

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

SUBCHAPTER 100-100.1 POLICIES AND PROCEDURES FOR HOMEBUYER ACTIVITIES

Part 001	General Provisions	§ 100-100.1-705	Minimum Homebuyer Programs Loan Amount
§ 100-100.1-001	Introduction	§ 100-100.1-710	Interest-Bearing Loans or Advances
§ 100-100.1-005	Public Announcement	§ 100-100.1-715	Deferred Loans:
Part 100	Application	§ 100-100.1-720	Forgivable or Repayable
§ 100-100.1-101	Formal Application	§ 100-100.1-725	Interest Subsidies
§ 100-100.1-105	Supplemental Information	§ 100-100.1-730	Loan Guarantees
Part 200	Eligibility	§ 100-100.1-735	Repayment Period
§ 100-100.1-201	Eligibility Requirements	§ 100-100.1-740	After-Construction Property Value
Part 300	Affordability Restrictions	§ 100-100.1-745	Security
§ 100-100.1-301	Long Term Affordability	§ 100-100.1-750	Late Charge
§ 100-100.1-305	Right of First Refusal		Prepayment of Loan
§ 100-100.1-310	Resale	Part 800	Distressed Homebuyer(s)
§ 100-100.1-315	Recapture	§ 100-100.1-801	Distressed Homebuyer(s)
Part 400	Homebuyer Costs	Part 900	Assistance
§ 100-100.1-401	Eligible Costs	§ 100-100.1-901	Types of Assistance
Part 500	Notification to Applicants	Part 1000	Reinstatement
§ 100-100.1-501	Notification of Eligibility or Ineligibility	§ 100-100.1-1001	Items Needed to Cancel Foreclosure and Reinstate Account
Part 600	Loan Processing	Part 1100	Performing New Construction Work
§ 100-100.1-601	Selection	§ 100-100.1-1101	Performing New Construction Work
§ 100-100.1-605	Administration Approval; Appeals Process	Part 1200	Miscellaneous
Part 700	Terms and Conditions of Loan	100-100.1-1201	Acronyms Reference Section
§ 100-100.1-701	Maximum Homebuyer Programs Loan Amount	§ 100-100.1-1205	Homebuyer/New Construction—Loan Determination

Subchapter Authority: 2 CMC § 4433(i); Executive Order 94-3 § 407.

Subchapter History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: 2 CMC § 4411 creates the Mariana Islands Housing Authority (MIHA) as a public corporation within the Commonwealth government, charged with meeting the need for decent, safe, and sanitary housing for persons of low and moderate income in the Commonwealth. See 2 CMC §§ 4411-4457. 2 CMC § 4433

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

sets forth the powers of MIHA, including the general power to do any and all things necessary or convenient to effectuate the purposes of the act and to carry out any of the powers granted by the act. See 2 CMC § 4433(t).

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 407:

Section 407. Marianas Housing Authority.

- (a) The Marianas Housing Authority is abolished and its functions transferred to a Division of Housing within the Commonwealth Development Authority, which shall have at its head a Director of Housing.
- (b) Any bond or other indebtedness of the Mariana Island Housing Authority shall be assumed by the Commonwealth government, but only upon such terms and security as shall have been agreed to previously by the Authority. The full faith and credit of the Commonwealth shall to secure such bond or other indebtedness, except as may have been pledged prior to such assumption or as otherwise provided by law.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

The Northern Marianas Housing Corporation is a subsidiary corporation of the Commonwealth Development Authority and the successor to MIHA under Executive Order 94-3. See 2 CMC § 4482(d).

NMHC initially proposed Homeownership Investment Partnership Program regulations in July of 2009. 31 Com. Reg. 29660. These regulations were never adopted. The February 2015 proposed regulations purported to repeal the 2009 proposed regulations.

The February 2015 proposed regulations used inconsistent capitalization. The Commission made extensive corrections to capitalization throughout this chapter pursuant to 1 CMC § 3806(f). The changes were too numerous to mention specifically in the comments to each individual section.

Part 001 - General Provisions

§ 100-100.1-001 Introduction

(a) The Homeownership Investment Partnerships (HOME) program was established under the National Affordable Housing Act of 1990 (NAHA). The main objectives for the creation of the HOME program were to encourage, promote, and expand the supply of decent, safe, sanitary, and affordable housing, as well as to increase homeownership opportunities for low and very low-income families.

(b) Funds will be made available for eligible projects and to eligible beneficiaries through the following forms of financial assistance or subsidy:

- (1) Interest bearing loans or advances;
- (2) Non-interest bearing loans or advances;
- (3) Deferred loans;
- (4) Interest subsidies; and
- (5) Loan guarantees.

(c) Due to the limited availability of HOME funds allocated each fiscal year to the Commonwealth of the Northern Mariana Islands (CNMI) from the U.S. Department of Housing and Urban Development (HUD), financial assistance will be limited to qualified low and very low-income homebuyers. One hundred percent of HOME funds will be used to assist families with income levels at or below 80 percent of the area median income. These families' income

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

eligibility is based on their annual income. Annual income for this purpose is the gross amount of income anticipated by all adults in a family during the 12 months following the effective date of the determination. The determination of income and allowances as a criteria to qualify these homebuyers shall be guided by 24 CFR Part 5 (Part 5 annual income).

(d) The Northern Marianas Housing Corporation (NMHC), on behalf of the CNMI, has been tasked with the responsibility and administration of the HOME program for the benefit of low and very-low income families. NMHC's Mortgage and Credit Division (MCD) will be responsible for the day-to-day administration of the HOME program. Support services will be provided by NMHC's Fiscal Division with respect to disbursement of funds and collection of payments, accounting, and maintenance of financial records. NMHC's Property Manager will provide technical assistance with respect to reasonableness of cost estimates, dwelling unit inspections, and other related matters. Overall, the NMHC Corporate Director will assume ultimate responsibility for the efficient and proper administration of the HOME program in accordance with federal and local statutory and regulatory requirements.

(e) With these policies and procedures, NMHC will strive to accomplish the following objectives:

- (1) Provide for the efficient and effective administration of the HOME program wherein eligible beneficiaries can avail the financial assistance provided for the construction of their principal residence;
- (2) Foster positive working relationships among NMHC, homebuyers assisted with HOME monies, and Minority and Women-Owned Businesses (MBE/WBE);
- (3) Enforce NMHC, Building Code, and HUD-prescribed residential building standards; and
- (4) Preserve and improve the general housing stock of the CNMI.

(f) These policies and procedures shall govern; however, in situations in which these policies and procedures are silent, NMHC may apply its general standard loans policies/procedures to address these situations in the administration of the HOME Program.

Modified, 1 CMC § 3806(a), (f), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The paragraphs in the original regulation were undesignated. The Commission designated the paragraphs as subsections (a) through (f) and also designated subsections (1) through (5) in subsection (b) and subsections (1) through (4) in subsection (e) pursuant to 1 CMC § 3806(a). The Commission struck the "-" after the word "low" in subsections (a) and (c), added the word "the" before "HOME" in subsection (c), and changed "100" to "One hundred" pursuant to 1 CMC § 3806(g). The Commission added punctuation to the subsections of (b) and (e). The Commission changed capitalization in this section pursuant to 1 CMC § 3806(f).

§ 100-100.1-005 Public Announcement

(a) Publicity.

(1) Upon notification from HUD of the approval of additional HOME funds, NMHC shall publish such approval within thirty calendar days from the date of the approval. General information of the HOME Program shall be published in the print media of the widest local circulation and other suitable means available. HOME program information shall also be posted

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

in public and private bulletin boards where announcements are commonly posted. Loan applications may be submitted after a thirty calendar day period to be stated in the public notice, has expired.

