

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

**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.

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Subchapter History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Amdts Adopted 40 Com. Reg. 40862 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40715 (May 28, 2018); 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). 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:

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- (1) Interest bearing loans or advances;
- (2) Non-interest bearing loans or advances;
- (3) Forgivable deferred loans; and
- (4) Non-interest subsidies.

(c) Due to the limited availability of HOME funds allocated each fiscal year to the Commonwealth of the Northern Mariana Islands (CNMI) from the U.S. Department of Housing and Urban Development (HUD), financial assistance will be limited to qualified low and very low-income homebuyers. One hundred percent of HOME funds will be used to assist families with income levels at or below 80 percent of the area median income. These families' income 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 criterion 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 CNMI 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 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); as well as, prospective developers.
- (3) Enforce the current building code adopted by the CNMI Department of Public Works 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, the HOME Program federal regulations shall apply and supplemented by NMHC's general standard loans policies/procedures to address these situations in the administration of the HOME Program.

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History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

§ 100-100.1-005 Public Announcement

(a) Publicity.

(1) Upon notification from HUD of the approval of additional HOME funds, NMHC shall publish such approval within thirty calendar days from the date of the approval. General information of the CNMI 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) Homebuyer selection process;
- (6) Fair Housing logo and Equal Opportunity language; and
- (7) Opening date for acceptance of applications; and any proposals from prospective developers for housing projects.

(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).

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History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

Part 100 - Application

§ 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(g).

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

§ 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 or lease agreement 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 before the homebuyer(s) acquires the property.

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

(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.

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

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)).

(2) NMHC shall use HUD's Section 8 of Part 5 Technical Guidelines as the basis in calculating annual gross household income. NMHC will verify their income using at least two months of source documentation such as wage statements, interest statements, and SSI documents to determine if program applicants are income-eligible.

(3) HOME Program Underwriting Guidelines and Subsidy Layering is further outlined herein under Part 1200, § 100-100.1-1201.

(b) Determination of Repayment Ability.

(1) NMHC shall use forty-five percent (45%) (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 thirty-five percent (35%) 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 45% debt-to-income ratio, but not more than 55%, upon NMHC's determination that the applicant(s) can meet repayment responsibilities. This provision is also applicable in determining and providing financial hardship assistance.

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(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 (30) 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 principal residence immediately upon completion of all HOME-funded activities. An annual recertification for principal residency notice and form shall be sent to homebuyers/borrowers to complete, sign, and submit to NMHC in order to confirm and have on file that they are continually occupying the mortgaged property and housing. 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.

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

(3) Annual recertifications through field visits may be conducted if the required completed form has not been provided, or if the account status is pending probate, or the account has been accelerated to the collection attorney for foreclosure proceedings. 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.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Amdts Adopted 40 Com. Reg. 40862 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40715 (May 28, 2018); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

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 existing repayable deferred

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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, which are HOME-funded loans that fall within the 35% loan payment ratio or payment-to-income (PTI) ratio, 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 to Maximum Loan Limit	20 years

Additional HOME subsidies used to supplement excess costs associated with the construction, purchase, or the acquisition and repair of a principal residence and exceeds the 35% loan payment ratio, shall incur additional years/time to the affordability period as indicated by the following schedule:

Supplemental HOME Subsidies	Additional Years Added to the Affordability Period
\$1.00 - \$50,000	5 years
More than \$50,000	10 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 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 the transfer 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, recapture provisions apply to ensure the continued provision of affordable homeownership. Loan payoffs do not end the affordability period.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Amdts Adopted 40 Com. Reg. 40862 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40715 (May 28, 2018); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

§ 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.

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

§ 100-100.1-310 [Reserved.]

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.] Prior to being reserved by the Dec. 2020 amendments, this section related to "Resale."

§ 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 (7 ½) 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

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

(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.

