

“Organic Act of Department of Housing”

Act No. 97 of June 10, 1972, as amended

(Contains amendments incorporated by:

Act No. 58 of August 9, 1991

Act No. 135 of December 13, 1994

Act No. 201 of August 26, 2002

Act No. 429 of September 22, 2004)

To create the Department of Housing; to establish its functions; to transfer to it the functions appertaining to the Social Programs Administration of the Department of Agriculture and of the Urban Renewal and Housing Administration and to eliminate this last organization; to attach the Urban Renewal and Housing Corporation and the Housing Bank to the Housing Department and to eliminate their governing boards and to transfer their functions to the Secretary of the Department of Housing.

Be it enacted by the Legislature of Puerto Rico :

Section 1. — [Short title] (3 L.P.R.A. § 441)

This Act shall be known as the Organic Act of Department of Housing.

Section 2. — [Creation] (3 L.P.R.A. § 441a)

There is hereby created a government executive department to be known as the Department of Housing (hereafter to be called the Department). It shall be under the direction of the Secretary who shall be appointed by the Governor with the advice and consent of the Senate (hereafter to be called the Secretary).

Section 3. — [Purpose and functions] (3 L.P.R.A. § 441b)

The Department shall be the government organization responsible for making and executing the public policy on housing and communal development of the Commonwealth of Puerto Rico, and of administering all the governmental programs in this field. To this end, it shall have, among others, the following functions:

(a) To plan, in consonance with the general guidelines of the central government planning organizations all the efforts of the government aimed at developing the housing and communal development complementary to the housing and to the anticipation and attention of its problems.

- (b) To establish the programming standards to attain and administer the development of all the programs and activities in the field of dwellings of social interest.
- (c) To carry out the surveys and investigations that may be necessary to carry out its mission.
- (d) To direct and supervise all government activities connected with the development, financing and administration of housing programs of social interest and of in-site urban renewal or rehabilitation projects.
- (e) To develop the construction of housing projects for cooperatives organized by government organizations responsible for this function. It being understood, further, that the Department of Housing shall coordinate and refer to the agencies of the Cooperative Development Administration and the Cooperative Development Company of Puerto Rico the groups interested in the organization of housing cooperatives to be guided as to everything related with the organization and operation of this kind of cooperative. Provided, That said agencies shall retain the functions of promotion, development, education, organization and qualification of members of housing cooperatives.
- (f) To carry out activities and programs to improve the living conditions of the housing communities, and
- (g) to promote the participation of private entities in the development of dwellings of social interest and communal development.

Section 4. — [Powers and functions of Secretary] (3 L.P.R.A. § 441c)

In addition to the powers and faculties conferred upon the Secretary by this Act and by other laws, he/she shall have all the powers, faculties, attributions and prerogatives inherent to the office, among which are, without it being understood as a limitation, the following:

- (a) To make recommendations to the Governor and the Legislature for the formulation of the public policy on housing and communal development complementary to housing and to execute the action finally adopted.
- (b) To appoint, in accordance with the applicable laws, all the personnel of the Department, which shall be included in the Competitive Service.
- (c) To appoint a Subsecretary. In case of absence or temporary incapacity of the Secretary, the Subsecretary shall substitute him and shall exercise all functions and attributions of the Secretary, as acting Secretary of the Department of Housing, during said absence or incapacity. In case of death, resignation or dismissal from office of the Secretary, the Subsecretary shall, during the vacancy, fulfill the latter's functions, as acting Secretary.
- (d) To plan, direct and supervise the operation of the Department and its program.
- (e) To prescribe, repeal and amend regulations for the operation of the Department.
- (f) To enter into contracts or agreements as may be necessary and convenient for the purposes of attaining the goals of the Department and its programs with organizations of the government of the United States of America, and with state governments, other departments, agencies, municipalities, instrumentalities or public corporations of the Commonwealth and with private institutions; he is likewise empowered to accept and receive any donations, properties or funds from appropriations, advances, loans, or any other kind of transfer from other departments, agencies, municipalities, instrumentalities or public corporations of the Commonwealth of Puerto Rico or organizations of the Government of the United States of

America, and to accept and receive any other type of assistance or benefit when the latter originates from said government organizations or private nonprofit institutions.

