

(S. B. 1010)

(No. 177-2014)

(Approved October 23, 2014)

AN ACT

To amend subsection (g) of Section 79-C of Act No. 26 of April 12, 1941, as amended, known as the “Land Law of Puerto Rico”; add new Sections 2-A and 4-A of Act No. 107 of July 3, 1974, as amended, in order to establish a time limit for the Land Authority to grant the title or property deed to those farmers who have settled their debt under the Family-Type Farm Program; allow for the subdivision of the plot on which the dwelling of the owner of a family farm is located, subject to the restrictions imposed to such effect; and to provide for an Estate Tax Return filing exemption when the owner or owners of a farm die and said real property is the only asset in the decedent’s estate.

STATEMENT OF MOTIVES

At a given time in our history, Agriculture was the main engine of Puerto Rico’s economy. An agricultural reform was started in the 1940s in order to make it easier for families that lived in rural areas to acquire a piece of land they could use for agricultural purposes so that they could feed their families and generate income that could satisfy their basic needs.

Act No. 26 of April 12, 1941, known as the “Land Law of Puerto Rico,” was enacted as part of a policy to make land accessible to small farmers. This Act provided that it was unlawful for juridical persons to hold land in excess of five hundred (500) *cuerdas*. The Family-Type Farm Program was created by virtue of Act No. 5 in 1966. The purpose of said Act was to maintain the indivision of agricultural production units. Act No. 107 of July 3, 1974, as amended, also known as the “Preservation of Lands for Agricultural Use Act” was enacted to ensure such

lands were devoted to and used for agricultural purposes. This legislation prohibits the Planning Board from approving projects whose purpose is to subdivide or alter the use of the farms. The Statement of Motives of Act No. 107, *supra*, establishes that its purpose is to prevent investments made in lands devoted to agricultural purposes from being used for speculative purposes. However, this is not a full prohibition as the Act provides several exceptions, including one that allows for the dismemberment of agricultural units if the project is for a public purpose or upon the express authorization of the Legislative Assembly.

Act No. 107, *supra*, establishes the conditions for and restrictions on subdividing and changing the intended agricultural use of farms within the Family-Type Farm Program. Secretary of Agriculture was empowered to dispose of lands intended for agricultural use through assignment, sale, lease, or usufruct. The disposal of farms that are part of this program was carried out in accordance with certain conditions and restrictions that are included in the title or Certificate of Title currently issued by the Land Authority.

The provisions of Act No. 107, *supra*, govern the notification of farms covered by Title VI of the Land Law with regards to the easing of certain restrictive conditions imposed thereunder.

The Rural Development Corporation was eliminated and the Family-Type Farm Program became part of the Land Authority of Puerto Rico as a result of the approval of Reorganization Plan No. 4 of July 29, 2010.

We recognize that Act No. 5 of December 7, 1966, enabled the sale of subsistence and family farms distributed under Title VI of the Land Law to their respective usufructuaries.

Title VI of the Land Law, as recognized by Act No. 5, *supra*, established as a requirement that the family farms would be subject to the agricultural use conditions provided by the aforementioned Act for a period of fifteen (15) years from the

execution of the ownership title. Act No. 80 of May 30, 1970, subsequently reduced the term of effectiveness of the agricultural use restrictions from fifteen (15) years to five (5) years. During said period, any person who owns a family farm and wants to sell it shall be compelled to sell it back to the appropriate government agency for the same price he paid for the same plus the reasonable value of any improvements made by the acquirer. Once said period has elapsed, the owner who is interested in selling the farm shall be compelled to grant the appropriate government agency the first option to purchase the farm so that it may acquire it at market value. Act No. 107, *supra*, maintained the agricultural use restriction for these lands regardless of whether the government agency reacquired them or the farm owner sold them to a third party. Furthermore, it maintained the indivision restriction for family farms in accordance with Title VI of the Land Law.

At present, approximately seventy-three (73) years after the approval of Act No. 26, *supra*, and approximately forty-eight (48) years after the approval of Act No. 107, *supra*, the families that benefited from the Family-Type Farm Program have changed drastically. Many of our former young farmers are now retirees and many others have passed away. This is one of the main causes behind why many of the farms under the Family-Type Farm Program of Title VI of the Land Law are in a state of neglect. In addition to the lack of farm workers, the restrictions that prevent our disabled older adults from selling the farms thus forcing them to live in the structure they once built for their families which causes serious inheritance issues upon their death.

