, four (4) of whom shall be ex officio members, to wit: The Secretary of the Treasury, the Commissioner of Municipal Affairs, the President of the Government Development Bank for Puerto Rico, and the Director of the Central Personnel Administration Office. The other three (3) members shall be appointed by the Governor of Puerto Rico for terms of three (3) years each, and shall perform their duties until a successor is appointed and takes office. Two (2) of these members shall be participants of the system created by this Act or of the Judiciary Retirement System, with at least ten (10) years of credited service on the date of their appointment. The other member shall be a pensioner of any of the two (2) systems.

The ex-officio members may designate delegates to represent them at meetings of the Board, and in any other activities within their duties as members of the Board.

The system created hereby shall be organized as an agency of the Government of Puerto Rico, independent and separate from others. Neither the Board of Trustees nor the Administration shall be subject to provisions of Act No. 164 of July 23, 1974 as amended, known as the "General Services Administration Act", nor of Act No. 147 of June 18, 1980, known as the "Office of Management and Budget Organic Act", and shall be individual Administrators under the provisions of Act No. 5 of October 14, 1975 as amended, known as the "Puerto Rico Public Service Personnel Act".

**Section 4-102. — Powers and duties of the Board.** — (3 L.P.R.A. § 776)

To carry out the provisions of this Act, the Board shall appoint an Administrator of the System and shall fix his/her salary, shall adopt bylaws for its internal organization and functioning, and shall approve those regulations that the Administrator prepares, from time to time for the administration of the system, pursuant to law and promulgate the same.

In addition to the duties arising from this Act, the Board shall have the following powers and duties:

- (a) To hold regular meetings at least quarterly each year and such special meetings as may be deemed necessary. All meetings shall be open to the public. The Board shall keep a full record of all its proceedings.
- (b) To consider and adopt resolutions on matters referred to it by the Administrator in connection with norms, changes, or revision of the system.
- (c) To approve the investment of the funds of the system proposed by the Administrator.
- (d) To investigate and decide on appeal, at the request of a party, controversies arising between members of the system and the Administrator. For the exercise of its functions

and of the appellate jurisdiction conferred or that may hereafter be conferred upon it by this and any other retirement laws, the Board shall, unless otherwise provided, abide by the procedure and shall have the powers hereinbelow provided.

Appeals shall be made by filing a writ of appeal with the Secretary of the Board within the thirty (30) days following the date on which the initial resolution of the Administrator became final or on which his final decision upon reconsideration was deposited in the mail. Said writ shall set forth the grounds on which the claimant bases his appeal, pointing out the decision or part thereof with which he disagrees, and notice of the appeal shall be served on other parties, if any.

The Board shall hold the corresponding public hearing and shall decide in accordance with the evidence, sustaining, modifying or revoking the action of the Administrator, or it may render the resolution which in law the Administrator should have rendered, or it may remand the case to the Administrator. In the proceedings, the claimant shall have the right to appear in his own right or assisted by counsel.

Only such evidence as was submitted to the consideration of the Administrator upon his making his decision shall be admitted as appellant's evidence. Nevertheless, the claimant may produce all the witnesses he may deem necessary provided an affidavit subscribed by them, embodying the testimony they will give, has been submitted to the consideration of the Administrator at the time he makes his decision. The rules of evidence prevailing in the court of justice shall not be compulsory in any proceeding before the Board.

The cases in which the Board intervenes may be heard by any one member of the Board or by an examiner designated by it. If the case [is] not heard by the Board in full, the findings and reconsiderations of the members present or of the examiner, together with a transcript of the evidence and any other evidence and considerations pertinent to the questions posed before the Board, shall be submitted to the other members of the Board for final decision.