(g) To enter into those contracts or agreements that may be necessary and convenient, with private enterprise and municipal administrations for the purpose of promoting and enabling the development of social interest housing, subject to the provisions of Act No. 57 of June 26, 1987 [29 L.P.R.A. §§ 823 et seq.] and other applicable laws. To such effects, the Secretary may purchase or acquire by any other means, sell, assign and exchange (barter) those properties and other real estate that may be useful for the development of said housing units.

(h) To acquire real property by any legal means, including without it being understood as a limitation, the following: by expropriation, purchase, option to purchase, purchase in installments, public auction, lease, cession, donation, exchange, or any other available legal mean[s], and to retain, keep, employ, make use of, or avail himself/herself of any property thus acquired and to sell, convey or otherwise lease, dispose, or transfer any of its real property, under the terms and conditions deemed appropriate, to carry out the ends and purposes of the Department such as the promotion and implementation of the housing public policy, the complementary housing development communities, and the promotion and development of urban renewal projects. Said real property is hereby declared of public use and may be directly expropriated by the Department without prior declaration of public use as provided by Section 2 of the General Law of Eminent Domain of March 12, 1903, [32 L.P.R.R.A. § 2902], or any provision of subsequent laws. Any procedure, transaction, agreement, or contract including, without being limited to appropriation, acquisition, sale, leasing, usufruct, or any other transfer, alienation or cession of any real property, or any other rights thereon, of which the Department is a party thereof, shall not be subject to the provisions of Act No. 12 of December 10, 1975, as amended [28 L.P.R.A. §§ 31--31o], or any subsequent law or the requirement of public transaction consultation provided in Section 21 of Act No. 75 of June 24, 1975, as amended [23 L.P.R.A. § 62t], and the regulations applicable thereto. The Department of the Housing shall not be exempted from submitting a location consultation to the Planning Board for the intended use of the acquired property. The Planning Board retain the power to determine the types of use for which the Department of Housing shall have no need to submit a location consultation for the acquired properties. In order to guarantee the public purpose of eminent domain, the Secretary of the Department of Housing shall issue a certification expressly stating the public purpose intended for the property to be acquired. The Planning Board shall issue its opinion within sixty (60) days after the presentation of the eminent domain proceeding, stating that the intended use of the property complies with the Integral Development Plan, the Four-Year Investment Program and the Land-Use Plans of Puerto Rico, and that the same allows for subsequent procedures for all public improvements, unless it has been expressly exempted from such filing through a resolution of the Planning Board. Should the Planning Board issue no opinion within sixty (60) days, it shall be deemed as approved. The opinion issued by the Planning Board shall be a directive in nature, the same shall not be sufficient cause to hold the eminent domain process. For the purposes of this Act, Urban Renewal Projects shall mean the uses and facilities needed to create inhabitable cities and communities, among which are, without it being understood as a limitation, community, recreational, cultural, commercial, educational, artistic and housing uses and facilities of all kinds.

(i) The Secretary may, without it being understood that he/she is obligated to do so, coordinate, transact, contract, defray and carryout the necessary or convenient functions of relocation related to the fulfillment of his/her responsibilities and specifically related to the exercise of the power to acquire real property. Pursuant to this faculty, the Secretary may defray the expenses for the relocation of displaced persons, families or businesses brought about by the acquisition of real properties by or at the behest of the Department. The Secretary may establish through regulations, the terms and conditions to qualify for the payment of relocation expenses and the amounts which the Department may pay for this item, which shall not exceed the amount of ten thousand dollars (\$10,000) in the case of individuals or families and of twenty thousand dollars (\$20,000) in the case of businesses to be relocated. In additions to said payments for relocation the Secretary may make:

(1) An additional payment of not less than twenty thousand dollars (\$20,000.00) to an individual or family relocated from their main residence, or the owner or occupant of the latter for a period of not less than 180 days, as of the date the negotiations of the Department have been initiated to acquire the residence or before it is known that said negotiations would be initiated, whichever is first, or as of any other event the Secretary may determine. Said additional payment shall be made to cover the following costs:

(i) The amount, if any, which added to the cost of the residence acquired by the Department, totals an amount that represents the reasonable cost of a comparable replacement residence.

