

TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 2000

PUBLIC LAW NO. 12-15

H. B. NO. 12-115, H.D.1

AN ACT

To establish a Lease-To-Own Housing Program for qualified applicants and first-time homebuyers, and for other purposes.

**BE IT ENACTED BY THE TWELFTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE:**

Section 1. Legislative Findings and Purposes. The Legislature finds key problems that are adverse to the eligibility of first-time homebuyers in purchasing of a residential home, much less participate in the various single family housing development in the CNMI. Key problems include:

- (a) high debt to income ratios of five (5) year short-term debts; and
- (b) clients are unable to meet the required closing cost and down payment for their first-time home; and
- (c) first-time homebuyers may need the lease-to-own housing program so that they may utilize the lease term to re-establish his or her credit and thus qualify for a typical residential loan at the time of escrow closing of the purchase.

In its diligence and commitment to promote affordable housing programs for the people, the legislature finds that many individuals and families are unable to save enough money for the initial cost of buying a home, such as down payment and closing costs. To effectuate additional housing programs, a "*Lease-to-Own Housing Program*" would afford opportunities for the private and government sector to invest in affordable housing developments particularly those that offer lease-to-own provisions with options to exercise purchase within three to five years. This program would encourage public and private partnership in providing for a creative financing mechanism which could benefit the families who can afford to purchase homes given financial assistance for closing costs and down payment. The Legislature encourages the participation of the private sector working through the authority vested in the Northern Marianas Housing Corporation NMHC through this Act.

Section 2. Title. This Act shall be known and shall be cited as "*The Lease-to-Own Housing Program Act.*"

Section 3. Definitions. For purposes of this Act, the following words and phrases are defined to mean:

(a) "*Affordable housing unit*" shall mean a single family dwelling unit inclusive of land, built in accordance with the Uniform Building Code and in consonance with the CNMI zoning and subdivision laws whose selling price meets the criteria set forth by NMHC pertaining to "affordable housing".

(b) "*NMHC*" shall mean the Northern Marianas Housing Corporation.

(c) "*Residence*" shall mean a single family home, a condominium housing unit or a housing unit owned by a cooperative housing cooperation.

(d) "*Seller*" shall mean the party to the lease-to-own contract who is the seller of the residence.

(e) "*Tenant-purchaser*" shall mean the prospective who is a party to the lease-to-own contract.

(f) "*HUD*" refers to the U.S. Housing Urban Development Housing.

Section 4. Lease-to-Own Program; Establishment; Authorization to Participate. Northern Marianas Housing Corporation (NMHC) is hereby authorized to participate in the lease-to-own programs described in this Act. The purpose of a lease-to-own program is to provide mortgage financing for a residence occupied as a primary residence by a prospective mortgagor pursuant to a lease-to-own contract with the owner of such property. The lease-to-own contract shall provide for the eventual purchase by the resident of the residence and an interim lease of the residence prior to the closing of the purchase thereof.

Section 5. Authorization to Acquire Mortgage Loans. NMHC may contract to acquire and may acquire a mortgage loan or loans made by a bank, or other financial institution, to a seller who has entered a lease-to-own contract with an eligible tenant-purchaser for the property which is the subject of and security for such mortgage loan.

Section 6. Lease-to-Own Contract. NMHC is empowered to purchase or build, as well as incur debt to achieve same, residences which NMHC would own and lease under the program established herein.

(a) The Lease-to-own contract shall contain:

(1) A Lease of the residence, or in the case of cooperative housing units a sublease, for a term not to exceed five (5) years;

(2) Provision for a rental payment not less than the sum of:

(i) an amount sufficient to pay the estimated property taxes and insurance on the residence, or in the case of a cooperative unit, the maintenance charges;

(ii) the cost of routine maintenance of the residence unless the lease-to-own contract requires the tenant-purchaser to perform such maintenance at his/her expense;

(iii) an amount sufficient to pay interest on the mortgage loan held by NMHC on the residence less the estimated earnings on the escrow fund provided in Section 7 of this Act which is allocable to such mortgage held by NMHC;

(iv) an amount to be held in escrow, referred to as the "tenant-purchaser escrow," which, when accumulated over the period of the lease-to-own contract or no more than five (5) years, will amount to a sum sufficient to pay the tenants-purchaser's required down payment under the lease-to-own contract plus the tenant-purchaser, including the seller's closing cost at the initial closing of the mortgage to the seller; and

(v) in the case of a condominium unit, common charges;

(3) provisions obligating the tenant-purchaser to buy and the seller to sell the residence at the end of the lease term, which shall not exceed five (5) years;

(i) If the tenant purchaser seeks to utilize any HUD grants for down payment and closing cost assistance, then tenant purchaser shall exercise the purchase option on or before three (3) years.

