



**CONSTRUIMOS**

# CDBG-DR PROGRAM GUIDELINES

TITLE CLEARANCE PROGRAM

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PUERTO RICO DEPARTMENT OF HOUSING  
CDBG-DR PROGRAM GUIDELINES  
**TITLE CLEARANCE PROGRAM**  
VERSION CONTROL

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## **Established Periods of Time**

Unless otherwise specified, all established periods of time addressed in this and all CDBG-DR Program Guidelines will be considered calendar days. On this matter, PRDOH, as grantee, will follow Rule 68.1 of the Rules of Civil Procedure of Puerto Rico, 32 LPRA Ap. V, R. 68.1.

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## 1 Program Overview

Tens of thousands of homes within Puerto Rico are still in the recovery process due to the impacts suffered by hurricanes Irma and María. These homes suffered -in some cases- major hurricane damage, thus, many require rehabilitation, reconstruction, or relocation. A large number of impacted homeowners have struggled to receive federal assistance, in part due to uncertain ownership records of the affected properties.

Many homeowners in Puerto Rico lack a legal property title, which, for the most part, is a direct consequence of migration flows dating back to the 1930's and 1940's. In addition, there is no legal requirement to register title to properties on the Island, so families have lived decades without registering their ownership of land or structures with the government and some have subdivided properties without complying with the applicable rules and regulations. Therefore, such homeowners do not hold clear and marketable titles to their properties.

After the impact of hurricanes Irma and María, the Federal Emergency Management Agency (**FEMA**) denied financial assistance to individuals who could not prove ownership of their own homes. According to the Housing Damage Assessment and Recovery Strategies Report for Puerto Rico, FEMA estimates that nearly sixty percent (60%) of the one point one (1.1) million applications for financial support were found ineligible. Although many factors contributed, one of the main reasons was the Applicant's inability to prove that they own the homes and/or the land for which they were claiming damages.<sup>1</sup> This overwhelming denial rate has left many without much needed critical assistance resulting in a large unmet housing need. Furthermore, residents who lack clear title may be eligible for assistance under the Home Repair, Reconstruction, or Relocation Program (**R3 Program**). Nonetheless, these Applicants can only move forward in the R3 Program up to the point of Award Coordination. To move forward with an award under the R3 Program, Applicants need to have clear title due to local permit requirements for construction works in Puerto Rico.

The Title Clearance Program will benefit low- and moderate-income (**LMI**) persons (below eighty percent (80%) Area Median Family Income (**AMFI**)) according to HUD Modified Income Limits for CDBG-DR Puerto Rico<sup>2</sup> by assisting Applicants with the task of obtaining clear titles to their properties. Obtaining a clear title will result in long-term sustainability and security for LMI residents and alleviate issues caused by lack of clear title when applying for other federal programs. A clear title is a registered title within government records in the name of the owner of the real property.

The primary goal of the Program is to provide approximately forty eight thousand (48,000) clear titles to Puerto Rico Department of Housing (**PRDOH**) owned properties that were damaged by the hurricanes and whose Applicants occupy the land with "right of use

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<sup>1</sup><http://spp-pr.org/wp-content/uploads/downloads/2018/07/HUD-Housing-Damage-Assessment-Recovery-Strategies-6-29-18.pdf>

<sup>2</sup> <https://www.hudexchange.info/resources/documents/2018-Puerto-Rico-Income-Limits.pdf>.

and enjoyment" and/or "right of construction", in accordance with Act No. 26 of April 12, 1941, as amended, 28 LPRA § 241 *et seq.*, known as the "Land Law of Puerto Rico" (hereinafter **Act 26**).

However, the Program will assist in providing property titles to Applicants who occupy the land with "right of use and enjoyment" and/or "right of construction" in any Government owned properties. Those properties must be transferred to the PRDOH following the procedures established in Act No. 132 of July 1, 1975, as amended, 17 LPRA § 751 *et seq.*, known as "Dwellings Located on Another's Land Act", after which the PRDOH will be authorized to grant property titles to individuals. The Program will also assist in providing property titles to Applicants who occupy private properties.

The Program will engage experts, including attorneys, paralegals, case managers, title clearance specialists, land surveyors, and appraisers in order to further their efforts to provide clear titles.

## 2 Program Objective

The goal of the Program is to help LMI population in Puerto Rico to obtain clear and marketable titles of their properties. In order to achieve the aforementioned goal, the PRDOH will:

- Assist homeowners that lack a clear title to their properties or that are unable to register, under their name, their properties in government records;
- Establish a consistent process to certify that a homeowner owns and controls a property (land or structure);
- Promote long-term self-sustainability;
- Address and resolve issues that prevent ownership recording which do not require any construction/repair work to the subject property; and
- Adopt a strategic workflow to conduct an extensive title search, identify issues and resolve them, including but not limited to, the resolution of inheritance situations that prevent title recording.

## 3 Eligible Use of Funds

Section 105(a)(8) of the Housing Community Development Act of 1974 (**HCDA**), as amended, 42 U.S.C. § 5305, provides that CDBG-DR funds may be used for public service.

Funds under this Program may be used for necessary and reasonable costs related to title clearance. This includes, but is not limited to:

- Title investigation / research;
- Case management services / title clearance specialists;
- Land surveys and plans;
- Appraisals;
- Engineering / structural assessments;
- Recording fees;
- Property Registry Certifications;

- Preparation and filing of all needed legal documentation;
- Serving of summons and notifications, if needed;
- Presentation of documents in the Property Registry and other governmental agencies;
- Filing, handling, and solving non-contentious legal issues in court; and,
- Other related costs.

## 4 Intake

Interested residents may apply for the Title Clearance Program via one of the following methods:

- Complete an application online by visiting [www.cdbg-dr.gov](http://www.cdbg-dr.gov).
- Visit a participating PRDOH Regional Office or outreach office.
- Visit an intake center.
- Download the CDBG-DR Puerto Rico app from the Google Play Store or iTunes and follow the instructions provided.
- Call 1-833-234-CDBG to make an appointment.

Specific information regarding intake methods, including phone numbers, location of intake centers, web address, and information on how to download the mobile app and start date will be posted to [www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov), when available. Intake centers will be located in PRDOH's Regional Offices throughout the Island.

Applicants will be required to complete a Program Intake Application and provide supporting documents necessary for eligibility review. All documentation submitted by the Applicant must be valid at the time of submission. Title Clearance Specialists will be available to assist the Applicant through the intake process and answer questions as needed. Applicants who do not submit all supporting documents required for eligibility review at the time of application will be notified of outstanding documents via a Required Documents Notification. The Applicant must submit all documents outlined in this notification before being reviewed for eligibility.

### 4.1 Program Referrals

Other Programs in the CDBG-DR Housing Portfolio, like the R3 Program, may refer applicants to the Title Clearance Program for support in obtaining clear title. Whenever applicants are referred to the Title Clearance Program from another program in the PRDOH CDBG-DR Housing Portfolio, the Title Clearance Program will accept required documents and information directly from the other program to ease the burden on the applicant and reduce the need for the applicant to submit the same documents and information multiple times.

In general terms, if an affidavit was used to demonstrate ownership of a storm-impacted property under another Housing Program, the Applicant will be referred to the Title Clearance Program. Program-referred Applicants will be required to participate and cooperate with the requests from the Title Clearance program until such time when their

title is cleared, or they receive official notification from the Title Clearance Program that their Application has been closed.

Applicants who are referred by other Housing Programs within the CDBG-DR Housing Portfolio are required to obtain clear title before receiving benefits from the Housing Program by which they were referred. Program-referred Applicants who are found to be non-responsive or non-cooperative with the Title Clearance Program may be determined to be ineligible to receive benefits under the Housing Program by which they were referred. All instances of non-responsive or non-cooperative Program-referred Applicants will be referred to the corresponding Housing Program for further action. Non-responsive or non-cooperative Program-referred Applicants may be required to repay the PRDOH for Program funds spent if they are found to have submitted inaccurate or incomplete information to appear to meet Title Clearance requirements to obtain an award under any other Housing Program.

