

(H. B. 848)
(Conference)

(No. 104-2013)

(Approved August 14, 2013)

AN ACT

To amend Sections 2, 4, 5, 6, 7, 12, 13, 14, 16, 17, 19, 21, 22, 23, 24, and 28, add new Sections 15, 20, and 21, and renumber Sections 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, and 41 of Act No. 489-2004, as amended, known as the “Martín Peña Canal Special Planning District Integrated Development Act,” in order to reinstate its original purpose by repealing Act 32-2009 and 70-2011; clarify the private, perpetual, and *sui generis* nature of the Martín Peña Canal Land Trust in order to recognize and guarantee vested rights; correct vagueness and inaccuracies in the terminology of the original text; make feasible a swift and efficient implementation of the Integrated Development Plan and the Land Use Plan of the Martín Peña Canal Special Planning District within the term of existence of the Martín Peña Canal ENLACE Project Corporation; and for other purposes.

STATEMENT OF MOTIVES

The approval of Act No. 489-2004, known as the “Martín Peña Canal Special Planning District Integrated Development Plan,” constituted an unprecedented legislative initiative in Puerto Rico. Such Act was the result of a long and successful participatory planning, action, and reflection process, which made the self-management and participation of the community and the empowerment thereof feasible for adoption as the ideal public policy to rehabilitate the Martín Peña Canal and revitalize abutting communities to prevent involuntary displacement through the Martín Peña Canal Special Planning District, hereinafter, the ENLACE Project. Interventions at the Martín Peña Canal Special Planning District, hereinafter, the District, would be guided by the Martín Peña Canal

Special Planning District Integrated Development Plan and Land Use Plan, hereinafter, the District Plan, and based on a model in which land is owned by the community. The coordination and implementation of the ENLACE Project, whose goals and objectives are stated in the District Plan, was delegated to the Martín Peña Canal ENLACE Project Corporation, hereinafter, the Corporation.

In 2012, both the Ponce School of Medicine and Health Sciences and the Graduate School of Public Health of the University of Puerto Rico Medical Sciences Campus conducted epidemiological studies that showed a connection between the lack of adequate infrastructure at the District and the environmental degradation of the Martín Peña Canal and the health issues of the District's residents. The ever more frequent floods of polluted water resulting, in part, from a lack of hydraulic flow in the Canal affect not only the District's residents, but also residents of communities in Carolina. Likewise, a bathymetry requested by the Corporation shows that the San José Lagoon, to which several canals linked to the Luis Muñoz-Marín Airport are connected, has lost depth due to sediment deposits resulting, among other factors, from such lack of hydraulic flow in the Canal. Other studies developed by the Corporation show that the absence of oxygen prevents life from existing in 730 *cuerdas* of the bottom of the San José Lagoon. Many other previous studies suggest that environmentally rehabilitating the Canal would significantly improve the condition of the San Juan Bay Estuary which is the most ecologically valuable natural system in the San Juan Metropolitan Area and the only tropical estuary in the Environmental Protection Agency's (EPA) National Estuary Program. The Island's main maritime port also operates out of this area. Such recent data lead the Legislative Assembly to reiterate the strategic nature of the ENLACE Project in Puerto Rico. The benefits of environmentally rehabilitating the Canal as one of the components of the ENLACE Project that transcend the District and the San Juan Metropolitan Area include, among others,

significant savings for the Island regarding the continuous investment of public and private funds required to address the public health and safety issues stemming from the environmental degradation of the Canal, as well as alternatives to generate wealth, jobs, and economic development that include urban land revaluation and new recreational and tourism opportunities.

Act No. 489-2004 created the Corporation and the Martín Peña Canal Land Trust as vital instruments to make the implementation of the District's Plan feasible and achieve the public policy goals arising therefrom, including those related to citizen and government participation and intersectoral partnering.

This Legislative Assembly recognizes the achievements of the Corporation and the community-based organization called *Grupo de las Ocho Comunidades Aledañas al Caño Martín Peña, G-8, Inc.* in the coordination and implementation of the ENLACE Project, such as: the administrative delimitation of public domain lands in the maritime-terrestrial zone of the District; the creation of the Board of Trustees of the Martín Peña Canal Land Trust; the transfer of lands through notary public and the recording thereof in the Property Registry; the approval of the *Reglamento General para el Funcionamiento del Fideicomiso de la Tierra del Caño Martín Peña*; the coordination of infrastructure works and dredging of said body of water with the U.S. Army Corps of Engineers and other municipal, Commonwealth, and Federal agencies; the acquisition of real property and the relocation of residents; the implementation of innovative and effective strategies to prevent violence; the recovery of public spaces; adult literacy; the promotion of critical thinking; the strengthening of community-based organizations and the incorporation of youths and other social groups in participatory processes; support to the creation and strengthening of community businesses; and environmental awareness, among many others, while upholding high participatory democracy standards and establishing intersectoral partnering. These achievements have

earned the Corporation, the G-8, and the Martín Peña Canal Land Trust itself many local and international accolades, such as EPA's National Achievement in Environmental Justice Award in 2011.

The creation of the Martín Peña Canal Land Trust as a private entity, with independent juridical personality in perpetuity or for an indefinite term, not only grants the privilege of common land ownership to a group, which expedites and reduces the costs related to dredging the Martín Peña Canal, prevents the increase in land value associated with such dredging from resulting in the involuntary displacement of the District's communities, and serves as an instrument to overcome poverty, but also fosters the availability of decent, affordable housing in the long term. Despite a clear legislative will to support such community ownership model, the amendments introduced by Act No. 32-2009 and Act No. 70-2011 significantly altered the regulatory design that inspired the creation of the Martín Peña Canal Land Trust and the adoption and subsequent approval of the District's Plan, as well as the ability of the Trust to achieve the goals for which it was created. Furthermore, such amendments infringe on the vested rights of the Martín Peña Canal Land Trust and spread uncertainty among District residents. The judicial claim seeking indemnity for property taken without just compensation, which is currently being heard in the Courts of Puerto Rico, best proves that unwise legislative criteria was applied when approving the aforesaid amendments to Act No. 489-2004 represented.

