

# TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

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

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

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).

## **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.

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(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 low-income homeowners subject to HOME program income limits for the area adjusted for household size in accordance with HOME regulations at 24 CFR 92. 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 the 2018 International Building Code as enacted by law and any updates approved by regulation by the CNMI Department of Public Works Building Safety Office, zoning laws (note: zoning is currently applicable to Saipan only), 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); 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.

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.]

### **§ 100-100.2-005      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

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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) Affirmative Marketing. NMHC shall market its HOME homeowner rehabilitation program to those least likely to apply without regard to race, color, national origin, sex, religion, familial status, and disability; maintain records of actions taken to affirmatively market the program, and maintain records to assess the results of those actions.

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).

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 - Purpose and Requirements**

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

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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: 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.]

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

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 fee simple or maintains a 40-year leasehold interest in the property;
  - (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.

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 -      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 HOME per-unit subsidy limit that apply to the jurisdiction as provided by HUD. The maximum assistance amount cannot exceed the HUD HOME maximum

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per-unit subsidy limit. NMHC will assess the house and the proposed rehab to determine that when completed the after rehab value of the house will not exceed the HOME 95% value limits for the CNMI as published by HUD. NMHC will examine the sources and uses of funds for the project and determine that the costs are reasonable and that NMHC is not investing any more HOME funds, alone or in combination with other governmental assistance, than is necessary.

(1) The amount of Homeowner rehab loan that may be used to rehabilitate an existing principal residence shall be based on the borrower(s) ability to repay the loan as determined by the program underwriting standards, 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%).

(2) Borrower(s) whose ability to pay has been determined to exceed the 35% loan payment ratio, or PTI, may be approved for additional HOME rehab subsidies to supplement excess costs associated with the rehabilitation of a principal residence. Subsidy assistance shall be in the form of a grant with additional years/time added to the affordability period as indicated by the affordability table under Part 600.

(3) Homeowner(s) who are eligible for 100% HOME grant assistance may be approved for a grant amount up to the full cost to rehabilitate an existing principal residence provided that the rehabilitation cost estimate does not exceed that of the approved rehab loan amount as per maximum per-unit subsidy limit; and, does not exceed the HOME 95% value limits for the CNMI.

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.]

### **§ 100-100.2-205 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%-30% 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:

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- (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 falls between 0%-20% provided that the first half of the assistance will be in the form of a non-interest bearing loan and the next half 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.
- (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.

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.]

### **§ 100-100.2-210 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

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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.

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.]

### § 100-100.2-215 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. The Rehabilitation Standards are the program's written 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's HOME Written Rehabilitation Standards shall detail the methods, materials and requirements that the housing must meet upon completion of rehab, including all of the following:

- (1) Health and Safety – identifying all life-threatening deficiencies that must be addressed immediately if the housing is occupied pursuant to 24 CFR 92.251(b)(1)(i);
- (2) Major systems - requiring that, upon project completion, each major system, as defined in 24 CFR 92.251(b)(1)(ii), had a remaining useful life of a minimum of 5 years, or for a longer period as specified by the NMHC, or the major system was rehabilitated or replaced as part of the rehabilitation pursuant to 24 CFR 92.251(b)(1)(ii);
- (3) Lead-based paint pursuant to 24 CFR 92.251(b)(1)(iii);
- (4) Disaster mitigation (if applicable) - requiring the property meet the disaster mitigation requirements pursuant to 24 CFR 92.251(b)(1)(vi);
- (5) State and local codes, ordinances and zoning requirements pursuant to 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 pursuant to 24 CFR 92.251(b)(1)(viii).

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 provisions of the 2018 International Building Code enacted by law and updates approved by regulation by the CNMI



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Department of Public Works Building Safety Office, zoning laws (note: zoning laws currently applicable to Saipan only), International Energy Conservation Code 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. An insurance waiver may be granted, in whole or in part (depending on policy coverage), to homeowners who show financial hardship.

(e) Principal Residence and Annual Recertification:

(1) 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. In order to maintain compliance with the affordability restrictions, borrower(s) shall be recertified annually for principal residency throughout their affordability period. An annual recertification for principal residency notice and form shall be sent to homeowners/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) A HOME written agreement between the homeowner and NMHC shall also incorporate this requirement;
- (iii) Temporary subleases are not allowed.

(2) Annual recertifications are 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.

(f) Maximum Property Value: The projected after rehabilitation value of each assisted property may not exceed the most current 95 percent area median purchase price for single family housing, as determined by HUD. To determine such value, a written appraisal must be obtained by the borrower from an appraiser approved by NMHC. The appraisal report must document the appraised value and the appraisal approach used.

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.]

