

LEGISLATURE OF PUERTO RICO

Office of Legislative Services

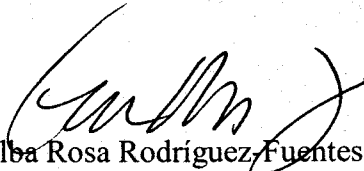
CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 116 (H.B. 1771) of the 5th Session of the 14th Legislature of Puerto Rico:

AN ACT to amend Sections 1 and 5 of Act No. 87 of May 13, 1936, as amended, known as the “Act to Establish the Homestead Right,” in order to increase up to fifteen thousand (15,000) dollars the social and financial protection on said homestead, held by a person as the head of the family, against sales promoted by creditors for attachments, judgments, exaction or foreclosure; replace the term “Puerto Rico Housing Bank” by the term “Puerto Rico Housing Financing Authority,” etc.,

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

In San Juan, Puerto Rico, today 28th of June of 2004.


Elba Rosa Rodríguez Fuentes
Director

(H. B. 1771)

(No. 116)

(Approved on May 2, 2003)

AN ACT

To amend Sections 1 and 5 of Act No. 87 of May 13, 1936, as amended, known as the "Act to Establish the Homestead Right," in order to increase up to fifteen thousand (15,000) dollars the social and financial protection on said homestead, held by a person as the head of the family, against sales promoted by creditors for attachments, judgments, exaction or foreclosure; replace the term "Puerto Rico Housing Bank" by the term "Puerto Rico Housing Financing Authority," and include homestead rights as renounceable in the conventional mortgage cases.

STATEMENT OF MOTIVES

In the Commonwealth of Puerto Rico, as in every civilized society, there is an eminent social interest in protecting and promoting the acquisition of a safe, comfortable and adequate dwelling by each family. In the present state of Puerto Rican law, homestead protection of the residence of the head of a family is limited to one thousand five hundred (1,500) dollars, an amount that was last revised by Act No. 1 of February 11, 1955. It is evident that the amount set over forty-six (46) years ago for the homestead, is not in keeping with the economic reality of our country at the eve of the twenty-first century.

Thus, it is imperative to increase the amount for the protection of homesteads as a protective social measure in harmony with the provisions of the BILL OF RIGHTS, Section 7 of Section 2 of the Constitution of the

Commonwealth of Puerto Rico, which states that the laws shall determine the minimum property and holding that are protected from attachment.

As the basis for the increase of homestead protection to be designated in benefit of the head of the family, we must take into consideration that Act No. 47 of June 26, 1987, known as the "Joint Participation of the Public and Private Sector for the New Housing Operation Act", was amended by Act No. 369 of December 31, 1999, to increase the maximum selling price for each homestead unit to seventy thousand (70,000) dollars. The ceiling price of a housing unit is justified, based on the economic incentives provided by the governments of the United States and Puerto Rico, to people without their own home, so that they can qualify to obtain it, which motivates developers to build new houses at prices available for people of moderate means. The limit on the down payment for a homestead under the program "The Key to Your Home" is of fifteen thousand (15,000) dollars. Therefore, since the law has established a ceiling on a down payment for homestead, where people of moderate means are given help to acquire them, it is fair and reasonable for this help to be harmonized with social homestead protection. All of which, is in benefit of those heads of family who, with sacrifices and years of effort, have managed to pay for a dwelling, or a part thereof, may obtain a substantial amount of money so that they may have the opportunity to re-establish themselves with dignity along with their family.

The financial increase provided herein is exclusively addressed to establishing rules to protect homestead rights from sales promoted by creditors through a judgment or enforcement, which limit does not restrict nor does it represent the value of the homestead which, in case of a divorce is granted to one of the spouses, due to having the adjudication of the

custody of the children, as provided by Section 1.09A of the Civil Code of Puerto Rico, Act No. 184 of December 26, 1997.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Sections 1 and 5 of Act no. 87 of May 13, 1936, as amended, known as an "Act to Establish Homestead Rights", with the purpose of increasing to fifteen thousand (15,000) dollars the financial and social protection for citizens on said homestead owned by a person as head of family, against sales promoted by creditors by virtue of attachments, judgments, execution or enforcement; to substitute the term Puerto Rico Housing Bank, for that of Puerto Rico Housing Financing Authority, and including the right to a homestead as renounceable in the case of private mortgages, are amended to read as follows:

"Section 1.- Every person who is the head of a family shall be entitled to possess and enjoy as a homestead, a property that does not exceed fifteen thousand (15,000) dollars in value, consisting of a parcel of land and the buildings thereon, of any farm, plantation or parcel of land, owned or lawfully possessed, and occupied as a residence by him or by his family. The homestead right is unrenounceable; and any pact to the contrary shall be declared null, except that said homestead right may be renounced in all cases of mortgages insured or executed in behalf of the Federal Housing Administrator, or in cases of loans to veterans insured or guaranteed by the United States Veterans Administration, and in all cases of mortgages, sharecropping contracts, and promissory notes made in behalf of the Federal Land Bank of Baltimore, the Puerto Rico Production Credit Association, the National Farm Loan Association of San Juan, Puerto Rico, the Small Business Administration, created by Public Law No. 163 of the 83rd Congress of the United States of America, approved June 30, 1953, and of

loans and mortgages secured or granted by the Puerto Rico Housing Financing Authority, and the Farm Credit Corporation and the Farmers Home Administration, and in the cases of conventional mortgages.- May 13, 1936, No. 87, p. 461, Sec.1; March 15, 1939, No. 4, p. 295; December 31, 1946, No. 15, p. 121; February 11, 1955, No. 1, p. 3; April 24, 1957, No. 1, p.1; June 15, 1965, No. 31, p. 61; May 28, 1969, No. 13, p. 24, eff. May 28, 1969, August 11, 2001, No. 103.

Section 5.- No sale shall be made, pursuant to judgment or execution of any urban or rural property when the same is claimed or held as a homestead, whether registered or not in the property registry, unless a sum greater than fifteen thousand (15,000) dollars is obtained therefor.

Such claims shall be made by means of an affidavit in which the good faith thereof shall be set forth, and which shall be handed to the officer in charge of the sale.

In the event that such urban or rural property is sold for more than fifteen thousand (15,000) dollars, the excess of said sum shall be paid to the creditor and the sum of fifteen thousand (15,000) dollars shall be immediately deposited by the official who made the sale, in the office of the Clerk of the Court, so that the court may then decide as to the legitimacy of the claim. Said sum shall be free from attachment or execution of any nature, except in the cases provided in Section 1852 of this title.

The claim shall be made by means of a motion filed in the court within the main proceeding within a term of thirty (30) days from the date the sale is made, and upon presentation, both plaintiff and defendant shall be summoned to appear in court within fifteen (15) days following the date of filing said motion. The defendant shall be summoned with a warning that if

he fails to appear the pertinent decision will be issued without further summons or hearing.

The hearing shall be held on the day fixed therefor, and the parties shall state in proper order, everything in connection with their legal rights and produce all evidence, after which the court shall issue its decision within the shortest term possible. All allegations of the parties shall be presented at the hearing.

Once the decision is rendered, it may be appealed by the aggrieved party within the legal term.- May 13, 1936, No. 87, p. 461, Section 5; July 24, 1952, No. 11, p. 31; Feb. 11, 1955, No. 1, p. 3, eff. Feb. 11, 1955.”

Section 2.- This Act shall take effect immediately after its approval.