To establish the “Housing Market Boost Program’s Transition Act” in order to make an orderly transition by gradually reducing certain incentives to stabilize the residential real estate market; facilitate and promote the acquisition of housing through the granting of benefits such as an exemption from the payment of property taxes, from capital gain taxes on the sale of such property, as well as from the payment of duties and fees for public instruments; amend Section 11 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notarial Act,” in accordance with the provisions of this Act; and for other related purposes.

STATEMENT OF MOTIVES

Since 2006, Puerto Rico has been experiencing an economic crisis that has severely affected different sectors of the local economy. The construction and housing sectors are not the exception. From September 2009 to August 2010, the sale of 1,978 newly-built housing and of 9,084 existing housing were reported to the Commissioner of Financial Institutions. Since the approval of the Real Property Market Stimulus Act to July 31st, 2011, the sale of 3,393 newly-built housing units—a marked increase with respect to the previous period—and of 10,567 existing housing units have been reported.

Although the housing market’s situation has improved, the excess supply continues to impair the construction sector in Puerto Rico from fully recovering.
This situation worsens even more as a result of the financial difficulties of many of our citizens and the financial condition of local banks that have been affected by the high number of defaulted loans which make the granting of new financing difficult. The implementation of more stringent qualification standards, higher levels of debt, and credit-related problems are some of the obstacles encountered at the time of buying a home. For such reason, it is burdensome for our families to acquire or build their own homes.

This combination of factors has had disastrous consequences for the housing construction sector, since it has lost most of its manpower in the last three years. Since 2004, approximately sixty thousand (60,000) jobs have been lost in the construction industry, mainly due to the constant reduction in the number of housing sold and the accumulation of a surplus in newly-built housing units.

The significant drop in the sales of newly-built and existing housing interrupts the economic cycle that begins after closing the sale of a housing unit. Thus, interrupting the economic multiplying effect from which realtors, notaries, engineers and/or architects, appraisers, moving companies, hardware stores, sales persons, and other economic sectors benefit upon closing the sale of a housing unit. According to the National Association of Realtors (NAR), in the United States a new permanent job is created for every two houses sold. This injects $60,000 in additional investments to the local economy. In Puerto Rico, according to the Planning Board, three point eight (3.8) new jobs are created for every house sold with an average price of $172,750, which is the average price shown by the statistics of residential mortgages closed under the Real Property Market Stimulus Act. Therefore, according to the statistical parameters provided by the Planning Board, the sales under the Real Property Market Stimulus Act, which amount to $2.412 billion, equals to the creation of 53,590 new jobs.
This Government is deeply committed to promote economic development and to protect and generate jobs, as well as to help Puerto Ricans to acquire a safe and decent home. For all of the foregoing, the “Housing Market Boost Program’s Transition Act” is hereby created to establish a gradual reduction of the incentives provided for the acquisition of new or existing housing and the construction of pre-designed housing.

The Strategic Model for New Economy (MENE, Spanish acronym) is the most comprehensive and better thought economic development plan that Puerto Rico has had in decades. MENE recognizes the importance of the housing industry for the economic development of Puerto Rico and incorporates the housing stimulus programs to different programs to restore the economic growth of Puerto Rico. The stimulus programs for the acquisition of housing by residents or investors has reactivated the housing market, strengthened local banks, and stimulated new construction. This bill seeks to extend some of these incentives and establish an orderly transition to the full recovery of the housing market.

Furthermore, the purpose of this Act is to initially provide benefits similar to those provided under the Real Property Market Stimulus Act, which expires October 31st, 2011, and gradually reducing these benefits without disrupting the proper operation of the residential property market.

With this Act the Government shall be able to further promote the housing market. For such reason, the Legislative Assembly supports a gradual transition of incentives within a reasonable period of time, so as to protect the stability of the sales, the prices, and the value of housing in Puerto Rico.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Short Title.-

This Act shall be known as the “Housing Market Boost Program’s Transition Act.”
Section 2.- Definitions.-

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

(a) “Newly-built Property” means:

1) Any newly-built residential real property located in Puerto Rico, suitable for family living that has not been occupied and is acquired from a Developer. In order for the real property to be deemed a Newly-built Property, the seller of the real property shall certify in writing to the purchaser, by means of a sworn statement, on or before the date of acquisition, that it is a newly-built real property and has not been previously occupied.

