

(S. B. 716)

**(No. 209-2009)**

(Approved December 29, 2009)

## **AN ACT**

To amend Section 16 of Act No. 124 of December 10, 1993, as amended, which establishes an Affordable Housing Subsidy Program, in order to authorize the Housing Finance Authority to create the Mi Nuevo Hogar Program and to provide the parameters for its operation, application, and financing alternatives, among others.

### **STATEMENT OF MOTIVES**

Over the past years, the Government of Puerto Rico has used resources to promote the acquisition of principal residences by granting tax incentives. However, most of said incentives were directed to solving the oversupply problem of new housing whose costs exceeded the buying power of low-income persons. Such situation is now worse because, as a result of the recession we are going through, sales have decreased dramatically and the construction of new housing has slowed down. A substantial inventory of housing units have been on the market for a very long time, which has increased the number of interim loans in arrears and limited the lending capacity of mortgage banks. To enable new developments, it is necessary to promote market movement by focusing mainly on houses still waiting for a family to acquire them.

However, our Island has a deficit of approximately one hundred thousand (100,000) housing units, seventy percent (70%) of which is estimated to be affordable housing according to information furnished by the Secretary of Housing in his confirmation hearings.

It is imperative for the present Legislative Assembly to address this social and economic problem given the need for housing of low- and moderate-income persons.

It is a well-known fact that the construction industry has been affected by the economic crisis we are experiencing. However, the need for housing unwaveringly persists. As stated before, the need for housing is greater for the lower and middle class sector. In view of said circumstances, developers have expressed their intention to address the growing demand for affordable housing as subsidy and incentive programs are implemented.

Successful state programs to help families who are not homeowners with financial aid for the down payment and monthly mortgage payments have existed in the past. Such was the case of the “Affordable Housing Subsidy Program,” created by Act No. 124 of December 10, 1993, as amended. However, the appropriation of funds for said program was used in its entirety. For this reason, we deem it prudent and necessary to authorize the Secretary of the Department of Housing to create an incentives program that helps low- and moderate-income families become homeowners. Every family deserves the opportunity to live in a safe place where a person may enjoy the proprietary rights to which he/she is entitled. In that sense, the regulatory power should be delegated to said Agency, since it has the subject-matter expertise with regard to housing needs.

At the federal level, an \$8,000 tax credit program has been implemented for individuals or families acquiring their principal residence. This incentive has shown dramatic and positive results in the housing market and has been fundamental for the economic recovery of the United States. Recently, promising numbers have been reported which reveal stabilization both in the prices and sales of residential properties located in areas severely affected by the mortgage crisis that caused the national recession. The current discussion in Congress to extend

said incentive is proof of its effectiveness. Unfortunately, Puerto Rico did not benefit from these credits because most of the Island's residents do not pay federal income tax.

In brief, the proposal contained in this Act represents an investment in the future of all Puerto Ricans. Every cent invested in the Mi Nuevo Hogar Program would involve a private and direct investment 19 times greater. Furthermore, it means that, for every \$2,500 contributed by the State, one direct job would be created and more than \$50,000 would generate taxes for the treasury, without taking into account the multiplying effect of the construction industry, which is estimated at 1.65 and which, in real terms, means that a new job would be created for every contribution of approximately \$1,500. Very few assistance or subsidy programs in the Government have the effect of generating economic activity equal to 33 times its cost.

This Legislative Assembly deems it prudent and necessary to approve this Act, since it would enable persons to obtain a safe and accessible home.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- Section 16 of Act No. 124 of December 10, 1993, as amended, is hereby amended to read as follows:

“Section 16.- The resources to finance the Mi Nuevo Hogar Program created by virtue of this Act may proceed, totally or partially, from the savings generated by the refinancing of the bonds issued in 1986 by the Housing Bank and Finance Agency of Puerto Rico, currently known as the Puerto Rico Housing Finance Authority, to meet the obligations of subsidy prepayment pursuant to Act No. 115 of July 11, 1986, as amended, and the obligations contracted under the Interim Loan Insurance Program.

