

(S. B. 476)

(No. 96-2017)

(Approved August 10, 2017)

## **AN ACT**

To create the “Santurce and Río Piedras Urban Reconstruction and Public Nuisance Management Act,” in order to provide for an alternative mechanism, through the Puerto Rico Land Administration, that facilitates the abatement of Public Nuisances located in the Santurce and Río Piedras sectors of the Municipality of San Juan, and the transformation thereof into functional structures for housing or commercial purposes; promote the acquisition and renovation of public nuisances; empower the Puerto Rico Land Administration to declare any deteriorated and abandoned property as a Public Nuisance, in accordance with the procedure established in this Act; transfer properties declared as Public Nuisances to Persons who intend to transform such properties into functional structures; add a new subsection (c-1) to Section 7 of Act No. 13 of May 16, 1962, as amended; and for other related purposes.

### **STATEMENT OF MOTIVES**

The consequences of the socio-economic crisis that we have been experiencing for several years now extend beyond the economic aspects. The ensuing effects of said crisis have become more evident in the number of buildings, lots, housing, and other types of structures that have been abandoned across the Island, even in urban centers. Santurce and Río Piedras, which are located in the Municipality of San Juan, are two (2) of the most affected sectors.

Our responsibilities as a Government include incentivizing and facilitating economic development; hence, it is imperative that we reevaluate existing mechanisms to conform them to our reality. This Legislative Assembly has

promulgated countless statutes geared to addressing this serious situation. Act No. 31-2012, as amended, known as the “Act to Enable the Renovation of Communities in Puerto Rico,” was approved as part of this effort. This Act provided Municipalities with a swift mechanism to condemn those structures that constitute Public Nuisances and facilitate the transformation of the areas where these structures are located.

The Statement of Motives of Act No. 31-2012, recognized the need to find feasible alternatives to promptly address the housing needs of thousands of our citizens. Such alternatives shall promote, in turn, the rehabilitation of communities across Puerto Rico. Moreover, said Statement of Motives stressed that there are sectors within the municipal territory of San Juan that have experienced a population decline, which has caused housing and other structures in San Juan, such as lots, to fall into a state of total abandonment.

Thus, the aforementioned statute authorized the Municipalities to exercise their power of eminent domain to condemn abandoned structures or abandoned, empty, or uncultivated lots declared as Public Nuisances, so that they may be transferred to private citizens who can make a better use of the property. Said statute further provided that a Person interested in acquiring such real property shall provide the Municipality with the funds necessary to pay a fair compensation and cover the expenses entailed by this process.

If a Municipality determines that it shall not exercise its power of eminent domain on real property declared as a Public Nuisance based on the public use thereof, as set forth in Act No. 31-2012, it shall then prepare an Inventory of Properties Declared as Public Nuisance. The Municipality is required to keep the Inventory’s information up to date and available to the public.

Notwithstanding, there is an increasing number of abandoned, vandalized, and deteriorated structures in some areas of the Santurce and Río Piedras sectors of the Municipality of San Juan. Over the years, most of these sectors have fallen into decay. This shows that the tools provided under Act No. 31-2012 have not been employed to abate the advanced state of deterioration of these sectors, which is detrimental to the residents and business owners of these sectors.

These sectors were once very prolific, centric residential areas with great economic activity that offered residents and business owners alike the opportunity to fully enjoy the advantages of having all kinds of services and businesses available to all. Santurce and Río Piedras, however, are nowadays partially abandoned sectors, with areas in which deteriorated, vandalized, and dilapidated structures prevail, and are sometimes used and provide a harbor for criminal and unlawful activities. Despite the advantages offered by these sectors, that is, access to public transport services such as the urban train and other transportation services, such as those provided by the Metropolitan Bus Authority, only traces remain of what they once were decades ago. Former and current residents are clamoring for the revitalization of these communities and their redevelopment as ideal sectors for housing and commercial purposes. Moreover, although many popular tourist areas and attractions are located within these sectors, they offer no safety to our visitors and tourists nor do they resemble what the Capital City of San Juan should be. It is our duty to improve the quality of life, as well as to protect the Property and lives of our citizens, visitors, and tourists alike.