#### **4.2 Communication Standards**

Multiple standard methods of communication will be provided to ensure Applicants receive timely and accurate information regarding the status of their applications. Methods of communication include, but are not limited to, the CDBG-DR website, email address, telephone number, postal address, letters, notifications, and through the Title Clearance Specialist or the respective housing program Case Manager.

Applicants may submit a question or complaint to the Program at any time utilizing any of the above options. The Program will promptly address all Applicant complaints and document results to improve Program operations throughout the life of the Program. For further information on this subject, please refer to the Citizen Comments and Complaints section of the Cross-Cutting Guidelines found at [www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov).

#### **4.3 Applicant Identification**

As part of the Program Application, all applicants will be required to submit documentation to prove their identity. This documentation may include, but is not limited to, the following:

- Government Issued Photo Identification (Federal or State issued);
- Driver's License;
- Passport;
- Military ID Card; or
- Certificate of Naturalization or Permanent Resident Card.

#### **4.4 Citizenship/Migratory Status**

Only U.S citizens, non-citizen nationals, or qualified aliens, as defined in the following chart, are eligible to receive assistance. Title Specialists will verify citizenship/migratory status, according to the rules and guides presented in **Table 1**.

**Table 1: Citizenship/Migratory Statues Rules and Guides**

<b>Status</b>	<b>Definition</b>
U.S. Citizen	A person born in one of the fifty (50) states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, or the Northern Mariana Islands; a person born outside of the U.S. to at least one U.S parent; or a naturalized citizen.
Non-citizen National	A person born in an outlying possession of the U.S. (e.g. American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. All U.S. citizens are U.S. nationals; however, not every U.S. national is a U.S. citizen.
Qualified Alien	<ul style="list-style-type: none"> <li>• Legal permanent resident ("green card" holder)</li> <li>• An asylee, refugee, or an alien whose deportation is being withheld</li> <li>• Alien paroled into the U.S. for at least one year</li> <li>• Alien granted conditional entry (per law in effect prior to April 1, 1980)</li> <li>• Cuban/Haitian entrant</li> <li>• Aliens in the U.S. who have been abused, subject to battery or extreme cruelty by a spouse or other family/household member, or have been a victim of a severe form of human trafficking</li> <li>• Aliens whose children have been abused and alien children whose parent has been abused to fit certain criteria</li> </ul>

If an Applicant does not meet any of the above criteria, the household may still apply for Title Clearance Program if:

- Another adult owner meets the eligibility citizenship criteria described in the table above; or
- The parent or guardian of a minor who is a U.S. citizen, non-citizen national, or a qualified alien, applies for assistance on behalf of the child, as long as they live in the same household. The parent or guardian must register as the co-Applicant.

All Applicants must submit documentation to prove their citizenship status. This documentation may include, but is not limited to:

- Passport;
- Birth certificate;
- Certificate of naturalization;
- Certificate of citizenship, or
- Permanent resident card (green card)

In case the Applicant is unable to provide any of the documents listed above, on a case by case basis, the Title Clearance Program will accept as proof of citizenship or legal presence documentation listed in the Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility under Title IV of the Personal Responsibility and Work

Opportunity Reconciliation Act of 1996, Federal Register Vol. 62, No. 221 (1997), 62 FR 61344.

Temporary tourist visa holders, foreign students, temporary work visa holders, and habitual residents, such as citizens of the Federated States of Micronesia and the Republic of Marshall Islands, are ineligible for the Program.

#### **4.5 Program Priorities**

During the first **ninety (90) days** of the Application intake period, the following applicants will be given priority:

- **Applicants who have experienced challenges receiving federal assistance due to lack of clear title:** The Title Clearance Program will use third-party data and/or documentation provided by the applicant to verify denial of assistance due to lack of clear title for the purpose of prioritization.
- **Elderly applicants:** Elderly applicants are those aged sixty-five (65) years or older at the time of application. The elderly applicant must be a head of household or co-head of household, as in the case of a married couple, to qualify for prioritization
- **Applicants who occupy properties in the PRDOH land portfolio:** Applicants who are able to demonstrate they were granted “right to use” or “right of enjoyment” of a parcel owned by the PRDOH under Act 26 will be prioritized.

Additional to priorities listed above, the **Program will also prioritize Applicants who are eligible for assistance in another housing program in the CDBG-DR Housing Portfolio when referred.** Referrals from other CDBG-DR Housing Portfolio Programs will be prioritized even beyond the **ninety (90) days** period for the other priorities. The Title Clearance Program will rely on information sharing between the programs in the CDBG-DR Housing portfolio to identify applicants who are eligible to participate in other programs.

Priority for the aforementioned applicants does not preclude non-priority persons from applying to the Title Clearance Program during the first **ninety (90) days** of application intake. Non-priority applicants may apply and submit documentation required for eligibility review during the priority period. Eligibility review for non-priority applicants who submit all required documentation during the priority period will be reviewed for eligibility when all complete priority applications have been reviewed or after the end of the priority period, whichever comes first.

## **5 Applicant Eligibility**

Applicants to the Title Clearance Program will be reviewed for eligibility in compliance with program eligibility requirements. Applicants are required to submit all documents and information needed to complete eligibility review. Failure to disclose accurate and complete information may affect eligibility and all such instances will be referred to the

Program for further action. Applicants may be required to repay the PRDOH, if they are found to have submitted inaccurate or incomplete information to appear to meet eligibility requirements. Each application will be reviewed for the following eligibility and benefit determination criteria:

- The applicant must qualify as a low- or moderate-income (LMI);
- The applicant must have occupied the subject property as a primary residence at the time of the storm(s);
- The subject property must be the applicant's primary residence;
- The applicant must have an ownership claim over the subject property;
- The applicant does not have a formal property title for the subject property;
- Subject property must not be located in floodplain, floodway, or landslide risk area. Exceptions to this eligibility criterion will be made in the event title clearance is necessary for the applicant to receive benefits from other Programs within the CDBG-DR Housing Portfolio or cases where Applicant was granted "right to use" or "right of enjoyment" over the plot of land occupied by any local laws or regulations.

## **5.1 Income Verification and Household Size**

All applicants must meet low- or moderate-income limits, which are adjusted for family size. Total annual household gross income, for all household members, must not exceed eighty percent (80%) income limits, as defined by adjusted income limits for Puerto Rico. See HUD Modified Income Limits for CDBG-DR Puerto Rico<sup>3</sup> as well as *Impact to Demographics* in the Action Plan, as amended. These income limits apply to all municipalities in Puerto Rico.

### **5.1.1 Household Size**

A household is defined as all persons occupying the same unit, regardless of familial status or relationship to one another. Household members include all persons, including minor children and adults, whose current primary residence is the storm-impacted property or whose primary residence was the storm-damaged property at the time of the disaster.

### **5.1.2 Calculating Household Income**

Household income shall be calculated based on the adjusted gross income as defined for purposes of reporting under Internal Revenue Service (**IRS**) Form 1040 series for individual Federal annual income tax purposes<sup>4</sup>. Income for all household members will be considered when calculating annual household income. When determining the number of household members and annual household income, the following should be taken into consideration:

- Minor children are considered household members. Earned income of minor children is not considered as part of total annual household income. Unearned

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<sup>3</sup> <https://www.hudexchange.info/resources/documents/2018-Puerto-Rico-Income-Limits.pdf>

<sup>4</sup> <https://www.irs.gov/e-file-providers/definition-of-adjusted-gross-income>

income attributable to minor children, such as child support or other benefits paid on behalf of a minor child are considered in the calculation of household income.

- Minor children who are subject to shared custody agreements may be counted as household members if the minor child lives in the residence at least fifty percent (50%) of the time.
- Temporarily absent family members are considered household members and their income is considered in calculation of household income, regardless of how much the temporarily absent family member contributes to the household.
- Paid, non-related, live-in aides, whether paid by the family or through a social service program, are not considered household members. Income of live-in aides is not considered in the calculation of household income. Related persons do not qualify as live-in aides.
- Permanently absent family members, such as a spouse who resides permanently in a nursing home, may be considered a household member, at the discretion of the head of household/program applicant. If the head of household opts to include a permanently absent family member in the household, the income of the permanently absent household member will be counted in the calculation of annual household income. If the head of household chooses not to include the permanently absent family member as part of the household, the income of the permanently absent family member will not be considered in the calculation of annual household income.