The Board and each one of its members or representatives and the examiners appointed by it shall be empowered to administer oaths, subpoena witnesses and require the production of any documents or evidence pertinent to any proceeding authorized by this or any other retirement or annuity law which it is his duty to enforce. Any person who shall fail to appear after being summoned, without justifying his failure to appear, or who shall refuse to give testimony or to produce any document required of him, or who shall knowingly give a false testimony, shall be guilty of a misdemeanor and upon conviction by the Court of First Instance shall be punished by a maximum fine of one thousand dollars (\$1000), or by imprisonment in jail for a maximum term of one year, or both.

Every summons issued by the Board, by any of its members or by the Secretary shall bear the seal of the Board and may be served in any point within the Commonwealth. Likewise, certifications issued by the Secretary on petition of an interested party shall also bear said seal.

In addition and regardless of the above provisions of this section, when a witness subpoenaed hereunder does not appear to testify or fails to produce the books, records or documents, as required of him, or whenever any witness thus subpoenaed shall refuse to answer any question in connection with any matter or investigation under the consideration of the Board, the chairman of the Board may request the assistance of the Court of First Instance of Puerto Rico to require the attendance and the testimony of the witness and the

production and surrender of the books, records or documents requested on the matter under consideration by the Board.

After the petition is filed in the Court of First Instance, said court shall issue a subpoena compelling the witness to appear and testify, or to produce the evidence requested, or both, before the Board, and disobedience of the order issued by the court shall be punished as contempt of court.

Every person, except government employees, summoned by and appearing before the Board as witness shall receive for each day of appearance a sum equal to that received by witnesses appearing before the courts of justice.

(e) As soon as possible, after the closing of each fiscal year, but not later than November 1 of each year review, approve, and direct to remit to the Governor and to the Legislature, an annual report containing among other things, a balance sheet of financial situation, a statement of receipts and expenditures for the year; a balance of actuarial valuation; detailed statement of the investments made or liquidated during the year; a report on the investment titles owned by the system; and other statistical and financial data considered necessary for a proper understanding of the situation of the system and of the result of its operations. The Board shall cause to be published, for the benefit of the members of the System, a summary of the annual report. In addition, it shall remit the operating budget of the System approved by the Board for the following fiscal year to the Legislature and the Governor, on or before June 15 of the fiscal year preceding the year which shall be governed by such budget. It shall also publish said approved operating budget on or before that same date on the Retirement System webpage, and make copies thereof available for the members or participants of the System who thus request it. The budget thus published shall remain in the Retirement System webpage during the entire fiscal year governed by the same.

(f) To make contracts, including contracts for professional services, and to sue and be sued under the name and style of the Employees Retirement System of the Commonwealth Government of Puerto Rico and its Instrumentalities.

(g) To contract with the Government Development Bank for Puerto Rico for the investment of any moneys belonging to the system, subject to the limitations and conditions prescribed in this Act.

**Section 4-103. — Powers and duties of the Administrator. — (3 L.P.R.A. § 777)**

The Administrator shall direct and supervise all the administrative and technical activities of the system; he shall designate a person who, under his immediate direction, shall be in charge of, and be responsible for the proper operation of the system; he shall adopt the necessary measures in order to establish a personnel system for the Administration and the Board of Trustees of the system pursuant to the provisions of Act No. 5 of 14 of October of 1975, for Individual Administrators; may contract the services of technicians and specialists, and shall see to the enforcement of the provisions of this Act.

The Administrator shall also have the following powers:

(1) To establish an office for the system, and, under the supervision of the Secretary of the Treasury, make provision for the installation of a complete and adequate accounting and record system.