(2) Note: When it is determined that HOME funds have been exhausted, the application intake may be closed until funding is once again available. Those applicants who did not submit their loan applications when HOME funds were available may do so once NMHC is notified by HUD of the availability of funds and after such notice is published.

(b) Contents. Program announcements shall inform interested applicants on how and where they may obtain an application and additional information on the type of HOME Program activity being administered in the CNMI. Such announcements shall further contain the following information:

- (1) Brief overview of the HOME program;
- (2) General list of eligible activities available;
- (3) Amount of funds available;
- (4) General eligibility requirements to qualify for financial assistance;
- (5) Homeowner (rehab)/Homebuyer selection process;
- (6) Fair Housing logo and Equal Opportunity language; and
- (7) Opening date for acceptance of applications.

(c) Special Outreach. To ensure that all persons are effectively and adequately informed about the HOME Program and the availability of funds, brochures or HOME Program information notices shall be provided and distributed or posted in the following locations and shall contain the information described in subsection (b). Brochures and/or HOME program information notices shall be made available at the following public and private areas:

- (1) U.S. Post Offices;
- (2) Major shopping centers;
- (3) Public health centers;
- (4) Places of worship;
- (5) Government office buildings;
- (6) The Nutrition Assistance Program (Food Stamp) office(s); and
- (7) U.S. Social Security Administration office(s).

Modified, 1 CMC § 3806(a), (b), (e), (f), (g)..

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission placed this section under Part 001 to more harmoniously fit within the code. The Commission designated the paragraphs as subsections (a) through (c) and also designated subsections in each pursuant to 1 CMC § 3806(a). The Commission added subsection (a)(2). The Commission struck the figure “30” in subsections (a)(1) pursuant to 1 CMC § 3806(e). The Commission changed capitalization in this section pursuant to 1 CMC § 3806(f).

Part 100 - Application

§ 100-100.1-101 Formal Application

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

Applicants may obtain a Uniform Residential Loan Application form along with a checklist of required documents in order to complete the application submission. Such application form shall be in accordance with loan applications widely used by financial lending institutions. Those applicants who are initially determined eligible shall be notified to provide additional documents to further process their applications. Proper completion of the formal application and submission of supplemental information shall be in accordance with HOME program and NMHC loan processing procedures. Loan applications shall be completed and signed by applicant(s) requesting assistance and such signature(s) shall certify to the truth of all statements contained therein. No formal application shall be officially received prior to the completion of the thirty day announcement period

Modified, 1 CMC § 3806(a), (f), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission changed capitalization in this section pursuant to 1 CMC § 3806(f).

The Commission provided the title of this part.

§ 100-100.1-105 Supplemental Information

(a) Completed applications shall be submitted together with the following supporting information which shall be used solely for the purpose of determining applicant eligibility for financial assistance:

- (1) Prior year's income tax return and/or W-2 Tax Form;
- (2) Recent check stubs for the past two months prior to applying for HOME program financial assistance of all household members that are 18 years old or older;
- (3) Other forms of documentation of income (i.e., Social Security payments, SSI, retirement income, etc.), if any;
- (4) Proof of land ownership for principal residence;
- (5) Property map for principal residence;
- (6) Preliminary Title Report (PTR) showing clear title to property;
- (7) Savings and checking account(s) information, if any; and
- (8) Private life insurance policies, if any.

(b) A checklist of the above described supplemental information shall be provided with each formal application obtained. Additional information may be requested if deemed necessary by NMHC to ensure the eligibility of each applicant. NMHC must complete the Borrower's income eligibility within six months.

(c) To substantiate eligibility, supplemental information submitted with each loan application shall be verified in writing, from a reliable third party and such verification shall be considered valid for a period of one hundred eighty calendar days from the date the verification was completed. Prior to verifying any applicant information, NMHC shall obtain written authorization from the applicants.

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

(d) If a written third party verification is not used, notarized statements or signed affidavits by the applicants shall be an acceptable form of verification, but only in situations where a more acceptable form of verification cannot be obtained.

Modified, 1 CMC § 3806(a), (e), (f), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The paragraphs in the original regulation were undesignated. The Commission designated the paragraphs as subsections (a) through (d) pursuant to 1 CMC § 3806(a). The Commission struck the figures “2” from subsection (a)(2), “6” from subsection (b), and “180” from subsection (c) pursuant to 1 CMC § 3806(e). The Commission changed capitalization in this section pursuant to 1 CMC § 3806(f).

Part 200 - Eligibility

§ 100-100.1-201 Eligibility Requirements

(a) Household Income.

(1) Homebuyer(s) must qualify as a low-income household as defined in the HOME program. Their income eligibility is determined based on their annual income. Combined anticipated gross household income of adults 18 years old or older, must not exceed 80% of the median income for the area (adjusted for family size), as prescribed by HUD (see § 100-100.1-201(a)(2)). Section 8 (Part 5)* annual (gross) income definition is used to calculate annual (gross) income. NMHC will verify their income using source documentation such as wage statements, interest statements, and SSI documents to determine if program applicants are income-eligible.

(2) Table 1

PACIFIC ISLANDS INCOME LIMITS 2014	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
15% of Median Income	6,400	7,350	8,250	9,150	9,900	10,650	11,350	12,100
30% of Median Income	12,850	14,700	16,550	18,350	19,850	21,300	22,800	24,250
50% of Median Income	21,400	24,450	27,500	30,550	33,000	35,450	37,900	40,350
80% of Median Income	34,250	39,150	44,050	48,900	52,850	56,750	60,650	64,550

(b) Determination of Repayment Ability.

(1) NMHC shall use forty-percent (or most current ratio) of the gross monthly income of both applicant and co-applicant (homebuyers) combined, to determine the amount of available debt-service or repayment ability. Any remaining debt-service or repayment ability after existing

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

monthly obligations (long- and short-term combined) is/are subtracted from the total available debt-service (not to exceed 30% of gross monthly income for loan mortgage payment), shall be used to determine if homebuyers/applicants can afford to repay the entire loan amount needed.

(2) On a case-by-case basis, NMHC may provide an exception to exceed the 40% debt-to-income ratio, but not more than 50%, upon NMHC's determination that the applicant(s) can meet repayment responsibilities. This provision is also applicable in determining and providing financial hardship assistance.

(c) **Property Ownership.** Interested applicants must provide proof of ownership such as fee simple title to the property. Ownership also includes leases of 40 years or more provided that the applicant must have at least a minimum of thirty years leasehold interest remaining on the property to be improved, or ownership of a condominium.

(d) **Principal Residence and Annual Recertification.**

(1) Homebuyers/Applicants approved to receive financial assistance must occupy the property as their primary residence immediately upon completion of all HOME-funded activities. Since the CNMI currently does not have street addresses, proof of residency must be verified and recertified on an annual basis through an affidavit signed by the borrower(s). In addition, homebuyers/borrowers must submit copies of utility and/or telephone billing which reflect their names and addresses. An exception to this requirement is granted to those homebuyers/borrowers that do not have utility connection or telephone service prior to application or at the time of annual recertification but are continually residing at the property as their principal residence. In this case, a completed, signed, and notarized affidavit should suffice. The following stipulations apply for a principal residence:

(i) A deed restriction or covenant running with the land shall incorporate this requirement;

(ii) The loan documents between the homeowner and NMHC shall also incorporate this requirement;

(iii) Temporary subleases are not allowed; and

(iv) Loan default and subsequent foreclosure negates the principal residence limitation.