(ii) The amount, if any, that would compensate said displaced individual for the increase in interest payments and other expenses required by a financial entity to finance the acquisition of a comparable replacement residence. Said amount may only be paid if the residence acquired by the Department had been mortgaged for a period of not less than 180 days, as of the date the negotiations of the Department have been initiated to acquire the residence or before it is known that said negotiations would be initiated, whichever is first, or as of any other event the Secretary may determine.

(iii) The amount, if any, that represents the expenses to establish evidence of the property title, the fees for registration in the Property Registry, the mortgage insurance or other closing expenses incidental to the acquisition of a comparable replacement residence, but not including prepaid expenses.

Said additional payments shall be made solely to persons who acquire and occupy a decent, safe and sound replacement residence within one (1) year as of the date said person has received the final payment for the residence acquired by the Department.

Said term may be extended for just cause by the Secretary.

(2) An additional payment of not less than five thousand dollars (\$5,000) to a displaced individual or family that is not eligible for the additional payment under the preceding clause (1) of this subsection and that has been the legal occupant of the residence acquired by the Department for a period of not less than ninety (90) days, as of the date the negotiations of the Department have been initiated to acquire the residence or before it is known that said negotiations would be initiated, whichever is first, or as of any other event the Secretary may determine. Said additional payment shall be made to cover the following costs:

- (i) The amount needed to enable a person to lease a comparable residence for a period not to exceed thirty-six (36) months. The Secretary may discretionally pay said amount in periodic payments to the leaseholder or directly to the lessor.
- (ii) Said payment, as an alternative, may be made so that said individual may acquire by purchase, a decent, safe and sound replacement residence within one (1) year as of the date the negotiations of the Department have been initiated to acquire the residence or before it is known that said negotiations would be initiated, whichever is first, or as of any other event the Secretary may determine.
- (3) If a program to be implemented by the Department cannot be developed because there are no comparable residences available and the Secretary is unable to make said residences available, then the Secretary may take all the necessary steps to provide residences for the displaced individuals.

Nothing in this subsection shall be understood to be the creation of a new element of value or a cause of action in an expropriation process. The express powers conferred upon the Secretary in this subsection shall be understood to be purely discretionary and create no obligation whatsoever for the Department.

- (j) To delegate on subordinate officials and to authorize the latter to subdelegate on other officials, any function or faculty assigned or conferred upon him by this or any other law, except that the faculty to promulgate regulations shall not be delegable.

Section 4-A. — Purchases, supplies and auxiliary services - System and regulation. (3 L.P.R.A. § 441c-1)

It is hereby declared that the timely acquisition of materials, supplies, equipment and non-personal services is essential for an effective administration of the obligations of the Department of Housing. Timely availability of all of the materials, supplies, equipment and non-personal services that are essential for the prompt and efficient execution of activities, programs and projects of the Department and rendering of services which the Department is bound to offer, contribute to achieve of the purposes of this Act.

The Department shall acquire through, purchase, lease, gift or any other legal form, equipment, materials, supplies, goods and non-personal services that are necessary for the functioning and operation of the Department and its attached agencies and for the programs, activities and services to be executed by them.

The Secretary shall design and implement a program or system for the acquisition and distribution of materials, equipment and supplies. The Secretary shall also adopt, the rules, procedures and systems that may be necessary to assure that all requisitions for materials, supplies, equipment and non-personal services are processed without undue delay and at the lowest cost possible. Likewise, it shall establish an effective system for the distribution of materials, equipment and supplies pursuant to the rules established through regulations.

