

(S.B. 896)

(No. 128)

(Approved July 17, 1998)

AN ACT

To amend the third paragraph of Section 3.08; add a second paragraph to Section 3.18 and amend subsection (w) of Section 5.01 of Act No. 83 of August 30, 1991, known as the “Municipal Property Tax Act of 1991”, in order to clarify the appraisal method to be used in those cases of real property devoted to timesharing and vacation club systems as established in Act No. 252 of December 26, 1995, as amended, known as the “Timeshare and Vacation Club Rights Act of Puerto Rico”; and exempt timeshare or vacation club rights from the payment of property taxes.

STATEMENT OF MOTIVES

Act No. 252 of December 26, 1995 as amended, known as the Timeshare and Vacation Club Rights Act of Puerto Rico establishes the rules under which the timeshare rights industry should operate in order to promote the development of said industry in Puerto Rico. Said industry is an important segment of the tourist sector in other jurisdictions, and is an important component of the economic development of Puerto Rico.

Act No. 83 of August 30, 1991, as amended, known as the “Municipal Property Tax Act of 1991” authorized municipalities to a basic tax on the appraised value of all tangible, personal and real property which is located within its territorial limits and is not tax-exempt. Said Act, however, was promulgated before Act No. 252, cited above, for which it did not contemplate the taxation of property under the timeshare or vacation club concept. Therefore, it is necessary to amend Act No. 83, cited above, in order to ensure that any real property dedicated to a timeshare or vacation

club plan will not be, directly or indirectly subject, to double taxation. To such effects, the amendments adopted herein clarify the appraisal method applicable to real property dedicated to timeshare or vacation club régimes and exempt timeshare rights of a contractual nature created on said real property from the payment of property taxes.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- The third paragraph of Section 3.08 of Act No. 83 of August 30, 1991, as amended, is hereby amended to read as follows:

“Section 3.08 Review of the appraisal of real property; Unappraised Property.-

...

The classification and appraisal of real property described in the appraisals provided by subsections (a), (b), (c) and (d) of this Section shall be performed under the standards of accuracy and scientific appraisal details adopted by the Secretary of the Treasury that are being applied and are in effect on the date of approval of this Act. The regulations, rules and procedures adopted to such effects by the Secretary of the Treasury shall remain in effect and shall only be amended, repealed or substituted by the Governing Board of the Collection Center after complying with the conditions and procedures provided in Section 3.02. It being understood that in the case of real estate subject to timeshare or vacation club régimes under Act No. 252 of December 26, 1995, as amended, the appraisal of said real property shall not take into consideration the timeshare or vacation club rights constituted thereon.

...”

Section 2.- A second paragraph is hereby added to Section 3.18 of Act No. 83 of August 30, 1991, as amended, to read as follows:

“Section 3.18.- Place of appraisal of real estate; in whose name it shall be appraised; mortgage deduction, etc.

...

It is hereby provided that with regard to real property dedicated to a timeshare or vacation club régime, created under Act No. 252 of December 26, 1995, as amended, the appraisal and service of tax liability shall be made as follows: (i) in cases in which a developer or a third party holds the title deed on real property dedicated to a timeshare or vacation club régime since what is subject to sale are either timeshare contractual rights or vacation rights of a personal nature on said real property, or rights of a personal nature with respect to lodgings located in the same, the property shall be appraised and the service of tax liability shall be made in the name of the developer or third party retaining said title; (ii) in those cases in which the developer sells special timeshare rights or real property vacation or lodging rights, the property shall be appraised in the name of each titleholder of timeshare or vacation rights on said real property or lodgings in proportion to his or her share of the time share facilities or vacation club plan, as stated in the deed to dedicate the real property to said régime. Notwithstanding the above, the service of tax liability shall be made totally by unit or apartment in the name of the managing entity of a timeshare or vacation club rights plan, as an agent representing the titleholders of timeshare rights or real estate vacation or lodging rights, in which case said managing entity shall have the duty to immediately inform each titleholder of their property tax obligations and shall collect such tax on behalf of the Collection Center of

the common expenses pursuant to Section 1-104 of Act No. 252 of December 26, 1995, as amended. The managing entity shall remit the payment of the taxes thus collected to the Collection Center pursuant to the provisions of Section 3.41 of this Act. Once said managing entity collects the titleholder's tax of the common expenses, it shall be understood that the title holder has met his obligation and the managing entity shall be responsible for the payment of said tax to the Collection Center. However, the managing entity shall not answer to the Collection Center for taxes owed by the titleholder when said titleholder has not made the payment to the managing entity; (iii) the share in the real property that corresponds to special timeshare rights and real vacation or lodging rights, that have not been divided by units shall be appraised and the service of tax liability shall be made in the name of the developer; (iv) in those cases in which the term of a special timeshare or real estate vacation club régime expires, the participation corresponding to said right which reverts to the developer pursuant to the articles of incorporation of the timeshare or vacation club régime; the property shall be appraised and the service of tax liability shall be made in the name of the developer, as long as he holds the title deed on said rights; and (v) in those cases in which building subject to the timeshare or vacation club régime is established on property belonging to another party, the land shall be appraised in the name of the owner of the land and the building shall be appraised pursuant to the above rules."

Section 3.- Subsection (w) of Section 5.01 of Act No. 83 of August 30, 1991, as amended, is hereby amended to read as follows:

Section 5.01.- Tax exempt property.-

The following assets shall be exempt from all personal and real property taxes:

- (a) ...
- (w) Intangible personal property including good will, privilege rights, trademarks, grants, franchises, value of contracts, timeshare or vacation club rights created pursuant to the provisions of Act No. 252 of December 26, 1995, as amended, patents, inventions, formulas, processes, designs, patterns special technical know-how, methods, programs, systems, procedures, campaigns, surveys, studies, forecasts, estimates, client listings, technical information and any other of a like or similar nature.
- (x) ...”

Section 4.- This Act shall take effect immediately after its approval.

January 21, 2000

Luis G. Hidalgo, Director of the Office of Legislative Services of the Legislature of Puerto Rico, hereby certifies to the Secretary of State that he has duly compared the English and Spanish texts of Act No. 128 (S.B. 896) of the 3rd Session of the 13th Legislature of Puerto Rico, entitled:

AN ACT to amend the third paragraph of Section 3.08; add a second paragraph to Section 3.18 and amend subsection (w) of Section 5.01 of Act No. 83 of August 30, 1991, known as the Municipal Property Tax Act of 1991”, in order to clarify the appraisal method to be used in those cases of real property devoted to timesharing and vacation club systems as established in Act No. 252 of December 26, 1995, as amended, known as the “Timeshare and Vacation Club Rights Act of Puerto Rico”; and exempt timeshare or vacation club rights from the payment of property taxes,

and finds the same are complete, true and correct versions of each other.

Luis G. Hidalgo