

**TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION**

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**CHAPTER 100-100  
HOME PROGRAM REGULATIONS**

**SUBCHAPTER 100-100.1  
POLICIES AND PROCEDURES FOR HOMEBUYER ACTIVITIES**

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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).

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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 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

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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 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.

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(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 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**

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### § 100-100.1-101 Formal Application

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

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completed. Prior to verifying any applicant information, NMHC shall obtain written authorization from the applicants.

(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

<b>PACIFIC ISLANDS INCOME LIMITS 2014</b>	<b>1 Person</b>	<b>2 Person</b>	<b>3 Person</b>	<b>4 Person</b>	<b>5 Person</b>	<b>6 Person</b>	<b>7 Person</b>	<b>8 Person</b>
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.

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(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 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).

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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 (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).



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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 (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,

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or other similar legal documents to enforce these resale restrictions.

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

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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.

(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;

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- (2) Advisory services; and
- (3) Staff and overhead related to relocation assistance and services.

(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

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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.

(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.

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(b) Loan Review and Approval.

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

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(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.

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**

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(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.

(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 <sup>†</sup>
15.1% – 30%	1%	Interest Bearing Loans <sup>†</sup>
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

<sup>†</sup>—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



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structured to begin incremental forgiveness when the homebuyer is more than halfway into the affordability period.

(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.

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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**

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).

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### **§ 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 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.

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(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.

(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.

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(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 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

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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]"

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(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 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.

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(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:

(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 Reinstate 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 “reinstate” 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**



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### **§ 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 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.

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(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 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

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- (d) CFR—Code of Federal Regulations
- (e) CNMI—Commonwealth of the Northern Mariana Islands
- (f) CPSC—Consumer Product Safety Commission
- (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

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- (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.

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## SUBCHAPTER 100-100.2 POLICIES AND PROCEDURES FOR HOMEOWNER REHABILITATION

<b>Part 001</b>	<b>General Provisions</b>	§ 100-100.2-350	Credit History and Verification of Income
§ 100-100.2-001	Introduction	§ 100-100.2-355	Administration, Approval, Appeals Process
§ 100-100.2-005	Public Announcement	§ 100-100.2-360	Homeowner Counseling Session
<b>Part 100</b>	<b>Purpose and Requirements</b>	§ 100-100.2-365	Commitment Letter
§ 100-100.2-101	Purpose of the Program	§ 100-100.2-370	Preliminary Title Report (PTR)
§ 100-100.2-105	General Requirements	§ 100-100.2-375	Pre-Construction Conference
<b>Part 200</b>	<b>Loan Specifications</b>	§ 100-100.2-380	Submission of Pre-Construction Documents
§ 100-100.2-201	Loan Amount	§ 100-100.2-385	Loan Closing/Settlement
§ 100-100.2-205	Target Group	<b>Part 400</b>	<b>Rehabilitation</b>
§ 100-100.2-210	Income Eligibility	§ 100-100.2-401	Performing Rehabilitation Work
§ 100-100.2-215	Property Eligibility	<b>Part 500</b>	<b>Payments</b>
§ 100-100.2-220	Interest Rate and Type of Assistance	§ 100-100.2-501	Mortgage Loan Payments
§ 100-100.2-225	Loan Terms and Repayment	§ 100-100.2-505	Failure to Make Payment as Required
§ 100-100.2-230	Repayment Analysis	<b>Part 600</b>	<b>Affordability</b>
§ 100-100.2-235	Use of Loan Funds	§ 100-100.2-601	Affordability Restrictions
§ 100-100.2-240	Eligible Costs	<b>Part 700</b>	<b>Conveyance</b>
<b>Part 300</b>	<b>Loan Application Process</b>	§ 100-100.2-701	Sale, Conveyance, or Transfer of Property
§ 100-100.2-301	Confidentiality	<b>Part 800</b>	<b>Assumption</b>
§ 100-100.2-305	Discrimination Prohibited	§ 100-100.2-801	Loan Assumption
§ 100-100.2-310	Pre-Qualification Interview	<b>Part 900</b>	<b>Financial Hardship</b>
§ 100-100.2-315	Eligibility Notification	§ 100-100.2-901	Financial Hardship Assistance
§ 100-100.2-320	Ineligible Applicants	<b>Part 1000</b>	<b>Direct and Deferred Loan</b>
§ 100-100.2-325	Initial Inspection of Residence		
§ 100-100.2-330	Lead-Based Paint		
§ 100-100.2-335	Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58)		
§ 100-100.2-340	HOME Rehabilitation Loan Application		
§ 100-100.2-345	Application Intake and Processing		

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§ 100-100.2-1001 Direct/Deferred  
Loans Assistance (Combination Loan)

### **Part 1100 Ethics**

§ 100-100.2-1101 Conflict of Interest

### **Part 1200 Miscellaneous**

§ 100-100.2-1201 Acronyms Reference  
Section

§ 100-100.2-1205 Homeowner  
Rehabilitation—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 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).

## **Part 001 - General Provisions**

### **§ 100-100.2-001 Introduction**

- (a) The Homeownership Investment Partnerships (HOME) program was established under the National Affordable Housing Act of 1990. The main objective for the creation of the HOME program was to encourage, promote, and provide decent, safe, sanitary, and affordable housing.
- (b) 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-to very



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low-income homeowners. The Northern Marianas Housing Corporation (NMHC) has recognized three target groups to assist under the HOME program. Funds will be made available for eligible “homeowner rehabilitation” activities through low interest, non-interest bearing loans, and direct grants to assist in the rehabilitation and repair of their principal place of residence. Homeowner rehabilitation activities include those items identified at the initial inspection which are necessary in bringing the home in compliance with health and safety housing codes including the reduction of lead-based paint hazards and the remediation of other home health hazards.

(c) The NMHC, on behalf of the CNMI, has been designated the responsibility of implementing and carrying out the objective of the program. NMHC’s Mortgage and Credit Division (MCD) will be responsible for the day-to-day operation of the HOME program. Support services will be provided by the NMHC’s Fiscal Division with respect to disbursement of and collection of payments, accounting, and maintenance of financial records. Overall, the NMHC Corporate Director will assume ultimate responsibility for the efficient and proper administration of the Program in accordance with statutory and regulatory requirements. Through these policies and procedures, NMHC will strive to accomplish the following program objectives:

- (1) Provide for the operation of the HOME program, the CNMI’s primary objective which is to avail financial assistance to eligible homeowners for the rehabilitation and repair of their principal residence;
- (2) Foster good working relationships among NMHC, homeowners assisted with HOME monies, and minority and women-owned businesses (MBE/WBE); and
- (3) By imposing NMHC and HUD-prescribed residential rehabilitation standards, preserve and improve the general housing stock of the CNMI.

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 paragraphs in the original regulation were undesignated. The Commission designated the paragraphs as subsections (a) through (c) pursuant to 1 CMC § 3806(a). The Commission struck parenthesis around the acronym “NMHC” in subsection (c) pursuant to 1 CMC § 3806(g).

### **§ 100-100.2-005 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 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.

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(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), (c), (e).

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 (c) pursuant to 1 CMC § 3806(a). The Commission struck the figure “30” from subsection (a) pursuant to 1 CMC § 3806(e). The Commission changed reference numbers pursuant to 1 CMC § 3806(c).

### **Part 100 - Purpose and Requirements**

#### **§ 100-100.2-101 Purpose of the Program**

The purpose of the program is to provide no cost or low cost financing assistance to very low and low-income families for the rehabilitation and/or repair of their principal residence. The rehabilitation goal is to increase the economic life of the existing dwelling, provide energy efficiency, and ensure a safe, decent, and healthy living environment for assisted families.

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.

#### **§ 100-100.2-105 General Requirements**

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To qualify for rehabilitation assistance, the applicant(s) must meet the following:

- (a) Qualify as low-income family as defined under the HOME program;
- (b) The dwelling must be the applicant's primary residence prior to applying for rehabilitation assistance;
- (c) Must occupy and continue to occupy residence after the completion of such repairs and/or renovation;
- (d) Own the property under an approved form of ownership as set forth in 24 CFR § 92.254(c), and as specified below:
  - (1) Has fee simple title to the property;
  - (2) Maintains a 40-year leasehold interest in the property;
  - (3) Owns a condominium;
  - (4) Owns or has a membership in a cooperative or mutual housing project that constitutes homeownership under state law; or
  - (5) Maintains an equivalent form of ownership approved by HUD.
- (e) Applicants not meeting any one of the above, do not qualify for assistance under the HOME rehabilitation program.

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 final paragraph was undesignated in the original regulation. The Commission redesignated it as subsection (e) pursuant to 1 CMC § 3806(a). The Commission corrected the punctuation at the ends of subsections (a) through (c) and (d)(1) through (d)(3) pursuant to 1 CMC § 3806(g). The Commission corrected the citation to 24 CFR § 92.254(c) in subsection (d) pursuant to 1 CMC § 3806(g).