(2) Annual recertifications shall be required for all HOME-assisted borrowers regardless of the type of assistance provided. This is conducted in order for homeowners to maintain compliance with the affordability restrictions.

(3) Annual recertifications through field visits may be conducted on a case-by-case basis where the loan specialist shall verify the borrower(s) principal residence and, as necessary, to take photos and document the status of the residential unit.

(e) **Loan Cancellation.** NMHC reserves the right to cancel any loan if in its opinion the homebuyer(s)/applicant(s) have not substantially complied with all the terms and conditions herein.

* So in original.

Modified, 1 CMC § 3806(a), (d), (e), (f), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

Commission Comment: The Commission designated the paragraphs as subsections (a) through (e), designated subsections (1) through (2) in (a), (1) through (2) in (b), and renumbered the subsections of (d) pursuant to 1 CMC § 3806(a). The Commission struck the words “Table 1” and inserted the reference § 100-100.1-201(a)(2) in (a)(1) after designating Table 1 as subsection (a)(2) pursuant to 1 CMC § 3806(a) and (d). The Commission struck the figure “30” from subsection (c) pursuant to 1 CMC § 3806(e). The Commission changed capitalization in this section pursuant to 1 CMC § 3806(f).

Part 300 - Affordability Restrictions

§ 100-100.1-301 Long Term Affordability

(a) HOME rules require that assisted properties remain affordable for a specific period of time, depending on the level of HOME funds invested in the property and the nature of the activity funded.

(b) For interest bearing loans, non-interest bearing loans, and repayable deferred loans, the affordability schedule is as follows:

HOME Invested per Unit	Minimum Length of the Affordability Period
Less than \$15,000	5 years
\$15,000-\$40,000	10 years
More than \$40,000	15 years

(c) For forgivable deferred loans, the affordability schedule is as follows:

HOME Invested per Unit	Minimum Length of the Affordability Period
Less than \$15,000	10 years
\$15,000-\$30,000	15 years
More than \$30,000	20 years

(d) The affordability requirements are to be imposed by deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure. NMHC may use its right of first refusal, as set forth in the loan documents, to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability.

(e) The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the termination event, or any entity that includes the former owner or those whom, the former owner has or had family or business ties, obtains an ownership interest in the project or property. If a home purchased with HOME assistance is sold during the affordability period, resale or recapture provisions apply to ensure the continued provision of affordable homeownership. Loan payoffs do not end the affordability period.

Modified, 1 CMC § 3806(a), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

Commission Comment: The Commission designated the paragraphs as subsections (a) through (e) pursuant to 1 CMC § 3806(a). The Commission changed capitalization in this section pursuant to 1 CMC § 3806(f).

§ 100-100.1-305 Right of First Refusal

During the affordability period, the homeowner(s) agrees not to sell or assign the residence hereby purchased to any persons or persons unless and until homeowner(s) proposes to sell same to NMHC, its successors or assigns, on terms consistent with preserving affordability and allows then sixty days time within which to purchase said residence.

Modified, 1 CMC § 3806(a), (e)

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission struck the figure "60" pursuant to 1 CMC § 3806(e).

§ 100-100.1-310 Resale

(a) If the housing unit designated as an affordable unit does not continue to be the principal residence of the approved homebuyer(s) for the duration of the period of affordability, the housing shall be made available for subsequent purchase only to a purchaser whose family qualifies as a low-income family, meeting the HOME program definition, and will use the property as the family's principal residence. The remaining resale restrictions will apply to the new buyer. If additional HOME assistance is provided to the new buyer, the period of affordability for the unit starts anew.

(b) Fair Return on Investment. The price at resale must provide the homebuyer(s) a fair return on investment, defined as the homebuyer(s) original investment and any capital improvements, and ensure that the housing unit will remain affordable (may not exceed 95 percent of the median purchase price for that type of single-family housing for the area, as published by HUD, or in accordance with the Final Rule, as determined locally through market analysis) to a reasonable range of low-income homebuyers. "Affordable" is defined as monthly costs for principal, interest, taxes, and insurance (PITI) not exceeding 40% (or most current repayment ability ratio) of monthly gross income of a buyer household whose income is at or below 80% of the area median income. Should the resale of the property be consummated before the fifth year into the affordability period, the homebuyer(s) may get his/her/their investment back but not appreciation.

(c) Circumstances Under Which Resale Will Apply. Resale restrictions must be used in cases where deferred loans (forgivable) or grants were provided to the homebuyer(s) in order to subsidize the purchase of the property to cover the down payment or closing costs. Resale restrictions must be used in pure grant situations. Resale restrictions must be used for properties that received development subsidies only (that is, no direct financial assistance is provided to the homebuyer).

(d) Legal Instrument to Enforce Resale. NMHC must use deed restrictions, land covenants, or other similar legal documents to enforce these resale restrictions.

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

Modified, 1 CMC § 3806(a), (e), (f), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission designated the paragraphs as subsections (a) through (d) pursuant to 1 CMC § 3806(a). The Commission changed capitalization in this section pursuant to 1 CMC § 3806(f). The Commission struck the figure “5th” from (b) pursuant to 1 CMC § 3806(e). The Commission changed the spelling of “downpayment” to “down payment” in subsection (c) pursuant to 1 CMC § 3806(f).

§ 100-100.1-315 **Recapture**

(a) **Recapture.** NMHC will ensure that it recoups all or a portion of the HOME loan assistance provided to the homebuyer(s), if the housing unit ceases to be the principal residence of the homebuyer(s) for the duration of the period of affordability. All subsidy amounts (in the form of loans) that directly benefited the property owner (i.e., through down payment and/or closing cost assistance, deferred payment loans, interest rate buy-downs, property discount, etc.) are also subject to recapture. Recapture is capped at what is available out of net proceeds for agreements after November 2004. Net proceeds are defined as the sales price less superior non HOME debt (if any) less closing costs. NMHC will utilize the following recapture options:

(1) **Recapture entire amount.** NMHC may recapture the entire amount of the loan and/or subsidy from the homebuyer(s) if the sale of the property occurs within halfway into the given affordability period. For example, a homebuyer was approved for a \$50,000 HOME loan to construct a home. The affordability period is therefore, fifteen years. On the seventh year, the borrower sells the house for \$60,000. Since the borrower failed to comply with the minimum seven and one half years of the fifteen year affordability period, the recaptured amount is \$50,000.

(2) **Forgiveness.** NMHC may reduce the loan amount and/or subsidy to be recaptured on a pro rata basis for the period the homebuyer(s) has/have owned and occupied the housing unit measured against the required affordability period; however, homebuyer(s) must occupy the housing unit at a minimum of ten years or at least halfway into the affordability period, whichever is greater, in order to qualify for this recapture option. For example, if the HOME subsidy is \$60,000 with 15-year affordability and the owner sells the property in the 12th year of ownership the recapture amount will equal \$12,000. ($\$60,000/15$ years affordability period x 3 years remaining = \$12,000 recapture.)

(3) **Buyer’s recovery of initial investment.** The homebuyer(s) investment (down payment and capital improvements made by the owner since purchase) may be repaid in full before any HOME funds are recaptured, provided that the homebuyer(s) occupied the housing unit at a minimum of ten years before the sale of the property and the homebuyer’s household income level is at or below 50% of the area median income in order to qualify for this recapture option.

(4) **Shared appreciation.** In the case where net proceeds exceed the amount necessary to repay both the homebuyer(s)’ investment and the HOME assistance, the excess proceeds may be shared proportionately (i.e., percentage of investment provided) by both parties.