For each fiscal year, the Executive Director of the Housing Finance Authority shall request the resources needed to finance the program created under this Act as part of the Authority's budget petition. Said budget petition shall enclose a cost-effectiveness analysis that includes, among its areas of study, the net fiscal and financial impact that the data provided or validated by the pertinent authorities shows regarding construction costs, offer, demand, and need for housing in Puerto Rico.

The Puerto Rico Housing Finance Authority and the Department of Housing are hereby authorized to use the surplus of funds appropriated from the General Fund for the different stages of the Affordable Housing Subsidy Program created by this Act and administered by the Housing Finance Authority. They may also use any other program with available funds to help low- or moderate-income persons or families acquire or rehabilitate homes whose maximum sales price, in case of acquisition, shall not exceed the maximum price required for FHA loans. In case of rehabilitation, the maximum cost shall not exceed the maximum price established by law for affordable housing. These housing units may be located in housing development projects or may be individual units located in any municipality in Puerto Rico.

The Housing Finance Authority Board shall adopt all the procedures necessary and consistent with the purposes of this Act. It is hereby authorized to create the Mi Nuevo Hogar Program, to be administered by the Puerto Rico Housing Finance Authority as a program separate from the Affordable Housing Subsidy Program, and to establish the amount applicable to the down payment or to expenses directly related to the purchase of a home to help persons of low and moderate income. The procedure shall establish restrictive conditions in order to prevent speculation or improper use of the property or the benefits provided under this Act.

The surplus from the subsidies referenced in this Act, as well as the surplus and funds available from all programs administered by or under the custody of the Housing Finance Authority, shall also be used to finance the Mi Nuevo Hogar Program up to the amount needed to cover the valid applications remitted thereto. Furthermore, the Mi Nuevo Hogar Program shall have priority when the re-appropriation of funds from items of other agencies and instrumentalities of the Government of Puerto Rico is administratively ordered.

Priority shall be given in the Mi Nuevo Hogar Program to persons of low and moderate income, elderly and disabled persons, and public employees that provide health, education, public safety, and other services considered essential to society directly to citizens and who have not benefitted from a similar program in the past, unless the Executive Director of the Housing Finance Authority otherwise authorizes. This way, these persons may benefit from the subsidy provided by the Program without impairment to other requirements established through this Act or regulations, and the involvement of the speculative market for purposes foreign to those of this Act is prevented.

For the purposes of acquisition under the Mi Nuevo Hogar Program created by this Act, eligible housing shall be that which does not exceed the maximum required for FHA loans. The Housing Finance Authority Board is hereby authorized to increase the maximum qualification price of housing units until the demand and need of the families is reasonably met and to the extent allowed by available resources. The Housing Finance Authority Board and the Executive Director of the Housing Finance Authority shall establish eligibility parameters and other conditions through regulations in order to guarantee that housing units are adequate to become homes for Program participants. Said regulations shall align with the statement of motives and the public policy of this Act by expanding

the participation of and benefits for the citizenry in all circumstances. The regulations required by the preceding section shall be adopted and published within sixty (60) days after the approval of this Act.

The Mi Nuevo Hogar Program shall consist of a subsidized contribution in the form of a certified voucher equal to five percent (5%) of the sales price or appraised value, whichever is less, of the housing unit qualified under the parameters established by this Act or the pertinent regulations. The price adopted for the purposes of the preceding parameter shall be known as fair value. When the certified voucher corresponds to a housing unit whose fair value is less than one hundred thousand dollars (\$100,000), the same shall be in the amount of five thousand dollars (\$5,000.00). When the certified voucher corresponds to a housing unit whose fair value is greater than two hundred thousand dollars (\$200,000), the same shall be in the amount of ten thousand dollars (\$10,000.00), and entail a minimum match of at least ten thousand dollars (\$10,000.00) to be paid by the developer and added to the certified voucher together with the contribution from the State. If the fair value of the housing unit increases, the required match shall be proportionally higher. The developer may negotiate with the financial institution that issued the interim loan for the latter to assume part or all of the required match.