### 5.1.3 Income Verification Required Documentation

Applicants must provide income documentation for all household members age eighteen (18) and older at the time of Program application. Income types and associated documentation required for income verification may include, but are not limited to:

- Wages: Three (3) recent paystubs within the past three (3) months, W-2 Forms;
- Retirement/Social Security:
  - Three (3) Monthly Bank Statements (Social Security Benefits & Pension only),
  - Current Social Security Benefits letter (including benefits paid to minors),
  - Current Pension/Retirement Benefit letter (if applicable), or prior year 1099 form, and
  - Current Annuity Payment letter (if applicable), or prior year 1099 form;
- Self-Employment Income:
  - Most recent tax return (1040 or 1040A), and/or
  - Current year profit and loss statement;
- Rental Income: Current lease agreements
- Unemployment Benefits: Current benefit letter with gross benefit amount;
- Court Ordered Alimony/Spousal Maintenance: Copy of court order documentation;
- Taxable Interest and Dividends (including amounts received by, or on behalf of minors);

- No Income: Adult household members who receive no income will be required to submit a Certification of No Income. These household members typically include those that are unemployed.

Documentation for other less common types of income will be assessed by the Program based on type of income reported.

## 5.2 Primary Residence

At the time of the storm(s), the damaged residence must have been occupied by the applicant and had to be the Applicant's primary residence. Primary residence is defined as the property that is occupied by the applicant for the majority of the calendar year. Second homes, vacation residences, and seasonal rental properties are not eligible for assistance. Applicants who moved into the damaged property after the storm/s are not eligible for assistance under this Program.

To the extent possible, the Program will validate primary residency through electronic verification utilizing locally or federally maintained registries, such as FEMA Individual Assistance (**FEMA IA**) or Small Business Administration (**SBA**) disaster home loan databases.

Documentation used to verify primary residence includes, but is not limited to:

- 2017 Federal income tax return listing the damaged property address;
- 2017 Puerto Rico income tax return listing the damaged property address;
- FEMA IA award letter for damaged property address;
- SBA Disaster Home Loan award letter for damaged property address;
- Driver's license or state-issued ID card showing the damaged property address issued prior to the date of the storm/s and expiring after;
- Utility bills addressed to applicant at damaged property address showing services were provided in the month preceding or month of the disaster (must indicate household utility usage during pre-storms time period);
- Credit card bill or bank statement sent to the applicant at the damaged property address in the month preceding or the month of the disaster;
- Insurance documentation indicating primary residence, such as a homeowner's endorsement;
- Employer's statements, including pay stubs and similar employment documents (must be dated during pre-storms time period);
- Voter registration card (must have been current at the time of the disaster);
- Homestead exemption verified through property tax records (if applicable)<sup>5</sup>; and
- Other documentation will be reviewed and considered on a case by case basis.

Documents provided to demonstrate primary residency should include applicant name, appropriate date demonstrating residence at the time of the storm/s, and damaged property address. None of the forms of documentation listed above, by itself, necessarily

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<sup>5</sup> See Act No. 195-2011, as amended, known as the Puerto Rico Homestead Exemption Act, 31 L.P.R.A. sec. 1858 *et seq.*

proves primary residence. The Program will review and assess all available documentation together and determine primary residence based on the applicant's demonstration of consistency across the variety of documentation provided. In the event that inconsistencies in documentation are found, the application may not move forward in the eligibility process until the inconsistencies are resolved by the applicant. All applicants to the Program bear the burden of proof for providing consistent evidence to prove primary residency at the time of the disaster.

Special Circumstances related to Primary Residency:

- Properties held in trust for the benefit of natural persons can be eligible for assistance if at least one of the occupants at the time of the storm/s was a current beneficiary of the trust. If the property was not the primary residence for the current beneficiaries or trustee(s), the applicant(s) is(are) not eligible for assistance. The trustee's powers must include the ability to affect the damaged property. If the trustee's powers do not include the ability to affect the damaged property, all beneficiaries with an interest in the damaged property must sign the closing documents along with the trustee.
- Applicants/homeowners who were in the United States military and deployed outside of Puerto Rico at the time of the storm/s may qualify for the Program.
- Applicants/homeowners who were temporarily in a nursing home, assisted living, or other medical facility at the time of the storm/s may qualify for the Program.
- Applicants/homeowners who were incarcerated and residing at a law enforcement facility at the time of the storm/s may qualify for the Program.
- If the owner/occupant at the time of the storm/s subsequently died, the applicant (heir) may qualify for the Program if evidence is provided that the deceased property owner and the applicant/heir used the home as his/her primary residence at the time of the storm/s.

### **5.3 Ownership Claim**

As part of the eligibility process, Applicant must submit evidence supporting ownership claim. Because the purpose of the Title Clearance Program is to provide applicants with clear title to subject property, the Title Clearance Program accepts non-traditional ownership documentation, coupled with an Ownership Affidavit. The affidavit shall include the length of time Applicant has lived in the disaster-damaged property, circumstances that grant ownership of the property to Applicant, explanation of circumstances that prevent standard verification, and which certifies one of the following circumstances applies:

- There are no other parties who have the right to claim ownership,
- Any additional parties with right to claim ownership have agreed to participate jointly as a co-Applicant in program, or
- Any additional parties with right to claim ownership could not be located, after reasonable attempts.

Acceptable ownership documents may include, but are not limited to, one of the following and must include the name of the Applicant/co-Applicant. The Ownership Affidavit should be accompanied by alternative forms of supporting ownership documentation, when applicable, such as:

- Probated Will or Will accompanied with a Certificate of Validity; Proof of inheritance;
- Declaratory resolution of heirs;
- Court order or judgment granting an ownership interest in the property;
- Divorce Judgment granting an ownership interest in the property;
- Private Contract for Sale: If the applicant purchased the property in a private owner sale the contract must be confirmed as satisfied with additional supporting documentation;
- Evidence of usufruct contract;
- Evidence of 99-year lease;
- Proof that the applicant occupies the land with "right of use or enjoyment" and/or "right of construction" in accordance with applicable laws and regulations
- Death certificate of the homeowner and Birth certificate (to prove that Applicant is an offspring of a deceased homeowner);
- Marriage certificate;
- If the owner of the storm/s impacted structure died after September 20, 2017, the owner's heir/s may be eligible if, and only if, the heir/s can provide proof of heirship and a death certificate for the deceased owner;
- FEMA correspondence to Applicant demonstrating the Applicant applied for and received FEMA IA (individual assistance) for damaged property address;
- Mortgage payment book or other mortgage documents;
- Real property/Home insurance policy indicating damaged property address; and/or
- Property tax statements, receipts, or tax bill issued by the Municipal Revenue Collection Center (CRIM, for its Spanish acronym).
- Other documents will be considered on a case by case basis.

Because demonstration of ownership is unique to the circumstances experienced by each individual applicant, there is no one document that demonstrates ownership. Applicants are encouraged to provide all documents that provide support of the ownership claim for the subject property. In some instances, more than one document may be used to demonstrate ownership claim in the subject property.

#### **5.4 Property Location**

Properties located in the 100-year floodplain or in a floodway are not eligible for assistance under the Title Clearance Program unless title clearance is a required in order for the applicant to receive benefits from other Programs within the CDBG-DR Housing Portfolio. The 100-year floodplain means the floodplain of concern for this part and is the area subject to inundation from a flood having a one percent (1%) or greater chance of being equaled or exceeded in any given year. The Title Clearance Program will use the

most current, approved version of FEMA's Flood Insurance Rate Map<sup>6</sup> (**FIRM**), as well as the most current, approved version of FEMA's Advisory Maps<sup>7</sup>. to identify whether a property is located within or outside of the 100-year floodplain.