(b) **Note:** The HOME Interim Rule on November 22, 2004 clarifies that when the recapture requirement is triggered due to a voluntary or involuntary sale during the period of affordability and there are no net proceeds or the net proceeds are insufficient to repay the HOME investment due, NMHC may recapture an amount less than or equal to the net proceeds available.

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

(c) Circumstances Under Which Recapture Will Apply. Recapture restrictions must be used in cases where interest bearing loans or advances, non-interest bearing loans or advances, deferred loans (repayable), interest subsidies, or loan guarantees were provided to the homebuyer(s) in order to subsidize the purchase of the property to cover the down payment or closing costs.

(d) Legal Instrument to Enforce Recapture. NMHC must use deed restrictions, land covenants, or other similar legal documents to enforce these recapture restrictions.

Modified, 1 CMC § 3806(a), (e), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission designated the paragraphs as subsections (a) through (d) pursuant to 1 CMC § 3806(a) and designated subsections (1) through (4) of subsection (a). The Commission struck the figures “15,” “7th,” “7.5,” and “15” from subsection (a)(1) and “10” from subsections (a)(2) and (a)(3) pursuant to 1 CMC § 3806(e). The Commission changed capitalization in this section pursuant to 1 CMC § 3806(f). The Commission changed the spelling of “downpayment” to “down payment” in subsection (a)(3) pursuant to 1 CMC § 3806(f).

Part 400 - Homebuyer Costs

§ 100-100.1-401 Eligible Costs

- (a) Hard costs include:
 - (1) Acquisition of land and existing structures;
 - (2) Site preparation or improvement, including demolition;
 - (3) Securing buildings; and
 - (4) Construction materials and labor.

- (b) Soft costs include:
 - (1) Credit reports;
 - (2) Title binders and insurance;
 - (3) Recordation fees;
 - (4) Legal & accounting fees;
 - (5) Appraisals;
 - (6) Architectural/engineering fees, including specifications and job progress inspections;
 - (7) Environmental investigations;
 - (8) Builders’ or developers’ fees;
 - (9) Affirmative marketing and marketing costs;
 - (10) Homebuyer counseling provided to purchasers of HOME-assisted housing;
 - (11) Management fees; and
 - (12) Direct project costs incurred by the PJ.

- (c) Relocation costs include:
 - (1) Replacement housing, moving costs, and out-of-pocket expenses;
 - (2) Advisory services; and
 - (3) Staff and overhead related to relocation assistance and services.

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

(d) NMHC shall set aside \$1,508.50 (more or less, depending on current costs) of its Administrative Funds to assist each qualified homebuyer client whose total income is at or below 50% of the area median income (AMI), to pay for certain loan closing fees and other related costs such as the following:

(1)	\$400.00	Initial utility connection;
(2)	\$400.00	First annual premium for hazard insurance;
(3)	\$450.00	Appraisal report; the fee is covered for approved new construction loans only;
(4)	\$150.00	Recordation of mortgage documents;
(5)	\$100.00	Preliminary title report (PTR); the fee is covered for approved new construction loans only;
(6)	\$8.50	Credit report @ \$4.25 each.
	\$1,508.50	Total

(e) If the homebuyer(s) opt to have a private inspector perform unit inspection, the first/initial unit inspection fee may be covered by NMHC, subject to any conditions set by NMHC. Any cost associated with any subsequent inspection shall be the responsibility of the homebuyer client(s).

(f) This form of assistance shall not be in any way, a part of the loan amount extended to the client. Borrowers may not be required to pay back any of this amount so long as they are in compliance with the NMHC affordability restrictions. The entire amount shall be immediately due and payable by borrower(s) should NMHC determine that borrower(s) are not in compliance with NMHC affordability restrictions.

Modified, 1 CMC § 3806(a), (f), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission designated the paragraphs as subsections (a) through (f) and designated subsections within subsections (a) through (d) pursuant to 1 CMC § 3806(a). The Commission changed capitalization in this section pursuant to 1 CMC § 3806(f). The Commission inserted “;” after the subsections within subsections (a) through (d) and inserted the word “and” after (a)(3), (b)(11), and (c)(2).

The Commission provided the title for this part.

Part 500 - Notification to Applicants

§ 100-100.1-501 Notification of Eligibility or Ineligibility

(a) Eligible Applicants. NMHC shall send written notifications to all applicants determined eligible for financial assistance. Such notification shall be mailed no later than five working days after the determination, and shall contain a listing of additional information to be submitted for completion of loan file. Eligible applicant(s) shall be given thirty calendar days to submit the additional information requested. Applicant(s) that do not submit all pending information before the thirty calendar day deadline, shall have their applications file placed in the inactive files.

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

(b) Ineligible Homebuyers/Applicants. All ineligible applicants shall be notified in writing of their ineligibility. Such notification shall be mailed no later than five working days after the determination of ineligibility and shall include a description/reason of such determination.

Modified, 1 CMC § 3806(a), (e), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission replaced the “/” with the word “or” in the title of this section. Commission changed capitalization in this section pursuant to 1 CMC § 3806(f). The Commission struck the figure “30” from subsection (a) and the figure “5” from subsection (b) pursuant to 1 CMC § 3806(e).

Part 600 - Loan Processing

§ 100-100.1-601 Selection

(a) Financial assistance shall be based on available HOME Program funds and such assistance shall be awarded to eligible applicants on a first-come, first-served basis. The application will have the date and time stamped when received; however, to be considered received, the application must be completely filled-out and the applicant has submitted all additional information requested by NMHC to perform an eligibility review.

(b) In the event that there are more applicants than available funds, NMHC shall establish and maintain an applicant waiting list. Applicants placed on the waiting list shall be assisted in the event that funds available are not entirely used up or committed by the homebuyers/applicants initially awarded financial assistance. Those applicants unable to be assisted with remaining funds shall be given first priority if and when additional funds are available.

Modified, 1 CMC § 3806(a), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission designated the paragraphs as subsections (a) and (b) pursuant to 1 CMC § 3806(a).

§ 100-100.1-605 Administration; Approval; Appeals Process

(a) Program Administration.

(1) The MCD Manager shall be responsible for HOME program implementation and management of related tasks. The MCD Manager shall supervise division staff in loan and grant origination, underwriting and closings under the HOME program.

(2) The MCD Manager shall review each submitted application, ensure all supportive documentation is in place and make any necessary recommendations to the Corporate Director prior to the Corporate Director making the final decision on the loan or grant application.

(b) Loan Review and Approval.

(1) Under the direction of the MCD Manager, a Loan Specialist shall review and verify all

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

applicants' credit, income, assets, liabilities, title reports, and any other requested reports and documentation. Upon completion of the review process, the Loan Specialist shall prepare a loan write-up containing his/her recommendations.

(2) The MCD Manager shall review the loan write-up for concurrence before submitting the same to the Corporate Director for a final decision. Final approval or denial of any HOME loan or grant shall be made by the Corporate Director except as follows:

(A) If the Corporate Director is off-island or on extended leave at the time the loan or grant is submitted to him/her for a final decision, then the Deputy Corporate Director may make the final decision to approve or deny the HOME loan or grant; or

(B) If the Corporate Director and Deputy Corporate Director are both simultaneously off-island or on extended leave at the time the loan or grant is submitted for a final decision, then the Acting Corporate Director may make the final decision to approve or deny the HOME loan or grant.