- (2) With the advice of an actuary, to adopt all the necessary actuarial guides for the operation of the system; and compile the necessary statistical data to make periodical actuarial valuations and surveys of the operations of the system.
- (3) To attend all the meetings of the Board and execute all the resolutions entrusted to him thereby.
- (4) To certify to the Secretary of the Treasury, the payments required to be made according to the provisions of this Act.
- (5) To remit or deposit in the name of the Secretary of the Treasury, and to render accounts of, according to the law and regulations in force, all the moneys received belonging to the system.
- (6) To prepare regulations for the approval of the Board.
- (7) To make recommendations to the Board for the investment of the funds of the system; make the investments of the system; act as custodian of the securities owned by the system; provide adequate facilities for the preservation of said securities in a safe place, and keep said securities subject to the order of the Board; collect the capital and interest of all the securities owned by the system as they become due and payable, and remit said amounts to the Secretary of the Treasury for their deposit in a special trust fund maintained in the name of the system, and submit the reports required by the Board.
- (8) To make recommendations to the Board regarding changes and revisions of the system.
- (9) To prepare the annual report and submit it to the Board for its review and approval.
- (10) To issue a statement of account to any participant who may request it, showing the amount of his assessments accumulated in the system.
- (11) To render to the Board any report it may request.

In the adjudication of any claim under the provisions of this or any other retirement law whose administration is entrusted to him, unless otherwise provided, the Administrator shall abide by the following procedure:

- (a) After the claim is filed, the Administrator or his authorized representative shall proceed to make the pertinent investigations and shall decide according to the evidence.
  - (b) The claimant shall be notified of the Administrator's decision by certified mail and the person or persons thus affected may, within a term of fifteen (15) days from the date of notice, submit a writ of reconsideration of the decision. The Administrator shall consider said petition within twenty (20) days of its filing. If a decision be reached in its reconsideration, the term to appeal shall start counting from the date the Administrator's decision is notified, definitely resolving the writ of reconsideration. Should the Administrator flatly reject the petition or fail to take any action regarding the writ of reconsideration within twenty (20) days from its filing, the term to appeal shall start counting again from the date the refusal is notified or the twenty (20) days have elapsed, as the case may be.
  - (c) If the claimant does not request a reconsideration of the decision in such manner and within the term herein provided, or, if having requested the reconsideration, the Administrator upholds his decision in whole or in part, and so notifies him by registered mail, in either case, the decision shall be final.
- (12) The Administrator and his authorized representatives shall be empowered to subpoena witnesses and require the presentment of documents and any other documentary or oral

evidence; to administer oaths, to certify in connection with official acts, and to issue summonses.

(13) The Administrator shall be further empowered to establish, when he deems it pertinent, a pre- and post-retirement orientation program, and other services to participants who are to retire in the near future as well as to those already pensioned. Said programs may include, among other activities, the following: hold pre- and post-retirement orientation seminars; issue identification cards to the pensioners and arrange for discounts in their purchases or in other services facilities.

(14) The Administrator may intervene in handling the tutorship files in the cases of mentally-disabled participants or minors, who are beneficiaries to the sole effects of the payment of the annuities or benefits granted in the system. The Administrator may, likewise, designate as a tutor, any person already appointed as tutor of the disabled person, by virtue of the U.S. Social Security Act, the Workmen's Accident Compensation Act, or the Automobile Accident Compensation Act. The Administrator shall provide, by regulations, the standards for appointment, duties and obligations, periodic inspection, change, or removal of the designated tutors.

**Section 4-104. — Treasurer and Legal Counsel of System. — (3 L.P.R.A. § 778)**

The Secretary of the Treasury shall be the Treasurer of the System and shall:

- (a) Act as the official custodian of the cash belonging to the System and hold said cash subject to the orders of the Board;
- (b) receive all cash items belonging to the System; and deposit all the amounts of capital and interest collected of the investments made by the Administrator in a special trust fund maintained in the name of the System;
- (c) make payments for purposes specified in this act in accordance with the orders and authorization of the Administrator, and
- (d) submit such periodic reports as the Board may require.

The Secretary of Justice of Puerto Rico may represent the System in any judicial proceedings except in any kind of suits, trials, actions and proceedings related to the investments made by the Administrator as specified in this Act. The Secretary of Justice of Puerto Rico may represent the System in any judicial proceeding, except in those lawsuits, causes, actions and proceedings of any nature related to the investments carried out by the Administrator as specified in this Act.