It is hereby expressly recognized that such amendments incorporated approaches that were incompatible both with the nature of the Martín Peña Canal Land Trust and other components of the public policy set forth in Act No. 489-2004 and with the District's Plan. For example, such departure can be observed in the following expression of Act No. 32-2009: "The Legislative Assembly has recognized that public agencies may have their own objectives, purposes, and

programs pursuant to the laws, regulations, and programs that apply to each one of them.” Even though the amendments did not expressly change the nature of the ENLACE Project, they constituted an individualistic vision that would clash with the integrated development approach of the District’s Plan and the community trust model adopted in Act No. 489-2004. Even worse, it would delay and increase the cost of implementing the ENLACE Project, and also the environmental rehabilitation of this estuarine body of water, which this Legislative Assembly deems cannot be put off.

This Legislative Assembly has the intent of reasserting the public policy adopted in 2004 with regards to the implementation of the District’s Plan, in addition to strengthening the Martín Peña Canal Land Trust and the Corporation so that they may achieve the purposes for which they were created.

We must clarify that the Martín Peña Canal Land Trust was created to exist in perpetuity, that is, without the restrictions imposed by the Civil Code to trusts regulated by Articles 834 through 874, and particularly Article 848. The Martín Peña Canal Land Trust does not respond, either, to the purposes that inspired the recently approved Puerto Rico Trust Act.

These amendments are necessary because Act No. 489-2004 expressly refers to several of the former Articles of the Civil Code that dealt with traditional trusts. Section 19 of said Act specifically provides: “The Board of Trustees shall have the authorities and powers expressly conferred to trustees in Articles 834 to 874, inclusive, of the Civil Code of Puerto Rico.” Such reference to the Articles of the Code could lead to the erroneously construe that the Martín Peña Canal Land Trust could only exist for thirty (30) years if its tasks and activities achieved any of the purposes of such Act, to wit: provide direct financial benefits to District residents as a mechanism to overcome poverty. Thus, for example, Section 19(a)(5) sets forth as an objective of the Land Trust to “make possible the participation of the

residents and the strategic investment of the private sector, and redistribute with fairness the increase in land value through the participating bonds mechanism, diversifying the sources of income of the families and reinvesting in the District.”

The limitation imposed by former Article 848 was intended for trusts constituted within the context of the estate of a natural person. However, the purpose of the Martín Peña Canal Land Trust is not to protect inherited rights, which means that the indiscriminate application of the Articles of the Code would clash with the purposes that the legislator himself/herself provided for this innovative mechanism of change, social justice, and urban planning.

Even if some activities of the Martín Peña Canal Land Trust provided direct financial benefits to District residents, such is not the only purpose set forth in Act No. 489-2004. There is also the social purpose sought by this Act through this vehicle, whose objectives are established in subsection (a) of Section 19:

- 1) To contribute toward the solution of the ownership rights problem of many District residents through common land ownership;
- 2) To handle the physical or economic displacement of the low income residents that arises from the urban reconstruction projects with fairness, avoiding the disintegration and displacement of the community;
- 3) To guarantee affordable housing in the District;
- 4) To acquire and possess lands on behalf of the community, thus increasing local control over the land and avoiding absentee owner decision-making;
- 5) Redistribute with fairness the increase in land value through participating bonds;
- 6) To make possible the reconstruction and valuation of urban spaces;
- 7) To create a revolving fund that allows reinvestment in the District or in other locations with similar purposes.

Given the social end of the Martín Peña Canal Land Trust, the undertakings thereof deserve equal or more protection than that recognized to nonprofit organizations.

Finally, in view that one of the objectives of the Martín Peña Canal Land Trust is to acquire lands for the benefit of the community (objective No. 4, above), it must be clarified that its corpus shall not be limited exclusively to lands obtained from the Corporation, but may also be constituted by lands granted as a gift, exchange, or trust by District residents directly to the Trust or acquired through any other legal means within or outside the District, insofar as such acquisition is for the benefit of District communities or to further the implementation of the District's Plan.

It is imperative to eliminate the possibility of constraining the Land Trust to a category that prevents it from achieving its purpose due to an erroneous construction of the Articles of the Civil Code cited in the original text of Act No. 489-2004.

The Martín Peña Canal Land Trust was conceived in the District's communities. In addition to their experiences and aspirations, as well as contributions obtained from dialogue with other sectors, they used theoretical and practical models as reference, including Community Land Trusts (CLTs), which is a successful form of common land ownership adopted in the United States, Canada, and Europe that incorporates a charter based on principles of sustainable and sound stewardship and use.

On the other hand, the experience derived from implementing Act No. 489-2004 has helped identify the need to strengthen the Corporation's ability to act as an instrument to carry out the public policy on the District's integrated development during its existence. The Corporation's coordination and implementation of the ENLACE Project the District's Plan as mechanisms adopted by the State to make feasible and guide the social, economic, environmental, and urban development of the District includes, among other key elements, the dredging and canalization of the section of the Martín Peña Canal that are still

pending. Dredging the Canal requires, in turn, additional public action to prepare the space needed to carry out such process, including the cleaning of public property in the District's maritime-terrestrial zone. The particular characteristics of such public property in the District's maritime-terrestrial zone are hereby also recognized, since the Canal is an inner arm of the sea that is susceptible to the tides and given the hundreds of inhabited structures located therein, as well as the Corporation's need to intervene swiftly in this area while the dredging and canalization are completed. Finally, vagueness and inaccuracies in the terminology have been identified in the original text of Act No. 489-2004 which must be eliminated and corrected. To such ends, it is necessary to amend some Sections of said Act and incorporate others to address these issues so that the swift and efficient execution of the District's Plan may be feasible within the Corporation's term of existence.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1. – Act No. 32-2009 and Act No. 70-2011, are hereby repealed.