It is worth mentioning that the Supreme Court of Puerto Rico has reasserted the inherent power of the State to take hold of private property through the exercise of its power of Eminent Domain as well as the authority of the Legislative Assembly to condemn private property directly or through other public entities or officials. The only limitations on the exercise of this power are: that the property be

devoted to a public use or purpose and that the defendant be paid a fair compensation therefor. The Legislative Assembly has broad discretion to determine what constitutes a public purpose as well as the necessity and use thereof. *Municipio de Guaynabo v. Adquisición*, 180 D.P.R. 206 (2010).

Certainly, we must be proactive and search for solutions to improve the quality of life of residents, stimulate economic development in those areas, and improve the surroundings thereof. Therefore, it is imperative to provide alternative mechanisms to achieve the purposes of this Act, that is, the rebirth of Santurce and Río Piedras as prolific sectors, in terms of economic activity, urban setting, and the development of adequate housing units for our people.

Furthermore, the Puerto Rico Land Administration, an entity attached to the Department of Economic Development and Commerce, was created as for the purpose of promoting the wellbeing and financial freedom of the residents of Puerto Rico and serve social justice through the actions of the Administration. Hence, the powers and rights necessary to carry out its functions, including the power of Eminent Domain, were delegated to the Administration.

Because we believe that the redevelopment of Santurce and Río Piedras is a critical element of our plan for Puerto Rico's economic progress, a new option is hereby provided through the Land Administration, to abate structures declared as Public Nuisances and redevelop them for the benefit of our citizens and visitors. In doing so, we make the acquisition of said Properties feasible for interested Persons who can acquire them without depending solely on the procedure established in Act No. 31-2012 and without any restrictions on the number of Properties that may be acquired.

In accordance with the foregoing, the Land Administration is hereby empowered to declare as a Public Nuisance, upon request of an interested party, Properties abandoned and in a state of deterioration located in Santurce and Río Piedras, pursuant to the criteria and procedures established in this Act. Subsequently, a condemnation action shall be instituted before the Court of First Instance for the purpose of conveying the ownership of the Property to the Person interested in acquiring it, which shall contribute, in turn, to the achievement of the purposes of this Act.

Moreover, this Act grants certain benefits to those who acquire such Properties as well as to other persons or entities, in order to promote investments in these areas. These investments shall contribute to the progress of these sectors and their economic recovery, halt their deterioration, and restore the urban setting of the City of San Juan.

For all of the foregoing, this Legislative Assembly deems the promotion of the economic development of sectors such as Santurce and Río Piedras in the Municipality of San Juan, which have a greater potential for an increased economic activity, as well as the development of centric housing areas, to improve the quality of life of its residents, to be a compelling government interest.

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

**Section 1.- Title.**

This Act shall be known as the “Santurce and Río Piedras Urban Reconstruction and Public Nuisance Management Act.”

**Section 2.- Declaration of Public Policy.**

The economic, commercial, and residential rehabilitation of the Santurce and Río Piedras sectors of the Municipality of San Juan shall be a priority for the Government of Puerto Rico. Therefore, it is hereby declared as public policy:

(a) To promote the rehabilitation and strengthening of the economic, commercial, and residential activity of the Santurce and Río Piedras sectors of the Municipality of San Juan.

(b) To provide an alternative mechanism to facilitate the declaration and abatement of Public Nuisances and their transformation into functional structures, whether for housing or commercial purposes, by promoting the acquisition and renovation thereof, thus contributing to the recovery of these sectors.

(c) To promote the acquisition of structures that have been declared as a Public Nuisance by interested Persons, whether for commercial or residential purposes, in compliance with existing legislation and regulations regarding the conservation of structures of architectural or historical value.

(d) To increase housing, job, and commercial and economic development opportunities in those sectors.

(e) To grant benefits geared to stimulating economic activity, thus optimizing the living conditions of the residents of these sectors.

(f) To increase security in the areas comprising these two sectors, and improve their public image.

(g) To take measures as are necessary and convenient to attain the purposes of this Act.