The Administrator, with approval of the Board, shall contract with attorneys to provide necessary legal resources to carry out the purposes of this Act or to represent the System in any complaint, cause of action or judicial or administrative proceeding, or any other proceeding related to the affairs of the System or affecting the interests of the System. The Administrator may also use internal legal resources of the System for these purposes.

The Secretary of the Treasury shall have jurisdiction over the accounts of the System, as well as over all vouchers and property pertaining thereto. The installation of the books, accounts and records of the System shall be made under his direction. The Secretary of the Treasury shall make a complete audit and examination of the books, accounts and records of the System each year, to the extent of verifying the receipts and disbursements and all assets

and liabilities of the System. Such an audit shall inquire into the methods and policies of operation so as to determine whether the same conform to the requirements of the provisions of this Act and the regulations adopted by the Board.

**Section 4-105. — Investment and reinvestment of reserves. — (3 L.P.R.A. § 779)**

(a) *Definitions.* — For the purposes of this Section and Sections 4-106, 4-107, and 4-108 of this Act, the following terms shall have the meaning stated below:

- (1) *System.* Is the Retirement System of the Employees of the Government and its Instrumentalities.
- (2) *Board.* Is the Board of Trustees of the System.
- (3) *Administrator.* Is the Administrator of the System.
- (4) *Credit rating agencies.* Are those recognized agencies extensively used in the United States to establish credit ratings with regard to securities to be issued in the market.
- (5) *Risk capital.* Is the investment of capital in new or developing high risk enterprises in which there is a high growth potential.
- (6) *Higher credit scales.* Are the first four (4) categories in the rating of securities with regard to their credit rating.
- (7) *Money market instrument.* Covers, among others, short-term securities (a year or less) such as commercial paper, certificates of deposit, time deposits and bankers acceptances, among others.
- (8) *Futures.* Are contracts negotiated in established markets that specify a future date of delivery or receipt of a stated amount of a tangible or an intangible product of a specific nature.
- (9) *Options.* Are rights to purchase or sell a fixed amount of a specific financial instrument at a stated price for a limited time.
- (10) *Future delivery securities.* Are negotiable contracts in interbank or brokerage markets that specify a future date of delivery or the receipt of a definite amount of a tangible or an intangible product of a specific nature.

(b) *Types of investments authorized:*

The System shall keep all the available resources which are not needed for its ordinary operation invested and may invest in the following securities:

- (1) *Fixed yield securities.*
  - (A). Bonds, notes and obligations of the Government of the United States, its agencies and instrumentalities.
  - (B) Money market instruments; these must be recognized and have the highest rating for this type of short-term instrument of any of the credit-rating agencies.
  - (C) Bonds, notes or evidence of indebtedness, whether exempted or taxable securities that represent direct obligations or are secured by the good faith and credit of the government entities, instrumentalities, 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 Commonwealth of Puerto Rico.
  - (D) Bonds, promissory notes and corporate obligations.

(E) Bonds, promissory notes and obligations issued and secured by the central government of foreign countries.

(F) Financial instruments constituted directly or indirectly on financial obligations such as mortgage loans, instruments secured by such loans, as well as automobile loans and lease contracts.

The investments authorized by paragraphs (C), (D), (E), and (F) of this clause must be rated by the credit-rating agencies in any one of the four highest credit classifications.

(2) *Stock:*

(A) The System is hereby authorized to purchase, sell or barter common or preferred stock of any corporation created under the laws of any state of the United States or the Federal Government or the Commonwealth of Puerto Rico, or by foreign countries, subject to the following criteria:

(i) That the stock to be acquired must be openly quoted in one or more financial markets or electronic quotation system of a national or international nature.

(ii) Securities shall not be acquired through private placings.

(iii) The System shall not invest more than 60% of its total resources in this type of securities.