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

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, which shall be addressed in the commitment letter as a condition before any Homebuyer activity is to be committed or funded;
- (8) Builders' or developers' fees;

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- (9) Affirmative marketing and marketing costs where applicable and as indicated in NMHC’s impending affirmative marketing plan; absent of this affirmative marketing plan, NMHC shall defer to its Section 8 Administrative Plan where applicable;
 - (10) Homebuyer counseling provided to purchasers of HOME-assisted housing;
 - (11) Management fees; and
 - (12) Direct project costs incurred by the PJ.
- (c) Relocation costs include:
 - (1) Replacement housing, moving costs, and out-of-pocket expenses;
 - (2) Advisory services; and
 - (3) Staff and overhead related to relocation assistance and services.
 - (d) Loan closing fees and related costs:

NMHC shall charge \$3,364.00 (more or less, depending on current costs) to the borrower(s) for certain loan closing fees and other related costs such as the following:

(1)	\$14.00	Credit Report
(2)	\$200.00	Preliminary Title Report (PTR)
(3)	\$600.00	Appraisal Report
(4)	\$150.00	Recordation of Mortgage Documents
(5)	\$500.00	First Annual Premium for Hazard Insurance
(6)	\$500.00	Initial Utility Connection
(7)	\$1,400.00	Title Policy
	\$3,364.00	Total

Loan closing fees and associated hard and soft costs may be bundled into the total approved loan amount. For example, a borrower who is approved for a \$120,000 loan may use a portion of the loan to pay for the loan closing costs and soft costs. In this case, the \$3,364.00 incurred closing costs shall be subtracted from the total approved loan of \$120,000 and the resulting net amount of \$116,636.00 shall then be used for the construction, purchase and/or rehabilitation of their principal residence.

- (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).

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

Part 500 - Notification to Applicants

§ 100-100.1-501 Notification of Eligibility or Ineligibility

(a) Eligible Applicants. NMHC shall send written notifications to all applicants determined eligible for financial assistance. Such notification shall be mailed no later than five working days after the determination, and shall contain a listing of additional information to be submitted for completion of loan file. Eligible applicant(s) shall be given thirty calendar days to submit the additional information requested. Applicant(s) that do not submit all pending information before the thirty (30) 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.

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

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.

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

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

(a) Program Administration.

(1) The MCD Manager shall be responsible for HOME program implementation and management

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of related tasks. The MCD Manager shall supervise division staff in loan and grant origination, underwriting and closings under the HOME program.

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

(b) Loan Review and Approval.

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

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

Part 700 - Terms and Conditions of Loan

§ 100-100.1-701 Maximum Homebuyer Programs Loan Amount

(a) The amount of HOME loan funds that may be used for a new construction, purchase, or for an acquisition and repair shall be based on the borrower(s) ability to repay the loan as

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determined by the program underwriting standards, for which, not to exceed the debt-to-income (DTI) of forty-five percent (45%); as well as, not to exceed the payment-to-income (PTI) of thirty-five percent (35%) as provided in Section 100-100.1-201(b), Determination of Repayment Ability.

Notwithstanding the borrower(s) ability to repay the loan, the maximum HOME assistance as per HOME regulations is capped at the HOME maximum per unit subsidy limit.

Moreover, the value of a HOME-assisted housing cannot exceed the most current 95% Area Median Sales Price Limits or the HOME maximum value limits for existing or new homes as published annually by HUD.

(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 once and resulted in an unsuccessful bid.

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Amdts Adopted 40 Com. Reg. 40862 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40715 (May 28, 2018); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

§ 100-100.1-705 Minimum Homebuyer Programs Loan Amount

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

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); 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 (5%) 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 (4%) 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 (3%) 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 (2%) shall apply throughout the term of the loan.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

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

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

(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 30% 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. The legal guardian shall be included as a co-borrower in the mortgage of the HOME-assistance that is provided.