### **Section 3.- Definitions.**

For purposes of this Act, the following terms shall have the meaning stated below:

(a) Land Administration – means the Puerto Rico Land Administration, created under Act No. 13 of May 16, 1962, as amended.

(b) CRIM – means the Municipal Revenue Collection Center.

(c) Public Nuisance – means any abandoned structure or abandoned, empty, or uncultivated lot that is unfit for human habitation or use for being dilapidated or in a state of disrepair, or having construction defects, or for constituting a hazard to the health or safety of the public, or for being under conditions that prevent development in such areas and their lawful occupancy as housing or commercial facilities, or that hinder the access of residents, visitors, and tourists to such areas. Said conditions may include, but are not limited to: structural defects that increase the risk of fire and accidents, vandalized or destroyed façades and structures, as well as a lack of appropriate ventilation or sanitary facilities, electric power, drinking water; the accumulation of solid waste; and lack of hygiene and cleanliness.

(d) Condemnation – means the procedure established under the “General Condemnation Act” of March 12, 1903, as amended.

(e) Inventory – means the Inventory of Properties Declared as a Public Nuisance kept by the Municipality of San Juan pursuant to Act No. 31-2012, as amended, or the Inventory that the Puerto Rico Land Administration may establish for purposes of this Act.

(f) General Condemnation Act – Act of March 12, 1903, as amended.

(g) Act No. 31 – means Act No. 31-2012, as amended, known as the “Act to Enable the Renovation of Communities in Puerto Rico.”

(h) Municipality – means the Autonomous Municipality of San Juan.

(i) Person – means any natural or juridical person that initiates or is interested in initiating a condemnation process before the Land Administration to declare a Property as a Public Nuisance; that has legal standing and financial capacity to acquire the Property —once the taking of such Property through Condemnation is completed— at the market value thereof according to the official appraisal of the Property and to defray the fees and costs entailed by said process.

(j) Property – means any real estate, as defined in Articles 261 and 264 of the Civil Code of Puerto Rico.

(k) Eligible Property – means any property that is declared as a public nuisance, in accordance with the provisions of this Act, and Act No. 31-2012, or that is registered in the Inventory.

(l) Río Piedras – means such part of the Municipality comprising the following sectors: Centro Urbano, Capetillo, Buen Consejo, Venezuela, Santa Rita, García Ubarri, Blondet, and Mora; delimited in the North by the Piñero Expressway; in the South by the Botanical Gardens of the University of Puerto Rico; in the West by the Muñoz Rivera Avenue; and in the East by the Juan Méndez Stream and the 65<sup>th</sup> Infantry Avenue, and any other sector located in this zone.

(m) Santurce – means such part of the Municipality delimited in the North by the Baldorioty de Castro Expressway up to the intersection with the De Diego Avenue, and then along the Loíza Street on both sides up to the municipal limit of the Municipality of Carolina; in the South by the Caño Martín Peña; in the East by the Laguna Los Colozos[sic]; in the West by the Bahía de San Juan; and any other sector located within this zone.

#### **Section 4.- Applicability**

The procedure established herein shall apply to all of the areas located within the Santurce and Río Piedras sectors of the Municipality of San Juan. The Condado, Miramar, Punta Las Marías, and Ocean Park sectors are also included therein.

#### **Section 5.- Declaration of Public Nuisance by the Land Administration**

The Land Administration is hereby empowered to declare as a Public Nuisance such Properties located in Santurce and Río Piedras that comply with the definition of Public Nuisance set forth in this Act, following the procedure below:



(a) Any Person interested in acquiring a deteriorated or abandoned Property that meets the requirements to be declared as a Public Nuisance, shall file a request for such purposes with the Land Administration, in accordance with the procedures established therefor through regulations.

(b) Upon the filing of said request, the Land Administration shall verify whether the Property is registered in the Inventory it administers, pursuant to subsection (k) of this Section.

(c) When it is ascertained that the Property is not part of the Inventory, the Land Administration shall officially require the Municipality to issue a certification stating that the Property is registered in the Inventory kept by the Municipality in accordance with Act No. 31-2012. Moreover, whether the Property is registered in the Inventory or not, the certification issued by the Municipality shall state if the Property is part of a condemnation proceeding instituted by the Municipality.