(3) For purpose of these policies, off-island or extended leave shall be defined as an absence or leave that extends for more than three working days after the loan or grant is submitted to the Corporate Director for his or her final decision.

(4) A written notice of the final decision shall be provided to the applicant and a copy/report of the decision shall be provided to the NMHC Board of Directors for informational purposes.

(c) Loan Grant/Denial Appeals Process.

(1) Applicants denied assistance under the HOME program may appeal the final decision to the NMHC Board of Directors by submitting their appeal in writing to the Corporate Director within thirty calendar days of the written notice of the final decision.

(2) Any appeal submitted must indicate the basis for the appeal and include any supporting documents. Upon receipt of an appeal, the Corporate Director shall submit the same to the Board of Directors for review and action at the next scheduled Board meeting.

Modified, 1 CMC § 3806(a), (e), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission replaced the “,” with “;” in the title of this section and added a comma after the word “reports” in section (b)(1). The Commission designated the paragraphs as subsections (a) through (c) and designated subsections within subsections (a) through (c) pursuant to 1 CMC § 3806(a). The Commission changed “Loan/Grant Denial” to “Loan Grant/Denial” in subsection (c). The Commission changed capitalization in this section pursuant to 1 CMC § 3806(f). The Commission struck the figure “3” from subsection (b)(3) and the figure “30” from subsection (c)(1) pursuant to 1 CMC § 3806(e).

Part 700 - Terms and Conditions of Loan

§ 100-100.1-701 Maximum Homebuyer Programs Loan Amount

(a) The maximum HOME funds for new construction or for acquisition shall be based on the lowest responsible bid submitted by the applicant(s), and such bid shall not exceed \$60,000.00 or the most current HUD approved area median purchase price. If using HOME funds for new construction, the property must meet all applicable Federal or local codes and zoning ordinances.

(b) For NMHC-owned properties, NMHC may sell the property directly to the HOME-approved applicant(s) but only after the property has been publicly auctioned at least three times and resulted in unsuccessful bids.

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

Modified, 1 CMC § 3806(a), (e), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission designated the paragraphs as (a) and (b), which were not designated in the original, pursuant to 1 CMC § 3806(a). The Commission struck the figure “3” from subsection (b) pursuant to 1 CMC § 3806(e).

§ 100-100.1-705 Minimum Homebuyer Programs Loan Amount

The minimum loan amount shall not be less than \$1,000.00.

Modified, 1 CMC § 3806(a).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

§ 100-100.1-710 Interest-Bearing Loans or Advances

These loans are amortizing loans. Repayment is expected on a regular basis, usually monthly, so that over a fixed period of time, all of the principal and interest is repaid. The interest chargeable on any borrowed HOME funds shall be based on income limits as specified in § 100-100.1-715(d):

- (a) If the applicant(s)’ annual household income is between 60.1% and 80% of the HUD income Limits, a fixed rate of five percent shall apply throughout the term of the loan.
- (b) If the applicant(s)’ annual household income is between 50.1% and 60% of the HUD Income Limits, a fixed rate of four percent shall apply throughout the term of the loan.
- (c) If the applicant(s)’ annual household income is between 30.1% and 50% of the HUD Income Limits, a fixed rate of three percent shall apply throughout the term of the loan.
- (d) If the applicant(s)’ annual household income is at or below 30% of the HUD Income Limits, a fixed rate of two percent shall apply throughout the term of the loan.
- (e) If the applicant(s)’ annual household income is between 15.1% and 30% of the HUD Income Limits, and is at least 62 years of age or disabled, a fixed rate of one percent shall apply throughout the term of the loan.

Modified, 1 CMC § 3806(a), (d), (e), (f), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission designated the subsections in this section as (a) through (e) pursuant to 1 CMC § 3806(a). The Commission struck the words “below” and “see Table 2” and added the words “in § 100-100.1.715(d)” pursuant to 1 CMC § 3806(d). The Commission struck the figure “5” subsection (a), “4” from subsection (b), “3” from subsection (c), ”2” from subsection (d), and ”1” from subsection (e) pursuant to 1 CMC § 3806(e).

§ 100-100.1-715 Deferred Loans: Forgivable or Repayable

- (a) These loans are not fully amortized. Instead, some, or even all, principal and interest payments are deferred to some point in the future. Deferred payment loans can be forgivable or repayable.

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

(b) The forgiveness may be forgiven incrementally based on the affordability period. In order to qualify for deferred forgivable loans, the applicant(s)' annual household income must be at or below 15% of the HUD Income Limits and at a minimum the homebuyer(s)/applicant(s) must be 62 years of age or disabled and unable to be gainfully employed. A disabled family is a family whose head of household, spouse, or sole member is a person with a disability.

(c) Person with a disability:

(1) Means a person who:

(i) Has a disability, as defined in 42 U.S.C. § 423;

(ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

(A) Is expected to be of long-continued and indefinite duration;

(B) Substantially impedes his or her ability to live independently, and

(C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

(iii) Has a developmental disability as defined in 42 U.S.C. § 6001.

(2) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome; and

(3) Does not include a person whose disability is based solely on any drug or alcohol dependence.

(d) The applicant's physician must complete the Homebuyer/Homeowner Program Disability Eligibility Verification to certify the borrower's disability. As appropriate, NMHC shall require a court legal guardianship in cases where the physician certification indicates that the applicant is incapacitated or incompetent to enter into a legal and binding agreement such as a mortgage.

Table 2

Income Limits	Interest Rate	Type Of Assistance
0% - 15%	0%	Deferred Loan [†]
15.1% – 30%	1%	Interest Bearing Loans [†]
0% - 30%	2%	Interest Bearing Loan
30.1% - 50%	3%	Interest Bearing Loan
50.1% - 60%	4%	Interest Bearing Loan
60.1% - 80%	5%	Interest Bearing Loan

[†]—Applies only to qualified elderly or disabled household applicants.

(e) Full repayment will be required at the sale, transfer, or the property being no longer the principal residence less than halfway into the affordability period. The deferred loan will be structured to begin incremental forgiveness when the homebuyer is more than halfway into the affordability period.

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

(f) For example, a homebuyer acquires a HOME assisted property that has a HOME subsidy of \$50,000. The affordability period is therefore 20 years. The homebuyer would have to live in the HOME assisted property for ten years before forgiveness will begin. Beginning with the 121st month of the affordability period, NMHC will forgive one percent of principal and interest for each month thereafter that homebuyer principally resides in the HOME assisted property.

(g) Existing homebuyer(s) (a homebuyer that received a HOME interest-bearing loans/advances or non-interest bearing loans/advances) may qualify for a deferral if their annual household income is at or below 15% of the HUD Income Limits and at some future point in time they have become un-gainfully employed because of a medical condition or because of a career-ending injury.

Modified, 1 CMC § 3806(a), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission removed the parenthesis and inserted “:” in the title of this section. The Commission designated the subsections in this section as (a) through (g) and also designated the subsections within subsection (c) pursuant to 1 CMC § 3806(a). The Commission added a “%” after the figure 15.1 in subsection (d). The Commission struck the figures “10” and “1” in subsection (f) pursuant to 1 CMC § 3806(e).

§ 100-100.1-720 Interest Subsidies

The interest subsidy will be deposited in an interest-bearing account from which monthly subsidies are drawn and paid to a lender along with the homebuyer(s)’ monthly payment. Any applicant who is at or below 80% of the HUD Income Limits is eligible for this option.

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

§ 100-100.1-725 Loan Guarantees

A loan guarantee ensures payment of a loan in case of default. A written promise or agreement is executed between NMHC and the lender to pay the lender a maximum of 20 percent of the total outstanding principal. The timeframe for this guarantee is only up until the given length of affordability period based on the loan guarantee amount.