### **Part 200 - Loan Specifications**

#### **§ 100-100.2-201 Loan Amount**

- (a) **Minimum and Maximum Loans:** The minimum loan amount allowable under this program is one thousand dollars to a maximum of forty thousand dollars.
- (b) HOME loan funds may not be used for projects that exceed the maximum loan amount. However, in circumstances where the borrower is able to deposit the difference with NMHC before loan closing and he/she is still at or below the debt-to-income ratio, the borrower may still be eligible for assistance.

Modified, 1 CMC § 3806(e).

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

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Commission Comment: The Commission struck the figures "\$1,000.00" and "\$40,000.00" in subsection (a) pursuant to 1 CMC § 3806(e).

### § 100-100.2-205 Target Group

(a) Because of the limited funding allocated to the CNMI each program year, NMHC has recognized the need to prioritize the level of assistance to qualified families. In the event that there are more applicants than available funds, NMHC shall establish and maintain an applicant waiting list in where applicants shall be assisted if and when additional funds become available. All applicants being assisted, as well as those placed on the waiting list shall be processed on a first come, first serve basis.

(b) NMHC will categorize the target groups as first priority, second priority, third priority, and fourth priority. Classification of such groups are as follows:

(1) First Priority:

(i) Elderly or disabled families with income between 0%-15% of the area median income. This target group is eligible for grant assistance. Elderly or disabled household applicants may receive 100% grant assistance.

(A) An elderly family is a family whose head of household, spouse, or sole member is age 62 or older.

(B) A disabled family is a family whose head of household, spouse, or sole member is a person with a disability. Person with a disability:

(I) Means a person who:

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

b. Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

1. Is expected to be of long-continued and indefinite duration;

2. Substantially impedes his or her ability to live independently, and

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

c. Has a developmental disability as defined in 42 U.S.C. § 6001.

(II) 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

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

(C) 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.

(ii) A combination of non-interest loan and grant assistance may be provided to very low income non-elderly or non-disabled applicants whose income fall between 0%-20% provided that the first half of the assistance (or the first \$20,000) will be in the form of a non-interest bearing loan and the next half (or remaining \$20,000) will be in the form of a grant.

(2) Second Priority: Very low-income families with limited financial resources whose income fall between 20.1%-30% of the HUD income limits; a fixed rate of one percent shall apply throughout the term of the loan.

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(3) Third Priority: Low-income families with limited financial resources whose income fall between 30.1%-50% of the HUD income limits; a fixed rate of two percent shall apply throughout the term of the loan.

(4) Fourth Priority: Low-income families with limited financial resources whose income fall between 50.1% to 80.0% of the HUD income limits; a fixed rate of three percent shall apply throughout the term of the loan.

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 corrected the citations to 42 U.S.C. § 423 in subsection (b)(1)(i)(B)(I).a and 42 U.S.C. § 6001 in subsection (b)(1)(i)(B)(I).c pursuant to 1 CMC § 3806(g). The Commission designated subsection (b)(1)(i)(C) pursuant to 1 CMC § 3806(a). The Commission struck the figures “1%” in subsection (b)(2), “2%” in subsection (b)(3), and “3%” in subsection (b)(4) pursuant to 1 CMC § 3806(e).

### **§ 100-100.2-210 Income Eligibility**

NMHC shall refer to the Technical Guide for Determining Income and Allowances for the HOME Program, Third Edition in verifying the household’s assets and income which can be found in the HUD website. The NMHC shall adopt the guide and make use of the Part 5 income and asset calculation worksheets including any and all forms required in determining an applicant’s annual and adjusted income. Information provided by the applicant shall be accompanied with proper documentations (i.e., check stubs, bank statements, 1040 tax forms, etc.). The anticipated gross annual household income and assets for the next twelve months is used in determining if an applicant(s) is/are eligible to participate in the program. NMHC shall calculate the weekly average income and assets and multiply it by 52 weeks. If the total household income falls within the 80% area median income as indicated in § 100-100.2-220(b), the applicant(s) is/are eligible to participate in the program. Anything more than 80% would immediately disqualify them.

Modified, 1 CMC § 3806(c), (e), (g).

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 figure “12” pursuant to 1 CMC § 3806(e). The Commission inserted a period after the abbreviation “etc.” pursuant to 1 CMC § 3806(g).

### **§ 100-100.2-215 Property Eligibility**

(a) Property Ownership: Interested applicant(s) must provide proof of fee simple ownership or must have at least 40 year leasehold interest on the property to be improved. The applicant must have at least a minimum of 30 years of the leasehold interest remaining on the property to be improved. The assisted unit must be located in the CNMI, more specifically, Saipan, Rota, or Tinian.

(b) Conformance to Property Standards: All assisted properties that are rehabilitated with HOME assisted funds must meet the program’s established rehabilitation standards (see Exhibit

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1\*). The Rehabilitation Standards are the program's guidelines of acceptable construction methods and materials to be used when performing rehabilitation and the quality standards that the property must meet when all rehabilitation work is completed. NMHC shall make the rehabilitation standards available to the Department of Public Works (DPW) inspectors and the inspectors shall use them as a guide to certify that completed work was done accordingly.

(c) Local/State, National, or International Codes: Upon completion of rehabilitation work, the HOME assisted owner-occupied rehabilitation property must meet applicable state/local, national, or international building codes as adopted by the Commonwealth of Northern Mariana Islands (CNMI) government.

(d) Upon completion of rehabilitation work, the HOME assisted owner-occupied rehabilitation property must meet handicapped accessibility requirements, where applicable; and the homeowner must also maintain, at their own expense, property insurance on the mortgaged property covering fire, earthquake, typhoon, and flood damage.

(e) Principal Residence and Annual Recertification:

(1) Upon submission of a completed HOME rehab loan application, applicants shall also include a signed and notarized affidavit of proof of residency. HOME rehab applicants approved to receive financial assistance must own the property and occupy the property as their principal residence at the time of application, upon completion of the HOME-funded project, and throughout the NMHC affordability period. Since the CNMI currently does not have street addresses, proof of residency must be verified on an annual basis through an affidavit signed by the borrower(s). In addition, homeowners/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 homeowners/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 shall be conducted if required documents are not provided and the loan specialist shall verify the borrower(s) principal residence and, as necessary, to take photos and document the status of the residential unit.

(f) Maximum Property Value: The projected after rehabilitation value of each assisted property may not exceed ninety-five percent of the current HUD prescribed area median purchase price for the type of housing unit being assisted (single-family unit). To determine such value, a written appraisal must be obtained by the borrower from an appraiser approved by

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NMHC. The appraisal report must document the appraised value and the appraisal approach used.

\* See Commission Comment.

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 paragraphs of subsection (e) in the original regulation were undesignated. The Commission designated the paragraphs as subsections (e)(1) through (e)(3) pursuant to 1 CMC § 3806(a). The Commission struck the figure “95%” from subsection (f) pursuant to 1 CMC § 3806(e). The Commission inserted a comma after the word “Rota” in subsection (a), corrected the words “is” and “it” to “are” and “them” in subsection (b), and inserted the word “a” before “completed” in subsection (e) pursuant to 1 CMC § 3806(g).

Neither the February 2015 proposed regulations nor the April 2015 Notice of Adoption contained an Exhibit 1.

**§ 100-100.2-220 Interest Rate and Type of Assistance**

(a) The interest rate charged on the outstanding principal balance for each target group is determined by the gross household income which falls in the following percentage of the established Pacific Islands Income Limits. See Table 1 and Table 2 below for more details. NMHC from time to time may revise the specified interest rates below as it deems beneficial for the administration of the program.

Table 1

Target Groups	Pacific Islands HOME Limits	Income	Interest Rate	Type of Assistance
First	0%-15%		0%	100% Grant <sup>†</sup>
	0%-20%		0%	Non-Interest Loan & Grant <sup>††</sup>
Second	20.1%-30%		1%	Interest Bearing Loan
Third	30.1%-50%		2%	Interest Bearing Loan
Fourth	50.1%-80%		3%	Interest Bearing Loan

<sup>†</sup>—Applies only to qualified elderly or disabled household applicant(s).

<sup>††</sup>—Applies to families who fall within the specified area median income group above. Families in this income bracket may be given a grant to supplement the additional funding needed to complete the renovation/rehabilitation of the family’s dwelling. Maximum grant amount for applicants in this income bracket shall not be more than \$20,000.00. The first \$20,000.00 shall be in the form of a loan and the next half of the assistance shall be in the form of a grant.

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(b) The Area Median Income for the Pacific Islands as established by the U.S. Department of HUD and periodically revised is provided below and referenced as Table 2. NMHC shall comply with any revisions that the U.S. Congress enacts.

Table 2

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

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

### § 100-100.2-225 Loan Terms and Repayment

(a) Grants: Grants are provided with no requirement or expectation of repayment. Homeowners that receive grants to rehabilitate their principal residence must occupy the assisted unit throughout the NMHC affordability period following completion of the rehabilitation. However, should the assisted homeowner(s) decide to vacate, rent out, transfer title, or sell the assisted unit during the NMHC affordability period, the homeowner must repay the grant. See part 600 for an explanation of the affordability restrictions and recapture.