To such effects, the Department of Housing and its operating components are hereby exempted from applicability of the provisions of Act No. 164 of July 23 , 1974, as amended [3 L.P.R.A. §§ 931 et seq.], known as the "General Services Administration Organic Act", subject to the development and implementation of the corresponding regulations and procedures.

Section 4-B. — Acquisition of equipment, machinery, materials, supplies, goods and services with federal funds. (3 L.P.R.A. § 441c-2)

Notwithstanding what has been provided above, the acquisition of equipment, machinery, materials, supplies, goods and services with funds proceeding from programs or projects of the Department of Housing and Urban Development of the United States (HUD), or any other agency of the federal government, shall be conducted pursuant to the processing methods and parameters on money amounts established in the applicable federal regulations, even when only a part thereof is acquired with federal funds.

Section 4-C. — Acquisition system for equipment, machinery, materials, supplies, goods and non-personal services; Bid Review Board. (3 L.P.R.A. § 441c-3)

(a) Except as otherwise provided in the applicable federal regulations, the Department shall be subject to the provisions of Act No. 42 of August 5, 1989 and Act No. 109 of July 12, 1985, as amended [3 L.P.R.A. §§ 927 et seq.], with respect to the use of construction materials manufactured in Puerto Rico in works defrayed with public funds.

(b) The Secretary shall establish through regulations the rules and procedures necessary for the application of the provisions of this section, which shall guarantee the purity of every procedure for acquisition and purchase of goods or for the contracting of works with or without public bid, in order to protect the public interest and that of bidders.

(c) The Bid Review Board is hereby created to attend and resolve the appeals initiated by persons affected by decisions by the Bid Board of the Department and review of decisions in the area of purchases and supplies as entrusted by the Secretary. The Review Board shall also be empowered to formulate recommendations to the Secretary regarding the regulations in effect on purchases and supplies.

The Bid Review Board shall be composed by three (3) persons of the highest moral repute and renowned competence and experience in the matters that they shall be addressing as members of this body. The members of the Review Board shall be appointed by the Secretary and the same shall not be officials or employees of the Department or its attached agencies, nor shall they have any direct or indirect interest in enterprises, businesses or projects that do business with the Department and its attached agencies, or that are total or partially financed by the Department or its attached agencies. The Secretary shall appoint one of its members as Chairman of the Board, who shall be an attorney authorized to exercise the legal profession.

The Review Board shall evaluate and resolve any appeals filed by those persons affected by the decisions of the Bid Board and shall abide by the regulations established for the processing of these appeals pursuant to the provisions of Act No. 170 of August 12, 1988 [3 L.P.R.A. §§ 2101 et seq.], known as the "Uniform Administrative Procedure Act of the Commonwealth of Puerto Rico".

In the exercise of its functions, the Review Board may hold administrative hearings, receive testimonies, summon witnesses, require the presentation of books, documents and any other proof, may receive and examine this and any other relevant evidence, regulate the hearings and issue orders pursuant to its resolutions.

Any decision of the Bid Review Board may be appealed before the Court of First Instance, as established in Act No. 170 of August 12, 1988 [3 L.P.R.A. §§ 2101 et seq.], cited above.

Section 5. — [Transfers] (3 L.P.R.A. § 441d)

(a) All the powers, duties, functions, faculties, contracts, obligations, exemptions and privileges of the Urban Renewal and Housing Administration created by Act No. 88 of June 22, 1971, after the abolishment of the latter, transferred to the Department.

(b) The Administration of Social Programs of the Department of Agriculture is hereby transferred with its functions, programs and activities to the Department. Any reference made to the Secretary of Agriculture or to the Department of Agriculture in the laws which regulate the Social Programs Administration shall, hereafter, be understood as having been made to the Secretary.