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

§ 100-100.1-730 Repayment Period

The maximum repayment term shall not exceed 360 months or the affordability period, whichever is greater, unless the repayment term is amended or revised by the NMHC Board to accommodate requests for relief from borrowers who have been determined to be able to repay their obligations, with the amended or revised repayment terms not to exceed an additional 60 months.

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

§ 100-100.1-735 After-Construction Property Value

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

The projected “after-construction” value of each homebuyer property to be assisted, must not exceed 95% of the current HUD prescribed area median purchase price for the type of housing unit being assisted (single-family unit). NMHC will request for a real estate appraisal from a federally-certified and licensed real estate appraiser, prior to loan closing. To determine such value, NMHC shall conduct a HUD-approved local market survey where the length of the reporting period will depend on the volume of monthly home sales, and may be justifiably adjusted upwards depending on the nature or extent of any economic/housing crisis.

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

§ 100-100.1-740 Security

(a) To ensure borrowed HOME funds, NMHC shall secure a mortgage on the property. The mortgage shall be maintained for no less than the term of each approved loan or the affordability period, whichever is greater.

(b) NMHC will execute a written agreement with the homebuyer that will specify the use of HOME funds, description of the project, roles and responsibilities, compliance with affordability period requirements, qualifications for affordable homeowner housing, monitoring, and duration of the agreement.

(c) During the term of the loan, homebuyer shall also be required to maintain, at their expense, property insurance on the mortgaged property for fire, earthquake, typhoon, and flood damage covering the replacement value of all properties at a minimum equal to the loan amount.

(d) NMHC will require the homebuyer to execute and file for record a deed or deeds of restriction, land covenant or similar legal documents approved by HUD that will assure compliance with the principal residency and affordability period requirements and enforce HOME restrictions.

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

§ 100-100.1-745 Late Charge

For interest-bearing loans, a fixed one percent late installment charge of the missed monthly principal and interest (P & I) payment shall be assessed for every monthly payment that is over fifteen calendar days late or past due.

Modified, 1 CMC § 3806(e).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission struck the figures “1%” and “15” pursuant to 1 CMC § 3806(e).

§ 100-100.1-750 Prepayment of Loan

There shall be no prepayment penalties for loans that are paid-off prior to the completion of the

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

term of the loan. The affordability period provision is still applicable to loans that are paid-off.

Modified, 1 CMC § 3806(g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission removed the quotation marks from “paid-off” in this section.

Part 800 - Distressed Homebuyer(s)

§ 100-100.1-801 Distressed Homebuyer(s)

Distressed homebuyer(s) are those who are having a difficult time meeting their monthly loan payments due to external circumstances beyond their control. These circumstances include:

- (a) Reduction-in-force;
- (b) Reduction in pay;
- (c) Family medical emergency (including death of an immediate family member: parents, siblings, child(ren), spouse, and in-laws);
- (d) Medical condition (including career-ending injury) that causes homebuyer to discontinue employment. The borrower’s physician must complete the Homebuyer/Homeowner Program Disability Eligibility Verification to certify the borrower’s medical condition;
- (e) Drastic increase in cost of living (e.g., utility rates, fuel);
- (f) Call of duty (deployment); and
- (g) Temporary Relocation.

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Part 900 - Assistance

§ 100-100.1-901 Types of Assistance

(a) NMHC may offer the following types of assistance depending on the circumstances mentioned above:

- (1) Reduction-in-force . Monthly loan payments may be deferred for a period of up to twelve months. Interest and late charges would not accrue. Thereafter, interest rate will be reduced by 50% for a period of up to sixty months. If this approach is still deemed unaffordable, the current term with the new interest rate may be extended and reamortized with an additional sixty months.
- (2) Reduction in pay. Interest rate may be reduced by 50% for a period of up to twenty-four months. If this approach is still deemed unaffordable, the current term with the new interest rate may be extended and reamortized with an additional sixty months.
- (3) Family medical emergency. Monthly loan payments may be deferred for a period of up to twenty-four months. Interest and late charges would not accrue. The current term may be extended and reamortized with an additional sixty months.
- (4) Medical condition that causes borrower to discontinue employment – Principal amount may be forgiven incrementally (based on term). Homebuyer(s) above the 50% HUD income limits may only be required to pay principal or interest (whichever is lower) as his/her monthly payments.

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

(5) Drastic increase in cost of living. Interest may be waived for a period of up to twenty-four months. If this approach is still deemed unaffordable, the current term may be extended and reamortized with an additional sixty months.

(6) Call of duty (deployment). Monthly loan payments may be deferred for a period of up to twenty-four months. Interest and late charges would not accrue. The current term of the loan may be extended and reamortized with an additional sixty months.

(7)(i) Temporary relocation. If the borrower must relocate for employment purposes due to the lack of jobs to support the household; educational purposes; or to seek medical treatment, the resale or recapture provisions may be suspended for a period of five years. If, after the 5-year period and the unit is still not the principal place of residence, the resale or recapture provisions will take into effect.

(ii) During the period of temporary relocation, the unit will become a HOME rental unit subject to:

“24 CFR § 92.252 - Qualification as affordable housing: Rental housing.

The HOME-assisted units in a rental housing project must be occupied only by households that are eligible as low income families and must meet the following requirements to qualify as affordable housing. The affordability requirements also apply to the HOME-assisted non-owner-occupied units in single-family housing purchased with HOME funds in accordance with § 92.254.

(a) Rent limitation. HUD provides the following maximum HOME rent limits. The maximum HOME rents are the lesser of: (1) The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR § 888.111; or (2) A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit.

The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions...

(d) Nondiscrimination against rental assistance subsidy holders. The owner cannot refuse to lease HOME-assisted units to a certificate or voucher holder under 24 CFR part 982—Section 8 Tenant-Based Assistance: Unified Rule for Tenant-Based Assistance under the Section 8 Rental Certificate Program and the Section 8 Rental Voucher Program or to the holder of a comparable document evidencing participation in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher, or comparable HOME tenant-based assistance document.

(e) Periods of Affordability. The HOME-assisted units must meet the affordability requirements for not less than the applicable period specified in the following table, beginning after project completion. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. They must be imposed by deed

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure. The participating jurisdiction may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. The affordability restrictions shall be revived according to the original terms if, during the original affordability period, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property.

(f) Subsequent rents during the affordability period. (1) The maximum HOME rent limits are recalculated on a periodic basis after HUD determines fair market rents and median incomes. HUD then provides the new maximum HOME rent limits to participating jurisdictions. Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment. (2) The participating jurisdiction must provide project owners with information on updated HOME rent limits so that rents may be adjusted (not to exceed the maximum HOME rent limits in paragraph (f)(1) of this section) in accordance with the written agreement between the participating jurisdiction and the owner. Owners must annually provide the participating jurisdiction with information on rents and occupancy of HOME-assisted units to demonstrate compliance with this section. (3) Any increase in rents for HOME assisted units is subject to the provisions of outstanding leases, and in any event, the owner must provide tenants of those units not less than 30 days prior written notice before implementing any increase in rents.

(g) Adjustment of HOME rent limits for a particular project. (1) Changes in fair market rents and in median income over time should be sufficient to maintain the financial viability of a project within the HOME rent limits in this section. (2) HUD may adjust the HOME rent limits for a project, only if HUD finds that an adjustment is necessary to support the continued financial viability of the project and only by an amount that HUD determines is necessary to maintain continued financial viability of the project. HUD expects that this authority will be used sparingly.