(iv) No investment shall be made in enterprises whose market value is less than one hundred million (100,000,000) dollars (United States currency).

(v) The System shall not hold more than 5% of an enterprise's authorized shares outstanding.

(vi) The System shall not have more than 20% of its funds invested in one single economic sector.

(3) *Real properties.* The System may invest up to a maximum of 15% of its total resources in direct or indirect investments in income-yielding real estate. In such investments there must be a reasonable expectation of a yield equal to or higher than other types of investments and no investment may be made in undeveloped land.

(4) *Risk capital.* The System may invest in risk capital, new or developing high risk or high growth enterprises where there is a high appreciation potential. In this case, the System may control more than 5% of the authorized shares, provided the funds dedicated to this type of investment do not exceed 5% of the total resources of the System.

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

(c) *Restrictions and Miscellaneous Authorizations.*

(1) Investments in foreign countries shall not exceed 30% of the total resources of the System.

(2) No investment shall be made in securities of any government or firm located in communist or totalitarian countries or that discriminate for reasons of sex, race, religion or political affiliation.

(3) The investments by the System, whether of fixed yield as well as in stock, may be denominated in United States currency or foreign currency.

(4) In order to carry out the investments authorized by this Act, the Board shall contract the necessary specialized professional services including consultants and managers of System funds money managers.

(5) Any investments whatsoever made under the provisions of this section shall be carried out with foresight and care and according to, the criteria that prudent, reasonable and experienced men exercise when handling their own affairs, for investment and nonspeculative purposes, taking into account the balance that must exist between yield expectation and risks.

(6) The Secretary of the Treasury, acting as collecting and paying agent of the System, shall remit to it any remainder under his custody that is produced as a result of exercising those duties, quarterly and within thirty (30) days following the close of each calendar quarter.

(d) *Authorization to Incur Debts.* The Board of Trustees may authorize the Administrator to seek a loan from any financial institution of the Government of the Commonwealth of Puerto Rico or the Federal Government of the United States of America or through the direct placement of debts, securing said debt with the assets of the System. The interest accrued by these obligations shall be exempt from the payment of income tax to the Commonwealth of Puerto Rico.

**Section 4-106. — Investments of System Funds in Loans to Employees . — (3 L.P.R.A. § 779a)**

(1) The funds of the system may be invested in loans to permanent employees who are members of the system, for the construction, expansion or acquisition of their own homes or their re-financing as well as personal loans under the following conditions and limitations:

(a) *Mortgage loans.* The system may grant mortgage loans subject to the following conditions:

(1) The maximum amount to be loaned in each case shall not exceed the maximum limit fixed by the Board of Trustees from time to time taking the conditions of the housing market into consideration. Each loan shall not be greater than three (3) times the annual salary of the employee and of his spouse plus the total of the individual contributions that the employee has credited on the date the loan is processed plus those of his/her spouse if she/he participates in the system.

(2) The loan shall not exceed ninety percent (90%) of the value of the real property acquired, as per an appraisal performed by the system, or the property to be constructed with the proceeds of the loan, nor may it be extended for more than thirty (30) years.

(3) The loan shall be secured by a first mortgage on the real property for whose acquisition, extension or refinancing the loan was made, for the contributions accrued and to be accrued in behalf of the borrower in the System, and for the amount that may correspond to the heirs or the person the borrower would have designated as a beneficiary in case of the death of the borrower, as provided in Sections 2-113 and 2-114 or Section 3-110 of this Act. Said contributions and amounts may be applied by the Administrator to the payment of any of the participant's debts with the System.

(4) When a home construction loan is granted, the borrower and the contractor shall give the system a bond or surety in which the Retirement System is the beneficiary as security while the construction is in process and the corresponding mortgage deed is executed in addition to the collateral security of the monthly salary of the borrower from which the sum he has pledged to pay will be deducted monthly and from the guarantees stipulated in paragraph (C) of this clause.