Section 2. – The original text of Act No. 489-2004 is hereby reinstated with the new amendments set forth herein.

Section 3. – Subsections (d), (h), and (m) are hereby amended, a new subsection (m) is hereby added, and subsections (m), (n), (o), and (p) are hereby renumbered as (n), (o), (p), and (q), respectively, in Section 2 of Act No. 489-2004, as amended, to read as follows:

“Section 2. – Definitions. –

- (a) ...
- (b) ...
- (c) ...

(d) ‘District’ is the ‘Martín Peña Canal Special Planning District’ as delimited and designated in the Planning Board Resolution of May 3, 2002. The District includes the following seven (7) communities: (1) Barrio Obrero (West and San Ciprián), (2) Barrio Obrero-Marina, (3) Buena Vista-Santurce, (4) Stop 27, (5) Las Monjas, (6) Buena Vista-Hato Rey, and (7) Israel-Bitumul. The Planning Board may modify the aforementioned Resolution through an amendment adopted pursuant to its Organic Act and the Uniform Administrative Procedures Act, and upon holding public hearings. However, any alteration to the delimitation of the District shall require legislative authorization through an amendment to this Act. The community of the Cantera Peninsula is not included in the District, and shall not participate in or benefit from this Act in accordance with specific provisions set forth below, including representation in the G-8.

(e) ...

(f) ...

(g) ...

(h) ‘Land Trust’ is the ‘Martín Peña Canal Land Trust,’ which is a private community trust created in perpetuity by this Act.

(i) ...

(j) ...

(k) ...

(l) ...

(m) ‘District Plan’ is the Integrated Development Plan and the Land Use Plan for the ‘Martín Peña Canal Special Planning District.’

(n) ‘ENLACE Project’ is the ‘Martín Peña Canal ENLACE Project,’ a set of actions carried out with the participation of the District community in conjunction with the government and the private sector, geared toward the rehabilitation of the Martín Peña Canal and the integrated development of abutting

communities according to the vision of integrated development of District residents.

(o) ...

(p) ...

(q) ...”

Section 4. – The first and second paragraph and subsections (1), (2), (5), and (6) of Section 4 of Act No. 489-2004, as amended, are hereby amended to read as follows:

“Section 4. – Martín Peña Canal ENLACE Project Corporation—Creation. –

The Martín Peña Canal ENLACE Project Corporation, hereinafter, ‘the Corporation,’ is hereby created as an entity and political subdivision of the Commonwealth of Puerto Rico, with juridical personality independent and separate from its officials and any other public agency or government instrumentality, and the Municipality of San Juan. This public corporation shall exist for a term of twenty-five (25) years, which may be extended through Executive Order of the Governor for five (5) additional years, at the end of which it shall cease to exist. Once this term elapses, the Legislative Assembly shall determine the process whereby the assets of the Corporation shall be liquidated. Notwithstanding the foregoing, as holder of the debt, the Corporation shall enjoy all the necessary powers to honor the same and to maintain its existence, regardless of the type, until its debt is settled.

The Corporation shall have the necessary financial and operational capacities to implement the public policy established in this Act and shall be governed by a Board of Directors in order to comply with the goals, duties, functions, and prerogatives entrusted thereto, in the public interest and for the benefit thereof. In the discharge of its duties and functions, the Corporation shall serve the interests of society in general, ensuring that the present and future

interests of the communities that constitute the District are properly upheld. Thus, the expression of public interest arising from the decisions of the Commonwealth, and the Corporation in particular, shall legitimately represent the general interest. The Corporation shall be excluded from the application of the Public Service Human Resources Administration Act of the Commonwealth of Puerto Rico,” Act No. 184-2004, as amended, and Act No. 164 of June 23, 1974, as amended, known as the ‘General Services Administration Act’. The Corporation’s Personnel Regulations shall guarantee the application of the merit principle in the Corporation’s personnel system.

The Corporation shall have the following objectives, among others:

1. To be the entity responsible for coordinating and implementing all aspects of the ENLACE Project, including, but not limited to, the development of housing and infrastructure, the dredging and canalization of the Canal, as well as urban and socio-economic development. It may implement related projects and programs, contract with third parties to develop the same, and coordinate with public agencies that have projects and programs in the District.

2. To guarantee mechanisms for citizen participation in the planning and execution of the ENLACE Project and promote community empowerment, leadership training, and strengthening of community-based organizations. It shall provide technical support to District residents, community businesses, and community-based organizations whenever necessary, and keep the residents and business owners informed about the development of the ENLACE Project and the participation mechanisms.

3. ...

4. ...

5. To encourage, facilitate, and foster the creation, improvement, and strengthening of enterprises and businesses owned by District and Cantera Peninsula residents and located therein, among others, through the establishment of preferential treatment measures in the procurement processes of Public Agencies. It shall promote the contracting and subcontracting of residents and community-based organizations, including community businesses, that meet the requirements and are able to execute programs and projects related to the ENLACE Project.

6. To guarantee the ongoing citizen participation in the decision-making process, planning, and execution of the ENLACE Project to allow both the long-term permanence of the communities that constitute the District and fair and equal treatment in the family relocation processes needed to implement the ENLACE Project.

7. ...

8. ...

9. ...”