## 5.5 Eligibility / Ineligibility Determination

All applications will be thoroughly reviewed during the intake and eligibility process to ensure Applicants are eligible for the Program prior to receiving title clearance assistance. Eligibility determinations will be made based on documentation submitted by the Applicant and verification of information by third-party sources, including federal databases. These decisions will be made based on applicable statutes, codes of federal regulations, state and local codes and ordinances, local guidelines, and Program guidelines.

If at any point during the process, it is found that the Applicant is ineligible for the Program, the Applicant will be notified via a Title Clearance Ineligibility Determination Notification. This ineligibility notification will outline the determination made as well as next steps, if applicable, and instructions for how to appeal the decision. See the Program Based Reconsideration and/or Administrative Review section of this document.

Applicants who are deemed eligible will be sent a preliminary Title Clearance Eligibility Determination Notification informing them of the preliminary eligibility determination and provide a description of required next steps. Once Applicants are deemed eligible, the Program will have a **one-hundred and eighty (180) days** period to resolve title issues. The Title Clearance Program will extend the period in cases where the Program is awaiting a decision or determination from a third party (i.e. not from PRDOH or the Applicant), such as a decision from the court or a regulatory agency; and on any other cases deemed appropriate by the PRDOH. If the Title Clearance program does not extend the time period, the Applicant is entitled to request an extension of the time period through the Program Based Reconsideration Request process (see the Program Based Reconsideration and/or Administrative Review section of this Guidelines). If the process to clear the title exceeds the **one-hundred and eighty (180) days** period and any approved extensions, the Application will be closed out due to unobtainable title.

## 6 Title Clearance Process

The process to provide a clear and marketable title to applicants will vary on a case-by-case basis and will depend on the specific circumstances for each case.

### 6.1 Implementation Structure

The PRDOH has been providing cleared titles to individuals and families residing within communities established by means of Title V of Act 26. These are communities established in public lands currently owned by PRDOH where families of scarce resources have been

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<sup>6</sup> <https://msc.fema.gov/portal/home>

<sup>7</sup> <http://cedd.pr.gov/fema/index.php/461-2/>

provided with “right of construction” and “right of enjoyment” in perpetuity through a Usufruct Contract.

PRDOH will make use of these specialized resources to administer the provision of clear and marketable titles to program Applicants. The already existing resources of the PRDOH will be reinforced with additional staff contracted by PRDOH. Internal staff of the PRDOH will be responsible for performing applicant interviews and field investigations, analysis of each case to determine the required tasks to provide a clear and marketable title, and the overall case management, ensuring that Applicants are always treated fairly and in accordance with federal, state, and local laws and regulations as applicable to each specific case.

PRDOH staff for the Program will be located at the PRDOH's Regional Offices and the PRDOH's Headquarters. Each Regional Office will handle cases for properties located within their jurisdictions. PRDOH Regional Offices and their covered Municipalities are as follows.

- **Aguadilla Region.** Will manage Applications from the following Municipalities:
  - Aguada
  - Las Marías
  - Rincón
  - Aguadilla
  - Moca
  - San Sebastián
  - Isabela
  - Quebradillas
  
- **Arecibo Region.** Will manage Applications from the following Municipalities:
  - Arecibo
  - Florida
  - Morovis
  - Barceloneta
  - Hatillo
  - Vega Alta
  - Camuy
  - Lares
  - Vega Baja
  - Ciales
  - Manatí
  
- **Bayamón Region.** Will manage Applications from the following Municipalities:
  - Bayamón
  - Corozal
  - Naranjito
  - Cataño
  - Dorado
  - Toa Alta
  - Comerío
  - Guaynabo
  - Toa Baja
  
- **Caguas Region.** Will manage Applications from the following Municipalities:
  - Aguas Buenas
  - Cidra
  - San Lorenzo
  - Caguas
  - Gurabo
  - Cayey
  - Juncos
  
- **Carolina Region.** Will manage Applications from the following Municipalities:
  - Canóvanas
  - Fajardo
  - Trujillo Alto
  - Carolina
  - Loíza
  - Vieques
  - Ceiba
  - Luquillo
  - Culebra
  - Río Grande
  
- **Guayama Region.** Will manage Applications from the following Municipalities:
  - Aibonito
  - Arroyo
  - Barranquitas

- Guayama
- Patillas
- Salinas
- Santa Isabel

- **Humacao Region.** Will manage Applications from the following Municipalities:
  - Humacao
  - Las Piedras
  - Maunabo
  - Naguabo
  - Yabucoa
- **Mayagüez Region.** Will manage Applications from the following Municipalities:
  - Añasco
  - Cabo Rojo
  - Gúanica
  - Hormigueros
  - Lajas
  - Maricao
  - Mayagüez
  - Sabana Grande
  - San Germán
  - Yauco
- **Ponce Region.** Will manage Applications from the following Municipalities:
  - Coamo
  - Guayanilla
  - Juana Díaz
  - Orocovis
  - Peñuelas
  - Ponce
  - Villalba
- **San Juan Region.** Will manage Applications from the following Municipalities:
  - San Juan
- **Utuado Region.** Will manage Applications from the following Municipalities:
  - Adjuntas
  - Jayuya
  - Utuado

## 6.2 Title-Related Services

The Title Clearance Program will engage vendors to support and provide, on a case-by-case basis, title-related services required to obtain clear and marketable titles. These vendors, depending on the specific needs of each Application, will provide the Program with the following, not all inclusive, list of services:

- **Title Search Services:** Refers to the collection of all required information related to transactions of property. Information gathering may be performed personally at the Registry of Property for the demarcation of the property or through an investigation in Registry of Property Karibe System. Through Title Search Services the Program will identify the legal description of the property, who was the last owner (if any), as well as the existence or absence of easements, mortgages, or other liens on the property that may affect a clear title on the property.
- **Land Survey Services:** Refers to the collection of field data; and the reduction, calculation, and plotting of such data; to produce property plans and legal descriptions that clearly set forth the boundaries of properties in sufficient detail for such boundaries to remain in perpetuity. Land Survey Services may also include the subdivision of land into two (2) or more parcels, as well as the grouping of two (2) or more parcels into a single one. All Land Survey Services performed for the Program must be certified by a Licensed Surveyor in Puerto Rico.

- **Engineering Services:** Refers to the performance of assessments and calculations necessary to establish current structural, soil, drainage, construction, and site conditions and to provide recommendations and certifications of such conditions. May also include the production of engineering designs with drawings, specifications, dimensions, and materials lists; as well as specialized engineering studies. All engineering services for the Program must be certified by a Licensed Professional Engineer or Architect in Puerto Rico.
- **Legal Services:** Refers to legal and procedural requirements necessary to remove problems, liens, and defects for a clear and marketable title. Includes notarial services and the execution of public documents, including public deeds and notarial acts to complete: (i) Petitions to Registry ("Instancias"), (ii) Notarial Acts ("Actas Notariales"), (iii) Declarations of Heirship ("Declaraciones de Herederos"), (iv) Sworn Statements, (v) Deeds ("Escrituras Públicas"), and (vi) Proof of Ownership Procedure ("Expedientes de Dominio"). All legal services required for the Program must be performed by a licensed Attorney-at-Law and Notary Public. However, legal services will not include cases of contentious jurisdiction.
- **Appraisal Services:** Refers to the process of developing an opinion of current value of the structures and/or lands subject to a clear and marketable title under the Program. The opinions of value will require the study of all value influences and may take the following approaches: the current cost of reproducing or replace the home, minus an estimate for depreciation plus the value of land; the value indicated in recent sales of comparable properties in the market; and the value that the property's net earning power will support. All appraisal services for the Program must be certified by a licensed Real Estate Appraiser in Puerto Rico.

Additional services to those listed above may be provided by Program-engaged vendors to obtain clear and marketable titles. Program staff, upon a detailed review of the specific circumstances of each Application, will request Title-Related Services to Program-engaged vendors.