(d) The certification shall be issued in writing by the Municipality in favor of the Land Administration within a term not to exceed ten (10) business days from the date on which the Land Administration officially requested it.

(e) If the Property is not part of the Inventory of the Municipality, or if the Municipality fails to answer the request within the aforementioned ten (10)-day term, the Land Administration shall serve notice to the Municipality, the owners, holders, and interested Persons of its intent to begin the process to declare said Property as a Public Nuisance. Moreover, the Land Administration shall advise the Municipality, the owners, holders, and interested Persons of their right to appear at a hearing to be held by the Land Administration where they may challenge the Property classification as a Public Nuisance, pursuant to the process established for such purposes through regulations.

(f) Notices served by the Land Administration, for which a previous court order is not required, shall meet the requirements set forth in Rule 4 of the Rules of Civil Procedure of Puerto Rico, and shall be published in one (1) newspaper of general circulation, in electronic media, or the official website of the Government of Puerto Rico or the Land Administration.

(g) Once the Land Administration serves the appropriate notices, and to prevent the duplication of efforts, the Municipality shall not exercise its authority to simultaneously begin a process to declare a Property as a Public Nuisance or to institute a condemnation proceeding against a Property under Act No. 31-2012, Act No. 81-1991, as amended, known as the “Autonomous Municipalities Act of the Commonwealth of Puerto Rico of 1991,” or the General Condemnation Act.

(h) Once the process to declare a Property as a Public Nuisance by virtue of this Act is initiated, the Land Administration shall have the sole authority to begin and complete said procedure.

(i) The owner, holder, or interested Persons shall have twenty (20) days from the service of notice of the Land Administration to challenge the declaration of the Property as a Public Nuisance, and request a hearing before the Land Administration, where they can present testimonial, documentary, or expert evidence, as deemed convenient, in accordance with the regulations that the Land Administration adopts for such purposes.

(j) The hearing officer of the Land Administration, before whom the hearing on the declaration as a Public Nuisance shall be held, shall be a Professional Engineer, among other requirements as set forth by the Land Administration, who shall hear the evidence and make a determination, as appropriate, in accordance with the regulations adopted by the Land Administration for such purposes.

(k) The Land Administration may establish an Inventory of Properties declared as Public Nuisances whose condemnation process was never completed or that were not transferred to an interested Person under any circumstances, in accordance with the procedure adopted under this Act.

**Section 6.- Determination of the Land Administration**

After holding the hearing described in the preceding Section, the Land Administration shall proceed as follows:

(a) In the event it determines that the declaration of the Property as Public Nuisance is not appropriate, the procedure shall be concluded and, the owner, holder, or interested Person shall be served notice that the determination of Public Nuisance is not appropriate.

(b) The Land Administration shall also serve notice to the Municipality and the Person who files a request for a declaration of Public Nuisance, of the initiated process and the outcome thereof. Upon said service of notice, the Public Nuisance declaration process shall be deemed to be concluded before the Land Administration and the Municipality may proceed in accordance with Act No. 31-2012 or Act No. 81-1991.

(c) When it is determined that the Property may be declared as a Public Nuisance, but such property is susceptible to repair, or the remedy therefor is the upkeep and adequate maintenance thereof, the Land Administration shall notify so to the Municipality and the interested Party, for appropriate action in accordance with Act No. 31-2012. The Land Administration shall notify the Person who filed the request, thus concluding its intervention in the matter.

(d) If it is determined that the Property is not susceptible to repair, cleaning, or maintenance, it shall be declared as a Public Nuisance.

(e) If the owner, holder, or interested Person fails to appear before the Land Administration to challenge a Property's declaration as a Public Nuisance within thirty (30) days after the service of notice provided in Section 5 of this Act, the Land Administration may declare the Property as Public Nuisance.

**Section 7.- Condemnation Proceedings and Transfer of Property to the Acquirer.**

(a) Once the Property is declared as a Public Nuisance, or if it is part of the Inventory of the Municipality or the Land Administration, the latter shall notify the Municipality of its determination to proceed in accordance with this Act, and thereupon, the Municipality shall be unable to initiate any process with regard to the Property or in relation thereto, thus preventing the duplication of efforts.