(b) Non-Interest Bearing Loans: The principal amount of loans is paid back on a regular basis over time, but no interest is charged. The repayment term of all non-interest bearing loans shall be twenty years or two hundred forty months and shall be fully amortized to produce equal monthly payments.

(c) Interest-Bearing Loans: These loans are amortizing loans. Repayment is expected on a regular basis so that over a fixed period of time, all the principal and interest is repaid. The repayment term of all interest-bearing loans shall be twenty years or two hundred forty months and shall be fully amortized at either one percent, two percent, or three percent, to produce equal monthly payments. The interest rate is dependent on the applicant's gross household income as specified in § 100-100.2-220(a).

(d) Extended Terms: Should a financial hardship beyond the borrower(s)' control exists, a request for an extended loan term may be considered provided that the borrower(s) are able to meet the repayment of their re-amortized loan. The borrower(s) must provide NMHC with documentations justifying their inability to meet the loan repayment term while at the same time providing an adequate standard of living for his/her/their family. An extended term must be



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recommended by the mortgage manager and approved by the Corporate Director. All extended terms granted must not exceed a five-year extension term for each request made. The maximum number of times such an extension may be requested by a homeowner is two. Financial hardship includes, but is not limited to:

- (1) Reduction-In-Force;
- (2) Reduction in pay;
- (3) Family medical emergency (including death of an immediate family member: parents, siblings, child(ren), spouse, and in-laws);
- (4) Medical condition (including career-ending injury) that causes homeowner to discontinue employment. The borrower's physician must complete the Homebuyer/Homeowner Program Disability Eligibility Verification to certify the borrower's medical condition;
- (5) Drastic increase in cost of living (e.g., utility rates, fuel);
- (6) Call of duty (deployment);
- (7) Temporary relocation.

Modified, 1 CMC § 3806(c), (e), (g).

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 "20" and "240" from subsections (b) and (c) and "1%," "2%," and "3%" from subsection (c) pursuant to 1 CMC § 3806(e). The Commission corrected punctuation at the ends of subsections (d) and (d)(1) through (d)(7) pursuant to 1 CMC § 3806(g).

### **§ 100-100.2-230      Repayment Analysis**

(a) **Grant:** 100% grant assistance need not be repaid so long as the homeowner is in compliance with the 10-year principal residency requirement. Provisions in § 100-100.2-225(a) apply to this section as well.

(b) **Non-interest and Interest-Bearing Loans:** Maximum monthly debt service for either type of loan including existing long term obligations, insurance, plus the rehabilitation loan that will be incurred shall not exceed 40% of the gross household income.

(c)(1) The maximum debt-to-income ratio shall be not more than 40% (or most current ratio) of the gross household income. The maximum payment-to-income ratio of the rehabilitation loan itself shall not be more than 30% (or most current ratio) of the gross household income.

(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 (see part 900).

Modified, 1 CMC § 3806(a), (c).

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

Commission Comment: The paragraphs in subsection (c) of the original regulation were undesignated. The Commission designated the paragraphs as subsections (c)(1) and (c)(2) pursuant to 1 CMC § 3806(a). The Commission changed reference numbers pursuant to 1 CMC § 3806(c).

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### § 100-100.2-235 Use of Loan Funds

(a)(1) The loan/grant funds will be used to assist existing homeowners to repair, rehabilitate, or reconstruct owner-occupied housing units for the primary purpose of correcting dwelling deficiencies ensuring a safe and healthy living condition, and preserving and extending the physical life of the dwelling. All corrections shall conform to the applicable state/local, national, or international building codes as adopted by the Commonwealth of the Northern Mariana Islands (CNMI) government, and also ensure that it meets the NMHC HOME Rehabilitation Standards as adopted by the NMHC Board.

(2) Special purpose homeowner repairs such as weatherization, emergency repairs, and handicapped accessibility may only be undertaken within a more comprehensive scope of work that brings the housing unit up to standard.

(b)(1) Rehabilitation-This includes the alteration, improvement, or modification of an existing structure. It also includes moving an existing structure to a foundation constructed with HOME funds. Rehabilitation may include adding rooms outside the existing walls of a structure.

(2) Adding a housing unit is considered new construction and is not eligible.

(c) Reconstruction-In many instances, applicant(s) requesting assistance under this program live in substandard homes which are often unsafe and unsanitary. Many of which are termite infested and dilapidated to the point where a complete tearing down of the unit would be most appropriate. Reconstruction refers to rebuilding a structure on the same lot where housing is standing at the time of project commitment. HOME funds may be used to build a new foundation or repair an existing foundation. Reconstruction may take place on the same foundation that the existing structure is on. Reconstruction may take place anywhere on the lot. During reconstruction, the number of rooms per unit may change, but the number of units may not.

(d) Luxury items and improvements are not eligible, including but not limited to: barbecue pits, bathhouses, exterior hot tubs, saunas, whirlpool baths, swimming pools, satellite dishes, tennis courts, carport/garage extension, and dirty kitchens. Any additions or alterations to provide for commercial use are not eligible. An exception for a carport/garage extension may be granted for disabled/elderly applicant(s).

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 paragraphs of subsections (a) and (b) in the original regulation were undesignated. The Commission designated the paragraphs as subsections (a)(1), (a)(2), (b)(1), and (b)(2) pursuant to 1 CMC § 3806(a). The Commission inserted the word “as” after “such” in subsection (a) and inserted a comma after the word “improvement” in subsection (b) pursuant to 1 CMC § 3806(g).

### § 100-100.2-240 Eligible Costs

(a) As defined in 24 C.F.R. § 92.206(a)(2)-(5), (b), and (d), HOME funds can be used to cover the hard rehabilitation costs necessary to meet required rehabilitation standards and associated “soft costs.” HOME funds may be used to pay for property improvements that are

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considered standard for the area. However, non-essential luxury or cosmetic improvements to the property are not permitted.

- (1) Hard costs include the following:
  - (i) Meeting the rehabilitation standards;
  - (ii) Meeting applicable codes, standards, and ordinances;
  - (iii) Essential improvements;
  - (iv) Energy-related improvements;
  - (v) Lead-based paint hazard reduction;
  - (vi) Accessibility for disabled persons;
  - (vii) Repair or replacement of major housing systems;
  - (viii) Incipient repairs and general property improvements of a non-luxury nature; and
  - (ix) Site improvements and utility connections.
- (2) Soft costs include the following:
  - (i) Financing fees;
  - (ii) Initial credit report;
  - (iii) Preliminary title report (PTR) and lender’s title policy, if applicable;
  - (iv) Recordation fees, transaction taxes;
  - (v) Legal and accounting fees;
  - (vi) Appraisals;
  - (vii) Architectural/engineering fees, including specifications and job progress inspections;
  - (viii) Project costs incurred by the PJ that are directly related to a specific project; and
  - (ix) Refinancing of secured existing debt if the housing is owner-occupied and refinancing allows the overall costs of borrower to be reduced and the housing is made more affordable.

(b) NMHC shall set aside \$1,508.50 (more or less, depending on current costs) of its administrative funds to assist each qualified rehab client whose total income is at or below 50% of the Area Median Income (AMI), to pay for the following loan closing fees and other related costs. This form of assistance shall not be in any way, a part of the rehab loan amount extended to the client. Borrowers will not be required to pay back any of this amount so long as they are in compliance with NMHC affordability restrictions. The entire amount shall be immediately due and payable by the borrower should NMHC determine that borrower(s) are not in compliance with NMHC affordability restrictions.

(1)	\$400.00	Utility connection;
(2)	\$400.00	First annual premium for hazard insurance;
(3)	\$450.00	Appraisal report;
(4)	\$150.00	Recordation of mortgage documents;
(5)	\$100.00	Preliminary title report (PTR);
(6)	\$8.50	Credit report @ \$4.25 each.
	\$1,508.50	Total

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 inserted a comma after the word “standards” in subsection (a)(1)(ii) and corrected the citation to 24 C.F.R. § 92.206 in subsection (a) pursuant to 1 CMC § 3806(g).

**Part 300 - Loan Application Process**

**§ 100-100.2-301 Confidentiality**

As is NMHC's practice, all applicant information is kept confidential and shall be made available only to borrower(s), borrower(s)' authorized representative, and authorized NMHC personnel.

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

**§ 100-100.2-305 Discrimination Prohibited**

Under no circumstances shall any of the NMHC Board of Directors, its officers, employees, agents, or contractors providing services to the corporation discriminate any applicant or borrower on the basis of race, color, national origin, religion, sex, ancestry, disability, or familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18).

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 inserted commas after the words "agents" and "disability" pursuant to 1 CMC § 3806(g).

**§ 100-100.2-310 Pre-Qualification Interview**

(a) Before an applicant can be given a formal application, the interviewing loan officer must conduct a pre-qualification interview to initially determine an applicant's eligibility for assistance. A HOME Program Pre-Qualification Interview Worksheet shall be completed by the interviewing loan specialist.