2) Any reinforced concrete predesigned or prefabricated single-story, two-story or elevated home acquired from a bona fide predesigned or prefabricated house company whose plans have been approved by the Regulations and Permit Administration (ARPE, Spanish acronym) on or before December 30th, 2009, except by means of a dispensation of the Secretary of the Department of Consumer Affairs. In order for the predesigned or prefabricated homes to be deemed a Newly-built Property, the acquirer shall submit a copy of the sales contract executed between the purchaser and the predesigned or prefabricated homes company, and commence the construction thereof after obtaining a Construction Permit duly issued by the Permit Management Office (OGPE, Spanish acronym) between November 1st, 2011 and December 31st, 2012, and whose construction concludes on or before September 30th, 2013, upon due filing of the Use Permit Application before OGPE.

(b) “Qualified Property” means: any existing residential real property located in Puerto Rico suitable for family living, other than a Newly-built Property.
(c) “Code” means: Act No. 1-2011, as amended, known as the “Internal Revenue Code for a New Puerto Rico.”

(d) “Principal Residence” means: a housing unit that has been continuously occupied by the seller and/or his/her family during the two (2) years immediately preceding the sale.

(e) “Developer” means: any natural or juridical person, duly licensed as developer by the Department of Consumer Affairs, engaged in the construction business as entrepreneur or chief responsible for the promotion, design, sale, construction of housing developments and projects, whether single or multistory; provided, that solely for purposes of this Act, the term “Developer” shall also include those financial institutions or any natural or juridical persons that, by virtue of a judicial, extrajudicial proceeding or by agreement of dation in payment or similar transaction become the successor of an interest of a Developer.

(f) “Sale” means: a contract between two parties—seller and purchaser—executed through a public deed before a Notary Public authorized to practice his/her profession in Puerto Rico, whereby the title and ownership of a real property is transferred for a certain price.

Section 3.- Special Tax to Any Individual, Estate, Corporation, Partnership or Trust on Net Long-Term Capital Gain.-

(a) Gain from the sale of Principal Residence carried out after November 1st, 2011.

1) The total net long-term capital gain generated from a sale carried out after November 1st, 2011 of a Principal Residence shall be fully exempt from Puerto Rico’s income taxes, including the alternate basic tax and the minimum alternative tax provided in the Code, regardless of the date or circumstances under which it was acquired.
(b) Gain from the sale of Qualified Property other than Principal Residence carried out after November 1st, 2011 and on or before December 31st, 2012.

1) The total net long-term capital gain generated from a sale carried out after November 1st, 2011 but on or before December 31st, 2012 of a Qualified Property other than a Principal Residence shall be fully exempt from Puerto Rico’s income taxes, including the alternate basic tax and the minimum alternative tax provided in the Code.

(c) Gain from the sale of Property acquired after November 1st, 2011, but on or before December 31st, 2012, other than a Principal Residence.

1) The total net long-term capital gain generated from the sale of a Newly-built Property acquired by the seller after November 1st, 2011, but on or before June 30th, 2012, shall be fully exempt from Puerto Rico’s income taxes, including the alternate basic tax and the minimum alternative tax provided in the Code.

2) The net long-term capital gain generated from the sale of a Newly-built Property acquired by the seller after July 1st, 2012, but on or before December 31st, 2012, shall have fifty percent (50%) exemption from Puerto Rico’s income taxes, including the alternate basic tax and the minimum alternative tax provided in the Code. The remainder fifty percent (50%) of the net long-term capital gain shall be subject to taxation, in accordance with the applicable provisions of the Code.

3) The net long-term capital gain generated from the sale of a Qualified Property acquired by the seller after November 1st, 2011, but on or before June 30th, 2012, shall have fifty percent (50%) exemption from Puerto Rico’s income taxes, including the alternate basic tax and the minimum alternative tax provided in the Code. The remainder fifty percent (50%) of the net long-term
capital gain shall be subject to taxation, in accordance with the applicable provisions of the Code.