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Table 2

HUD HOME Program Income Limits for the CNMI	Interest Rate	Type of Assistance
0% - 30%	0%	Deferred Loan [†]
0% - 30%	2%	Interest Bearing Loan
30.1% - 50%	3%	Interest Bearing Loan
50.1% - 60%	4%	Interest Bearing Loan
60.1% - 80%	5%	Interest Bearing Loan

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

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

(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 principal and interest for each month thereafter on a pro-rata 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 30% of the HUD Income Limits and at some future point in time they have become disabled or turn 62 years of age.

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

§ 100-100.1-720 [Repealed.]

History: Repealed 42 Com. Reg. 44495 (Dec. 28, 2020); Repeal Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: This section was impliedly repealed by the Dec. 2020 amendments. Prior to repeal, this section related to “Interest Subsidies.”

§ 100-100.1-725 [Repealed.]

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History: Repealed 42 Com. Reg. 44495 (Dec. 28, 2020); Repeal Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: This section was impliedly repealed by the Dec. 2020 amendments. Prior to repeal, this section related to “Loan Guarantees.”

§ 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 and approved by the Corporate Director to accommodate requests for relief from borrowers who have been determined to be able to repay their obligations, with the amended or revised repayment terms not to exceed an additional 60 months.

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

§ 100-100.1-735 After-Construction Property Value, After-Rehabilitation Property Value, or Property Value at Initial Purchase (if Acquisition Only)

The projected after-construction value, after-rehabilitation value, or property value at initial purchase (if acquisition only) of each homebuyer property to be assisted with HOME funds must not exceed the most current 95 percent of the area median purchase price for single family housing, as determined by HUD. NMHC will request for a real estate appraisal from a licensed real estate appraiser, prior to loan closing to determine such value.

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Amdts Adopted 40 Com. Reg. 40862 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40715 (May 28, 2018); 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. Additionally, the purchase price, date by which housing must be acquired, address or legal description of the property must be indicated in the applicable written agreement. The written agreement will also include NMHC’s refinancing guidelines should the homeowner decide to refinance the superior loan.

(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 (if applicable) covering the replacement value of all properties at a minimum equal to the loan

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amount. A waiver may be granted on this insurance requirement if a financial hardship is justified. Financial hardships shall be reviewed on a case-by-case basis and subject to approval by the Corporate Director.

(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.

(e) NMHC shall adhere to its written policies and standard operating procedures (SOP) for refinancing loans to which HOME loans are subordinated to ensure that the terms of the new loan are reasonable. Additional refinancing guidelines for which HOME funds are to be used shall include; but not limited to, the following:

- (1) verification of loan or mortgage to be refinanced;
- (2) clear title ownership;
- (3) obtain most current appraisal to ensure property value is greater than the HOME funds to be used for the acquisition and/or repair of the principal residential unit;
- (4) adhere to HOME eligibility and underwriting guidelines; and,
- (5) adherence to HOME affordability requirements and restrictions.

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); 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.

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

§ 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.

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

Part 800 - Distressed Homebuyer(s)

§ 100-100.1-801 Distressed Homebuyer(s)

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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; and
- (e) Natural disaster.

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Amdts Adopted 40 Com. Reg. 40862 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40715 (May 28, 2018); 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 (60) 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 (60) months.

(2) Reduction in pay. Interest rate may be reduced by 50% for a period of up to twenty-four (24) 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 (60) months.

(3) Family medical emergency. Monthly loan payments may be deferred for a period of up to twenty-four (24) months. Interest and late charges would not accrue. The current term may be extended and reamortized with an additional sixty (60) months.

(4) Medical condition that causes borrower to discontinue employment – Principal amount may be forgiven incrementally (based on term). Homebuyer(s) above the 50% HUD income limits may only be required to pay principal or interest (whichever is lower) as his/her monthly payments.

(5) Natural Disaster. Monthly loan payments may be deferred for a period of up to six (6) 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.

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

(6) Other Hardships. Any other claimed financial hardship outside of the aforementioned seven listed hardships shall be brought to the Corporate Director 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 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 recapture agreement enforceable through the restrictive deed or land covenant.

(5) 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.