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

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(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 HOME program income limits for the Northern Mariana Islands as published annually by HUD. See Table 1 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	Northern Mariana Is. HOME Income Limits	Interest Rate	Type of Assistance
First	0%-30%	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 50%, or half of the approved HOME Rehab assistance based on set underwriting technical criteria to not exceed the required DTI. The first half shall be in the form of a loan and the next half of the assistance shall be in the form of a grant.

Additional subsidies provided shall be in the form of a grant and shall extend the affordability period depending on the additional supplemental rehab assistance granted, as provided in Part 600 on affordability.

(b) The Area Median Income for the Northern Mariana Islands as established by the U.S. Department of Housing and Urban Development for the HOME program and periodically revised and published at <https://www.hudexchange.info/programs/home/home-income-limits/>, as updated. NMHC shall comply with any revisions that the U.S. Congress enacts.

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).

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

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(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 30 years or 360 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 30 years or 360 months and shall be fully amortized at either 1%, 2%, or 3%, 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 exist, 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 documentation 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 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) 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).

Commission Comment: [Historical comments removed.]

### **§ 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 requirement to occupy the HOME-assisted housing as the homeowner's principal

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residence throughout the NMHC affordability period. 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 45% of the gross household income.

(c)(1) The maximum debt-to-income ratio shall be not more than 45% (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 35% (or most current ratio) of the gross household income.

(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 (see part 900).

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.]

### **§ 100-100.2-235 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 2018 International Building Code as enacted by law and any updated approved by regulation by the CNMI Department of Public Works Building Safety Office, zoning laws (note: zoning laws currently applicable to Saipan only), International Energy Conservation Code 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

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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, and dirty kitchens. Any additions or alterations to provide for commercial use are not eligible.

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.]

### § 100-100.2-240 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 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 and rehabilitation cost was greater than the amount of debt refinanced.

(b) 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:

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(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 bundles into the total approved loan amount. In 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 rehabilitation of their principal residence.

(1) If the homeowner(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 homeowner(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); 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 - 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. Additionally, HUD and the Comptroller General of the United States, any of their representatives, have the right of access to any pertinent books, documents, papers or other records of the NMHC in order to make audits, examinations, excerpts, and transcripts in accordance with 24 CFR 92.508(d)(2).

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).

#### **§ 100-100.2-305 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).

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.]

**§ 100-100.2-310 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: 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).

**§ 100-100.2-315 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. 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.

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.]

**§ 100-100.2-320 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. Applicants may appeal the determination to the NMHC Board for reconsideration and final decision.

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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.]

### **§ 100-100.2-325 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 rehab scope of work needs to adequately describe the work to be performed to meet NMHC's rehabilitation design standards at completion. 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. NMHC may, at its own discretion, select the appropriate contractor for the applicant if the rehab project is deeply subsidized using additional HOME funds. Deeply subsidized means additional funding assistance on top of the underwritten funding assistance.

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.]

### **§ 100-100.2-330 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.

(1) For Homeowner Rehabilitation Projects: Before any rehabilitation work is done, homeowners must provide documentation that shows that their homes were built either before or after January 1, 1978. Such documentation may include a copy of the building permit, if one can be provided; a notarized declaration/affidavit by the homeowner(s) or contractor attesting to the completion date of the home construction; and the age of the dwelling unit/property.

(2) Homebuyer Activities: For homebuyer purchase or homebuyer acquisition and repair projects, the seller(s) of property must provide documentation that shows that the home(s) or dwelling unit(s) were built either before or after January 1, 1978. Such documentation may include a copy of the building permit, if one can be provided; a notarized declaration/affidavit by the homeowner(s) or contractor attesting to the completion date of the home construction; and the age of the dwelling unit/property. For a homebuyer new construction project, LBP file documents shall include the building permit as well as a certification of completion from the contractor.



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

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).

**§ 100-100.2-335 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 This process includes the Notice of Intent to Request Release of Funds for Tiered Projects and Programs, the Request for Release of Funds to HUD, and obtaining the Authority to Use Grant Funds from HUD, in accordance with 24 CFR 58; 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.

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.]

**§ 100-100.2-340 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;

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- (4) HOME program eligibility release form;
- (5) Last two months worth of pay stubs;
- (6) Verification of permanent 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.

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.]

### **§ 100-100.2-345 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

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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.

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.]

### **§ 100-100.2-350 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. NMHC may focus on the income and credit worthiness of the head of household and spouse, or from the borrower and co-borrower. However, to determine income eligibility, NMHC shall consider the income of ALL household members.

(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 charged to soft costs where applicable.

(b) **Employment**—NMHC shall send the applicant(s)' employer(s) and all applicable household members, for the purpose of determining income eligibility, 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) and all household members of the applicant 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 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.