(b) Because the information collected from the applicant during this process may not be accurate, as the loan officer may only be relying on "assumed estimates" regarding their employment, debt, and assets, applicants who are initially determined eligible may later be determined ineligible for the program.

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

**§ 100-100.2-315 Eligibility Notification**

Once the applicant(s) have been pre-qualified and have been later determined eligible for the program, NMHC shall officially notify the applicants in writing of their eligibility. 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.

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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.

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 “5” and “30” pursuant to 1 CMC § 3806(e).

### **§ 100-100.2-320 Ineligible 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(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 “5” pursuant to 1 CMC § 3806(e).

### **§ 100-100.2-325 Initial Inspection of Residence**

Initial inspections shall be conducted by NMHC’s property manager and in coordination with the loan specialist or an NMHC representative to identify and verify deficiencies noted by eligible homeowners/applicants. NMHC personnel conducting the inspections shall note deficiencies in written form and shall obtain pictures of the condition of the unit. Such inspections shall also verify the eligibility and be the basis in estimating the costs of the rehabilitation activities requested and in developing the scope of work for the rehabilitation project. The applicant and the property manager, as well as the responsible loan specialist, shall work cooperatively to develop the scope of work for the project. The scope of work must be an eligible activity as described in § 100-100.2-235. The scope of work shall be provided to three NMHC approved contractors by the borrower(s) who shall prepare a cost breakdown estimate for the project. The estimates shall then be submitted along with the applicant(s) choice of contractor for the project upon submission of his/her/their loan application.

Modified, 1 CMC § 3806(c), (e), (g).

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 figure “3” pursuant to 1 CMC § 3806(e). The Commission moved a comma from after the word “as” to after the word “specialist” pursuant to 1 CMC § 3806(g).

### **§ 100-100.2-330 Lead-Based Paint**

(a) The federal government banned lead-based paint from housing in 1978. Deteriorating lead-based paint (peeling, chipping, chalking, cracking, or damaged) is a hazard and needs immediate attention. Before any rehabilitation work is done, homeowners must provide

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documentation that shows that their homes were built either before or after January 1, 1978. Homes built before the passage of Public Law No. 6-45 [Feb. 2, 1990] or the Building Safety Code of the Commonwealth of the Northern Mariana Islands [2 CMC §§ 7101-7181], must provide an affidavit by the homeowner or contractor attesting to the completion date of the home construction. Homeowners whose homes were completed after Public Law No. 6-45 must provide copies of their building permits as proof that their homes were constructed and completed after January 1, 1978.

(b) For those homes deemed to have been completed before January 1, 1978, they must be checked for lead in one of two ways, or both:

(1) A paint inspection which shows the lead content of every different type of painted surface in the home;

(2) A risk assessment which shows if there are any sources of serious lead exposure (such as peeling paint and lead dust). A risk assessment provides the homeowner the necessary actions to take when addressing these hazards.

(c) Only a trained, certified professional is allowed to check the home for such hazards. Only a certified lead “abatement” contractor is allowed to permanently remove lead hazards. However, if the risk assessment does not reveal any lead-based paint hazards, NMHC will not require the homeowner to conduct any abatement of hazards.

(d) For those homes that were completed before January 1, 1978, the following forms must be completed:

(1) Lead Hazard Evaluation Notice;

(2) Notice of Lead Hazard Reduction;

(3) Relocation Screening Sheet for Projects with Lead Hazard Reduction Activities;

(4) Protection of Occupants’ Belongings and Worksite Preparation for Projects with Lead Hazard Reduction Activities; and

(5) Property Owner/Rehab Contractor Contract Addendum Reduction of Lead Paint Hazards.

(e) The following are required activities to address lead-based paint:

(1) Notification

(i) Lead Hazard Information Pamphlet—Occupants, owners, and purchasers must receive the EPA/HUD/Consumer Product Safety Commission (CPSC) lead hazard information pamphlet, or an EPA-approved equivalent.

(ii) Disclosure—Property owners must provide purchasers and lessees with available information or knowledge regarding the presence of lead-based paint and lead-based paint hazards prior to selling or leasing a residence.

(iii) Notice of Lead Hazard Evaluation or Presumption—Occupants, owners, and purchasers must be notified of the results of any lead hazard evaluation work or the presumption of lead-based paint or lead hazards.

(2) Notice of Lead Hazard Reduction Activity—Occupants, owners, and purchasers must be notified of the results of any lead hazard reduction work.

(3) Lead Hazard Evaluation—Evaluation methods include visual assessments, paint testing, and risk assessments.

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(4) Lead Hazard Reduction—Reduction methods described include paint stabilization, interim controls, standard treatments, and abatement.

(f) The Summary of Lead-Based Paint Requirements by Activity chart is also adopted and herein incorporated.

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

### **§ 100-100.2-335 Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 C.F.R. Part 58)**

(a) HOME rehabilitation activities to be undertaken by NMHC are subject to the environmental review requirements at 24 C.F.R. Part 58. CNMI is the responsible entity and is responsible for ensuring that the environmental review process is satisfied before HOME funds are committed to specific project site.

(b) Rehabilitation of homeowner housing may be categorically excluded per 24 C.F.R. § 58.35(a)(3) when the following conditions are met:

- (1) The building is for residential use and has one to four units;
- (2) The density will not increase beyond four units;
- (3) The land use will not change; and
- (4) The footprint of the building will not increase in a floodplain or in a wetland.

(c) Reconstruction of a single family unit in a new location on the same lot is classified as new construction for the purposes of environmental review. Reconstruction of homeowner housing may be categorically excluded per 24 C.F.R. § 58.35(4)(i) when it is an individual action (reconstruction only) on a one to four family dwelling.

(d) Homeowner rehabilitation housing categorically excluded per 24 C.F.R. § 58.35 is categorically excluded from an environmental assessment (EA) and finding of no significant impact (FONSI) under the National Environmental Policy Act (NEPA) except for extraordinary circumstances. To document compliance with environmental review requirements, CNMI must:

- (1) Complete the Rehab Environmental Review (RER) for the Homeowner Rehabilitation Loan Program; and
- (2) Complete the RER Appendix A when an individual loan or grant application is received before approving any site-specific loan or grant for each structure, document and implement the mitigation of impacts as necessary, and keep all supporting documents in the Environmental Review Record as evidence of compliance.

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 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 “1” and “4” from subsections (b)(1) and (c) and “4” from subsection (b)(2) pursuant to 1 CMC § 3806(e). The Commission corrected the spelling of the word “responsible” in subsection (a) and corrected the citations to the Code of Federal Regulations pursuant to 1 CMC § 3806(g).

**§ 100-100.2-340 HOME Rehabilitation Loan Application**

(a) Applicants determined eligible for assistance will be provided a HOME Rehabilitation Loan Application. A checklist of all required documentation for submission is attached to the loan application. Preliminary requirements include:

- (1) Certificate of title/deed/homestead permit/lease agreement;
- (2) Property map and sketch of direction to property;
- (3) 1040 tax form for the previous tax year;
- (4) HOME program eligibility release form;
- (5) Last two months worth of pay stubs;
- (6) Verification of permit employment;
- (7) Current loan statement or loan payment record;
- (8) Most recent savings account statement (TCD, bonds, form passbook, money market accounts);
- (9) The last six months checking account statement available;
- (10) Profit sharing plan (bank or duty free employees);
- (11) Most recent retirement plan statement;
- (12) Current certification of child care expenses;
- (13) Current Certificate of Compliance from Division of Revenue and Tax;
- (14) Judgments (if any); divorce statement and/or probate decree;
- (15) Verification of medical expenses (transportation and medication);
- (16) Verification of full-time student status;
- (17) Business income tax forms for three previous years, if applicable;
- (18) Most current financial statement, if applicable.

(b) For further verification purposes, the application shall also be attached with the following documents:

- (1) Verification of income from business;
- (2) Verification of Social Security benefits;
- (3) Verification of pension and annuities;
- (4) Verification of Veterans Affairs benefits;
- (5) Verification of public assistance income;
- (6) Verification of child support payments;
- (7) Verification of alimony or separation payments;
- (8) Verification of recurring cash contributions;
- (9) Verification of income from military service;
- (10) Verification of assets on deposit;
- (11) Verification of assets disposed;
- (12) Record of oral verification;
- (13) Three cost estimates for the rehabilitation project;
- (14) Current appraisal by a licensed and Uniform Standard of Professional Appraiser Practice (USPAP) certified appraiser, if available.

Modified, 1 CMC § 3806(e), (g).

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



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Commission Comment: The Commission struck the figures “2” from subsection (a)(5), “6” from subsection (a)(9), and “3” from subsections (a)(17) and (b)(13) pursuant to 1 CMC § 3806(e). The Commission inserted punctuation at the ends of subsections (a)(1) through (a)(18) and (b)(1) through (b)(14) and corrected “Veterans Administration” in subsection (b)(4) to “Veterans Affairs” pursuant to 1 CMC § 3806(g).