(5) The payment of premiums on account of insurance policies, payment of taxes, deed and appraisal expenses related to the real property mortgaged to secure the loan, as well as all administrative expenses, shall be included in the debt and shall be proportionally deducted each month along with the deduction to cover the payment of principal and interest.

(6) The system shall regulate the rate of interest under which it will grant mortgage loans.

(7) The Board shall authorize the Administrator to sell or pledge the loans he has in the portfolio according to the terms and conditions that the Administrator deems adequate and beneficial for the investment plan of the system.

(8) The interest accrued by these mortgages shall be exempt from income taxes.

(9) The system may establish, through regulations, one or more insurance plans in connection with any loans of any nature that the system may grant its members. The system may act as insurer in any one of these plans. For such purposes, the Board is hereby empowered to authorize that the amounts it determines as necessary to establish the special reserve funds for each one of the insurance plans be taken from the general funds of the system with the approval of the Secretary of the Treasury. The sums thus taken shall be repaid to the general funds of the system, as the special funds thus created accumulate the necessary reserves from income derived from the premiums to be collected from those insured by each one of the plans.

(10) The system shall set aside, from its funds, the amount of three million dollars (\$3,000,000) per year in order to grant mortgage loans for the acquisition of vacant lots. The loan shall be secured by a first mortgage on the real estate for whose acquisition the loan was made. The term of the loan shall not exceed fifteen (15) years. Said loans shall be granted at the rate of interest in effect in the market or, pursuant to the conditions which apply to other types of mortgage loans offered by the Retirement System.

For this type of loan the system shall establish a maximum amount to be granted per loan, which must be fixed in relation to the average price of land in the various rural or urban areas of Puerto Rico; and the following conditions shall be established:

- a. The land to be acquired shall be located in an area classified as residential or, in case it is not classified, in an area which at best would most probably be classified as residential.
- b. The land to be acquired through the loan shall adjust to the dimensions proper to a residence, that is to say, because of its size, it may not be considered as an estate
- c. The dwelling built shall constitute the primary residence of the borrower.

The Board of Trustees shall adopt specific regulations for the administration of this investment on loans for the acquisition of vacant lots, providing other necessary requirements which propitiate better conditions for this investment.

(b) *Personal loans.* The system may grant personal loans subject to the following:

(1) Personal loans to participants and pensioners of the system. Regardless of what is provided by any other act, the Board shall determine through regulations, the conditions and procedures that are pertinent to the granting of these loans, including the fixing of the interest rate and late charges.

(2) The system is also authorized to invest in personal loans to pensioners for a sum that shall not be less than five hundred dollars (\$500), nor more than five thousand dollars (\$5,000), for the sole purpose of providing them with a source of financing for the down payment of homes for the exclusive use of the pensioner.

(3) The personal loans shall be secured with priority over any other debt outside the system by the contributions and those that are accumulated in the system later on, and by the amount that in case of the death of the participant or pensioner, would correspond to his heirs or any of the beneficiaries he may have designated pursuant to the provisions of this Act. These contributions and amounts may be applied by the Administrator in payment of any amount owed on account of a loan granted to the participant or pensioner by the system. The pensioners shall secure the loan with their retirement annuity with the same preference that the participants secure it with their contributions.

(2) The total amount of the mortgage and personal loans authorized by clauses (1) and (2) of subsection (a) of this section shall not exceed fifty percent (50%) of the total resources of the system.

(3) Every employer shall provide to the system all amounts deducted each month for payment of loans granted by the system within fifteen (15) days following the last day of the month to which the deduction applies.