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.]

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### § 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.

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

Commission Comment: [Historical comments removed.]

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

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(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.

NMHC's Homeownership/Homebuyer Education and Counseling program shall have written policies that:

- (1) Specify the acceptable delivery method for housing counseling (i.e., in-person, phone, and/or internet);
- (2) Specify the duration of the housing counseling (minimum number of hours/days);
- (3) Specify how long a counseling certificate is valid for NMHC's program (i.e., 1 year, 2 years);
- (4) Specify the funding for housing counseling (HOME administrative costs, HOME project-related soft costs, or reasonable fee charged to the homeowner); and
- (5) Specify NMHC's process for confirming and documenting the homeowner's participation in housing counseling.

(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.

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.]

### **§ 100-100.2-365 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; including the estimated after rehab value to ensure compliance with 24 CFR 92.254(a)(2)(iii) and (b)(1); the housing is the principal residence of an income qualified homeowner; the amount and form of assistance (e.g., grant, amortizing loan, deferred payment loan; the rehabilitation work to be performed; the completion date; and the NMHC property standards that must be met. 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.
- (c) After the Commitment Letter has been signed and dated by the Corporate Director, the responsible loan specialist shall schedule the applicant(s) to come in and sign and date the letter should they agree with the terms and conditions.
- (d) NMHC shall reexamine the household's income eligibility if the determination was made more than 6 months before signing the Commitment Letter.
- (e) NMHC shall create the HOME project activity in IDIS following the execution of the commitment letter and commitment of HOME funds in accordance with 24 CFR 92.502(b).

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).

**§ 100-100.2-370 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; as well as, to verify that the property to be assisted with HOME funds is held in one of the eligible forms of homeownership.
- (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.

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.]

**§ 100-100.2-375 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).

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(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.

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.]

### **§ 100-100.2-380 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).

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.]

### **§ 100-100.2-385 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



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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.

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 - 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, 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. The homeowner(s) shall have the right to select whichever contractor to perform the rehabilitation work, provided that the contractor's quotation and the after-rehab estimated value does not exceed the HOME published after-rehab value limits for existing homes and provided that the contractor is an NMHC-approved contractor. Should the cost of rehabilitation exceed the maximum per unit subsidy limit, the homeowner shall negotiate with contractor in reducing the contract amount. Should 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, and payment schedule for each incremental billing;

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- (4) Calendar days to complete the work (includes Saturdays, Sundays, and holidays);
- (5) Contractor will provide the performance bond, 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, the rehab must start within 12 months of NMHC executing the HOME Commitment Letter with the homeowner;
- (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;
- (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 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 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).

(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, and/or 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;

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(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, 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 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 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.

(vi) Inspections: NMHC shall have the right, during the rehabilitation work or improvement of the unit, 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 rehabilitation phase or increments of said dwelling shall not be deemed as a warranty by NMHC of the workmanship and material therein.

(vii) Inspector: Upon completion the building is subject to inspection by the Building Safety Office of the Department of Public Works (DPW) prior to the issuance of an occupancy permit or other permits as provided in the Building Safety Code codified in 3 CMC § 7101 et seq. Homeowner(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.

(viii) Minimum Property Standards (MPS): For new construction of housing and acquisition and/or 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

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single-family housing new/rehabilitation, and handicapped accessibility requirements (where applicable) must be adhered to. Homeowner(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 Conditions Standards pursuant to 24 CFR 5.705 and 24 CFR 92.251 if no local codes and standards apply).

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

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 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 relieves the borrower(s) from the affordability restrictions imposed on the property. NMHC may terminate the affordability period restrictions when the homeowner prepays the loan because the HOME program does not require the enforcement of an affordability period for homeowner rehabilitation not involving acquisition or new construction.

(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:

(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.

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- (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.

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.]

### **§ 100-100.2-505 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.
  - (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

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(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.

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 - Affordability**

#### **§ 100-100.2-601 NMHC 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 to Max Loan Limit	15 years

Supplemental HOME Rehab Subsidies	Additional Years Added to the Affordability Period
\$1.00 - \$50,000	5 years
More than \$50,000	10 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 or upon loan payment in full.

#### (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,

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the client(s) shall be required to re-apply for the additional rehab assistance to determine eligibility and loan amount.

(B) 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 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.

(C) 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 the total maximum loan amount as prescribed under this policy with the repayment term of 30 years or 360 months, and shall be fully amortized at a fixed annual rate of 1%. Note: This assumes that the client(s) fall within the eligibility criteria, such as 30% income limits and applicable household size, within 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:

(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

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



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

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 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, NMHC will enforce the terms of recapture set forth in the HOME Commitment Letter and reinforced with recorded deed restrictions or land covenants. Upon sale of the home and enforcement of the recapture provisions, the NMHC affordability period will terminate.