### **§ 100-100.2-345      Application Intake and Processing**

Upon receipt of the HOME Rehabilitation Loan Application, the loan specialist must provide the applicant(s) with a Good Faith Estimate (GFE) Disclosure Statement as required by the Real Estate Settlement Procedures Act (RESPA) of 1974. The GFE discloses all costs and/or fees associated with the processing of such loan request. If the GFE is not provided to the client at the time of their submission of their application, the form must be mailed out within three business days after NMHC’s receipt of the loan application. If the application is denied within a three business day period, then NMHC is not obligated to send one out.

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 figure “3” pursuant to 1 CMC § 3806(e).

### **§ 100-100.2-350      Credit History and Verification of Income**

As part of determining income eligibility and credit worthiness, the applicant(s) shall provide NMHC with an executed HOME Program Eligibility Release Form to conduct a third party verification of the following:

(a) **Credit Report**—The applicant(s) shall provide a written authorization for NMHC to request and obtain a written credit report from a recognized credit bureau, more specifically, Equifax. The credit report will be used as a reference in determining the applicant(s) credit worthiness. Poor repayment of credit obligations shall be considered a credit risk and shall be a reason for denial of assistance. On a case by case basis, NMHC may reconsider its decision if the applicant has reestablished his/her credit standing, or if the applicant demonstrates a good faith effort to pay-off or resolve his/her delinquent account(s) or bad debt(s), and shall be required to submit a letter justifying any delinquency and/or bad debt. A non-refundable credit report fee of at least \$4.25 (or current applicable fee) shall be collected from each applicant.

(b) **Employment**—NMHC shall send the applicant(s’) employer(s) a signed Verification of Employment (V.O.E.) form who shall furnish the requested information on the V.O.E. NMHC may consider job stability as one of the basis in determining loan approval. As such, NMHC, on a case-by-case, may require that an applicant, or one of the applicants, be employed for at least two years before the loan request is submitted to the Corporate Director for approval.

(c) **Assets, Business Income, and Credit Accounts**—The applicant(s) shall provide NMHC with a written authorization to obtain third party verifications whenever applicable. Monthly bank statements from the previous six months for each checking account owned, and the most recent savings account, Time Certificates of Deposits (TCD), and other bank/investment

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accounts must be provided to NMHC for asset verification purposes. Third party verification from creditors shall also be conducted to determine applicant(s') credit worthiness.

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 figure "2" from subsection (b) pursuant to 1 CMC § 3806(e).

### **§ 100-100.2-355 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 & Approval

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

(i) 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

(ii) 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.

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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 paragraphs of subsections (a) through (c) in the original regulation were undesignated. The Commission designated the paragraphs as subsections (a)(1) through (a)(2), (b)(1) through (b)(4), and (c)(1) through (c)(2) pursuant to 1 CMC § 3806(a). The Commission struck the figures “30” from subsection (c)(1) and “3” from subsection (b)(3) pursuant to 1 CMC § 3806(e). The Commission inserted commas after the words “place” in subsection (a)(2) and “reports” in subsection (b)(1) pursuant to 1 CMC § 3806(g).

### **§ 100-100.2-360 Homeowner Counseling Session**

(a) All applicants for a HOME loan assistance must attend a Homeownership/Homebuyer Education and Counseling Session that will be provided by NMHC. NMHC shall notify the applicant(s) of the date, time, and location of the session. The education and counseling session shall be scheduled after the loan has been preliminarily approved and may be conducted before or on the day that NMHC issues the commitment letter to the applicant(s). The counseling session shall include a discussion of the terms and conditions of the loan, educate the homeowner(s) of their financial responsibilities, the importance of budgeting, making timely payments, foreclosure prevention, as well as, home maintenance and repair measures.

(b) NMHC shall inform applicant(s) at the time of their submission of their application of the required homeowner counseling session and again in written form when NMHC notifies the applicant(s) of NMHC’s preliminary approval of their loan request. Failure to attend the required Homeownership/Homebuyer Education and Counseling Session may be grounds for denial or cancellation of assistance.

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 second paragraph was undesignated in the original regulation. The Commission designated it as subsection (b) pursuant to 1 CMC § 3806(a). The Commission inserted a comma after the word “time” in subsection (a) pursuant to 1 CMC § 3806(g).

### **§ 100-100.2-365 Commitment Letter**

(a) Once the loan request has been approved by the NMHC Corporate Director, the responsible loan specialist shall prepare the commitment letter for the Corporate Director’s signature. The commitment letter is a binding agreement between NMHC and the borrower(s) wherein it discloses the terms and conditions of the approved loan. Borrowers who have been approved shall agree not to incur additional debts, unless formally requested by the borrowers and authorized by NMHC.

(b) The responsible loan specialist shall obtain a written certification (via email or memo format) from the Chief Accountant that funds are available for the project before the Corporate Director executes the commitment letter.

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(c) After the commitment letter has been signed by the Corporate Director, the responsible loan specialist shall schedule the applicant(s) to come in and sign off on it should they agree with the terms and conditions.

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

### **§ 100-100.2-370 Preliminary Title Report (PTR)**

(a) The responsible loan specialist shall order a preliminary title report (PTR) on behalf of the borrower(s) within two weeks after the borrowers have executed their commitment letter. The purpose in obtaining a title report is to ascertain ownership of the proposed property for collateral and to ensure that NMHC holds the first lien on the property.

(b) The responsible loan specialist shall obtain the preliminary title report (PTR) by submitting an email request to the local title companies. The project will be granted on a first come, first serve basis to the company agreeing to the rate set by NMHC.

(c) The Loan Specialist shall obtain an updated PTR prior to loan closing to ensure that NMHC maintains the first lien on the property.

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 corrected the abbreviation “1st” in subsections (a) and (c) to “first” pursuant to 1 CMC § 3806(g).

### **§ 100-100.2-375 Pre-Construction Conference**

(a) The pre-construction conference shall be held after NMHC’s receipt of the PTR and the same has been determined to have met NMHC’s requirement as indicated in § 100-100.2-370. The responsible loan officer shall inform the homeowner(s) and their contractor, and their private inspector (if applicable), in written form of the scheduled pre-construction conference. The notice shall include the date, time, and location of the conference. The conference shall be conducted by the responsible loan officer and shall include the homeowner(s), their contractor, and their private inspector (if applicable).

(b) The homeowner(s) and their contractor, and if applicable, their private inspector are to be provided with information such as their rights and responsibilities before, during, and after the rehabilitation period of their home. (See Exhibit 3 Pre-Construction Conference.)\*

\* See Commission Comment.

Modified, 1 CMC § 3806(c).

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). Neither the February 2015 proposed regulations nor the April 2015 Notice of Adoption contained an Exhibit 3.

**§ 100-100.2-380 Submission of Pre-Construction Documents**

The NMHC shall notify the contractor of the homeowner(s) selection of his/her/their company and shall likewise instruct the contractor to submit the required construction documents listed below. These documents are to be provided to NMHC within 30 days from the date of notice.

- (a) Building permit (if applicable);
- (b) Earthmoving & erosion control permit (if applicable);
- (c) Construction contract;
- (d) Performance bond;
- (e) Plans & specification approved by DPW;
- (f) Private inspector's contract (if applicable).

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 inserted punctuation at the ends of subsections (a) through (f) pursuant to 1 CMC § 3806(g).

**§ 100-100.2-385 Loan Closing/Settlement**

Promissory Note, Mortgage, Restrictive Covenant, Consent to Encumber Land, Affidavit

- (a) Promissory Note: All loans will require borrower(s) to sign a promissory note. The promissory note shall be attached together with the mortgage and loan agreement and shall be filed at the Commonwealth Recorder's Office as one document in the following order: Mortgage, promissory note, and loan agreement.
- (b) Mortgage, Consent to Encumber Land, Restrictive Covenant: All loans will require all legal owners, including the spouse of a borrower who may or may not be an applicant of the rehabilitation loan to sign the aforementioned documents. The consent to encumber land and restrictive covenant shall be attached together with the mortgage, loan agreement, and promissory note and shall be filed at the Commonwealth Recorder's Office as one document.
- (c) Affidavit of Marital Status: All loans will require that all unmarried borrowers declare their marital status before executing the documents stated in subsections (a) and (b).
- (d) The responsible loan officer shall prepare the following disclosure forms to be executed by borrowers: Federal Truth-in-Lending Disclosure, HUD 1, Fixed Rate and Variable Rate Disclosure Form.

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Modified, 1 CMC § 3806(c).

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).

### **Part 400 - Rehabilitation**

#### **§ 100-100.2-401 Performing Rehabilitation Work**

(a) **Contractor Cost Estimates.** The homeowner(s) shall be responsible in obtaining a minimum of three written rehabilitation cost estimates from at least three NMHC approved contractors.