(h) Tenant income. The income of each tenant must be determined initially in accordance with § 92.203(a)(1)(i). In addition, each year during the period of affordability the project owner must re-examine each tenant's annual income in accordance with one of the options in § 92.203 selected by the participating jurisdiction....[61 FR 48750, Sept. 16, 1996, as amended at 62 FR 28929, May 28, 1997; 62 FR 44840, Aug. 22, 1997]; and

24 CFR § 92.253 Tenant and participant protections.

(a) Lease. The lease between a tenant and an owner of rental housing assisted with HOME funds must be for not less than one year, unless by mutual agreement between the tenant and the owner.

(b) Prohibited lease terms. The lease may not contain any of the following provisions: (1) Agreement to be sued. Agreement by the tenant to be sued, to admit guilt, or to a judgment in favor of the owner in a lawsuit brought in connection with the lease; (2) Treatment of property. Agreement by the tenant that the owner may take, hold, or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. This prohibition, however, does not apply to an agreement by the tenant concerning disposition of personal property remaining in the housing unit after the tenant has moved out of the unit. The owner may dispose of this personal property in accordance with State law; (3) Excusing owner from responsibility. Agreement by the tenant not to hold the owner or the owner's agents legally responsible for any action or failure to act, whether intentional or negligent; (4) Waiver of notice. Agreement of the tenant that the owner may institute a lawsuit without notice to the tenant; (5) Waiver of legal proceedings. Agreement by the tenant that the owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense, or before a court decision on the rights of the parties; (6) Waiver of a jury trial. Agreement by the tenant to waive any right to a trial by jury; (7) Waiver of right to appeal court decision. Agreement by the tenant to waive the tenant's right to appeal, or to otherwise challenge in court, a court decision in connection with the lease; and (8) Tenant chargeable with cost of legal actions regardless of outcome. Agreement by the tenant to pay attorney's fees or other legal costs even if the tenant wins in a court proceeding by the owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

(c) Termination of tenancy. An owner may not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted with HOME funds except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; for completion of the tenancy period for transitional housing; or for other good cause. To terminate or refuse to renew tenancy, the owner must serve written notice upon the tenant specifying the grounds for the action at least 30 days before the termination of tenancy. [61 FR 48750, Sept. 16, 1996, as amended at 67 FR 61756, Oct. 1, 2002]"

(8) Natural Disaster. Monthly loan payments may be deferred for a period of up to six months in the event of a natural disaster, such as fire, typhoon, earthquake, and flood. Final decisions regarding requested deferments shall be made by the Corporate Director. Interest and late charges shall not accrue during deferment. Borrowers may be eligible for a deferment upon written request accompanied by acceptable evidence of negative impact caused by natural

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

disaster. Further, in order to qualify for a deferment, the Borrower's loan and hazard insurance must be up to date.

(9) Other Hardships. Any other claimed financial hardship outside of the aforementioned eight listed hardships shall be brought to the Board for review and decision.

(b) In addition, NMHC may offer the two following types of assistance:

(1) Penalty Waiver. Accrued penalty fees for delinquent borrowers may be waived to assist them in making their accounts current.

(2)(i) Loan Assumption. Death of a homebuyer/borrower: Upon the death of the borrower which occurs within the affordability period, the entire unpaid balance of the loan shall be immediately due and payable. Title transfer without sale triggers the HOME resale or recapture agreement enforceable through the restrictive deed or land covenant. The NMHC Board may allow assumption of the loan by the heirs of the borrower if a final decree in the probate of the borrower identifies the heirs and approves distribution to them of the improved property and the loan, and if the heirs themselves would qualify as a new applicant for the loan.

(ii) At the sole discretion of the NMHC Board, the loan may be assumed by a legal heir of a deceased borrower(s) of the HOME-assisted unit. This assumption exception is permitted where transfer of title is through the laws of descent provided that the heir is of legal age, meets all HOME Program eligibility requirements and has a full, undivided interest in the real property. The heir will be required to fill out an application and will be subject to credit, income, and asset verification.

(3) Foreclosure Prevention. In situations where a foreclosure is imminent, the NMHC Board may allow a borrower to have a HOME eligible immediate relative (i.e., mother, father, brother, sister, son, daughter) assume the loan, all for the purpose of preserving the affordability period. The total outstanding balance thereof shall be fully amortized at the original interest rate and terms to produce equal monthly payments. If, however, the HOME eligible immediate relative assuming the loan cannot afford the repayment of the loan at its original rate and terms, the NMHC Board may extend the term up to a period of sixty months. Should this accommodation still prove unaffordable, the property will go through the foreclosure process.

(4) Foreclosure. NMHC may use its right of first refusal, as set forth in the loan documents, written agreement with homebuyer, and restrictive deed or land covenant, to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability. Foreclosure triggers the HOME resale or recapture agreement enforceable through the restrictive deed or land covenant.

(5) Foreclosure and Resale. If the HOME assisted property is subject to resale terms, NMHC has two options:

(i) Resale Option 1: NMHC will ensure the sale of the HOME assisted property to another eligible low income homebuyer under the terms of the resale agreement; or

(ii) Resale Option 2: NMHC will repay the full amount of HOME assistance to the CNMI HOME account regardless of the amount collected at foreclosure sale.

(iii) Under Resale Option 1, NMHC may provide assistance to the new homebuyer. However, the total amount of the original and any additional HOME assistance may not exceed the maximum per unit subsidy amount.

(6) Foreclosure and Recapture. If the HOME assisted property is subject to recapture terms, NMHC has two options:

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

- (i) Recapture Option 1: NMHC will recapture and pay to the CNMI HOME account the net proceeds from the foreclosure sale of the property in accordance with the recapture terms; or
 - (ii) Recapture Option 2: NMHC may purchase the HOME assisted property at foreclosure sale and additional HOME funds may be spent. However, the total amount of the original and additional HOME funds spent may not exceed the maximum per unit subsidy amount.
- (c) If NMHC forecloses on its own loan, NMHC cannot spend any additional HOME funds to acquire the property.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission provided the title for this part. The Commission struck the figure “5” from subsection (a)(7) pursuant to 1 CMC § 3806(e). The Commission corrected the citations to the Code of Federal Regulation in subsection (a)(7), removed misleading designations from subsection (a)(7), and corrected the punctuation at the ends of subsections (b)(5)(i) and (b)(6)(i) pursuant to 1 CMC § 3806(g).

Part 1000 - Reinstatement

§ 100-100.1-1001 Items Needed to Cancel Foreclosure and Reinstatement Account

- (a) In accordance with 2 CMC § 4536(a) pay the entire amount then due under the terms of the mortgage other than such portion of principal as would not then be due had no default occurred, and reasonable attorney’s fees actually incurred.
- (b) Pay delinquent account current inclusive of one month advance payment.
- (c) Have the homebuyer(s) submit a written proposal on how he/she will maintain the account in good standing.
- (d) Submit paid in full receipt of homebuyer(s)’ insurance coverage for fire and earthquake.
- (e) Submit 2-3 recent check stubs and/or verification of benefits.

Modified, 1 CMC § 3806(a), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission designated this section and its subsections pursuant to 1 CMC § 3806(a). The Commission removed a “-” from the word “reinstatement” in the title of this section and corrected the citation to 2 CMC § 4536 in subsection (a) pursuant to 1 CMC § 3806(g).