4) The net long-term capital gain generated from the sale of a Qualified Property acquired by the seller after July 1st, 2012, but on or before December 31st, 2012, shall have twenty-five percent (25%) exemption from Puerto Rico’s income taxes, including the alternate basic tax and the minimum alternative tax provided in the Code. The remainder seventy-five percent (75%) of the net long-term capital gain shall be subject to taxation, in accordance with the applicable provisions of the Code.

5) Certification of the Department of the Treasury.- Once the information return related to the sale of a Newly-built or Qualified Property is received, the Department of the Treasury shall certify in writing on or before thirty (30) days to the purchaser that the real property is a Newly-built or Qualified Property and that the net long-term capital gain generated from the sale of such property shall be exempt, as applicable, from Puerto Rico’s income taxes. The taxpayer shall include in the income tax return corresponding to the year of the sale a copy of the certification issued by the Department of the Treasury.

(d) General Provisions Applicable to this Section.-

1) In order to be entitled to claim the net long-term capital gain exemption provided in this Section, the taxpayer shall declare such gain as totally or partially exempt, as the case may be, in the income tax return corresponding to the year in which said gain was generated. Moreover, in the case of a net long-term capital gain generated from the sale of a Newly-built or Qualified Property, the taxpayer shall include in the income tax return corresponding to the year of the sale a copy of the certification issued by the Department of the Treasury, pursuant to the provisions of this Section.
2) Except as provided in Section 2(a)(1), the benefits provided under this Act shall only be available to the first seller and the corresponding first purchaser of each Newly-built or Qualified Property unit, and shall not apply with respect to any purchaser in any subsequent transfer, even when it occurs prior to December 31st, 2012.

3) The payments related to the sale of a real property whose net long-term capital gain is subject to the exemption provided in this Section, shall not be subject to withholding of income taxes at source.

4) The benefits of this Section shall apply to eligible taxpayers regardless of whether they are residents or non-residents of Puerto Rico.

5) The benefits of this Section shall not apply if the assignor of the real property covered hereunder is a person related to the acquirer of such real property. For these purposes, it shall be deemed that the assignor of the real property is a related person if losses between the assignor and the acquirer would not be allowed under the Code.

Section 4.- Use of the Losses from the Sale of Qualified Property.-

(a) Increase in the Limitation of Capital Loss Allowed Against Regular Income.- In the case of a taxpayer other than a corporation or partnership, the limitation mentioned in the Code with respect to capital losses that may be used by the taxpayer against his/her regular income for a determined tax year shall be five thousand dollars ($5,000), insofar as the capital loss is generated from the sale of a Qualified Property carried out after the effective date of this Act, but on or before December 31st, 2012.

(b) Capital Loss Carry-over.- In the event that the taxpayer has a net capital loss generated from the sale of a Qualified Property carried out after November 1st, 2011, but on or before December 31st, 2012, the carry-over of such loss shall not be limited to the succeeding five (5) years, but rather it may be
carried over up to a maximum of fifteen (15) years, pursuant to subsection (a) of this Section.

(c) To be entitled to the benefits set forth in this Section, the taxpayer shall declare the sale in the income tax return corresponding to the year in which the loss was generated.

Section 5.- Property Tax Exemption.-

(a) Any person who purchases a Newly-built Property between November 1st, 2011 and December 31st, 2011, shall be, for a five (5)-year period, fully exempt from the property tax imposed pursuant to the provisions of Act No. 83-1991, as amended, and/or Act No. 71-2009, with respect to such property. Such exemption shall be allowed for a maximum period of five (5) years and shall apply commencing on January 1st, 2011, and ending on December 31st, 2017.

(b) Any person who purchases a Newly-built Property between January 1st, 2012 and June 30th, 2012, shall have, for a five (5)-year period, a seventy-five percent (75%) exemption from the property tax imposed pursuant to the provisions of Act No. 83-1991, as amended, and/or Act No. 71-2009, with respect to such property. Such exemption shall be allowed for a maximum period of five (5) years and shall apply commencing on January 1st, 2011, and ending on December 31st, 2017.