(b) **Selection of Contractor.** The homeowner(s) shall have the right to select whichever contractor to perform the rehabilitation work, provided that the contractor's quotation does not exceed the loan amount and provided that the contractor is an NMHC-approved contractor. Should it exceed the loan amount, the homeowner shall choose to either deposit the difference or negotiate with contractor in reducing the contract amount. Should the borrower not be able to deposit the difference or the contractor unwilling to lower the contract amount, then the borrower shall select his/her/their next choice. The homeowner(s) shall submit a contractor selection notice notifying NMHC of his/her/their selection.

(c) **Construction Contract.** The construction contract is a binding agreement strictly between the homeowner and the contractor whereby the contractor will provide the rehabilitation or repair work for a specified and agreed upon price. As NMHC's role is to finance the construction of the project, it is not a party to the construction contract. However, at any time the contractual provisions are not followed, NMHC shall have the right to withhold any progress payment until the contractor has complied with such provisions. The construction contract shall include, but is not limited to the following provisions:

- (1) Contractor's name and mailing address;
- (2) Homeowner(s) name and mailing address;
- (3) Date of the contract, the contract amount, & payment schedule for each incremental billing;
- (4) Calendar days to complete the work (includes Saturdays, Sundays, & holidays);
- (5) Contractor will provide the performance bond up to the contract amount;
- (6) The contractor will provide all the construction plans and permits necessary to comply with applicable local and federal laws;
- (7) Issuance of the notice to proceed or the commencement of the project;
- (8) Contractor will provide a one year warranty on all work completed;
- (9) NMHC's right to inspect the progress of the project and right to withhold progress payments;
- (10) Change order procedures, if any;
- (11) A provision for liquidated damages must be included in the construction contract which shall be negotiated between the homeowner and contractor.

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(d) Contractor Notification & Pre-Construction Requirements Once NMHC is in receipt of the homeowner's contractor selection notice, NMHC shall notify the contractor of the homeowner's selection of their company. NMHC shall inform the contractor of the scheduled pre-construction conference and shall likewise inform the contractor of the required construction documents for submission as listed below.

- (1) Building permit (if applicable);
- (2) Earthmoving & erosion control permit (if applicable);
- (3) Construction contract;
- (4) Performance and payment bonds;
- (5) Plans & specification approved by DPW;
- (6) Private inspector's contract (if applicable).

(e) Project Duration

(1) Progress payment requests shall be submitted to NMHC by the Contractor incrementally as specified in the payment schedule. NMHC shall ensure that all work description indicated on the payment schedule is completed prior to releasing contractor's payment. An original and a copy of the requests must be submitted to the NMHC. The contractor shall freely use his/her/their company's billing form when submitting a payment request. The payment request shall be accompanied with the following whenever applicable: inspection reports (DPW and/or private inspector), geotesting results, termite treatment certification and/or warranty, builder's warranty, homeowner's acceptance of the project. In addition, each billing submitted must include pictures of the progress of the project and a copy of the payment schedule.

(2) Payment schedule shall be as follows:

- (i) Payment request number 1 shall not be more than 10% of the contract amount. This shall include the installation of the project sign board accompanied with a picture, the delivery of materials to the construction site and commencement of the project;
- (ii) Payment request number 2 shall not be more than 25% of the contract amount;
- (iii) Payment request number 3 shall not be more than 25% of the contract amount;
- (iv) Payment request number 4 shall not be more than 25% of the contract amount;
- (v) Payment request number 5 shall be the 15% retainage request when all work is completed. The final payment request shall be accompanied with the certificate of occupancy from the Commonwealth Building Safety Office, builder's warranty, window warranty if subcontracted, termite treatment warranty, final inspection report from the DPW and if applicable, the private inspector's, certificate of acceptance from the homeowners, geotesting results if applicable, pictures of project interior and exterior, Contractor's Affidavit of Payment of Debts and Claims (AIA Form G706), Certificate of Substantial Completion (AIA Form G704), Contractor's Affidavit of Release of Liens (AIA form G706A), and DEQ Certificate of Use (Sewage Disposal System), if applicable.

(3) Change Order Procedures. From time to time, homeowner(s) may request for changes in the plans and specifications. In the event that this should occur, the following steps must be taken to address such request:

- (i) Homeowner must notify contractor in written form of the proposed changes and provide NMHC a copy of the notification.
- (ii) Upon receipt of the notification, the contractor must cease work at the project site and obtain NMHC's approval of the change order request. Upon approval the contractor shall then provide NMHC a revised plans and specifications, including a revised payment schedule (if

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scheduled payments will be altered by the proposed changes). The contractor must obtain NMHC's approval of the change order request.

(iii) Once the change order request is approved, the homeowner will be required to deposit the additional money needed to NMHC (if applicable) to carry out the change order. The contractor will be required to submit the revised plans and specifications to DPW for approval.

(iv) Should the change order request be denied, then the contractor shall resume work to ensure timely completion of the project. The contractor may not be able to complete the project on time because of the delays the change order request may have caused. Therefore, the homeowner(s) shall give the contractor additional days equal to the time the work was ceased up until the time the change order request was denied to complete the project. The homeowner shall not charge the contractor liquidated damages during this period.

(v) Once the contractor has obtained the DPW's approval of the plans and specifications, then it shall provide the NMHC with the same copy. The contractor shall proceed in carrying out the change order and completing the project.

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 struck the figure "3" from subsection (a) and "1" from subsection (c)(8) pursuant to 1 CMC § 3806(e). The Commission corrected the punctuation at the ends of subsections (c)(1) through (c)(10), (d)(1) through (d)(6), and (e)(2)(i) through (e)(2)(iv) and corrected the spelling of the word "geotesting" in subsection (e)(2)(v) pursuant to 1 CMC § 3806(g).

### **Part 500      Payments**

#### **§ 100-100.2-501      Mortgage Loan Payments**

(a) Prepayment of Mortgage Loan—There shall be no prepayment penalties for all rehabilitation loans that are "paid-off" prior to the maturity date (original or revised). Pre-paying off the loan does not relieve the borrower(s) from the affordability restrictions imposed on the property.

(b) The monthly mortgage payments (inclusive of principal, interest, late charges, or any other amounts due) shall be made to the NMHC whose central office is located in the corner of Micro Beach Road and Chalan Pale Arnold Road, Garapan, Saipan. NMHC's respective field offices in Rota and Tinian are likewise accepting payments daily. NMHC's Rota Field Office is currently located in Songsong Village. NMHC's Tinian Field Office is located in San Jose Village. Acceptable forms of payment are cash, personal checks, debit or credit cards (available only in Saipan), cashier's check, money order, allotment, or direct deposit thru Bank of Guam.

(1) The first monthly mortgage payment inclusive of the principal and interest, shall begin thirty days after all construction work is satisfactorily completed. Payment application shall be applied in the following order:

- (i) Accrued interest;
- (ii) Principal;
- (iii) Late fees.

(2) Irregular payments from time to time may be made by borrowers. Should they occur, the NMHC shall apply the payments as follows:



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- (i) Partial payments made that are less than a borrower's scheduled payment shall be deposited and credited to the account, but shall not excuse the requirement of full payment.
- (ii) Multiple Payments—In instances where borrower(s) may have two existing loan accounts with NMHC, but makes less than the combined scheduled payments, payments are to be applied first to the oldest loan and the balance shall be deposited and credited to the other loan.
- (iii) Excess Payments—In instances where borrowers make more than their scheduled monthly payments, the payments are to be applied to the unpaid principal, unless the borrowers indicate in written form to have the payments applied as advance payments.
- (iv) Charged-off Accounts—Borrowers whose account(s) have been charged off will still have the opportunity to pay-off such account. Borrower(s) will be required to execute a charged-off payment agreement prior to making any payment.

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 struck the figures “30” from subsection (b)(1) and “2” from subsection (b)(2)(ii) pursuant to 1 CMC § 3806(e). The Commission inserted a comma after the word “charges” in subsection (b) and inserted punctuation at the ends of subsections (b)(1)(i) through (b)(1)(iii) pursuant to 1 CMC § 3806(g).

The Commission provided the title for this part.

### **§ 100-100.2-505 Failure to Make Payment as Required**

- (a) Late Fees for Overdue Payments: A penalty fee of one percent of the monthly mortgage payment will be assessed on all accounts not paid by the fifteenth of each month each day that the full payment is not received.
  - (1) Delinquencies
    - (i) Notices—Written notices of past due accounts shall be sent to borrower(s) based on the following schedule:
      - (A) First notice—Account over 30 days past due;
      - (B) Second notice—Account over 60 days past due;
      - (C) Third notice (demand notice)—Account over 90 days past due;
      - (D) Fourth notice (2nd demand notice)—Account over 120 days past due.
    - (ii) In the event that the borrower(s) fail(s) to update the account after the receipt of the fourth notice, NMHC shall forward the account to the local attorney for further collection efforts, which may include foreclosure.
- (b) Default: Should a borrower under this loan program fail to make payment as required or breaches any of the terms and conditions of the mortgage and the promissory note, the borrower will be considered in default of said agreements. NMHC shall have the right to collect any and all outstanding amounts due and demand a full payment thereof. NMHC shall have the right to charge the borrower(s) all legal expenses and fees caused by the borrower's failure to pay.
- (c) 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. Foreclosure triggers the NMHC recapture agreement enforceable through the restrictive deed or land covenant.