### **6.3 Case Analysis and Interview**

After an Application is deemed eligible for the Program, Program staff will interview the Applicant to review information provided and to gather any additional information that may help to determine how a clear and marketable title for the property can be obtained. The PRDOH will analyze the specifics of each Application to determine if the property is part of the PRDOH's community portfolio (i.e. communities created through Act 26), another public instrumentality's land portfolio, or a privately-owned property by evaluating:

- The community to which the Applicant belongs to;
- The property location;
- The amount of time the property has been occupied by the Applicant or his/her ancestors;
- Any evidence of usufruct of another's property; and
- The use given to the land or structure.

To determine if the property is part of the PRDOH's community portfolio, the Program will review existing records at the PRDOH of its land. For properties belonging to others, including public instrumentalities and private entities, the PRDOH may rely on Title Search services from its Title-Related Services vendors.

Program staff will also go to the field to corroborate information provided by the Applicant concerning the property. Program staff may interview neighbors of the property during the site visit.

The results of the case analysis will dictate the way that PRDOH will proceed to obtain a clear and marketable title for the Applicant. The following sections present some potential types of cases and their respective processes overview.

#### **6.4 Title under Act No. 132 of July 1, 1975, as amended, Dwellings Located on Another's Land Act**

The Program may provide a clear and marketable title to Applicants under the provisions of Act 132 of July 1, 1975, as amended, 17 LPRA § 751 *et seq.*, known as "Dwellings Located on Another's Land Act" (hereinafter **Act 132**). This Act allows the PRDOH to provide title in both publicly- and privately-owned land, so long as the property for which a title is requested is transferred to the PRDOH before transferring the title to the Applicant. In the case of publicly-owned land, Act 132 authorizes public instrumentalities to transfer the land to the PRDOH at no cost. PRDOH will work with public instrumentalities for them to transfer title of the lands where the Applicant's residential structure is nested. Nonetheless, PRDOH will retain title of lands for which, after proper consultation with pertinent public instrumentalities, it is determined that there exists a superior public interest than to provide title to the Applicant.

In order for Applications to be processed under the provisions of Act 132 the following conditions must be met:

- The Applicant must currently occupy the land and reside within a structure nested in the land. The land must have been occupied by the Applicant on or before December 31, 2002; or the Applicant must have acquired the structure nested within the land by transfer, inheritance, donation, exchange, assignment, or purchase from owners which occupied the land on or before December 31, 2002.
- The Applicant must have permanent domain over the structure nested in the land.
- The Applicant must not own any other home.

If all conditions for the Application to be processed under Act 132 are met and if the land occupied is transferred to PRDOH without cost, title over the property will be transferred to the Applicant through a Title Certification or Public Deed. The Title Certification must contain (i) the name of the Applicant acquiring the land, (ii) the time since the land has been occupied, (iii) the date ownership is transferred, (iv) the size of the plot of land transferred with its property legal description, (v) evidence of registration of title in the Property Register, and (vi) any other data deemed necessary by the PRDOH.

Title under Act 132 can be provided at a nominal cost of one dollar (\$1) if the annual gross adjusted income of the Applicant's household is not greater than twenty one thousand one hundred dollars (\$21,100). If the annual gross adjusted income of the Applicant's household is greater than twenty one thousand one hundred dollars

(\$21,100), then title under Act 132 can be provided for a purchase price equal to the multiplication of the appraised value of the land by the corresponding percentage of **Table 2<sup>8</sup>** below.

**Table 2: Percentages for Determination of Purchase Price under Act 132**

<b>Annual Income</b>	<b>Gross</b>	<b>Adjusted Percent</b>	<b>Annual Income</b>	<b>Gross</b>	<b>Adjusted Percent</b>
\$21,101 to \$21,200		<b>2%</b>	\$22,301 to \$22,400		<b>39%</b>
\$21,201 to \$21,300		<b>4%</b>	\$22,401 to \$22,500		<b>43%</b>
\$21,301 to \$21,400		<b>6%</b>	\$22,501 to \$22,600		<b>48%</b>
\$21,401 to \$21,500		<b>8%</b>	\$22,601 to \$22,700		<b>53%</b>
\$21,501 to \$21,600		<b>11%</b>	\$22,701 to \$22,800		<b>58%</b>
\$21,601 to \$21,700		<b>14%</b>	\$22,801 to \$22,900		<b>63%</b>
\$21,701 to \$21,800		<b>17%</b>	\$22,901 to \$23,000		<b>68%</b>
\$21,801 to \$21,900		<b>20%</b>	\$23,001 to \$23,100		<b>74%</b>
\$21,901 to \$22,000		<b>23%</b>	\$23,101 to \$23,200		<b>80%</b>
\$22,001 to \$22,100		<b>27%</b>	\$23,201 to \$23,300		<b>86%</b>
\$22,101 to \$22,200		<b>31%</b>	\$23,301 to \$23,400		<b>92%</b>
\$22,201 to \$22,300		<b>35%</b>	\$23,401 to \$23,500		<b>98%</b>

For Applications where the household has an annual gross adjusted income greater than twenty-three thousand five hundred and one dollars (\$23,501), title can be provided for a purchase price equal to the appraised value of the land.

Annual gross income only considers the salaries of the head of household and its spouse, if any. Assistance payments received by the household from scholarships, veteran benefits, or any other income received from judicial, extrajudicial, or administrative awards, as well as assistance provided by the Federal Government such as food stamps, social security, or retirement, are not considered towards the calculation of annual gross income. To obtain the annual gross adjusted income for purposes of the Act, the following credits will be deducted:

- Two thousand three hundred dollars (\$2,300) for payroll deductions;
- One thousand two hundred dollars (\$1,200) for each dependent whose age does not exceed twenty (21) years old and is unemployed;
- Two thousand three hundred dollars (\$2,300) for any member of the household with mental or physical disabilities;
- One thousand seven hundred dollars (\$1,700) for any member of the household older than sixty-five (65) years old without income; and
- One thousand two hundred dollars (\$1,200) for each dependent older than twenty-one (21) years old but younger than twenty-five (25) years old undergoing university studies without receiving any income.

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<sup>8</sup> Act 132 was amended to modify the Annual Gross Adjusted Income for the provision of title at a nominal price of \$1 from \$14,400 to \$21,100 and for calculating purchase price for households with Annual Gross Adjusted Income greater than \$21,100.

If title under Act 132 is provided at the nominal cost of one dollar (\$1) the Title Certification will have a lien towards the fact that if the Applicant sells or disposes of the property within a period of **ten (10) years** after the transfer of the title to the Applicant is completed, then the Applicant must pay to PRDOH an amount equal to seventy five percent (75%) of the appraised value of the land at the time of sell or disposition. The PRDOH may provide exemptions to the aforementioned lien for reasons of divorce, inheritance, severe or terminal illness, mortgage loans, or any other situation deemed appropriate by PRDOH.

## **6.5 Title under Act 35 of June 14, 1969, as amended, Sale of Parcels to Usufructuaries or Occupants Act**

If the property for which a title is requested from the Program is part of communities established under Title V of Act 26 the title may be provided through the provisions of Act 35 of June 14, 1969, as amended, 28 LPRC § 681 *et seq.*, known as the Sale of Parcels to Usufructuaries or Occupants Act (hereinafter **Act 35**).

### **6.5.1 Usufructuaries**

Back in 1941 Act 26 declared as a fundamental right of every human being that makes a living from agricultural work to be able to have their homes within the lands that provide for their sustenance. The government over the years, and through the provisions of Title V of Act 26, has established numerous communities for what the Act calls "Aggregates". Aggregates are defined by Act 26 as any family head and those single persons who qualify, residing in the rural zone, whose home is established in a house and on land belonging to another person or in his own house erected on land belonging to another person, who is of scarce resources and does not possess the land as owner. The Act authorized the government to provide free assignment of land to Aggregates in usufruct. Through amendments to the Act, the benefits of the free assignment of land was extended to (i) persons living in urban areas so long as their way of living is by agricultural work, (ii) persons living in rural areas even if they their way of living is not by agricultural work, (iii) persons that moved from rural to urban areas so long as they wish to return to rural areas, (iv) persons residing in urban areas whose homes were acquired by the government through purchase or expropriation to carry out public projects, and (v) veterans of the United States Armed Forces, so long as they don't own properties and their income does not permit them to acquire property. At the moment, PRDOH is responsible for administering the communities established through the Act.