(b) Likewise, once the Land Administration notifies the Municipality of its intention to proceed with the Condemnation of any Property declared as a Public Nuisance that is part of the Inventory of any of these, the Municipality shall be impaired from instituting any action that affects the Property in question.

(c) The Land Administration shall direct the appraisal of the Property in order to determine its market value. Said appraisal shall be prepared and issued by an appraiser duly licensed to practice said profession in Puerto Rico. Such appraisal shall be defrayed from the money required from the interested Person to acquire the Property declared as a Public Nuisance.

(d) The Land Administration shall request CRIM to issue a Property tax debt certification. If the Property is encumbered with debts, interests, surcharges, or penalties payable to CRIM, or other property tax liens recorded in the Property Registry, the amount owed shall be deducted from the appraised value at the time of computing just compensation to which the owner of the Property shall be entitled. Once the Property's ownership is transferred to the acquirer and the

amounts owed to CRIM are paid, any debt, interest, surcharge or penalty owed to CRIM shall be deemed to be fully cancelled.

(e) Prior to commencing any transaction relating to the Property, the Land Administration and the interested acquiring Party shall execute an agreement stating the obligation of the latter to acquire the Property to be condemned, as well as to deposit an amount equal to ten percent (10%) of the appraised value of the Property, which shall be kept in an escrow account as provided by the Land Administration in the regulations to be adopted for such purposes. Said amount shall be used by the Land Administration to defray the costs of the Condemnation proceedings, which sum shall be in addition to the sum required to cover the appraised value of the Property. Any sum not used to defray the costs set forth in this subsection shall be refunded to the interested Person.

(f) If the amount originally deposited by the interested Party is not sufficient to cover the fair appraised value of the Property along with the interest, condemnation fees, including title report, subpoena, recordation of deed with the Property Registry, as well as any additional amount required as part of the process, the Party interested in acquiring the Property shall be responsible for providing the Land Administration with such additional amount of money as is necessary to cover the difference.

(g) The Condemnation complaint shall be filed by the Land Administration in accordance with the provisions of Rule 58 of the Rules of Civil Procedure. Provided, that the legal proceedings, that is, from the answer to the complaint or entry of default, when appropriate, to the judgment on the merits, shall not exceed one (1) year.

(h) The Condemnation proceedings shall be carried out as provided in the General Condemnation Act.

(i) Once the judgment is issued and the acquirer has satisfied any amount of money owed as part of the process, the ownership of the property “as is” or “where-is” shall be transferred to the acquirer, subject to the burdens or encumbrances on the Property.

**Section 8.- Judicial Review.**

The determinations made by the Land Administration pursuant to this Act, except for actions in Eminent Domain, which are governed by Rule 58 of the Rules of Civil Procedure, shall be reviewed in accordance with the provisions of Act No. 170 of August 12, 1988, as amended, and any other law promulgated in the future to govern administrative procedures.

**Section 9.-Benefits.**

The interested party that becomes the acquirer of the eligible Property, as defined in this Act, shall be entitled to enjoy the following benefits:

a) Personal Property Tax Exemption.- One hundred percent (100%) personal property tax exemption for a term of ten (10) years from the date on which commercial or economic activities began in said Property. Said exemption shall become effective on January 1st of the year following that in which the appropriate use permit was obtained. Preceding or subsequent periods shall be subject to taxation in accordance with Act No. 83-1991, as amended, known as the “Municipal Property Tax Act of 1991.”

b) One hundred percent (100%) exemption from municipal license taxes for the first ten (10) years of operations of businesses located in the Property, whether operated by the Acquirer, or subsequent acquirers or operators.

c) One hundred percent (100%) exemption from the construction excise tax on works performed to rehabilitate the Property after the immediate transfer; provided, that the rehabilitation works begin within one hundred and eighty (180) days following the property’s transfer.