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History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Amdts Adopted 40 Com. Reg. 40862 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40715 (May 28, 2018); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

Part 1000 - Mitigation to Foreclosure

§ 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.

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

Part 1100 - Performing New Construction Work

§ 100-100.1-1101 Performing New Construction Work

- (a) Contractor Cost Estimates: The homebuyer(s)/applicant(s) shall be responsible in obtaining a minimum of three written construction cost estimates from at least three NMHC approved contractors, and each cost estimate submitted must include, as a minimum, the following information: bid price, cost breakdown of materials and labor charges, and schedule for completion of work. If for any reason that a construction cost estimate is unattainable, then a justification letter from the borrower and/or contractor may be accepted in lieu of this requirement.
- (b) Selection of Contractor/Contract Award: The homebuyer(s) shall have the right to select whichever contractor to perform the construction work, provided that NMHC has assessed the sources and uses of funds and determined that the costs are reasonable; moreover, provided that the contractor's quotation and after-construction estimated value does not exceed the approved loan amount; as well as, not to exceed the most current HUD-approved value limits, 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

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unwilling to lower the contract amount, then the borrower shall select his/her/their next choice. The homebuyer(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 homebuyer(s) and the contractor whereby the contractor will provide the construction 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, and payment schedule for each incremental billing;
- (4) Calendar days to complete the work (includes Saturdays, Sundays, and holidays);
- (5) Contractor will provide the performance bond, and labor and material payment bond up to the contract amount, as well as a builder's risk policy for the project;
- (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; and
- (11) A provision for liquidated damages must be included in the construction contract which shall be negotiated between the borrower(s)/homebuyer(s) and the contractor.
- (12) Description of the work to be performed so that inspections can be conducted and, for rehabilitation, so that housing will meet NMHC's rehabilitation standards.

(d) **Contractor Notification and Pre-Construction Requirements:** Once NMHC is in receipt of the borrower(s)/homebuyer(s) contractor selection notice, NMHC shall notify the contractor of the borrower(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 and erosion control permit (if applicable)
- (3) Construction contract
- (4) Performance and payment bonds
- (5) Plans and specification approved by DPW
- (6) Private inspector's contract (if applicable)
- (7) Notice that an environmental review and clearance has been conducted.

(e) **Project Duration:** Construction must start within 12 months of NMHC's execution of the HOME written agreement with the homebuyer(s).

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(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, and borrower/homebuyer'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, and DEQ certificate of use (sewage disposal system), if applicable.

(3) Change Order Procedures. From time to time, the homebuyer(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) The borrower/homebuyer 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 plan and specifications, including a revised payment schedule (if 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 homebuyer(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 homebuyer shall not charge the contractor liquidated damages during this period.

(4) 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.

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(f) 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.

(g) 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 § 100-100.2-240.

(h) Minimum Property Standards (MPS): For new construction of housing and acquisition-rehabilitation of housing, the current building code adopted by the Department of Public Works Building Safety Office (note: current building code is the 2018 International Building Code) and zoning laws (note: zoning is currently applicable to Saipan only), and International Energy Conservation Code as adopted by the CNMI government, NMHC written design standards for single family housing new/rehabilitation, and handicapped accessibility requirements (where applicable) must be adhered to.

Further adherence to HOME rehabilitation or acquisition and repair standards which details the methods, materials, and other requirements that the housing must meet upon completion, including each of the following.

- (1) Health and Safety [24 CFR 92.251(b)(1)(i)]
- (2) Major systems that were rehabilitated or replaced as part of the rehabilitation [24 CFR 92.251(b)(1)(ii)]
- (3) Lead-based paint [24 CFR 92.251(b)(1)(iii)]
- (4) Disaster mitigation, if applicable [24 CFR 92.251(b)(1)(vi)]
- (5) State and local codes, ordinances and zoning requirements [24 CFR 92.251(b)(1)(vii)]
- (6) Minimum deficiencies that must be corrected based on inspectable items and areas in HUD's Uniform Physical Condition Standards [24 CFR 92.251(b)(1)(viii)]

(i) 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 the Uniform Physical Condition Standards (UPCS). The contractor will provide all the construction plans and permits necessary to comply with applicable local and federal laws.