In order for a person to be provided with the free assignment of land through a Usufruct Contract the following eligibility requirements must be met:

- The Applicant must be an "Aggregate" as defined by Act 26;
- The Applicant must have resided in Puerto Rico for a period of at least **six (6) months**;
- The Applicant must not have sufficient capital or income to acquire property for residential use;
- The Applicant's household must not exceed the maximum Annual Gross Adjusted Income established by PRDOH through Administrative Order;
- The Applicant must not had been an usufructuary under any of the programs of the PRDOH; and

- The Applicant must not own any other land.

The latest maximum Annual Gross Adjusted Income to qualify for a Usufruct Contract was established by PRDOH on March 3, 2011 by means of Administrative Order No. 11-13 in the amount of twenty-one thousand one hundred dollars (\$21,100). Annual gross income only considers the salaries of the head of household and its spouse, if any. Assistance payments received by the household from scholarships, veteran benefits, or any other income received from judicial, extrajudicial, or administrative awards, as well as assistance provided by the Federal Government such as food stamps, social security, or retirement are not considered towards the calculation of annual gross income. To obtain the annual gross adjusted income for purposes of the Usufruct Contract, the following credits will be deducted:

- Two thousand three hundred dollars (\$2,300) for payroll deductions;
- One thousand two hundred dollars (\$1,200) for each dependent whose age does not exceed twenty-one (21) years old and is unemployed;
- Two thousand three hundred dollars (\$2,300) for any member of the household with mental or physical disabilities;
- One thousand seven hundred dollars (\$1,700) for any member of the household older than sixty-five (65) years old without income; and/or
- One thousand two hundred dollars (\$1,200) for each dependent older than twenty-one (21) years old but younger than twenty five (25) years old undergoing university studies without receiving any income.

If all conditions are met as required by law and regulations, the PRDOH extends Usufruct Contracts to Applicants over a plot of land in the established communities. Usufructuaries cannot sell, transfer, rent, assign, lease, or in any way dispose of or encumber, in whole or in part, the right to usufruct or any existing buildings, accessories or improvements, or any right or privilege from the usufruct contract. Usufructs must build their homes in the plots of land assigned within a period of **one hundred twenty (120) days** after execution of the Usufruct Contract. This period may be extended by PRDOH on a case-by-case basis. Those public employees that, without having an Usufruct Contract, possess a parcel of land at which their home is located, may request an Usufruct Contract so long as they comply with the requirements of the law.

#### 6.5.2 Title to Usufructuaries

Act 35 authorizes the PRDOH to provide title to Usufructuaries that are in compliance with the terms and conditions of their Usufruct Contracts. Usufructuaries are provided ownership over the lands they occupy at the nominal cost of one dollar (\$1). For Usufructuaries to be provided ownership over the land they occupy the following must be met:

- Have built on, or transferred to, the plot of land under the Usufruct Contract their residence or demonstrate capability to obtain financing to build their residence within the plot of land, which must also be their primary residence;
- Request ownership over the plot of land to the PRDOH;
- Pay, as a purchase price, an amount equal to one dollar (\$1).

For purpose Act 35 those occupants of a plot of land that use it for the purpose of primary residence and that comply with all requirements of law and regulations to qualify as an usufructuary; or that acquired, by purchase or transfer, a parcel or part thereof from an Usufructuary with which the occupant has ties of consanguinity or affinity up to the fourth degree will not be considered to be in violation of Article 76 of Act 26. In cases of Usufructuaries at urban areas, ownership may be granted only over the plot of land occupied by the residence. The remainder of land will be offered for sale at fair market value and a purchase option will be provided to the Usufructuary. Ownership can only be provided over a single plot of land under Act 35. Usufructuaries with right over two (2) or more plots of land must choose the one over which they will request ownership. Any person that obtains ownership over a plot of land under Act 35, and sells or disposes of the land in any form, is ineligible to receive rights over any other plot of land in virtue of Act 26.

Title to Usufructuaries under Act 35 can be provided through Notarial Deeds or Title Certifications from PRDOH. If Notarial Deeds are used for the provision of title, they are exempt from the payment of any notarial and Property Registry Fees.

Titles provided under the provision of Act 35 at the nominal cost of one dollar (\$1) will have a lien towards the fact that if the Applicant sells, exchanges, encumbrances, mortgages, leases, offers security using the property as collateral the property within a period of **ten (10) years** after the transfer of the title to the Applicant is completed, then the Applicant must pay to PRDOH an amount equal to seventy percent (75%) of the appraised value of the land at the time of transfer, exchange, encumbrance, mortgage, lease or offering securities using the property as collateral. The PRDOH may provide exemptions to the aforementioned lien for reasons of divorce, inheritance, severe or terminal illness, mortgage loans, or any other situation deemed appropriate by PRDOH.

#### **6.6 Title under Act 286 of August 21, 1999, as amended, Law to Order DOH to Dispose of Encumbered or Affected Lands or Parcels**

The Program may provide a clear and marketable title under the provisions of Act 286 of August 21, 1999, as amended, 28 LPRA § 681 *et seq.*, special provisions section, known as the Law to Order the Department of Housing to Dispose of Encumbered or Affected Lands or Parcels (hereinafter **Act 286**). This Act was approved to provide title to those households that, are encumbered or affected in such a way that it impedes, restricts, or makes impossible the disposition or adequate use by the beneficiaries of social interest programs. . It also authorizes PRDOH to dispose of plots of land/properties that, due to encumbrances/liens or other circumstances imposed by law or regulation, are restricted being disposed of or being properly used in favor of social interest programs' beneficiaries.

In order for Applicants to be processed under the provisions of Act 286 the following conditions must be met:

- The Applicant must be in possession or occupancy of the land over which they request title at the time of approval of the Act (i.e. August 21, 1999);
- If the Applicant was previously issued title over land there must exist some reason of divorce, death, breakup, emigration, or any other similar situation for which ownership over the property is not currently with the Applicant;

- If The Applicant possesses other property, PRDOH may sell it to the Applicant at fair market value.

If all conditions for the Application to be processed under Act 286 are met title will be provided to the Applicant by means of Notarial Deeds or Title Certifications. Title to Applicants in compliance with the requirements of Act 26 will be provided title for a nominal cost of one dollar (\$1). Title to Applicants not in compliance with the requirements of Act 26 or that have ownership over other properties may be provided at a purchase price equal to the appraised value of the land. If the Applicant cannot or does not wish to obtain title at the purchase price of the appraised value of the land, then PRDOH may lease the land to the Applicant following the provisions of Act 26.

### **6.7 Title under Act 202 of August 5, 2018, as amended, Law to Authorize DOH to Provide Title over Properties Created by Virtue of the Permanent Housing Program for the Victims of Hurricane Hugo**

The Program may provide a clear and marketable title under the provisions of Act 202 of August 5, 2018, as amended, 17 LPRA § 1551 *et seq.*; known as the “Law to Authorize the Department of Housing to Provide Title Over Properties Created by Virtue of the Permanent Housing Program for the Victims of Hurricane Hugo” (hereinafter **Act 202**). This Act was approved to authorize the provision of title to families that have lived in the structures created by means of the Permanent Housing Program for the Victims of Hurricane Hugo. This Program was created to provide safe and permanent housing to those impacted by the atmospheric disaster. Over twenty nine (29) years have passed and the quantity of families without title to the homes provided through the Program is still large. Many of the current occupants of the homes are the children or relatives of the original owners that benefited from the Program. Additionally, the abandonment and deterioration of the structures has resulted in many occupants not being the ones authorized under the Program. Given the circumstances, this Act establishes as public policy the provision of title to those occupants that have, for many years, lived in the structures created through the Program and have not yet received title over them.