Section 5. – Subsection (1), (2), (3), and (5) of Section 5 of Act No. 489-2004, as amended, are hereby amended to read as follows:

“Section 5. – Board of Directors. –

(1) The Board of Directors of the Corporation shall be composed of at least eleven (11) persons of proven capability and leadership, six (6) of which shall be appointed by the Governor and five (5) by the Mayor of the City of San Juan. Two (2) of the members appointed by the Governor and one (1) of the members appointed by the Mayor shall be appointed for four (4) years; two (2) of the members appointed by the Governor and two (2) of the members appointed by the Mayor shall be appointed for five (5) years; and two (2) of the members appointed by the Governor and two (2) of the members appointed by the Mayor shall be appointed for six (6) years; their successors and any other additional members shall

be appointed for six (6) years. By recommendation of the Board, the number of members may be increased up to fifteen (15), in which case the participation of community representatives shall be, at least, forty-five percent (45%) of the membership. One half of the new appointments shall be made by the Governor and the other half by the Mayor of San Juan. In case of a vacancy, prior to the expiration of the term of an incumbent, a successor shall be appointed for the remainder of said term. The initial members of the Board of Directors shall be appointed within a term not to exceed forty-five (45) days after the approval of this Act. The members of the Board of Directors shall remain in office until their successors are appointed and take office.

(2) The Board of Directors shall elect a Chairperson from among its members and designate a Secretary of Records. The quorum for holding meetings in which binding agreements are adopted shall be a majority of the members holding office in the Board of Directors. Decisions shall be made by a majority of members, provided there is a quorum, except for those decisions that the Board itself provides through regulations that must be made by a qualified majority of the directors in office. The Board of Directors shall render an annual report to the Governor and the Legislative Assembly on the projects carried out in the District.

(3) The members of the Board of Directors shall not receive compensation. The expenses they incur in the discharge of their duties may be reimbursed pursuant to the regulations adopted by the Board of Directors. Members of the Board of Directors shall be governed by the Puerto Rico Government Ethics Act, but shall not be required to render the financial reports required by said Act, with the exception of public officials appointed to the Board who are already required to render such reports. The participation of members of the Board of Directors who are also District residents in decisions that benefit the community in general shall not be deemed to be a conflict of interests.

(4) ...

(5) Three (3) members of the Board of Directors (two (2) of the members appointed by the Governor and one (1) appointed by the Mayor), shall represent the private sector, at least one of them preferably from the private nonprofit sector. In making such appointments, the appointing authority shall take into account the recommendations of the G-8. Private sector representatives may not hold or seek any elective public office during the years in which they are members of the Board, nor have any conflict of interests with the ENLACE Project. They shall have, among other qualities, social recognition for their track record in the execution of programs and projects with goals similar to those of the ENLACE Project; knowledge of, or familiarity with, the ENLACE Project and its implications; and show sensitivity toward community development processes.

(6) ...

(7) ...

(8) ...”

Section 6. – Subsections (ch), (f), and (p) are hereby amended and subsection (z) is hereby added to Section 6 of Act No. 489-2004, as amended, to read as follows:

“Section 6. – Powers. –

The Corporation shall have all the rights, powers, and prerogatives provided by this Act or by the laws or programs whose administration or implementation is delegated to it in order to adequately comply with the public policy established herein, among which shall be:

(a) ...

(b) ...

(c) ...

(ch) To acquire and alienate property for any consideration;

(d) ...

(e) ...

(f) To establish regulations for its organization, operations, and the discharge of their powers and authorities;

(g) ...

(h) ...

(i) ...

(j) ...

(k) ...

(l) ...

(m) ...

(n) ...

(o) ...

(p) To provide any kind of financial assistance to private entities, including incentives and subsidies, loans or technical assistance to carry out social, economic, urban, housing, or environmental developments, projects, programs, or activities in accordance with the purposes of this Act, with special interest in the G-8 and community-based organizations in the District.

(q) ...

(r) ...

(s) ...

(t) ...

(u) ...

(v) ...

(w) ...

(x) ...

(y) ...

...”

Section 7. – The second and third paragraphs of Section 7 are hereby amended and a fourth paragraph is hereby added to Section 7 of Act No. 489-2004, as amended, to read as follows:

“Section 7. – Exemptions. –

...

The Corporation and its subsidiaries shall also be exempt from the payment of all types of fees or duties required by law for instituting legal proceedings, the issuance of certifications in the offices and entities of the Government of the Commonwealth of Puerto Rico and its political subdivisions, and the execution of public documents and the recording thereof in any public register in Puerto Rico. This exemption includes the payment of duties required by Act No. 161-2009, as amended, known as the ‘Puerto Rico Permit Process Reform Act,’ and the regulations adopted thereunder.

Furthermore, juridical or natural persons of the private sector whose main activity is the development, management, or operation of projects that further the goals established in the Land Use Plan and the Martín Peña Canal Special Planning District Integrated Development Plan, as specified by the Corporation, shall be exempt from all types of taxes, duties, fees, excise taxes, or charges, including those on permits, imposed or to be imposed by the Commonwealth of Puerto Rico or any political subdivision thereof, on all its operations, personal or real property, and its capital, revenues, and surplus, as provided in the dispensation executed to such effects by the Secretary of the Treasury of the Commonwealth of Puerto Rico. It is clearly established herein that such projects shall be exclusively of a social nature to promote the rehabilitation of the District. The Board of Directors of the

Corporation shall issue an official certification identifying the project as eligible for exemption by virtue of this provision. The exemption provided for in this paragraph shall be limited to the property, capital, revenues, or surplus generated by or used in the project identified in the Corporation's certification. Juridical or natural persons who avail themselves of the exemption provided herein may only claim the portion of the exemption corresponding to their participation in the project.

Public documents executed by individuals regarding the acquisition of real property and relocation of occupants carried out by the Corporation or other public agencies in the District are hereby exempted from notary and registration fees.”

Section 8. – The first sentence of the first paragraph is hereby amended, and a fourth paragraph is hereby added to Section 12 of Act No. 489-2004, as amended, to read as follows:

“Section 12. – Support from Public Agencies of the Commonwealth. –

The public agencies of the Commonwealth of Puerto Rico are hereby directed to offer support and cooperation to the Corporation, including the special assignment of personnel, the granting of unpaid leave to serve the Corporation for the amount of time necessary, and the transfer of resources and property deemed pertinent, except for those that are subject to liens, including mortgages, bond issues, or which serve as surety or collateral for lines of credit.

