

(H. B. 3165)
(Conference)
(Reconsidered)

(No. 42-2012)

(Approved February 14, 2012)

AN ACT

To amend paragraph (2) of subsection (a) of Section 6 of Act No. 36 of June 28, 1989, known as the “Abandoned or Unclaimed Money and Other Liquid Assets Act,” as amended, and Section 3 of Act No. 122-2010, known as the “‘Mi Nuevo Hogar’ Program Financing Act,” in order to clarify its operations; eliminate the time limit of the term to claim under Act No. 36 of June 28, 1989, as amended, known as the “Abandoned or Unclaimed Money and Other Liquid Assets Act”; establish a dormancy period of three (3) years under Act No. 55 of May 12, 1933, as amended, known as the “Banking Law”; fix a compensation interest rate per claim equal to that applicable to Commonwealth sentencing fees; and for other related purposes.

STATEMENT OF MOTIVES

Act No. 122-2010 (“‘Mi Nuevo Hogar’ Program Financing Act,”) was enacted to provide the necessary fiscal resources to help individuals and families that wish to acquire a home. Its legislative intent was to transfer eighty-five percent (85%) of abandoned and unclaimed money and liquid assets held in financial institutions to the Special Fund for Financing the “Mi Nuevo Hogar” Program.

The Statement of Motives of Act No. 122 sets forth that any funds not claimed by their owners are kept in reserve for a period of ten (10) years and subsequently transferred to the General Fund, allocating a percentage thereof to cover the costs of the “Mi Nuevo Hogar” Program. This raises two operating issues.

On the one hand, Act No. 346-2000 amended Section 7 of Act No. 36, *supra*, to eliminate time limit of the term to claim. However, it mistakenly failed to amend the provisions of subsection (a) (2) of Section 6 of such Act No. 36, which provides that every financial institution is required to publish a notice stating that all claims regarding abandoned property shall be addressed, within a term of ten (10) years, to the Commissioner. On the other hand, the dormancy period of three (3) years established under Act No. 122 may breach interjurisdictional agreements on the transfer of such funds to the jurisdiction of residence of the owner, preventing such funds from being deposited in the General Fund, in detriment of the legislative intent of Act No. 122 and consumers.

For all of the foregoing, this Legislative Assembly hereby clarifies and amends the text of Act No. 122, *supra*, so that it may be consistent with our legislative intent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Paragraph (2) of subsection (a) of Section 6 of Act No. 36 of June 28, 1989, better known as the “Abandoned or Unclaimed Money and Other Liquid Assets Act,” as amended, is hereby amended to read as follows:

“Section 6.- Publication.-

(a) Every financial institution or holder, as defined in this Act, that is bound to render the report described in subsection (a) of the preceding Section 5 of this Act, shall publish annually, once during each of the months of August and September, in a newspaper of general circulation, a notice entitled Unclaimed Money and Other Liquid Assets in the Custody of (name of the financial institution or holder.)

This notice shall contain:

(1) ...

(2) A statement declaring that, in accordance with the procedures established in this Act, any sums of money and liquid assets that have not been claimed to the appropriate financial institution or holder shall be turned over to the Commissioner of Financial Institutions, to whom all claims shall be addressed as of the date the unclaimed money and assets are turned over to the Commissioner.”

Section 2.- Section 3 of Act No. 122-2010, better known as the “‘Mi Nuevo Hogar’ Program Financing Act,” is hereby amended to read as follows:

“Section 3.- As of the approval of this Act, abandoned or unclaimed money and liquid assets declared and notified by the Office of the Commissioner of Financial Institutions (OCFI) by virtue of Act No. 55 of May 12, 1933, as amended, known as the ‘Banking Law’ shall be held and available to be claimed by the rightful owner for three (3) years counting from the date of their respective public notices. Furthermore, a compensation interest at a rate equal to that applicable to Commonwealth sentencing fees, which shall never exceed four percent (4%), shall be applied at the time of the claim to any valid and lawful claim of money and liquid assets declared and notified as unclaimed and abandoned by the OCFI under Act No. 55 of 1933, *supra*, or under Act No. 36 of 1989, *supra*, the interests of which shall be paid without computing any increment derived therefrom.

As the dormancy period of three (3) years for abandoned or unclaimed money and liquid assets under Act No. 55 of May 12, 1933, as amended, known as the ‘Banking Law’ elapses, such abandoned or unclaimed money and liquid assets shall be transferred as provided below:

Beginning in 2014, on or before September 30 of each year, the Secretary of the Treasury shall distribute the net balance of turned-over abandoned assets whose dormancy period has expired, in the following manner:

(a) The Department of the Treasury shall reserve up to a maximum of fifteen percent (15%) of the balance of said abandoned or unclaimed moneys and liquid assets to settle any outstanding debt on account of claims regarding tax credit certificates that have not yet been conferred, pursuant to Section K of Act No. 120-1994, as amended, known as the “Puerto Rico Internal Revenue Code of 1994.”

(b) The Department of the Treasury shall transfer eighty-five percent (85%) to the Special Fund for Financing the ‘Mi Nuevo Hogar’ Program to be deposited in and under the custody of the Housing Finance Authority, created under this Act. Once the debt referred to in the preceding subsection is paid off, one hundred percent (100%) shall be transferred thereto.

(c) Any amount held that has not been claimed on or before June 30, 2012, shall be transferred to the Special Fund for Financing the ‘Mi Nuevo Hogar’ Program.”

Section 3.- Section 5 of Act No. 122-2010, known as the “‘Mi Nuevo Hogar’ Program Financing Act,” is hereby amended to read as follows:

“Section 5.- The Housing Finance Authority and the Department of the Treasury shall adopt their current regulations in accordance with the provisions of this Act.”

Section 4.- Section 7 of Act No. 122-2010, known as the “‘Mi Nuevo Hogar’ Program Financing Act,” is hereby amended to read as follows:

“The Puerto Rico Housing Finance Authority shall obtain immediate financing and secure repayment thereof with the income that shall be deposited in the “Special Fund for Financing the ‘Mi Nuevo Hogar’ Program,” through this

Act. Furthermore, it may match and require the matching of funds from agency savings and/or budgetary adjustments, gifts, appropriations, or Federal, municipal, or private proposals, as well as from any other appropriation approved by the Legislative Assembly, with those provided in this Act to be used for achieving its purposes. It may also use any surplus in this Special Fund for similar programs.

The Department of the Treasury may also obtain financing and secure the repayment thereof with the income that it may reserve, to achieve the purposes of Section 3 of this Act.”

Section 5.- Effectiveness.-

This Act shall take effect immediately after its approval; any previous action that is consistent with the provisions of this Act shall be valid and lawful.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 42-2012 (H. B. 3165) (Conference) (Reconsidered)** of the **7th Session of the 16th Legislature** of Puerto Rico:

AN ACT to amend paragraph (2) of subsection (a) of Section 6 of Act No. 36 of June 28, 1989, known as the “Abandoned or Unclaimed Money and Other Liquid Assets Act,” as amended, and Section 3 of Act No. 122-2010, known as the “‘Mi Nuevo Hogar’ Program Financing Act,” in order to clarify its operations; eliminate the time limit of the term to claim under Act No. 36 of June 28, 1989, as amended, known as the “Abandoned or Unclaimed Money and Other Liquid Assets Act”; establish a dormancy period of three (3) years under Act No. 55 of May 12, 1933, as amended, known as the “Banking Law”; fix a compensation interest rate per claim equal to that applicable to Commonwealth sentencing fees; 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 15th day of November, 2013.

Juan Luis Martínez Martínez
Acting Director