In order for Applications to be processed under the provisions of Act 202 the following conditions must be met:

- If the Applicant is an original beneficiary or a heir of the original beneficiary of the Permanent Housing Program for the Victims of Hurricane Hugo:
  - Must currently reside within the structure and land provided through the Program;
  - Request to PRDOH ownership of the structure and land provided through the Program; and
  - Pay, as a purchase price, an amount equal to one dollar (\$1).
- If the Applicant is not an original beneficiary nor a heir or part of the original beneficiary's family nucleus:
  - Request to PRDOH ownership of the structure and land occupied;
  - Prove that the structure has been occupied in quality of owner and of primary residence for a period of at least **five (5) years**;

- o Pay, as a purchase price, the value of the land. If the land has a fixed price established by law or regulation, then that will be considered as the value of the land. Otherwise, the purchase price will be determined by means of an appraisal of the value of the land.

If all conditions for the Application to be processed under Act 202 are met, title will be provided to the Applicant by means of Notarial Deeds or Title Certifications. Those provided title under the provisions of Act 202 who sell or dispose of the transferred property, cannot request ownership over another plot of land under the provisions of the Act.

Applicants provided title under the provisions of Act 202 cannot sell, lease, transfer, mortgage, or dispose of the property without the consent of PRDOH for a period of five (5) years. Any Applicant that sells, leases, mortgage, transfers, or disposes of the property within the established period will be obligated to pay to PRDOH a percentage of the value of the property at the time of the sell as shown in **Table 3** below.

**Table 3: Percentage of the Appraised Value of Land to be paid to PRDOH for Disposition of Property Title under the Provisions of Act 202 before the Established 5-Year Term**

<b>Time of Disposition</b>	<b>Percent</b>	<b>Time of Disposition</b>	<b>Percent</b>
First Year	90%	Fourth Year	60%
Second Year	80%	Fifth Year	50%
Third Year	70%		

The five (5)-Year lien established in the above paragraph will not be applied to Applicants that are original beneficiaries, or heirs of the original beneficiaries, of the Program which obtained their title and have complied with the requirements of the transfer for a period no less than five (5) years. Also, the five (5)-Year lien will not be applied to Applicants that obtained the property through purchase from an original beneficiary or a heir that complied with the requirements of the transfer before the approval of Act 202.

**6.8 Title under Act 160 of August 10, 1988, as amended, Law for the Provision of Title over Properties Created by Virtue of the Emergency Housing Program**

The Program may provide a clear and marketable title under the provisions of Act 160 of August 10, 1988, as amended, known as Law for the Provision of Title Over Properties Created by Virtue of the Emergency Housing Program (hereinafter **Act 160**). Between October 5 and 6 of 1985 Puerto Rico was affected by a strong trough. This trough caused flooding, overflows, landslides, and numerous other damages all through Puerto Rico. In response to the disaster, Puerto Rico implemented an Emergency Housing Program to provide displaced families with options for permanent housing. This Act was approved to authorize the provision of title to families that have lived in the structures created by means of the Emergency Housing Program.

In order for Applications to be processed under the provisions of Act 160 the following conditions must be met:

- If the Applicant is an original beneficiary or a heir of the original beneficiary of the Emergency Housing Program:

- Must currently reside within the structure and land provided through the Emergency Housing Program;
  - Request to PRDOH ownership of the structure and land provided through the Program; and
  - Pay, as a purchase price, an amount equal to one dollar (\$1).
- If the Applicant is not an original beneficiary nor a heir or part of the original beneficiary's family nucleus:
    - Request to PRDOH ownership of the structure and land occupied;
    - Prove that the structure has been occupied in quality of owner and of primary residence for a period of at least **five (5) years**;
    - Pay, as a purchase price, the value of the land. If the land has a fixed price established by law or regulation, then that will be considered as the value of the land. Otherwise, the purchase price will be determined by means of an appraisal of the value of the land.

If all conditions for the Application to be processed under Act 160 are met, title will be provided to the Applicant by means of Notarial Deeds or Title Certifications. Those provided title under the provisions of Act 160 who sell or dispose of the transferred property, cannot request ownership over another plot of land under the provisions of the Act.

Applicants provided title under the provisions of Act 160 cannot sell, lease, transfer, or dispose of the property without the consent of PRDOH for a period of five (5) years, provided that any time that the property was occupied will be considered towards the five (5) year period if the Applicant is the original beneficiary or a heir of the original beneficiary of the Program. Any Applicant who sells, leases, transfers, or disposes of the property within the established period will be obligated to pay to PRDOH a percentage of the value of the property at the time of sell as shown in **Table 4** below.

**Table 4: Percentage of the Appraised Value of Land to be paid to PRDOH for Disposition of Property Title under the Provisions of Act 160 before the Established 5-Year Term**

<b>Time of Disposition</b>	<b>Percent</b>	<b>Time of Disposition</b>	<b>Percent</b>
First Year	90%	Fourth Year	60%
Second Year	80%	Fifth Year	50%
Third Year	70%		

### **6.9 Title under Act 106 of August 3 of 1995, as amended, Law to Transfer Minimal Urbanization Projects to PRDOH**

The Program may provide a clear and marketable title under the provisions of Act No. 106 of August 3, 1995, as amended, 17 LPRA § 28 *et seq.*, known as the "Law to Transfer Minimal Urbanization Projects to the Housing Development and Improvements Administration" (hereinafter Act 106). This Act was created with the purpose of transferring from the Urban and Housing Renovation Corporation to the Housing Development and Improvements Administration of the PRDOH those housing projects created by law or regulations known as Minimal Urbanization Projects. The purpose of the transfer was for PRDOH to provide title to those citizens that benefited from the Minimum Urbanization Projects. The Act establishes that title will be provided in compliance with

the legal and programmatic requirements and criteria that created each Minimum Urbanization Project. These applications will be handled on a case-by-case basis.

### **6.10 Title for Other Privately-Owned Property**

Applicants requesting title under properties that are privately-owned will be managed by PRDOH on a case-by-case basis. The following are some expected scenarios that PRDOH may encounter for these types of Applications and a general statement as to how they might be resolved:

- **Heirs/Spouses without Will:** These are Applicants that may live within a property that was owned by a deceased ancestor/spouse who, at the time of death, did not leave any Will to specify heirship of its property. PRDOH, through its case analysis, may identify the ancestry tree of the original owner and its heirs/spouse. After the corresponding analysis, PRDOH may opt to produce Declarations of Heirship through its Title-Related vendors. Once Declarations of Heirship are generated they will be registered with the Property Register. Additional steps to obtain a clear title will depend on the circumstances of the heirs/spouse related to the Application.
- **Residences Located Within Relative-Owned Property:** These are Applicants that, either by tolerance or family relationship, were allowed to build, or occupy an existing structure, for residence within a plot of land owned by a relative. PRDOH, through its case analysis and field investigations, will work with both parties to establish if title to the plot of land and the residence within it can be transferred to the Applicant. These cases may require the subdivision of land and additional coordination with regulatory Agencies that establish new easements for the new parcels of land generated.
- **Residences Located within Land Not Registered in Property of Registry:** These are cases for which the Program, through its case analysis and field investigations, finds that the plot of land where the Applicant's residence is located is not owned by any private or public entity. These cases may require the presentation of Proof of Ownership Procedure ("Expediente de Dominio") with the courts.

### **6.11 Compliance with the Planning Board and the Office of Permits Management**

Titles issued by PRDOH under the provisions of Act 132, Act 35, and Act 286 may not be required to comply with the requirements of the Laws governing the Puerto Rico Planning Board (**PB**) and the Puerto Rico Office of Permit Management (**OGPe**) and their regulations. Specifically, those cases that comply with the provisions of Resolution No. JPE-12 as adopted by the PB on September 25, 1973, are exempt from review and approval of the PB and OGPe. Cases that do not comply with the provisions must be submitted to OGPe for approval. Titles issued by PRDOH under the provisions of any other Act or for privately-owned property will be required to comply with the requirements of the PB and OGPe, including the provisions of Regulation No. 9081 of June 7, 2019, known in Spanish as "Reglamento Conjunto para la Evaluación y Expedición de Permisos Relacionados al Desarrollo, Uso de Terrenos y Operación de Negocios".