The General Services Administration is hereby directed to carry out, in coordination with the Corporation, all the necessary actions to include the Martín Peña Canal Community Business and Bidder Registry to the Exclusive Register of Bidders under the charge of such agency. Public Agencies shall be exempt from the strict application of the Standard General Conditions (set forth in Act No. 218-2010, known as the “Standard Contract Documents for the Scheduling, Management, Design, Inspection, and Construction of Public Works in Puerto Rico

Act,” and the regulations adopted thereunder) when contracting Martín Peña Canal Community Businesses and Bidders to carry out works in the District whose unit cost does not exceed the amount of five hundred thousand dollars (\$500,000.00). Such public works shall be governed only by such Standard General Conditions that are not inconsistent with the public policy of economic development for the community adopted herein in order to grant preferential treatment to community businesses in the District and the Cantera Peninsula.

Within thirty (30) days after the approval of this Act, the Department of Natural and Environmental Resources (DRNA, Spanish acronym) and the Corporation shall execute a co-management agreement for the public property located within the maritime-terrestrial area of the District. Through this agreement, the DRNA shall delegate to the Corporation the measures or actions to clean such property. The actions taken by the Corporation are directed to rehabilitate the environment and prevent or eliminate threats to the life, health, safety, property, or the environment. Such action shall not entail the establishment of new permanent structures. The co-management agreement shall remain in effect until the works related to the environmental rehabilitation of the Martín Peña Canal are completed.

Once the dredging is completed and the time comes for granting permits for the enjoyment of the public property located within the maritime-terrestrial area of the District, the custodian public agency shall give preferential treatment to community businesses and exempt them from the payment of fees, insofar as the proposed activities and temporary uses are consistent with the public policy in effect.

...”

Section 9. – The first sentence of the first paragraph is hereby amended and a third paragraph is hereby added to Section 13 of Act No. 489-2004, as amended, to read as follows:

“Section 13. – Support from the Municipality of San Juan. –

The Municipality of San Juan shall provide support and cooperation to the Corporation, including the special assignment of personnel, the granting of unpaid leave to serve the Corporation for the amount of time necessary, and the transfer of equipment, funds, and property, except for those that are subject to liens, including mortgages, bond issues, or which serve as surety or collateral for lines of credit.

...

The Municipality of San Juan is hereby directed to carry out all the necessary actions, in coordination with the Corporation, to include the Martín Peña Canal Community Businesses and Bidders Registry to the pertinent Municipal Registry.”

Section 10. – Section 14 of Act No. 489-2004, as amended, is hereby amended to read as follows:

“Section 14. – Martín Peña Canal Land Use Plan and Special Planning District Integrated Development Plan. –

The Highway and Transportation Authority shall devise a Special Land Use Plan and an Integrated Development Plan for the Special Planning District of the Martín Peña Canal, hereinafter, the District’s Plan, as designated by the Planning Board’s Resolution of May 3, 2002, taking into consideration the conservation easements and natural reserves established in the District. These special plans shall be developed using a participatory planning methodology, as provided in said Resolution, and shall include the environmental assessments required by the Environmental Public Policy Act. The Authority shall submit the District’s Plan (jointly or separately) through the Secretary of the Department of Transportation and Public Works for simultaneous evaluations by the Planning Board and the Environmental Quality Board. The Environmental Quality Board shall determine, within a term not to exceed twenty (20) days (which may be extended with the

consent of the Planning Board in consultation with the Department of Transportation and Public Works and the Highway and Transportation Authority) if the District's Plan complies with the Environmental Public Policy Act and notify the Planning Board of such compliance within said term. Said compliance determination shall be extended to any action included in the District's Plan as of its date of approval by the Governor. Final approval by the Planning Board shall take place within not more than sixty (60) days after the corresponding determination is notified to the Environmental Quality Board, provided that it includes a finding of no significant environmental impact or any other favorable determination applicable pursuant to the Environmental Public Policy Act. The Boards shall carry out all the joint legal processes possible to ensure a swift evaluation of the District's Plan and its approval and effectiveness within a term not to exceed one hundred sixty (160) days after the effective date of this Act.

Once the Planning Board adopts the Special Land Use Plan and the Integrated Development Plan, the Corporation shall be exempt from submitting particular consultations thereto pursuant to the provisions of said plans.

The Land Use Plan shall become one of the Area Plans of the Zoning Plan of the Municipality of San Juan. The Corporation shall take charge of any revisions to the District's Plan during its effective term, and shall submit the amendments to the Planning Board for consideration and approval. In the event of conflicts between any plan, regulation, or norm, the governing policies and norms adopted in the District's Plan shall prevail over any law, plan, or regulation concerning the use of the land in the District, including those drafted in connection with the redevelopment in the sphere of influence of the stations of the *Tren Urbano*, unless otherwise provided by the Planning Board in the general interest.

Public Agency authorizations, permits, or endorsements (including any variations and exceptions to the rules), especially from the Permit Management Office or the successor thereof, the Municipality of San Juan (including, but not limited to its Land Use and Permits Offices), the Departments of Transportation and Public Works and Natural and Environmental Resources, the Environmental Quality Board, and the Planning Board (including, without being limited to site consultations) in the District shall only be granted when they are in accordance with the provisions of the District's Land Use and Integrated Development Plans. The corresponding Public Agency shall consult the Corporation in writing about its position with respect to the proposed action, and whether or not the Corporation endorses the action and the conditions that the latter deems reasonable in order to proceed with the action. The Corporation shall have a term of twenty (20) days (which may be extended only by the consent of the corresponding Public Agency) to issue its comments in writing and, if no comments are issued, it shall be understood that the Corporation has no interest in stating its position.”