**Section 4-107. — Depository.** — (3 L.P.R.A. § 779b)

(1) All obligations of the Government of the United States or of its states and subdivisions, or other investments originated within the limits of the United States, that are owned by the System, shall be placed in custody of a special depository which provides the needed security and is within the limits of the continental United States. The bonds, mortgages and other evidence of indebtedness owned by the System and that have been issued and originated in Puerto Rico shall be held in the custody of the Administrator, it being understood that all or any of the securities mentioned may be transferred to the custodial agent of the Secretary of the Treasury of Puerto Rico in the continental United States, or to the Secretary of the Treasury in Puerto Rico, in the event that the Administrator determines that such transfer is necessary or desirable. The designation of one or more banks as custodians shall have the approval of the Secretary of the Treasury.

(2) All obligations owned by the System outside the territory of the United States shall be placed in the custody of a special depository that offers adequate security and is within the convenient territorial limits.

**Section 4-108. — Regulations. — (3 L.P.R.A. § 779c)**

The Board of Trustees shall adopt regulations for the administration of the investments in capital markets and loans to employees authorized by this Act. The regulations for investments in capital markets shall include the following without it being understood as a limitation:

- (1) The criteria, requirements and conditions for the selection, contracting, and evaluation of the performance of the managers of funds and custodial banks, that shall be contracted to perform the investments authorized by this Act.
- (2) The investment policy for the resources of the System in capital markets.
- (3) The norms for the administration, lease, sale, encumbrance or execution of real estate acquired to generate income.

**Section 4-109. — Penalties . — (3 L.P.R.A. § 781a)**

(a) Any director of an agency, public corporation or municipality who fails to deduct contributions to the System from his employees, or fails to remit said contributions to the System, or fails to make the appropriate employer contributions to the System, shall be so notified by the Administrator, by certified mail, return receipt requested, and the immediate deposit of the funds shall be required.

(b) It shall be the obligation of said director to remit immediately to the System any funds due and owing or, if this is prevented by insufficiency of funds or because of discrepancies in the amount claimed, the director shall, within 15 days of the official notice by the Administrator, provide a sworn statement as to the facts which prevent remittance of the funds.

(c) In the event that the director is unable to remit funds owing to insufficiency of resources, he shall so notify the Office of Management and Budget and the Treasury Commissions of the Senate and House of Representatives, so that they may give priority to resolution of the insufficiency.

(d) In the event that the director does not remit the funds due to a discrepancy as to the amount owing, he should so notify the Commission to Resolve Controversies Over Payments and Debts between Government Agencies created by Act No. 80 of June 3, 1980 [3 L.P.R.A. §§ 1751 et seq.]. The investigations which may be carried out according to said sections shall not have the effect of interrupting the terms set forth in Section 1-110 for the separation of a public enterprise or municipality from the System.

(e) If the director does not comply with the obligation imposed by this section he shall be charged with a misdemeanor and, if convicted, shall be subject to a fine of five hundred (500) dollars or a term of imprisonment of six (6) months or both, in the discretion of the court.

(f) In the event that the director of an agency, public corporation or municipality knowingly, willfully and without just cause fails to deliver the funds owing to the System after he has been notified by the Administrator, he shall incur a felony and, if convicted, shall be sanctioned by imprisonment for a fixed term of six (6) years or a fine of five thousand (5,000) dollars or both, at the discretion of the Court.

**Section 4-110. —Loans Collections. — (3 L.P.R.A. § 785a)**

The Administrator is hereby empowered to collect, from any amount a participant is entitled to receive as a final liquidation for accrued regular vacations or sick leave owed by the agency, dependency, or department in which he/she worked, or from the liquidation of savings the Commonwealth Employees Association must make, or from the contributions or interest accrued in the Retirement System, any amount owed for personal or cultural loans, or for any mortgage loan by said participant when same ceases or is permanently severed from public service. Debts owed the System for personal or cultural loans, or for any mortgage loan shall have priority over any other debt of the participant. The Administrator shall determine the manner and conditions under which said loan amounts and the accrued interest shall be collected.