## **6.12 Clear Title Filing**

Once and if a clear title is obtained for the Applicant, the PRDOH will proceed to register the property with the Applicant as the owner at the Puerto Rico Property Register. The PRDOH will obtain the minute of filing at the Puerto Rico Property Register showing the name of register, the property address and date of registry, rights paid, other documents filed, and any other pertinent information with regards to the transaction. The minute of filing must have the Seal of the Property Registry showing that the transaction was filed, either personally or using the Registry of Property Karibe System, as permitted by law and regulations.

Once the property is duly registered within the Puerto Rico Property Registry all title issues have been resolved by the Program. The Program shall provide the Applicant with a Program Final Notice with their individual case file documentation. If the Application was a referral from another Program in the CDBG-DR Housing Portfolio, then Program staff must notify the referring Program of the "cleared titled" condition of the Applicant's property. Only then, may the Applicant proceed with other CDBG-DR Housing Program Assistance, if eligible.

## **7 No Program Income**

As stated in the Title Clearance Process section of these Guidelines, clear and marketable titles may be provided by requiring Applicants to pay, as a purchase price for the land, a nominal cost ranging from one dollar (\$1) to the appraised value of land. Such is the case when title is issued under the provisions of Act 132 and Act 35 for lands owned by the PRDOH or any other public instrumentality.

Proceeds from such transactions are not considered Program Income, as these proceeds do not fall under the definition of Program Income stated in 24 CFR 570.500(a). PRDOH will not be acquiring, constructing, or improving any property with CDBG-DR funds for the Program to provide clear and marketable titles to Applicants. Therefore, the Title Clearance Program will not generate any proceeds that can be considered Program Income.

## **8 Application Closeout**

Once the property title has been delivered to the homeowner and filed with the Puerto Rico Property Register, the Program application shall be closed. This process will begin by ensuring that all the documentation and process performed has been accepted by the Applicant and that everything has been performed in compliance with Program requirements.

The Applicant, or any other party involved, will be contacted if any additional information is necessary to closeout the case. Once all levels of quality control review are achieved, the Applicant will receive a Title Clearance Certificate along with a Program Final Notice and their individual case will be placed in a closeout complete status. If the Application was referred by another Housing Program, the Title Clearance Program will issue a notification to the referring Housing Program for appropriate action to be taken.

If at any time during the Title Clearance Process it becomes clear that the property title cannot be resolved, the Program will proceed to notify the Applicant and the Application will be placed in a "Clear Title Not Obtainable" status. The Program will then proceed to closeout the case. If the Application was referred by another Housing Program, the Title Clearance Program will issue a notification to the referring Housing Program for appropriate action to be taken.

## **9 Program-Based Reconsideration and/or Administrative Review**

Applicants of the Title Clearance Program may contest any determinations or denials based on Program policy. However, an Applicant may not challenge a federal statutory requirement. Applicants have the right to request a program-based Reconsideration with the Program or request an Administrative Review directly with PRDOH, as stated below.

### **9.1 Program-Based Reconsideration Request**

Applicants may file a Program-based Reconsideration Request when it is believed there is an error with Program eligibility determinations, Program award, and/or failure to meet construction standards, among other determinations. An Applicant must submit a written Reconsideration Request directly with the Title Clearance Program within **twenty (20) days** of being notified of the determination, as outlined in the notice. Applicants who file a Program-based Reconsideration Request are encouraged to provide individual facts or circumstances, as well as supporting documents to justify their petition. The date of notification is that on which the Title Clearance Program determination was sent to the Applicant.

In the Reconsideration Request process, the Title Clearance Program will only review facts and information already included in an Applicant's file, unless the Applicant submits new documentation. The Title Clearance Program has the discretion to accept or reject new documentation based upon its relevance to the Program-based Reconsideration Request.

The Title Clearance Program will review and address the Reconsideration Request within **fifteen (15) days** of its receipt. Applicants will be notified of the reconsideration determination via a Reconsideration Request Approved or a Reconsideration Request Denied notification. Applications with an approved Reconsideration Request will return to active Program status and continue with the process as normal. Applications with a denied Reconsideration Request will remain ineligible for the Title Clearance Program.

Filing a Program-based Reconsideration Request does not substitute, negate, or preclude any legal right that an Applicant has to challenge a determination made by the Program.

Therefore, Applicants who believe the initial determination of the Program to be erroneous, may submit either a Program-based Reconsideration Request or a petition for review of the decision made by the Program by filing an Administrative Review Request at the PRDOH in accordance with Regulation Number 4953, of August 19, 1993, which

regulates the Formal Adjudication Process for the PRDOH and its Adjunct Agencies (Regulation 4953).

## **9.2 Administrative Review Request**

If an Applicant disagrees with a Program determination, or with the Reconsideration Request Denial determination, said party may file directly to PRDOH, as grantee, an Administrative Review Request. The Applicant must submit such request, in writing, within **twenty (20) days** of being notified of a Program determination or a Reconsideration Request Denial determination. The date of notification is that on which a determination was sent to the Applicant.

Applicants who submit an Administrative Review Request must follow the procedure established in Regulation 4953. After the Administrative Adjudicative Procedure concludes, applications with approved Administrative Review Requests will return to active Program status and continue within the process as normal. Applications with denied Administrative Review Requests will remain ineligible for the Title Clearance Program.

If the Applicant disagrees with any final written determination on an Administrative Review Request notified by PRDOH after completing the Administrative Adjudicative Procedure, said party may file a Judicial Review petition before the Court of Appeals of Puerto Rico within **thirty (30) days** after a copy of the notice has been filed. See Act No. 201-2003, as amended, known as the Judiciary Act of the Commonwealth of Puerto Rico of 2003, 4 LPRA § 24 et seq., and Section 4.2 of Act 38-2017, as amended, known as the Uniform Administrative Procedures Act of the Government of Puerto Rico, 3 LPRA §9672.

If the Applicant fails to file a Program-based Reconsideration Request, or to contest a determination under the Administrative Adjudicative Procedure with PRDOH within the time allotted, the inaction will be deemed as an acceptance of the determination.

## **10 CDBG-DR Compliance**

### **10.1 Citizen Participation**

Throughout the duration of the grant, all citizen comments on PRDOH's published Action Plan, any substantial amendments to the Action Plan, performance reports and/or other issues related to the general administration of CDBG-DR funds, including all programs funded by this grant, are welcomed. The Citizen Participation Plan is posted as a stand-alone document at [www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov). For more information on how to contact PRDOH, please refer to [www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov).

### **10.2 Related Laws and Regulations**

This Program Guideline makes reference as to how the provisions of certain laws apply to the Title Clearance Program. However, other related laws may exist which are not included in these Guidelines. This does not negate or preclude the Program from applying the provisions of those laws, nor an applicant from receiving services, when

applicable. Moreover, PRDOH enact, or may have enacted, regulations that address how the laws mentioned in these Guidelines are managed.

If there are any discrepancies between these Guidelines and the laws and/or regulations mentioned in them, then the latter will prevail over the Guidelines. If at any time the laws and/or the applicable regulations mentioned in these Guidelines are amended, the new provisions will apply to the Program without the need to amend these Guidelines.

### **10.3 Cross-Cutting Guidelines**

Some federal and local requirements apply to all programs funded by CDBG-DR. These Cross-Cutting Guidelines cover topics such as: financial management; environmental review; labor standards; acquisition; relocation; and fair housing; among others. The requirements described in the above referenced Cross-Cutting Guidelines, apply to all programs described in PRDOH's CDBG-DR Initial Action Plan and its amendments. Please refer to the Cross-Cutting Guidelines found at [www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov) for more information.

### **10.4 Program Oversight**

Nothing contained within these Program Guidelines is intended to limit the role of PRDOH, HUD, and/or corresponding authorities from exercising oversight and monitoring activities of the Program.

### **10.5 Severability Clause**

If any provision of this Program Guideline, or the application thereof to any person, partnership, or corporation, or circumstance, is held invalid by a competent court, the remainder of this Program Guideline and the application of such provisions to any other person, partnership, corporation, or circumstance, shall not be affected thereby.

**END OF GUIDELINES.**