Section 11. – A new Section 15 is hereby added and Sections 15, 16, 17, and 18 are hereby renumbered as Sections 16, 17, 18, and 19, respectively, of Act No. 489-2004, as amended, to read as follows:

“Section 15. – Rehabilitation and Construction Works; Exemption. –

The rehabilitation and construction works carried out by the Corporation or through third parties that do not exceed five hundred thousand dollars (\$500,000.00) shall be exempt from compliance with the provisions of Act No. 218-2010, known as the ‘Standard Contract Documents for the Scheduling, Management, Design, Inspection, and Construction of Public Works in Puerto Rico Act,’ or the ‘Standard Contracting Act,’ and Regulation No. 7998 of March 3, 2011, known as Uniform General Conditions for Public Work Contracts.”

Section 12. – Section 16, renumbered as Section 17, is hereby amended to reinstate the original intent of Act No. 489-2004, so that it reads as follows:

“Section 17. – Transfer of Lands. –

Transfers of lands to public agencies and the Municipality of San Juan carried out by virtue of Act No. 32-2009 and Act No. 70-2011 are hereby rendered ineffective. Their ownership is recognized as having been legally vested upon the Corporation and that such entity later transferred the same to the Land Trust. The eminent domain directed by Act No. 32-2009 and Act No. 70-2011, *supra*, failed to contribute to the objectives of the original text of Act No. 489-2004 or to the District’s Plan. Therefore, ownership of all the lands transferred to the Corporation by virtue of such Act and which the Corporation transferred to the Land Trust through public deed is hereby restored to the Land Trust, except for those that are subject to liens, including mortgages, bond issues, or which serve as surety or collateral for lines of credit. Ownership of the lands that have not yet been transferred to the Land Trust is hereby restored to the Corporation. In the case of public domain or disused lands, ownership is hereby vested upon the Corporation, with the exceptions set forth further regarding the maritime-terrestrial zone.

Real property located in the District and owned by Public Agencies after 2005 is hereby transferred to the Corporation, except for those that are subject to liens, including mortgages, bond issues, or which serve as surety or collateral for lines of credit. Public Agencies shall provide all the documentation related to said real property within thirty (30) days after the approval of this Act.”

Section 13. – Section 17 of Act No. 489-2004, renumbered as Section 18, is hereby amended to correct the reference to the Puerto Rico Ports Act and clarify the nature of the Land Trust’s proprietary rights, to read as follows:

“ Section 18. – Maritime-Terrestrial Zone. –

The Secretary of the Department of Natural and Environmental Resources, pursuant to Sections 5(h) and 6(c) of the Organic Act of the Department of Natural and Environmental Resources (Act No. 23 of June 20, 1972, as amended), shall carry out within ninety (90) days after the approval of this Act, an official delimitation of all public domain lands related to the maritime-terrestrial zone of the District. In the graphic depiction of said delimitation, the Secretary of the Department of Natural and Environmental Resources shall show the alignment projected by the United States Army Corps of Engineers for the construction of the Martín Peña Canal, as well as the Conservation Strip determined in the Land Use Plan adopted by the Planning Board. Once this official delimitation and the graphic depiction established in this Section are carried out, all the lands north and south of the delimitation line of the Conservation Strip shall be declared patrimony of the Commonwealth under the ownership of the Corporation. Capital assets located at the District shall be exempt from the application of rolling or salvage easements. It shall be understood that, one hundred sixty (160) days after the effective date of this Act, the Corporation shall obtain ownership of the lands for which titles have not been granted. The Corporation shall transfer the ownership of such lands to the Land Trust so that they may become part of its corpus and for said trust to exercise all the prerogatives related to such ownership for the benefit of the District, pursuant to the District’s Plan. Rolling and salvage easements in the District shall exclusively encumber the strips of land identified as *Paseo del Caño Norte* and *Paseo del Caño Sur* in the District’s Plan, as established in the Integrated Development Plan.

Section 14. – Section 20 and 21 are hereby added and Sections 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, and 41 are hereby renumbered as Sections 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 44 of Act No. 489-2004, respectively, to read as follows:

“Section 20. – Titles Granted under Act No. 32-2009, as amended. –

Titles validly granted under Act No. 32-2009, as amended by Act No. 70-2001, shall be upheld. However, the validity of the ownership titles granted under the aforementioned Acts with respect to lands that constitute public domain, do not exist, or belong to third parties or private entities, shall not be recognized. Neither shall the validity of ownership titles granted to persons who already held the title of their respective lands.

The Ad Hoc Committee to Evaluate the Titles Granted under Act No. 32-2009, as amended, is hereby created to determine the validity of such ownership titles. This Ad Hoc Committee shall be composed of five (5) members, one of whom shall be designated by the Mayor of the Municipality of San Juan and preside over the Committee. Another one (1) shall be designated by the Secretary of the Department of Housing, another one (1) by the Secretary of the Department of Justice, one (1) professor from the University of Puerto Rico, and one (1) attorney-at-law designated by the Puerto Rico Bar Association. Members of the Ad Hoc Committee who are attorneys-at-law shall be knowledgeable about Property Law, obligations and contracts, and Mortgage Law. This Ad Hoc Committee shall begin to carry out its functions as of the effective date of this amendment, and continue to carry them out for one hundred eighty (180) days following such date. Within such term, the Ad hoc Committee shall render a report on the result of its work to the Secretary of the Department of Housing, the Secretary of the Department of Justice, the Mayor of San Juan, the G-8, and the Corporation.

The Municipality of San Juan and the Department of Housing shall provide the Ad Hoc Committee with a detailed list of titles and certifications granted under Act No. 32-2009, as amended, along with all complementary documents, such as evaluations, studies, survey plans, or any other plans devised with regards to each land or plot. Moreover, they shall provide a copy of such documents to the Corporation, including those in electronic format or georeferenced. The AD Hoc Committee shall adopt the corresponding evaluation procedure for such titles so as to guarantee due process of law to the persons who received them.