Section 6. — [Attachment of other instrumentalities] (3 L.P.R.A. § 441e)

The Housing Bank and Finance Agency of Puerto Rico, created by Act No. 146 of June 30, 1961, is hereby attached to the Department, and shall continue operating as a public corporation with the functions and programs conferred by said sections or any others. The powers and faculties of the Board of Directors of said corporation are hereby transferred to the Secretary and said board is hereby eliminated.

Section 7. — [Advisory and consultative committees] (3 L.P.R.A. § 441f)

The Secretary is hereby authorized to appoint consultative and advisory committees composed of residents of public housing projects and private citizens in representation of the different sectors connected with the commitment of the Department.

Section 8. — [Internal organization] (3 L.P.R.A. § 441g)

The Secretary is hereby empowered to establish, jointly with the Office of the Government Management and Budget, and with the approval of the Governor, the internal organization of the Department and he may for such purposes reorganize, consolidate, modify, abolish or annul the programs, activities and existing units, as well as create new units, but subject to the condition that no program which has been established by law may be eliminated without the consent of the Legislature. It is herein provided that in the organization and reorganization there may be transferred to the Department functions, programs or activities of the public corporations or agencies attached and vice-versa.

It is hereby provided that the Secretary may transfer or distribute among the various bodies, corporations, administrations, divisions or dependencies that are a part of, or attached to the Department, the powers, duties, functions, programs, activities, faculties, contracts, obligations, exemptions and privileges assigned, to the existing programs, activities or units, including the programs ruled by federal legislation. The Secretary is empowered to endow the functions, programs or activities that are transferred or distributed, with the properties of any nature, that are needed or appropriate for its operation.

To such purposes, the Secretary may delegate on any official of the Department to carry out all matters related to said transfer. The measures needed to ensure that the Department and its dependencies will assume the direction and administration of the programs, services,

units, divisions and dependencies shall be adopted so that the services rendered by the Department are not interrupted or affected.

Section 9. — [Additional transfers] (3 L.P.R.A. § 441h)

There are hereby transferred to the Department to be used, employed or expended in connection with the functions or activities transferred by this Act, the records and property which are being used in connection with said functions or activities, the personnel now employed in such functions or activities, the appropriations and available resources or which shall be available to be used in connection with said functions and activities.

Section 10. — [Rights of employees] (3 L.P.R.A. § 441i)

There is hereby guaranteed to all employees included in the transfers provided by this Act, the rights acquired under the personnel laws and regulations, as well as the rights, privileges, obligations and status with respect to any retirement, pension or savings and loan fund system or systems to which they are affiliated upon the approval of this act.

Section 11. — [Exceptions] (3 L.P.R.A. § 441j)

(a) No provision of this Act shall be understood as modifying, altering or invalidating any resolution, agreement, claim or contract that the officers responsible of the agencies and programs transferred hereunder may have executed and which are in force upon the taking of effect of this act.

(b) Except as to the modifications that may be necessary in adjusting the agencies and programs transferred under this Act to the departmental structure, the laws governing said agencies and programs shall continue in force, except those provisions which might be in conflict with this Act, which are hereby repealed.

(c) All regulations governing the operation of the organizations, programs and functions transferred by this Act and which are in force upon the taking of effect of this act shall continue in force until same be altered, modified, amended, repealed or substituted by the Secretary, pursuant to the law.

(d) The Governor is hereby authorized to adopt those transitory measures and to make the decisions that may be necessary for the purposes of making the transfers decreed by this Act without interrupting the administrative procedures and the functions of any of the organizations and programs transferred.

(e) The Governor is likewise hereby authorized to designate temporarily an officer to coordinate in his name the pertinent actions to secure that the Department begins its operations without affecting the normal programming of said agency.

Section 12. —

The provisions of this Act shall take effect January 2, 1973.

Note. This compilation was prepared by the Puerto Rico OMB staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text. Compiled by the Office of Management and Budget Library.