(c) Any person who purchases a Newly-built Property between July 1st, 2012 and December 31st, 2012, shall have, for a five (5)-year period, a fifty percent (50%) exemption from the property tax imposed pursuant to the provisions of Act No. 83-1991, as amended, and/or Act No. 71-2009, with respect to such property. Such exemption shall be for a maximum period of five (5) years and shall apply commencing on January 1st, 2011, and ending on December 31st, 2017.
Section 6.- Exemption from the Collection of Fees and Duties for Public Instruments.-

(a) Newly-built Property

(1) All parties involved in the sale carried out after November 1\textsuperscript{st}, 2011, but on or before December 31\textsuperscript{st}, 2011, of a Newly-built Property shall be exempt from all kinds of charges on account of internal revenue stamps and vouchers required by law for the execution of public documents and their filing with and recording in any public registry of the Government with respect to the sale, purchase, leasing, financing, creation of a mortgage of a Newly-built Property.

(2) All parties involved in the sale carried out after January 1\textsuperscript{st}, 2012, but on or before June 30\textsuperscript{th}, 2012, of a Newly-built Property shall have a seventy-five percent (75\%) exemption from all kinds of charges on account of internal revenue stamps and vouchers required by law for the execution of public documents and their filing with and recording in any public registry of the Government with respect to the sale, purchase, leasing, financing, creation of a mortgage of a Newly-built Property.

(3) All parties involved in the sale carried out after July 1\textsuperscript{st}, 2012, but on or before December 31\textsuperscript{st}, 2012, of a Newly-built Property shall have a fifty percent (50\%) exemption from all kinds of charges on account of internal revenue stamps and vouchers required by law for the execution of public documents and their filing with and recording in any public registry of the Government with respect to the sale, purchase, leasing, financing, creation of a mortgage of a Newly-built Property.
(b) Qualified Property

(1) The seller of a Qualified Property whose sale was carried out after November 1\textsuperscript{st}, 2011, but on or before December 31\textsuperscript{st}, 2012, shall be fully exempt from the payment of any kind of charges on account of internal revenue stamps and vouchers required by law for the execution of public documents and their filing with and recording in any public registry of the Government with respect to the cancellation of any mortgage encumbering such property, even if the deed of trust satisfaction is executed after December 31\textsuperscript{st}, 2012.

(2) The seller of a Qualified Property whose sale was carried out after November 1\textsuperscript{st}, 2011, but on or before June 30\textsuperscript{th}, 2012, shall have a fifty-percent (50\%) exemption from all kinds of charges on account of internal revenue stamps and vouchers required by law for the execution of public documents and their filing with and recording in any public registry of the Government with respect to the sale or transfer of said property. The purchaser of a Qualified Property who acquires such property after November 1\textsuperscript{st}, 2011, but on or before June 30\textsuperscript{th}, 2012, shall have a fifty percent (50\%) exemption from any kind of charges on account of internal revenue stamps and vouchers required by law for the execution of public documents and their filing with and recording in any public registry of the Government with respect to the purchase and mortgage of such property. Notarial fees and charges shall be governed by the provisions of the Puerto Rico Notarial Act, Act No. 75 of July 2, 1987, as amended.

(3) The seller of a Qualified Property whose sale was carried out after July 1\textsuperscript{st}, 2012, but on or before December 31\textsuperscript{st}, 2012, shall have a twenty-five percent (25\%) exemption from all kinds of charges on account of internal revenue stamps and vouchers required by law for the execution of public documents and their filing with and recording in any public registry of the Government with respect to the sale or transfer of said property. The purchaser of a Qualified
Property who acquires such property after July 1st, 2012, but on or before December 31st, 2012, shall have a twenty-five percent (25%) exemption from any kind of charges on account of internal revenue stamps and vouchers required by law for the execution of public documents and their filing with and recording in any public registry of the Government with respect to the purchase and mortgage of such property. Notarial fees and charges shall be governed by the provisions of the Puerto Rico Notarial Act, Act No. 75 of July 2, 1987, as amended.

(c) In order to enjoy the exemption provided herein, a copy of the sworn certification of Newly-built Property to be issued by the seller of the real property shall be submitted pursuant to Section 2 of this Act to the Notary Public, Registrar, or any government entity before which the benefits of this exemption are claimed, and be attached to any document to be filed with the Property Registry.