Furthermore, we must also take into account the problem faced by many farmers whose lands are under the protection of Act No. 107, *supra*, which is that, once the loan taken out to acquire the farm has been paid in full, the process through which the Department of Agriculture or the delegated agency issues the farmer the

property title does not work. There are too many complaints which is why this matter should be addressed by the Legislative Assembly.

It is not the intent of this legislative measure to change the agricultural use of the lands protected under Act No. 107, *supra*. This legislative measure intends to do justice to those farmers who have devoted most of their lives to farming by enabling them to subdivide the piece of land where their dwelling is located, which shall not exceed 800 meters under any circumstance, and to sell the remainder of their land while keeping the agricultural use and indivision restrictions over such land in effect. Through this measure, we seek to give new life and use to these lands by selling them to potential young farmers who are motivated to engage in agriculture as their primary source of income thereby contributing to our Island's Food Security and the creation of jobs in the agricultural sector. We also seek to expedite the inheritance process for those farms that have been abandoned after the death of the owner or owners and to finally establish a time limit for the Department of Agriculture or the delegated agency to expeditiously process the issuance of the deed or certificate of title to any Program beneficiary who has fulfilled his payment obligation to the Land Authority.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Subsection (g) of Section 79-C of Act No. 26 of April 12, 1941, as amended, is hereby amended to read as follows:

“Section 79-C.- Sale of Farms

...

(a) ...

(g) Any person who possesses a farm in usufruct for over twenty-five (25) years, may apply for and be issued title thereon pursuant to the provisions of this Title. After obtaining said title, the acquirer may assign, lease, sell, exchange, mortgage, encumber, or dispose of the farm in any legal manner.

Once the acquiring farmer has paid full price for acquiring the farm to the Land Authority, he shall apply to the Authority in writing for the deed or certificate of title in order to record ownership thereof with the Property Registry in the Section where the farm is located. The Executive Director of the Authority or his designee shall issue the corresponding deed within a period not to exceed sixty (60) days from the settlement of the debt and the date in which the farmer applies for the deed; provided that, the application shall be made in writing and submitted in person to the Land Authority or the agency delegated by the latter or by certified mail.

(k) ...”

Section 2.- A new Section 2-A is hereby added to Act No. 107 of July 3, 1974, as amended, to read as follows:

“Section 2-A.- The current owner of a farm acquired by virtue of the Family-Type Farm Program , Title VI of the Land Law, as amended, shall be exempt from the provisions of Section 2 of this Act if, at the time the application for subdivision is submitted, the owner is sixty-two (62) years of age or older and/or has a disability; has no outstanding debts with the Land Authority on account of the loan taken to acquire the farm; and the dwelling that constitutes his family home is the only residential property owned by him, and is located on the land to be subdivided. The plot to be subdivided shall never exceed eight hundred (800) meters. It is hereby provided, that the restrictions imposed under Section 2 shall remain in effect for the remainder of the farm and that no further subdivision shall be allowed regardless of whether the new acquirer of the remainder of the farm builds his dwelling thereon. The Permit Management Office is hereby empowered to endorse and approve the subdivisions authorized hereunder once the requirements set by such Agency for the endorsement and approval of subdivisions have been met.”

Section 3.- A new Section 4-A is hereby added to Act No. 107 of July 3, 1974, as amended, to read as follows:

“Section 4.- Upon the death of the owner or owners of a farm acquired through the Family-Type Farm Program, pursuant to the provisions of Title VI of the Land Law, the heirs’ right to inherit may be recorded by filing the appropriate Entry in the Registry together with the Declaration of Heirship duly certified by the Court of First Instance of the General Court of Justice of Puerto Rico, or the will, without the need for filing an Estate Tax Return. This legal provision shall only apply when the farm is the only asset in the decedent’s estate. If the estate includes real property other than the farm acquired through the Family-Type Farm Program of Title VI of the Land Law, the heirs’ rights shall be recorded in accordance with Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico.”

Section 4.- This Act shall take effect upon its approval.