In the case of personal or cultural, or mortgage loans in arrears, the Administrator shall grant the participating borrower or pensioner a term of 30 days, and shall issue a warning that, if the payment is not made, the debt shall be declared due in its totality, and the application and seizure of the individual contributions of the participants, or the balance in their savings account, whichever may be the case, shall proceed against the debt.

In the notification of collection, the Administrator shall inform the participant of the consequences of the application of his/her individual contributions in relation to the benefits granted by the System. He/she shall also inform the same of his/her right to return such contributions, with the corresponding interest, to restore the credits in years of service represented by the same, without the requirement of being in active service subject to the norms or restrictions established by the Administrator.

**Section 4-111. — Exemption from Payment of Axes . — (3 L.P.R.A. § 786a)**

The Administration of the Retirement Systems of the Government and Judiciary is hereby exempted from the payment of taxes on any property it acquires or is under its jurisdiction, authority, control, domain, possession, or supervision. Provided, That any property tax owed at the time it is acquired or falls under its jurisdiction, authority, control, domain, possession or supervision must be paid in full pursuant to the provisions of Section 315 of the Political Code of Puerto Rico [13 L.P.R.A. § 462].

It is also exempted from the payment of rights, revenue stamps, and tariffs for any procedure in court and the granting of public instruments and recording in property registries in Puerto Rico.

**Section 4-112. — Participation Committee. — (3 L.P.R.A. § 786b)**

(a) There shall be created hereby a Participation Committee to be composed of three (3) participants in the Retirement System of Government Employees, one participant in the Retirement System of the Judiciary and one retiree. The participants of both Systems shall have at least five (5) years of accredited service.

(b) For the purpose of permitting free and equal participation to all members of the System and retirees, the members of this Committee shall be elected every three (3) years in a

referendum. The first referendum shall occur no later than December 31, 1990. The Board shall determine through regulation the procedure for the referendum and all other matters relative to election and certification of Committee members.

(c) The Committee is authorized to make suggestions, hear complaints of its constituents, evaluate them and submit them to the Administrator, who is authorized to accept, reject or modify recommendations of the Committee. Decisions of the Administrator shall be final. The Committee shall meet at least twice a year unless otherwise directed by regulation.

**Section 4-113. — Obligations of Employer; fraud; saving clause. — (3 L.P.R.A. § 787)**

It is the intent of this Act that the contributions required from the employer, as well as all annuities, benefits, reimbursements, and administration expenses, shall constitute obligations of the employer.

Any person who knowingly makes any false statement, or falsifies or permits to be falsified, any record or document of this System, in any attempt to defraud the System, is guilty of a misdemeanor, and shall be punished according to the laws of Puerto Rico, and the Board shall have the right to recover any payments made under false representations.

The Board shall have the right to recover any payment erroneously or unduly made, after the effectiveness of this act; Provided, That the Board shall determine the manner and conditions under which such erroneously and unduly paid sums shall be recovered, and shall inform to the Secretary of the Treasury the action taken, for the pertinent purposes.

If any section, sentence, clause or phrase of this Act is declared null or unconstitutional, such declaration shall in no manner affect the other sections, sentences, clauses or phrases of this Act, which shall remain in full force and effect as fully as if the section, sentence, clause or phrase so declared null or unconstitutional were not a part of this Act.

**Section 4-114. — Statutory Intent—Repeal. — (3 L.P.R.A. § 788)**

Any act or part thereof contravening this chapter is hereby repealed. This chapter does not have the purpose of repealing the diverse acts cited in Section 1-103 of this Act. Inasmuch as these Acts are not in contention with the provisions of this Act, and up to the point that they are applicable with respect to the vested rights and benefits payable under the said acts, these shall continue in effect after the effective date of this Act.

**Section 4-115. — Date of Effectiveness. —** This Act, being of and urgent and necessary character, shall take effect July 1, 1951.

**Note. This compilation was prepared by the Puerto Rico OMB staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text. Compiled by the Office of Management and Budget Library.**