The Housing Finance Authority may validate housing development projects that meet the qualification requirements so that they may receive the funds corresponding to each housing unit according to its sales price and as the use permit for each of said units is obtained. The housing development projects validated to receive the funds corresponding to each housing unit in advance shall enter into a contract with the Housing Finance Authority in order to redeem the

buyers' certified vouchers at the time of the closing of the mortgage deed. The funds received in advanced may only be used for expenses related to the housing development project in question.

The Authority shall be able to make exceptions in which a percent higher than the one provided is applied to the amount to be subsidized without impairment to the ten-thousand-dollar (\$10,000) limit. The beneficiary shall make fair and good use of the housing unit as long as he/she owns it. If said unit is sold within ten (10) years following its purchase, an amount proportional to the remaining time of said term shall be withheld. The amount withheld shall be reimbursed to the Authority for use in the same Program. The same requirement and withholding process shall be applied to the total subsidy in all cases in which a private contribution has been originally added.

When a new housing unit exceeds the price limit established by this Act or the pertinent regulations, it may benefit from the Program, regardless of its price, insofar as its use permit has been in effect for more than eighteen (18) months.

All housing units shall be duly inspected prior to their acquisition. All existing housing units for sale shall require the services of a real estate broker in order for said unit to be qualified and for its buyer to benefit from the Program.

Section 2.- The Housing Finance Authority is hereby authorized to transfer and use available funds from any of the programs in its custody. It may also incur secured debt, match other appropriations, submit proposals and apply for Federal funds, and form consortiums and negotiate with the private sector, among others, with the purpose of financing the Mi Nuevo Hogar Program. Furthermore, the Governor of Puerto Rico is hereby empowered to transfer to the Housing Finance Authority any funds available in other items derived from the Joint Budget Resolution, bond issues, lines of credit, surplus from public corporations, and any other funds identified as available.

Section 3.- Should there be a surplus of funds or an appropriation pending funds to be designated to a program similar to the one created by this Act, said funds shall be used for the purposes sought by the Mi Nuevo Hogar Program. If the conclusion of the cost-benefit analysis submitted by the Housing Finance Authority reveals a net positive impact on future collections among the municipalities, the agencies, and the General Fund, a budget item shall be included in the next Joint Budget Resolution with the sufficient and necessary financial resources to subsidize the Mi Nuevo Hogar Program.

Section 4.- For administration purposes, the Authority may denominate or define the Program or its parts as may be convenient for its beneficiaries and for its best operating practices. Nothing shall prevent the Program established by this Act from being combined with any other existing program in effect. The Authority shall submit quarterly reports to the Committee on Housing of both Legislative Bodies on the progress made to achieve compliance with this Act, the number of beneficiaries, the financial amount subsidized, and the details of the funds used for the Program. It shall likewise integrate any other existing program in effect that has been administratively created and has objectives and functions that are similar to those of the program created herein.

Section 5.- The Housing Finance Authority shall adopt the rules and regulations needed to comply with the purposes of this Act before January 20, 2010. This process shall be exempt from the provisions of Act No. 170 of August 12, 1988, as amended; however, the Authority shall raise public awareness thereof by duly disseminating and publicizing such information. No Act previously in effect shall limit the scope of action stipulated herein.

#### Section 6.- Severability

If any provision of this Act or the application thereof is held invalid, such holding shall not affect the remaining provisions of this Act or its application, and such remaining provisions shall continue in effect despite one of them being held invalid. For this purpose, it is hereby decreed that the individual provisions of this Act are severable.

#### Section 7.- Effectiveness

This Act shall take effect immediately after its approval, whereas the regulations and benefits thereof shall be available after February 1, 2010.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 209-2009 (S. B. 716)** of the **2<sup>nd</sup> Session of the 16<sup>th</sup> Legislature** of Puerto Rico:

**AN ACT** to amend Section 16 of Act No. 124 of December 10, 1993, as amended, which establishes an Affordable Housing Subsidy Program, in order to authorize the Housing Finance Authority to create the Mi Nuevo Hogar Program and to provide the parameters for its operation, application, and financing alternatives, among others.

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

In San Juan, Puerto Rico, on the 13<sup>th</sup> day of December, 2012.

María del Mar Ortiz Rivera