

## The Fiscal Emergency Act and the urban centers

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The Fiscal Emergency Act (Law 7) has negatively affected the rehabilitation of our urban centers. This situation requires immediate attention by the Fortuño administration and the Legislature. Law 7 provides for a three-year moratorium as to the effectiveness of the earned-tax credits provided by Law 212 of 2003 and as to the processing of petitions for such credits. The effects of these provisions on the rehabilitation of our urban centers will go beyond the three-year moratorium if prompt action isn't taken by Gov. Luis Fortuño and the Legislature. They will scuttle the only urban center rehabilitation plan proven effective in Puerto Rico.

These unintended effects will occur because the moratorium comes on the heels of several heavy-handed efforts by the Treasury Department during the Calderón and Acevedo Vilá administrations to undermine the tax-credit provisions of Law 212. These actions had to be redressed by the Legislature and the Commonwealth courts. However, the net effect of Treasury's assaults on Law 212 and the moratorium has been that a cloud of uncertainty hangs over the tax credit. If the government doesn't promptly take action to attend to projects at risk—those on the way when the moratorium was legislated—and if it doesn't show a willingness to provide the tax credit for new projects after the moratorium expires, Law 212 will permanently lose credibility with the banks, developers and property owners in the urban centers. It will be dead in the water.

Our quality of life will suffer if this were to happen. The rehabilitation of our urban centers isn't an exercise in nostalgia. It is an essential step we must take now to provide for the sustainable development of Puerto Rico. Urban sprawl has deprived us of much of our countryside, leaving us in the cement jungle we inhabit. It has put a strain on our fiscal capacities by requiring the provision of infrastructure roads, bridges, power, water, telephones, etc. to distant places. It forces us to use the automobile, not only putting our lives at risk, but also consuming energy and sending carbon emissions to contaminate the biosphere.

The rehabilitation and densification of our urban centers is a necessity and ultimately unavoidable. The question is whether we do it now, in a gradual and orderly manner, or whether we are forced to do it under the crisis we will face due to the fiscally and environmentally unsustainable tendency to sprawl out from the centers. Law 212 is the only instrument proven effective to revert this tendency by inducing private-sector development within the urban centers.

Public investment is necessary, but not enough. The rehabilitation of the urban center of Ponce bears this out. The Ponce program, called *Ponce en Marcha*, began in 1985 under my administration as governor and that of José Dapena Thompson as mayor of Ponce. It was continued under the administration of

Rafael Cordero Santiago as mayor. More than \$250 million was invested in public works within the urban center. At the time, we believed the publicly financed improvements that enhanced the city center would induce private investors to build in the vacant lots left by deteriorated buildings or to rehabilitate the buildings and dwellings that still existed.

It didn't. At the end of the 1990s, private projects in the urban center of Ponce amounted to an annual aggregate amount of only \$2.5 million. This made no dent in our urban blight. Investment started to pick up as soon as Law 212 was approved in 2002. In the five years that passed after the law went into effect, 223 projects were qualified so that when built they would receive the credit. Of these, 43 have been finished, 32 are under construction and 148 await building permits. These projects will represent \$213,537,005.42 in construction in the urban center and wouldn't have been proposed if Law 212 didn't exist. A total of 180 of them—those under construction and those seeking building permits—are at risk because their financing relied on the tax credits they would receive when built.

If we take into account the economic activity generated by these projects, an investment of \$213,537,005.42 that wouldn't have otherwise occurred, we soon realize the tax credits approved, \$164,259,234.94, will be compensated by the effect of these projects on our urban sprawl and by the taxes paid by the construction workers, the suppliers of construction materials, the architects, the contractors, the developers and the businesses that will occupy some of the properties. In construction taxes alone, these projects would have had to pay the municipality of Ponce \$8,212,961.75.

Most projects were for dwelling units, mainly apartments. They would provide the city center of Ponce 1,057 new dwelling units, which would be a most important step toward revitalizing the center. The key to the rehabilitation of the centers is reverting the tendency of moving to the suburbs. Ponce's center had some 60,000 residents in the 1960s. In the last Census, it barely had 2,000. The availability of affordable housing is essential to bring residents back to the center.

What happened in Ponce demonstrates that Law 212 works and an important incentive is necessary to reverse the tendency to move to the suburbs. It can't be done on the cheap. The government must move quickly to redress the negative effects of the moratorium. This doesn't mean the moratorium itself must be discarded. It means there must be a certainty as to the continuation of Law 212, without amendments or regulations that will emasculate its tax credit. This certainty may be provided by legislative or administrative action, but it must be provided now. Otherwise, the tax credit will lose all credibility with the banks. The projects under construction, or those securing permits, which were to be financed through the tax credit, will come to naught with great losses for the private sector and the city centers.

It also means the moratorium regarding processing of cases, not the moratorium for using the credits, should be repealed. This provision puts on hold the application of Law 212 for a three-year period. Contrary to the moratorium for using the tax credits, it has no effect on the tax revenues that will be collected during the next three years. It merely dries up the pipeline of construction of Law 212 projects during the next three years. For an economy in recession, this makes no sense. The processing and

construction of projects should continue while maintaining the provision that the credits may not be used until 2012.

To take these steps, the government must make the policy decision that we must direct development to the urban centers and Law 212 is the way to go. The Ponce experience, where there have been no abuses of the law, bears this out. Of the 223 projects approved, the high end is a project for a new hotel in the town plaza with a credit of \$7,410,650.00 and the low end a project of \$19,362.82 in a low-income area. The majority of the projects range from this low end up to \$479,043.32. Law 212 not only is rehabilitating the town center, it is also providing economic development and low-income housing.

The San Juan experience has been on the high end and there is one horror story going around that the Acevedo Vilá administration provided a \$135 million tax credit for a project in Santurce. Such matters, if they exist, must be carefully scrutinized and the loopholes plugged. Law 212 wasn't meant to provide windfall profits.

If Law 212 is correctly administered, the benefits of the law will surpass the tax credits afforded. Unscrupulous developers, not developers in general, will try to apply it to projects to which it doesn't apply. It is up to a rigorous administration to prevent this from happening. Law 212 provides the requirements and the means by which this can be done. If more are necessary, the Legislature should provide them without diminishing the incentive.

The negative effects on the urban centers of the Fiscal Emergency Act must be attended to with the same celerity that the Fiscal Emergency Act was enacted. Hesitation or inaction will cause considerable damage and undermine the image of a business-friendly government. The friend who business needs in government is one who takes prompt and effective action in pursuit of the common good.