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

(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.

(2) In the event of default by the borrower, the NMHC may foreclose its lien on the property as secured by the mortgage. Such foreclosure proceedings may result in the sale of the rehabilitated real property. If NMHC forecloses on its own loan, NMHC cannot spend any additional HOME funds to acquire the property. Should the property be sold through foreclosure, then the amount due to NMHC will be the net proceeds of the sale up to the amount of loan assistance provided, including interest due, late charges, outstanding principal, legal fees, and any other amounts due.

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 struck the figures “1%” and “15th” from subsection (a) pursuant to 1 CMC § 3806(e). The Commission corrected punctuation at the ends of subsections (a)(1)(i)(A) through (D) and (c)(1)(i), inserted a dash in subsection (a)(1)(i)(C), and inserted a comma after the word “fees” in subsection (c)(2) pursuant to 1 CMC § 3806(g).

### **Part 600 - Affordability**

#### **§ 100-100.2-601 Affordability Restrictions**

(a) Long Term Affordability: HOME rules do not impose long term affordability requirements for rehabilitation of existing homeowner occupied housing. NMHC has elected to impose NMHC affordability requirements that 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:

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

(1) Affordability Restrictions

(i) 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.

(ii) 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

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ties, obtains an ownership interest in the project or property. If a home rehabilitated with HOME assistance is sold during the NMHC affordability period, NMHC recapture provisions apply to ensure the continued provision of affordable homeownership. Loan pay-offs do not end the affordability period.

(2) Affordability and Special Exceptions

(i)(A) NMHC may, as determined on a case-by-case basis, provide an exception to the affordability restrictions in order to extend or provide additional rehab assistance to existing qualified client(s) in need. This exception shall only be granted to existing client(s) who have paid-off their first HOME loan but have yet to satisfy or complete the affordability period. In this case, the client(s) shall be required to re-apply for the additional rehab assistance to determine eligibility and loan amount.

(B) The remaining length of affordability, or time, for the first rehab loan/assistance shall be combined with the new, additional, rehab loan/assistance affordability period. Example: If an existing borrower has paid-off her loan but has 5 years remaining to satisfy affordability, and subsequently approved for a \$20,000.00 additional rehab loan with a 10-year length as the affordability period. Ultimately, this client will be bound with a combined total of 15 years as the minimum length of the affordability period.

(ii)(A) Existing client(s) who was/were assisted with a HOME grant or deferred loan but has/have yet to satisfy or complete the affordability period may, on a case-by-case basis and as determined by NMHC, qualify for an extension or additional rehab assistance. However, the additional assistance shall be in the form of an interest-bearing loan with an amount not to exceed \$40,000.00 with the repayment term of twenty years or two hundred forty months, and shall be fully amortized at a fixed annual rate of one percent. Note: This assumes that the client(s) fall within the eligibility criteria, such as 15% income limits and applicable household size, 40% debt-to-income, and creditworthiness. Client(s) shall be required to re-apply for the additional rehab assistance to determine eligibility and loan amount.

(B) The remaining length of affordability, or time, for the first HOME grant or deferred loan shall be combined with the new, additional, rehab loan/assistance affordability period.

(iii) Requests for any of the foregoing exceptions shall be submitted to the NMHC Board at the next board meeting for final review and approval.

(b) Right of First Refusal. During the affordability period, the homeowner(s) agrees not to sell or assign the residence hereby rehabilitated to any 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.

(c) Recapture. NMHC will ensure that it recoups all or a portion of the HOME grant or loan assistance provided to the homeowner(s), if the housing unit ceases to be the principal residence of the homeowner(s) for the duration of the period of affordability. Subsidy amounts (in the form of loans) that directly benefited the property owner (i.e., through grants, non-interest bearing loans, interest bearing loans, 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 shall utilize the following recapture options:

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(1) Recapture the Entire Amount. NMHC may recapture the entire amount of the loan, grant, and/or subsidy from the homeowner(s) if the sale of the property occurs within halfway into the given NMHC affordability period. For example, a homeowner was approved for a \$20,000 HOME loan to rehabilitate a home. The NMHC affordability period is therefore, ten years. On the fourth year, the homeowner sells the house for \$60,000. Since the homeowner failed to comply with the minimum five years of the ten year affordability period, the recaptured amount is \$20,000.

(2) Forgiveness: Reduction during NMHC Affordability Period. NMHC may reduce the loan amount, grant, and/or subsidy to be recaptured on a pro rata basis for the period the homeowner(s) has/have owned and occupied the housing unit measured against the required NMHC affordability period; however, the homeowner(s) must occupy the housing unit as his/her/their principal residence for a minimum of five years or at least halfway into the NMHC affordability, whichever is greater, in order to qualify for this recapture option. For example, if the HOME assistance is \$40,000 with a 10 year affordability period, the homeowner sells the property in the 6th year of the NMHC affordability period having lived in the home for a full 5 years for \$60,000, the homeowner has a superior debt of \$15,000, and the homeowner’s share of the closing cost is \$1,500, the amount subject to recapture is calculated as follows:

(i) Net Proceeds:

\$60,000	(sales proceeds)
\$15,000	(superior private debt)
-\$1,500	(closing cost) <sup>†</sup>
\$43,500	(net proceeds)

<sup>†</sup>If client pays closing cost, it will be subtracted. If not, it will be added on as part of the net proceeds.

(ii) Reduction to Direct Subsidy:

$\$40,000 \div 10 \text{ year NMHC affordability period} = \$4,000 \text{ per year}$

$5 \text{ years} \times \$4,000 \text{ per year} = \$20,000 \text{ forgiven}$

Amount to Recapture:

$\$40,000 \text{ subsidy} - \$20,000 \text{ forgiven} = \$20,000 \text{ subject to recapture}$

(iii) Homeowner Gets:

(net proceeds amount to recapture)

$\$43,500 \text{ net proceeds} - \$20,000 \text{ recaptured} = \$23,500 \text{ for homeowner}$

(3) Homeowner(s) Recover of Initial Investment. The homeowner(s) investment (down payment and capital improvements made by the owner after completion of the rehab work) may be repaid in full before any HOME funds are recaptured, provided that the homeowner(s) have occupied the housing unit at a minimum of 5 years before the sale of the property and the homeowner’s household income is at or below 50% of the Area Median Income.

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

(d) Note: 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

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insufficient to repay the HOME investment due, NMHC may recapture an amount less than or equal to the net proceeds available.

(e) **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 paragraphs of subsection (a)(2)(i) and (a)(2)(ii) and the final two paragraphs in the original regulation were undesignated. The Commission designated the paragraphs as subsections (a)(2)(i)(A) through (B), (a)(2)(ii)(A) through (B), and (d) through (e) pursuant to 1 CMC § 3806(a). The Commission struck the figures “20,” “240,” and “1%” from subsection (a)(2)(ii)(A), “60” from subsection (b), and “4th” and “10” from subsection (c)(1) pursuant to 1 CMC § 3806(e). The Commission corrected punctuation at the end of phrases in subsections (c)(1) through (c)(4) pursuant to 1 CMC § 3806(g).

The Commission created the title for this part.

### **Part 700 - Conveyance**

#### **§ 100-100.2-701 Sale, Conveyance, or Transfer of Property**

(a) Upon the sale, conveyance, or transfer of title of the rehabilitated and mortgaged real property under this program during the NMHC affordability period, a repayment of all HOME assistance received by the borrower will be immediately due and shall be repaid to the NMHC. Repayment of assistance includes the outstanding principal amount, interest due, late charges, legal fees, and any other amounts due.

(b) At the sole discretion of the NMHC, a title transfer will only be permitted through the laws of descent or through a loan assumption, or upon selling the property, provided that NMHC have been properly informed and the same have consented to such sale. If, should any of these occur, one must submit his/her intention of loan assumption or selling of the property and request for the NMHC Board’s approval for the transfer of title.

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

Commission Comment: The Commission created the title for this part.

### **Part 800 - Assumption**

#### **§ 100-100.2-801 Loan Assumption**

(a) **Death of a Borrower**—Immediately upon notification to NMHC of a borrower’s death, the surviving borrower or a family member of the borrower(s) shall complete a Deceased Borrower’s Report (See exhibit 4\*) and must submit it together with the death certificate.

(1) Upon the death of a borrower, the entire unpaid balance of the loan shall be immediately due and payable. NMHC shall instruct its collection attorney to file a claim against the estate; or

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(2) For those accounts covered with a mortgage life insurance, or where the borrower assigns his/her life insurance to NMHC, NMHC shall ensure that it files its claim with the insurance company to ensure that the outstanding balance including the principal, interest, insurances, late fees, and any other fees due to the account is paid off; or

(3) In situations where there exists a surviving borrower, the same may submit a request to maintain the current monthly payment as scheduled without having the account sent for legal collection; or

(4) If both borrowers are deceased, then NMHC may allow for an assumption of the loan by the heir(s) as indicated in the probate decree (which shall be provided to NMHC).