Part 1100 - Performing New Construction Work

§ 100-100.1-1101 Performing New Construction Work

- (a) Contractor Cost Estimates. Homebuyers/Applicants approved for financial assistance shall be responsible for and required to obtain a minimum of three written cost estimates from

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

NMHC-approved CNMI-licensed contractors. Contractor shall be required to submit cost estimates, and each cost estimate submitted must include, as a minimum, the following information:

- (i) Bid price, cost breakdown of materials, and labor charges;
- (ii) Schedule for completion of work; and
- (iii) Copy of valid business/contractor license.

(b) Selection of Contractor/Contract Award. Upon NMHC's receipt of three contractor proposals, NMHC shall schedule an appointment with the homebuyers/applicants to review bids submitted. Homebuyers/applicants shall be required to select the responsible contractor to perform proposed work. The selection shall be based on the reasonableness of the cost estimate.

(c) Notification of Contract Award. Homebuyers/applicants shall be responsible for notifying the selected contractor of the contract award. Such notification shall be in writing and shall be mailed to selected contractor within ten working days after making the selection.

(d) Contractor/Homebuyer Agreement Form. Contractors selected to perform work shall prepare an NMHC-prescribed "AIA Construction Contract" (AIA Document No. A107-1997) between contractor and homebuyer for construction of private house form. Such agreement shall be completed by the contractor and immediately forwarded to NMHC for review by NMHC loan specialists and the homebuyer(s), prior to executing such agreement. At a minimum, the agreement shall include the following:

- (i) Name of contractor and project owner(s);
- (ii) Lot/Tract No. of project;
- (iii) Description of all work to be performed;
- (iv) U.S. dollar amount/cost of project;
- (v) Progress payment schedule; and
- (vi) Time of performance.

(e) Pre-Construction Conference. NMHC shall schedule and conduct a pre-construction conference between the homebuyer(s) and selected contractor prior to the execution of the contract agreement specified above. The conference shall be conducted to ensure that the homebuyer(s) understand their responsibilities during the construction phase, terms of the contract, the work to be performed by the contractor, and the role of NMHC. An NMHC-prescribed "Pre-construction Conference Report" form shall be signed by the homebuyer(s) and contractor upon completion of such conference.

(f) Execution of Contract Agreement. Upon completion of the "Pre-Construction Conference Report" and approved by NMHC as well the execution of all necessary loan documents by the approved homebuyer(s)/applicant(s), the construction contract may be executed by all necessary parties.

(g) Inspections. NMHC shall have the right, during the construction or improvement of the building, to inspect the same and to reject and to require to be replaced, any material or workmanship that does not comply with the plans and specifications, without any liability on the part of NMHC, as to workmanship or materials therein. Such inspection is solely for financing

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

purposes and for the disbursement of funds, and any inspection or approval of any construction phase or increments of said dwelling shall not be deemed as a warranty by NMHC of the workmanship and material therein.

(h) Inspector. Progress and final inspections shall be conducted by the Building Safety Office of the Department of Public Works (DPW) to ensure all work performed is done according to the plans and specifications as approved by the applicant and DPW and applicable property standards. Applicant(s) may have a private inspector, (i.e., a qualified licensed engineer or a qualified licensed architect), conduct inspection with the costs with such inspection to be handled in accordance with Part 400.

(i) Minimum Property Standards (MPS)

(A) For new construction of housing and acquisition-rehabilitation of housing, CNMI Building Safety Code and zoning laws (if applicable for Tinian and Rota), International Energy Conservation Code, NMHC written design standards for single-family housing new/rehabilitation, and handicapped accessibility requirements (where applicable) must be adhered to. Homebuyer(s), through their contractors, must ensure that they are familiar with these requirements. PJs using MPS may rely on inspections performed by a qualified person. If using HOME funds solely for acquisition, the property must also meet the minimum property standards mentioned above (or Section 8 HQS if no local codes and standards apply).

(B) The contractor will provide all the construction plans and permits necessary to comply with applicable local and federal laws.

Modified, 1 CMC § 3806(c), (e), (f).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission changed reference numbers pursuant to 1 CMC § 3806(c). The Commission struck the figures “3” from subsections (a) and (b) and “10” from subsection (c) pursuant to 1 CMC § 3806(e). The Commission changed the capitalization in this section for the purpose of conformity pursuant to 1 CMC § 3806(f).

Part 1200 - Miscellaneous

§ 100-100.1-1201 Acronyms Reference Section

[For Rehab & Homebuyer Policies and Procedures]

- (a) AIA—American Institute of Architects
- (b) AMI—Area Median Income
- (c) CD—Corporate Director
- (d) CFR—Code of Federal Regulations
- (e) CNMI—Commonwealth of the Northern Mariana Islands
- (f) CPSC—Consumer Product Safety Commission

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

- (g) DCD—Deputy Corporate Director
- (h) DEQ—Department of Environmental Quality
- (i) DPW—Department of Public Works
- (j) DTI—Debt-to-Income Ratio
- (k) EA—Environmental Assessment
- (l) GFE—Good Faith Estimate
- (m) HOME Program—U.S. HUD Homeownership Investment Partnerships Program
- (n) HQS—Housing Quality Standards
- (o) MCD—Mortgage Credit Division
- (p) MPS—Minimum Property Standards
- (q) MPV—Maximum Property Value
- (r) NAHA—National Affordable Housing Act
- (s) NEPA—National Environmental Policy Act
- (t) NMHC—Northern Marianas Housing Corporation
- (u) NTP—Notice to Proceed
- (v) PITI—Principal, Interest, Taxes, and Insurance
- (w) PJ—Participating Jurisdiction
- (x) PTI—Payment-to-Income Ratio
- (y) PTR—Preliminary Title Report
- (z) RER—Rehab Environmental Review
- (aa) RESPA—Real Estate Settlement Procedures Act
- (bb) SCRA—Servicemembers Civil Relief Act
- (cc) SSI—Supplemental Security Income [Social Security]

- (dd) TCD—Time Certificates of Deposits
- (ee) TILA—Truth in Lending Act
- (ff) U.S. HUD—United States Department of Housing and Urban Development
- (gg) USDA RD—United States Department of Agriculture Rural Development
- (hh) USPAP—Uniform Standard of Professional Appraisal Practice
- (ii) VOE—Verification of Employment

Modified, 1 CMC § 3806(a).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: The Commission designated paragraphs (a) through (ii) pursuant to 1 CMC § 3806(a).

§ 100-100.1-1205 Homebuyer/New Construction—Loan Determination

Determining how much of a loan an applicant would be eligible for or if a loan can be extended is determined by the applicant(s) gross annual income, repayment ability, and credit worthiness. These could be found in § 100-100.1-201. An applicant(s) debt ratio should not exceed forty percent of their gross annual income. However, on a case-by-case basis, the debt ratio could be up to fifty percent provided that the applicant could still meet payment responsibilities. The minimum and maximum loan assistance including the type to be extended to an applicant(s) are further explained in Part 700. Additionally because of the affordability restrictions that will be imposed on the property, a loan will only be extended to applicant(s) who will make their home-assisted unit their primary residence (see § 100-100.1-201(d)).

Modified, 1 CMC § 3806(c), (e), (g).

History: Adopted 37 Com. Reg. 36372 (Apr. 28, 2015).

Commission Comment: The Commission changed reference numbers pursuant to 1 CMC § 3806(c). The Commission struck the figures “40%” and “50%” pursuant to 1 CMC § 3806(e). The Commission inserted a comma after the word “ability” pursuant to 1 CMC § 3806(g).

This section did not appear in the February 28, 2015 proposed regulations. It was included as an appendix to the April 2015 notice of adoption.