d) Real Property Tax Exemption on eligible Properties devoted to Housing.- One hundred percent (100%) real property tax exemption, which shall begin on January 1st of the year following the Property's acquisition and continue in effect for five (5) additional years, as of the date on which the Certificate of Occupancy, or any equivalent permit, is issued. Such exemption shall apply to existing Properties as well as to newly-built properties and may be claimed during said period by the original Acquirer or subsequent acquirers who acquire the property for residential purposes. In the case of eligible mixed-use Properties, the exemption provided above shall apply and may be claimed on the portion thereof devoted to housing.

e) Real Property Tax Exemption on Eligible Properties for Commercial Purposes.- One hundred percent (100%) real property tax exemption, which shall begin on January 1st of the year following the Property's acquisition and continue in effect for five (5) additional years, as of the date on which the Use Permit or equivalent permit is issued.

**Section 10.- Requirements to Qualify for the Benefits of this Act.**

To qualify for the benefits of this Act, and while enjoying the benefits thereunder, any Acquirer shall be required to be in compliance with all of his tax obligations to the Government of Puerto Rico, as well as the entities, agencies, instrumentalities thereof, and the Municipality of San Juan. Provided, further, that to avail themselves of, and enjoy said benefits during the periods set forth in this Act, qualified Properties and businesses must comply with all of the planning regulations applicable to the sector or those promulgated to serve as guidelines for the development of the sectors where such properties and business are located.

**Section 11.- Rulemaking Authority.**

The Land Administration shall adopt regulations as are necessary to comply with the provisions of this Act within ninety (90) days after the effective date of this Act.

**Section 12.- Disclosure of the Provisions of this Act.**

All government entities that have been imposed duties hereunder shall post in their corresponding websites, display in their Santurce or Río Piedras offices, and have available to the public in general, a copy of this Act and the regulations thereunder.

**Section 13.- A new subsection (c-1) is hereby added to Section 7 of Act No. 13 of May 16, 1962, as amended, to read as follows:**

“Section 7.- Duties and Powers

The Administration shall have a juridical personality of its own and may exercise such rights and powers as may be necessary or proper for carrying out the purposes of this Act, including, but not limited to, the following:

...

(c-1) In accordance with the ‘Santurce and Río Piedras Urban Reconstruction and Public Nuisance Management Act,’ declaring as a Public Nuisance any real Property located in the sectors of Santurce or Río Piedras of the Municipality of San Juan and institute in the Court of First Instance an action in Eminent Domain to transfer such Property to the interested acquirer.”

**Section 14.- Severability.**

If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph,



sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act thus held to be null or unconstitutional. If the application to a person or a circumstance of any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect or invalidate the application of the remainder of this Act to such persons or circumstances where it may be validly applied. It is the express and unequivocal will of this Legislative Assembly that the courts enforce the provisions and application thereof to the greatest extent possible, even if it renders ineffective, nullifies, invalidates, impairs, or holds to be unconstitutional any part thereof, or even if it renders ineffective, invalidates, or holds to be unconstitutional the application thereof to any person or circumstance. This Legislative Assembly would have approved this Act regardless of any determination of severability that the Court may make.

**Section 15.- Effectiveness.**

This Act shall take effect thirty (30) days after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 96-2017 (S. B. 476)** of the **1st Regular Session** of the **18<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to create the “Santurce and Río Piedras Urban Reconstruction and Public Nuisance Management Act,” in order to provide for an alternative mechanism, through the Puerto Rico Land Administration, that facilitates the abatement of Public Nuisances located in the Santurce and Río Piedras sectors of the Municipality of San Juan, and the transformation thereof into functional structures for housing or commercial purposes; promote the acquisition and renovation of public nuisances; empower the Puerto Rico Land Administration to declare any deteriorated and abandoned property as a Public Nuisance, in accordance with the procedure established in this Act; transfer properties declared as Public Nuisances to Persons who intend to transform such properties into functional structures; add a new subsection (c-1) to Section 7 of Act No. 13 of May 16, 1962, as amended; and for other related purposes.

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

In San Juan, Puerto Rico, on this 28<sup>th</sup> day of August, 2017.

Orlando Pagán-Ramírez  
Acting Director