(i) 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 execute a mortgage update and will be subject to a credit, income, and asset verification just like a new applicant.

(ii) The heir or heirs of the deceased will be responsible in maintaining the account current as they await the probate decree. Once they are in receipt of the decree, they must submit it to NMHC so that NMHC will prepare the loan assumption agreement.

(b) Foreclosure Prevention

(1) In situations where a foreclosure is imminent, the NMHC 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.

(2) If the HOME eligible immediate relative assuming the loan cannot afford the repayment of the loan at its original rate and terms, NMHC may but is not required to waive that requirement and extend an additional term of up to a period of five years or sixty months to the existing term.

(c) Foreclosure—Should NMHC determine the borrower(s) or family member's absolute inability to repay the loan, then it shall sell the property to recover all assistance provided. Recapture provision shall take place. See § 100-100.2-505 for guidance on foreclosures and § 100-100.2-601 for guidance on recapture.

\* See Commission Comment.

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

Commission Comment: The paragraphs of subsection (b) in the original regulation were undesignated. The Commission designated the paragraphs as subsections (b)(1) and (2) pursuant to 1 CMC § 3806(a). The Commission changed reference numbers pursuant to 1 CMC § 3806(c). The Commission struck the figures “5” and “60” from subsection (b)(2) pursuant to 1 CMC § 3806(e). The Commission corrected the placement of semicolons in subsections (a)(1) through (a)(3) pursuant to 1 CMC § 3806(g).

Neither the February 2015 proposed regulations nor the April 2015 notice of adoption contained an Exhibit 4.

The Commission created the title for this part.

**Part 900 - Financial Hardship**

**§ 100-100.2-901 Financial Hardship Assistance**

- (a) 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 re-amortized with an additional sixty months.
- (b) 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 re-amortized with an additional sixty months.
- (c) 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 re-amortized with an additional sixty months.
- (d) Medical Condition or Disability Assistance—Provided to borrower(s) who, after obtaining HOME rehabilitation assistance become physically or mentally disabled and are certified by a physician to be incapable of resuming work. The assistance may be conducted in the following manner:
- (1) Borrower(s) are to submit a doctor's certification certifying their incapability to resume work.
  - (2) Borrower(s) outstanding loan balance may be converted to a grant.
- (e) 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 re-amortized with an additional sixty months.
- (f) 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 re-amortized with an additional sixty months.
- (g) 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.
- (h) Natural Disaster
- (1) 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.
  - (2) Borrowers may be eligible for a deferment upon written request accompanied by acceptable evidence of negative impact caused by natural disaster. Further, in order to qualify for a deferment, the borrower's loan and hazard insurance must be up to date.

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

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 paragraphs in subsection (h) of the original regulation were undesignated. The Commission designated the paragraphs as subsections (h)(1) and (h)(2) pursuant to 1 CMC § 3806(a). The Commission removed confusing subsection designations in subsection (g) pursuant to 1 CMC § 3806(a). The Commission struck the figure “5” from subsection (g) pursuant to 1 CMC § 3806(e). The Commission inserted a comma after the word “earthquake” in subsection (h) pursuant to 1 CMC § 3806(g).

The Commission created the title for this part.

### **Part 1000 - Direct and Deferred Loans**

#### **§ 100-100.2-1001 Direct/Deferred Loans Assistance (Combination Loan)**

(a)(1) Deferred loan assistance will no longer be provided. However, to further assist our economically-disadvantaged families, NMHC may make available direct loan/grant assistance instead (See § 100-100.2-220).

(2) The following provision in this section alone refers only to existing deferred loan clients.

#### **(b) Annual Recertification of Existing Deferred Home Loan Borrowers**

(1) Existing borrowers whose loans have been partially or entirely deferred prior to or on December 31, 2007 shall also be recertified annually to verify eligibility for continued deferred assistance.

(2) During the 11th month of any annual twelve-month deferment period, NMHC shall schedule an appointment with the borrower to conduct a recertification of income to determine if the borrower still lacks the financial resources for the repayment of their deferred loan. Recertification will be treated the way a new applicant is determined eligible using the Part 5 adjusted income. However, the original interest rate and term will remain the same.

(3) Although further extensions of deferment assistance may be granted to the borrower by NMHC prior to the expiration or end of any twelve months deferment period, no extension or deferment is automatic.

(4) Furthermore, a deferred loan will be converted to repayment status as soon as the borrower has the ability to repay and that all outstanding deferred payments are subject to recapture.

(5) In the event that the borrower does not show up for their scheduled re-certification appointment (provided that they have been properly notified at least 60 calendar days notice before deferment expiration), NMHC shall automatically convert the deferred loan into a direct loan the day after the assistance expires.

(6) No deferment shall be granted after fifteen years from the effective date of the loan and mortgage documents. Loan and mortgage payments may be continually deferred during the fifteen year period upon proper and annual recertification by NMHC of the borrower.



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(7) If at any time during the fifteen years following the effective date of the loan and mortgage documents or the completion of the rehabilitation and repair work, whichever is longer, borrower decides to sell, transfer, lease, or rent the house and/or property, or any portion thereof, NMHC may declare the borrower's loan and any other indebtedness immediately due and payable, including any and all deferred payments. In the event NMHC declares such loan or indebtedness due, the Borrower shall repay the loan and debt in its entirety, plus interest and any other fees and charges, not later than thirty calendar days after the house and or property is sold, transferred, leased, or rented. See part 600 for guidance on enforcing recapture requirements.

(8) Annual re-certification for elderly borrowers shall be conducted solely to ensure that residence and occupancy requirements are being met.

(9) NMHC shall prepare the release of mortgage after borrowers have fully complied with the terms of the homeowner rehabilitation assistance including the NMHC affordability period and principal residency requirements.

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

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 paragraphs of subsection (a) in the original regulation were undesignated. The Commission designated the paragraphs as subsections (a)(1) and (a)(2) pursuant to 1 CMC § 3806(a). The Commission struck the figures "12" from subsection (b)(3), "15" from subsection (b)(6), and "15" and "30" from subsection (b)(7) pursuant to 1 CMC § 3806(e). The Commission corrected "borrower" to "borrowers" in subsection (b)(8) pursuant to 1 CMC § 3806(g).

The Commission created the title for this part.

### **Part 1100 Ethics**

#### **§ 100-100.2-1101 Conflict of Interest**

(a) Under no circumstances shall any immediate family members biological or stepfather, mother, biological or adopted son, daughter, sister, brother, elected or appointed official of the CNMI government, NMHC's Board of Directors, its officers, agents, and employees may participate in any HOME assisted project or unit including the procurement of materials, or have an interest in any contracted services, or be a beneficiary in any HOME proceeds. Other provisions in 24 C.F.R. § 92.356 shall apply.

(b) Exceptions: Threshold requirements. Upon the written request of the participating jurisdiction, HUD may grant an exception to the provisions above on a case-by-case basis when it determines that the exception will serve to further the purposes of the HOME Investment Partnerships Program and the effective and efficient administration of the participating jurisdiction's program or project. An exception may be considered only after the participating jurisdiction has provided the following:

(1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(2) An opinion of the participating jurisdiction's or state recipient's attorney that the interest for which the exception is sought would not violate state or local law.

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(c) Factors to be considered for exceptions. In determining whether to grant a requested exception after the participating jurisdiction has satisfactorily met the requirements mentioned above, HUD will consider the cumulative effect of the following factors, where applicable:

- (1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
- (2) Whether the person affected is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- (3) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
- (4) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (c) of this section;
- (5) Whether undue hardship will result either to the participating jurisdiction or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- (6) Any other relevant considerations.

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 paragraphs in the original regulation were undesignated. The Commission designated the paragraphs as subsections (a) through (c) pursuant to 1 CMC § 3806(a). The Commission corrected the citation to 24 C.F.R. § 92.356 in subsection (a) pursuant to 1 CMC § 3806(g).

The Commission created the title for this part.

### **Part 1200 - Miscellaneous**

#### **§ 100-100.2-1201 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
- (g) DCD—Deputy Corporate Director

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- (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

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- (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 paragraphs in the original regulation were undesignated. The Commission designated the paragraphs as subsections (a) through (ii) pursuant to 1 CMC § 3806(a).

The Commission created the title for this part.

### **§ 100-100.2-1205 Homeowner Rehabilitation—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 §§ 100-100.2-205, 100-100.2-210, 100-100.2-220, 100-100.2-225, 100-100.2-230, and 100-100.2-350. 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 can be found in § 100-100.2-201 including the type to be extended to an applicant(s) which are further explained in §§ 100-100.2-220, 100-100.2-225, and 100-100.2-230. 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 § 100-100.2-215(e)).

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 2015 proposed regulations. It was adopted as part of the April 2015 notice of adoption.