Section 21. – Exchange of Titles for Surface Rights. –

Persons who validly obtained an ownership title for lands located at the District may elect to exchange the same with the Land Trust for the recognition of surface rights, which shall be attested in a public deed to be recorded in the Property Registry within a term not to exceed twenty-four (24) months after the approval of this Act. Such surface rights shall not be subject to the restrictions on alienation provided by the titles granted under Act No. 32-2009, as amended. Neither shall they be subject to the restrictions imposed by Act No. 132 of July 1, 1975, as amended. Such transfer to the Land Trust or the difference in value of the exchanged rights shall not be considered a gift nor have the legal effect associated with that form of acquiring land.”

Section 15. – The first and second paragraphs, as well as subsections (a)(1), (a)(4), and (b)(10), are hereby amended and a third paragraph, as well as subsections (b)(11), (c), (d), and (e), are hereby added to Section 19, renumbered as Section 22 of Act No. 489-2004, as amended, to read as follows:

“Section 22. – The Martín Peña Canal Land Trust. –

The Martín Peña Canal Land Trust, hereinafter, the ‘Land Trust’, is hereby created as a private entity in perpetuity, which shall consist of all the lands transferred to the Corporation in accordance with this Act, especially pursuant to

Sections 17 and 18, whose ownership title is herein recognized, and of any other property it may acquire in the future. The Corporation shall promulgate the General Regulations for the Operations of the Martín Peña Canal Land Trust. Said regulations shall specify the manner in which the lands of the Land Trust shall be used and the participation of the Corporation and all other public and private entities in the process of identifying the lands eligible to become part of such Land Trust. It shall also specify the mechanism to appoint the members of the Board of Trustees of the Land Trust.

The Board of Trustees of the Land Trust shall serve as the fiduciary agent of the Trust. This shall not prevent the transfer of the entrusted property's custody to any Trust institution incorporated under the laws of the Commonwealth of Puerto Rico, so that it may act as custodian of said property and its returns under terms that are compatible with the goals and provisions of this Act. The Land Trust is hereby created with independent juridical personality, and its Board of Trustees shall have representation of the residents delegated by the G-8. The funds of the Land Trust shall be kept separately from other funds under the custody of the Corporation and maintained where the Board of Trustees of the Trust so determines, pursuant to the powers granted by this Act and the regulatory provisions adopted pursuant thereto. The Land Trust shall retain ownership rights to the land, and may only sell or transfer the construction rights; long-term leases with inheritance rights may also be granted. The owners of property on lands of the Trust may exclusively own the structure, but not the land on which it is built. The recognition of surface rights shall be attested in a public deed to be recorded in the Property Registry within a term not to exceed twenty-four (24) months after the approval of this Act.

(a) The Land Trust shall have the following goals:

(1) To help address the ownership rights issue of many District residents through common land ownership.

(2) ...

(3) ...

(4) ...

(5) ...

(6) ...

(7) ...

(b) To meet these goals, the Land Trust may:

(1) ...

(2) ...

(3) ...

(4) ...

(5) ...

(6) ...

(7) ...

(8) ...

(9) ...

(10) Appraise the land at the time of the transfer or acquisition thereof and authorize, underwrite, and issue participation bonds on the land's value to the Commonwealth based on public investment in the improvements; to citizens, by means of exchange of their land for shares according to either its weighted average value using equity criteria or its contribution to the planned development; and to other residents, by means of payment plans to be compensated with the interest corresponding to the participation bonds issued. These shares shall be granted in accordance with their weighted average value using equity criteria. The

Land Trust may also grant participation bonds to individual, non-resident citizens and business persons for their investment and contribution to the planned development. A portion of the returns on the public sector shares shall be reinvested in the District. Bonds issued in favor of citizens shall receive a fixed interest established according to prevailing market rates and payable as provided. The Land Trust shall have preferential rights to the acquisition of shares. There may be a limit for the transfer or negotiation of shares among third parties. Shareholders may use their shares as collateral. These participation bonds shall be tax exempt.

(11) Acquire personal property outside of the District's delimitation, provided that such acquisition benefits the communities of the District or contributes to the implementation of the District's Plan.

(c) The Land Trust shall be exempt from the payment of any taxes, registration fees, charges, and license fees imposed by the Commonwealth of Puerto Rico and its municipalities, including, but not limited to income and property taxes, municipal license fees, excise taxes, and sales and use tax on goods or services used as part of their undertakings, among others. The Land Trust shall also be exempt from the payment of any charges, internal revenue stamps and vouchers, registration fees, costs or taxes required by law to initiate judicial proceedings, issuance of certifications in any office or agency of the Commonwealth of Puerto Rico, and execution of any public or private document by the Land Trust, as well as any seal, stamp, voucher, or fee required for the issuance of permits, endorsements, consultations, and/or certifications.

(d) The bonds issued by the Land Trust and the return, interest, or income derived therefrom shall be exempt from any tax or levy imposed by the Commonwealth of Puerto Rico, its agencies and municipalities, including, but not limited to the alternative basic tax imposed by Section 1021.02 of the Internal

Revenue Code of Puerto Rico of 2011, as amended. The principal and interest of the bonds issued by the Trust may be guaranteed by the total or partial encumbrance of any income of the Land Trust, including the use of collateral that is not exempt at source without it affecting the exempt nature of such bonds.

(e) In consideration to the *sui generis* nature of the Land Trust, whose purpose is not contemplated in the Puerto Rico Trust Act (Act No. 219 of August 31, 2012), this Land Trust shall be governed by this Act. In the event that any doubt arises with regard to the interpretation of the powers, authorities, and operation thereof, the historical experience and doctrinal development of Community Land Trusts and similar concepts shall be taken into account, as applicable.

...”