(j) Project Completion:

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- (1) Project shall be completed within 4 years of the date of the HOME written agreement (the date the HOME funds were committed to the project). [24 CFR 92.205(e)(2)]
 - (2) Project completion information shall be entered in IDIS within 120 days of the final project draw. [24 CFR 92.502(d)(1)]
- (k) Record Retention:
- (1) NMHC shall retain HOME homebuyer project records for five years after project completion. [24 CFR 92.508(c)(2)]
 - (2) NMHC shall retain documents imposing recapture provisions for five years after the period of affordability terminates. [24 CFR 92.508(c)(2)]
 - (3) NMHC shall retain HOME homebuyer project written agreement records for five years after the agreement terminates. [24 CFR 92.508(c)(4)]

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Amdts Adopted 40 Com. Reg. 40862 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40715 (May 28, 2018); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.]

Part 1200 - Homebuyer Underwriting

§ 100-100.1-1201 Guidelines and Referenced Sections

In order to determine the specific amount of HOME assistance needed to ensure that the unit is affordable and sustainable over the long-term, HOME Program design reflects and incorporates underwriting standards that the HOME regulations at 24 CFR § 92.254(f) has laid out and further examines the following for each homebuyer: Program Eligibility and income; Housing and overall debt; Monthly expenses; Assets or cash reserve, as applicable; and Appropriateness of the amount of assistance.

The HOME Program Policies and Procedures provides additional information on the underwriting subject matter. For Homebuyer activities, the following describes the activities and requirements:

- (a) The loan amount 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 pursuant to § 100-100.1-201.
 - (1) The NMHC HOME Program methodology for determining income-eligibility, income as a component of underwriting, income verification and required source documentations, treatment and the calculation of assets are based on the HUD Part 5 Technical Guidelines.
 - (i) To receive HOME assistance, households must have incomes at or below 80 percent of the area median household income, adjusted for household size, and determined annually by HUD.
 - (ii) HUD HOME Program regulations require that income of all family members be included in the determination of income for the purpose of eligibility. Pursuant to 24 CFR 92.203(d) and Chapter Two of Part 5 of the Technical Guidelines, a Participating Jurisdiction must project a household's income for the next 12 months. The NMHC HOME Program shall use the same

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methodology of projecting income provided in 24 CFR 92.203 and Chapter Two of Part 5 of the Technical Guidelines for the purpose of underwriting.

(iii) As to whose income in a household must be included in that calculation the determination is made pursuant to the Part 5 Technical Guidelines definition of annual income and as guided by Chapter Three of Part 5.

(iv) Gross amount. NMHC uses the monthly gross amounts, before any deductions have been taken, for those types of income counted. Adjusted income is not required for HOME-funded homebuyer or for owner-occupied rehabilitation according to Part 5 Technical Guidelines.

(v) For the purpose of underwriting and in determining loan repayment ability, the ratios for loan payment-to-income (PTI) and the debt-to-income (DTI), NMHC shall use income and debt obligations from the loan applicant(s)/borrower(s). Any household member to be included in the mortgage must be underwritten accordingly by examining and factoring-in their income, debt, assets, credit information/analysis and any other information that is deemed applicable in the underwriting process.

(vi) The HOME regulations at 24 CFR 92.203(a) require that Participating Jurisdictions determine income eligibility of HOME applicants by examining source documents, such as wage statements or interest statements, as evidence of annual income. Additional supporting information to confirm eligibility and for purposes of underwriting is required as specified in § 100-100.1-105. Review of documents and third-party verification performed in accordance with Chapter Two of the Part 5 Technical Guidelines.

(vii) What to include as an Asset. There is no asset limitation for participation in the HOME Program. Eligible families are not required to “spend down” assets before they can participate in the Program. Income from assets is, however, recognized as part of annual income under the Part 5 Technical Guidelines definition.