(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.

(c) Furthermore, if the title changes hands through the laws of descent during the NMHC affordability period, the NMHC affordability period may not terminate and will continue with the new homeowner if the new homeowner satisfies the HOME eligibility requirements. The new homeowner may assume the HOME loan and the NMHC affordability period if the new homeowner meets the HOME eligibility requirements.

(d) If the title changes hands through the laws of descent during the NMHC affordability period and the new homeowner does not meet the HOME eligibility requirements, NMHC will enforce the terms of recapture set forth in the HOME Commitment Letter and reinforced with recorded deed restrictions or land covenants. Upon enforcement of the recapture provisions, the NMHC affordability period will terminate.

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.]

### **Part 800 - Assumption**

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

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(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 and/or submit a copy of 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

(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.

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 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) 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, and outbreak/pandemic. 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.
- (g) Other Hardships and Exceptions—Any other claimed financial hardship outside of the aforementioned eight listed hardships, as well as exceptions on a case-by-case basis, shall be brought to the Board for review and decision.

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 - 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 continually be recertified annually for principal residency requirement; but all existing deferred home loan borrowers shall cease to be recertified for financial and eligibility requirement purposes. This provision shall apply and be made effective after each borrower(s) has/have been recertified for his/her/their last annual recertification due date and completed prior to or on the official adoption date of these policies and procedures; and shall therefore be considered the last and final financial and eligibility recertification.

(c) 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 will enforce the terms of recapture set forth in the HOME Commitment Letter and reinforced with recorded deed restrictions or land covenants. Upon sale of the home and enforcement of the recapture provisions, the NMHC affordability period will terminate. Part 600 provides more guidance on enforcing recapture requirements.

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

(e) 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.

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 1100 Ethics**

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

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(a) Under no circumstances shall any immediate family members (whether by blood, marriage or adoption), spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person, elected or appointed official of the CNMI government, NMHC's Board of Directors, its officers, agents, and employees considered covered persons who exercise or have exercised any functions or responsibilities with respect to activities assisted with HOME funds or who are in a position to participate in a decision-making process or gain inside information with regard to these activities participate in any HOME assisted project or activity; or, shall obtain a financial interest or financial benefit from a HOME-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to the HOME-assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. Other provisions in 24 C.F.R. § 92.356 shall also 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.

(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.

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 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
- (h) DEQ—Department of Environmental Quality
- (i) DPW—Department of Public Works
- (j) DTI—Debt-to-Income Ratio
- (k) EA—Environmental Assessment
- (l) GFE—Good Faith Estimate
- (m) HOME Program—U.S. HUD Homeownership Investment Partnerships Program
- (n) HQS—Housing Quality Standards
- (o) MCD—Mortgage Credit Division
- (p) MPS—Minimum Property Standards
- (q) MPV—Maximum Property Value
- (r) NAHA—National Affordable Housing Act
- (s) NEPA—National Environmental Policy Act
- (t) NMHC—Northern Marianas Housing Corporation

- (u) NTP—Notice to Proceed
- (v) PITI—Principal, Interest, Taxes, and Insurance
- (w) PJ—Participating Jurisdiction
- (x) PTI—Payment-to-Income Ratio
- (y) PTR—Preliminary Title Report
- (z) RER—Rehab Environmental Review
- (aa) RESPA—Real Estate Settlement Procedures Act
- (bb) SCRA—Servicemembers Civil Relief Act
- (cc) SSI—Supplemental Security Income [Social Security]
- (dd) TCD—Time Certificates of Deposits
- (ee) TILA—Truth in Lending Act
- (ff) U.S. HUD—United States Department of Housing and Urban Development
- (gg) USDA RD—United States Department of Agriculture Rural Development
- (hh) USPAP—Uniform Standard of Professional Appraisal Practice
- (ii) VOE—Verification of Employment

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.]

**§ 100-100.2-1205 Homeowner Rehabilitation Underwriting Guidelines and Referenced Sections**

(a) 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-five percent of their gross annual income. However, on a case-by-case basis, the debt ratio could be up to fifty-five percent provided that the applicant could still meet payment responsibilities.

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(b) 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.

(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 primary residence (see § 100-100.2-215(e)).

(d) Where it is applicable for homeowner rehabilitation, and in areas that are silent, the concepts, methodology and technical underwriting guidelines shall mirror NMHC's *HOME Homebuyer Activities Policies and Procedures* as outlined and detailed in Part 1200 § 100-100.1-1201 & § 100-100.1-1205 on Subsidy Layering.

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.] This section did not appear in the February 2015 proposed regulations. It was adopted as part of the April 2015 notice of adoption.