Section 16. – Section 21, renumbered as Section 24 of Act No. 489-2004, as amended, is hereby amended to read as follows:

“Section 24. – Compensation on Account of Acquisition, Moving, and Relocation for Persons Affected by Projects at the District. –

In determining the benefits related to relocation and moving, the Corporation or the Public Agency carrying out the process of property acquisition shall provide equal treatment, so that all families, businesses, and nonprofit organizations that find themselves in the same situation receive similar benefits, notwithstanding the source from which the money for financing the relocation process originates. In the case of acquisition and relocation processes within the District and the Cantera Peninsula that are financed with funds of the Commonwealth of Puerto Rico, the owners and occupants of the properties acquired shall be compensated pursuant to the provisions of the ‘Uniform Relocation Assistance and Real Property Acquisition Policies Act’ of 1970, as amended. Likewise, the exemption set forth in Section 7 herein shall apply.”

Section 17. – The first sentence of Section 22, renumbered as Section 25 of Act No. 489-2004, as amended, is hereby amended to read as follows:

“Section 25. – The Martín Peña Canal Special Planning District Resident, Business, and Nonprofit Organization Registry. –

The Corporation shall update the registry of residents and businesses that occupy buildings in the District, carried out by the Authority as part of the Census conducted in 2002, and also include nonprofit organizations that occupy buildings...”

Section 18. – The first and second paragraph, as well as subsection (2) under the second paragraph of Section 23, renumbered as Section 26 of Act No. 489-2004, as amended, is hereby amended to read as follows:

“Section 26. – Community Development. –

The functions of the Corporation shall be directed to promoting the social and economic development of the District, so that community and physical development advance concurrently and in accordance with the following goals:

- (1) ...
- (2)
- (3) ...
- (4) ...

To achieve these goals, the Corporation shall:

- (1) ...
- (2) Support the social development of the community by providing, among others, services such as:

...”

Section 19. – Section 24, renumbered as Section 27 of Act No. 489-2004, as amended, is hereby amended to read as follows:

“Section 27. – The Martín Peña Canal Community Business and Bidder Registry. –

The Corporation shall prepare the Martín Peña Canal Community Business and Bidder Registry, which shall include all the Martín Peña Canal community businesses and bidders operating under the provisions of the applicable laws and regulations. The Corporation shall periodically update such Registry.”

Section 20. – Subsections (a) and (c) of Section 28, which has been renumbered as Section 31 of Act No. 489-2004, as amended, is hereby amended to read as follows:

“Section 31. – Bonds. –

In addition to the powers granted to the Corporation by this Act:

(a) The Corporation is hereby authorized to issue bonds from time to time in the amount of principal that, in the judgment of the Corporation, is necessary to provide sufficient financial resources for the total or partial payment of the cost of any project or projects; for the payment of the interest on bonds of the Corporation for term it may determine; for the creation of reserves to guarantee said bonds; and for the payment of other expenses of the Corporation, including the project costs that are incidental, necessary, or convenient to carry out its purposes or exert its corporate powers, with the exception of the regular operating expenses of the Corporation. Bonds issued by the Corporation may be payable from the total amount or part of the gross or net income and other income earned by the Corporation under the clauses of a financing contract related to any project, all as provided in the trust agreement whereby the bond issue is authorized. The principal and interest on bonds issued by the Corporation may be guaranteed by encumbering, in whole or in part, any income of the Corporation, including the use

of collateral that is not exempt at source, without affecting the exempt nature of the bonds issued, and may be guaranteed by the assignment of any financing contract related to any project or part thereof. The resolution or resolutions authorizing the bond issue or the trust agreement guaranteeing the same may contain provisions that shall be part of the contract with the holders of the bonds issued under said resolution or resolutions, with regard to a guarantee and the creation of a lien on the income and assets of the Corporation; to the creation and maintenance of redemption and reserve funds; to the limitations related to the purposes for which the proceeds of the bonds may be used; to limitations regarding additional bond issues; to limitations regarding the introduction of amendments or supplements; to the resolution or resolutions or the trust agreement; to the granting of rights, powers, and privileges and to the imposition of obligations and responsibilities on the trustee under any trust agreement; to the operation and maintenance of projects; to the fixing of fees, rent, and other charges for the use and occupation of any project or its operation; to the rights, powers, obligations, and responsibilities that shall arise in the event of noncompliance with any obligation under said resolution or resolutions or trust agreement, or regarding any rights, power, and privileges conferred on the holders of the bonds as guarantee thereof to increase the salability of the bonds. The bonds issued by the Corporation and the rent, interest, or income derived therefrom shall be exempt from any tax or levy imposed by the Commonwealth of Puerto Rico, its agencies and municipalities, including, but not limited to the alternative basic tax imposed by Section 1021.02 of the Internal Revenue Code of Puerto Rico of 2011, as amended.

(b) ...

(c) The proceeds of the sale of the bonds of each issue shall be used for the purposes established by the Board of Directors of the Corporation at the time of authorizing such issue, among which may be defraying the cost of the project or

projects, or part or parts thereof, for which the aforementioned bonds have been issued, as applicable, and shall be disbursed in the form and under the restrictions, if any, that the Corporation sets forth in the Trust Agreement that guarantees said bonds. If the proceeds of the bonds of any issue turns out to be less than the cost, due to any increase in construction costs, an error in the estimates, or any other reason, additional bonds may be issued in the same manner to cover the amount of said deficiency, and unless otherwise provided in the Trust Agreement, such bonds shall be deemed to belong to the same issue and be paid from the same funds without giving any preference or priority to the bonds originally issued.

(d) ...

(e) ...”

Section 21. – This Act shall take effect immediately after its approval. However, the effect of applicable provisions shall be retroactive to the effective date of Act No. 489-2004, with the exception set forth in new Section 20 of such Act No. 489-2004, as amended herein, regarding the rights legally vested on individuals during the effectiveness of Act No. 32-2009 and Act No. 70-2011.