(viii) In general terms, an asset is a cash or non-cash item that can be converted to cash. Income that is earned, such as interest on a savings or checking account, is counted or factored into annual income. The treatment of assets and what is to be included as an asset, will be based on Chapter Three of the Part 5 Technical Guidelines.

(2) Assessment of a homebuyer’s debt is made by calculating two key ratios:

(i) The loan Payment-to-Income Ratio is determined by taking the expected monthly payment of the loan, which is the principal and interest, and dividing it by the total combined monthly gross income. For the NMHC HOME Program, this ratio should not exceed thirty-five percent of the homebuyer’s gross monthly income. As to insurance premiums, the estimated monthly premium shall be factored into the ratio calculation and must not exceed the ratio threshold of thirty-five percent for approval.

(ii) The Debt-to-Income Ratio, or DTI, is determined by factoring all related debts, including the monthly loan payment and estimated insurance premium; plus, all recurring consumer debt, such as auto loan, credit card, student loan payments, and other installment and revolving debt that appears on the credit report. For the NMHC HOME Program, a homebuyer’s DTI ratio should not exceed forty-five percent of their gross annual income. However, on a case-by-case basis, the debt ratio could be increased to fifty-five percent provided that the applicant could still meet payment responsibilities.

(3) Recurring monthly expenses, or those that are considered fixed monthly living expenses such as utilities and transportation costs are not factored in the DTI ratio but these type of expenses should be considered in the underwriting process and must be carefully budgeted and monitored

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by the homebuyer. The housing counseling shall address these types of essential expenses so that it does not decrease residual income and affect the homebuyer's ability to sustain the mortgage. A careful analysis of the overall debt obligations, housing costs, and recurring monthly living expenses shall be performed in determining the appropriate amount of HOME assistance to be provided.

(b) The minimum and maximum loan assistance including the type to be extended to an applicant(s) are further explained in Part 700.

(c) 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 principal residence pursuant to § 100-100.1-201(d).

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015); Proposed 37 Com. Reg. 36120 (Feb. 28, 2015).

Commission Comment: [Historical comments removed.] Prior to the amendments adopted Dec. 2020, this section related to "Acronyms Reference Section." See NMIAC § 100-100.1-1210.

§ 100-100.1-1205 Subsidy Layering

(a) NMHC may provide eligible homebuyers with additional locally-funded assistance to cover additional housing cost that is deemed to have exceeded the maximum HOME assistance limit.

(b) Homebuyer(s) that are approved for any additional, or supplemental assistance, whether it be a HOME deferred loan or with NMHC's local funds, shall be required to choose from NMHC's house design and layouts. Such house layout and unit size is dependent on the household size, the original approved HOME assistance, as well as, the total estimated costs to construct a new principal residence. This requirement is also applicable to eligible-homeowners who are approved for a HOME Rehab assistance for the reconstruction of a principal residential unit.

History: Amdts Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Amdts Proposed 42 Com. Reg. 43782 (July 28, 2020); Adopted 37 Com. Reg. 36372 (Apr. 28, 2015).

Commission Comment: [Historical comments removed.] Prior to the amendments adopted Dec. 2020, this section related to "Homebuyer/New Construction—Loan Determination" and was included as an appendix to the April 2015 notice of adoption.

§ 100-100.1-1210 Acronyms Reference Section

[For Rehab & Homebuyer Policies and Procedures]

(a) AIA—American Institute of Architects

(b) AMI—Area Median Income

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- (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
- (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

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- (y) PTR—Preliminary Title Report
- (z) RER—Rehab Environmental Review
- (aa) RESPA—Real Estate Settlement Procedures Act
- (bb) SCRA—Service members 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

History: Adopted 42 Com. Reg. 44495 (Dec. 28, 2020); Proposed 42 Com. Reg. 43782 (July 28, 2020).

Commission Comment: The Dec. 2020 amendments had the effect of moving this section from § 100-100.1-1201.