Section 7.- Section 11 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notarial Act,” is hereby amended to read as follows:

“Section 11.- Duties of the Notary–Information Return on Division, Merger, or Transfer of Real Estate and Tax Exemption Request.-

In the execution of deeds of division, merger, or transfer of dominion, the transferor or the person who divides or merges shall be bound to execute and deposit in the office of the authorizing Notary the Information Return of the Division, Merger, or Transfer of Real Estate.

... In the case of transfers, alienations, or other transactions whereby real property that has full or partial exemption from the payment of fees on account of internal revenue stamps or vouchers required by law for the execution of public documents and their filing and recording in any public registry of the Government pursuant to the ‘Real Property Market Stimulus Act’ and the ‘Housing Market Boost Program’s Transition Act’; is disposed of or encumbered, the notary shall be...
required to state, at the end of the appropriate deed, the applicability of the exemption granted under said Act, based on the representation of the parties.

Notaries shall be required file every month with the Department of the Treasury and the Municipal Revenue Collection Center the returns corresponding to the deeds executed before them during the preceding month. Provided, that the Notary shall include together with such returns and attach to the corresponding deed that is part of the public instrument protocol, a copy of the Newly-built Property certification to be issued by the seller of the real property, pursuant to Section 1 of Article 1 of the ‘Real Property Market Stimulus Act’ and the ‘Housing Market Boost Program’s Transition Act.’

The Department of the Treasury shall certify and report to the Office of Management and Budget any income not earned by the Legal Aid Society as a result of the incentives provided under the ‘Housing Market Boost Program’s Transition Act.’ The Office of Management and Budget shall appropriate and transfer to the Legal Aid Society the amount corresponding to the stamp fees not collected, pursuant to Act No. 47 of June 4, 1982, and Act No. 244-2004.”

Section 8.- Rulemaking and Executive Authority.-

The Secretary of the Treasury shall establish through regulations, circular letter, or administrative determination the necessary guidelines for the implementation of the provisions of this Act. The regulatory provisions amended or adopted pursuant to this Act shall not be subject to the applicable provisions of the Uniform Administrative Procedure Act, as amended.

The Governor of Puerto Rico may extend, through executive order, the period of any and all the incentives provided under this Act. Said time extensions may be ordered on or before the day following the corresponding due date.
Section 9.- Public Interest.-

This Act and the program established herein constitute information of public interest. Therefore, the Department of Housing, the Department of Economic Development and Commerce, the Department of the Treasury, the Department of Consumer Affairs, the Housing Financing Authority, the Tourism Company, and any related public agencies, corporations, and instrumentalities are hereby authorized to educate and inform the people about this Act, the programs and benefits thereunder, and to promote this program outside of Puerto Rico in order to attract purchasers and investors. It is vital and essential that the people be informed about all that pertains to the program established in this Act and that this program be promoted outside of Puerto Rico in order to maximize its economic stimulus impact.

Section 10.- Reports.-

The Secretary of the Treasury shall file with the Office of the Secretary of the Senate and the Office of the Clerk of the House on March 31st, 2012, August 31st, 2012, and January 31st, 2013, a thorough report on the economic impact, including, but not limited to, the number of persons that have availed themselves of the benefits of this Act, the number of units sold, and the economic impact of the exemptions provided herein.

Section 11.- Separability.-

If any article, section, subsection, paragraph, item, clause, phrase or part of this Act were held to be unconstitutional by a court with competent jurisdiction, such holding shall not affect, impair or invalidate the remainder of this Act, and the effects thereof shall be limited to the article, section, subsection, paragraph, item, clause, phrase or part of this Act ruled unconstitutional.

Section 12.- Effectiveness.-

This Act shall take effect on November 1st, 2011.
CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 216-2011 (H. B. 3672) of the 6th Regular Session of the 16th Legislative Assembly of Puerto Rico:

AN ACT to establish the “Housing Market Boost Program’s Transition Act” in order to make an orderly transition by gradually reducing certain incentives to stabilize the residential real estate market; facilitate and promote the acquisition of housing through the granting of benefits such as an exemption from the payment of property taxes, from capital gain taxes on the sale of such property, as well as from the payment of duties and fees for public instruments; amend Section 11 of Act No. 75 of July 2, 1987, as amended, known as the “Puerto Rico Notarial Act,” in accordance with the provisions of this Act; 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 28th day of August, 2014.

Juan Luis Martínez Martínez
Acting Director