(4) a provision that the default by the tenant-purchaser under the provision of the lease-to-own contract shall result in the forfeiture to the seller of all amount in the tenant-purchaser escrow; furthermore, the various escrow funds funded under the program should be residence specific, such that a default

or other failure of the tenant to purchase the unit within five (5) years allowed would result in the escrow being forfeited to NMHC;

(5) a provision that the tenant-purchaser shall have the option upon reasonable notice to the seller and NMHC to elect to close the purchase of the residence not earlier than one (1) year from the date of execution of the lease-to-own contract;

(6) a provision that the rent shall be adjusted under the lease-to-own contract periodically to take account of changes in taxes, insurance, escrow earning, mortgage interest and other variables intended to be covered by the tenant's rental payments; and

(7) a provision governing the consequences of default by each of the parties.

(b) The provisions of this Act shall not apply to the tenancy of the tenant-purchaser under the lease-to-own contract from and after the purchase by NMHC of the mortgage loan on the residence so long as NMHC holds the mortgage loan. NMHC shall not sell the mortgage loan prior to the closing of the transfer of title to the tenant-purchaser or default by the tenant-purchaser under the lease-to-own contract.

(c) NMHC shall adopt procedures to ensure that the payments contemplated by Subsection 6 of this Section are in fact applied to those purposes.

Section 7. Tenant-Purchaser Escrow Account. (a) The mortgage loan documents with respect to a mortgage loan acquired by NMHC pursuant to this Act shall provide that there shall be retained as additional security for the mortgage loan an amount not less than ten percent (10%) of the purchase price stated in the lease-to-own contract. The amount retained shall be disbursed in cash at the mortgage closing to an escrow fund held by the owner of the mortgage. When NMHC becomes the owner of the mortgage loan, NMHC shall receive the escrow amount to be held by the Corporation in securities in which NMHC is authorized to invest its own funds. All banks and trusts companies are authorized to give such security for deposits by the Corporation of escrowed funds as determined by NMHC. The escrow amounts pertaining to various lease-to-own mortgage loans may be commingled for investment purposes, but NMHC shall keep books of account showing the amount to the credit of each individual escrow account. The investment earning on each individual escrow account shall be credited to the interest payment on the applicable mortgage loan.

(b) NMHC shall advise the seller at periodic convenient intervals of the amount of such escrow earnings with respect to each mortgage loan.

(c) In this event escrow default occurs, the allocation of escrow funds shall be follows by:

(i) NMHC shall allocate of adequate sums of the escrow funds to fully restore the respective housing unit to its original form prior to habitation;

(ii) NMHC shall pay for re-advertising, administrative, financial services and other services and severance fees or liabilities caused by the tenant's failure to exercise purchase option on the facility.

(iii) Funds remaining in the escrow account after the conditions of items (i) and (ii) of this subsection are fully met or satisfied.

Section 8. Closing of Transfer of Title.

(a) **Disbursement of Escrow Account.** At the closing of the transfer of title to the residence to the tenant-purchaser to the lease-to-own contract, NMHC shall disburse the escrow amount to or for the account of the tenant-purchaser.

(b) **Insurance.** At such closing, NMHC may require the tenant-purchaser to furnish private mortgage insurance if such insurance is required in case of other mortgage loans under this Act. If such insurance is not obtainable in the private market at the time of such closing, NMHC is authorized to facilitate issuance of such insurance.

Section 9. Rules, Regulations, and Limitations. NMHC shall establish such requirements with regard to lease-to-own contracts, lease-to-own residence, the qualification of tenant-purchaser, and NMHC participation in any lease-to-own program, as maybe deemed appropriated by NMHC to achieve the objectives of this Act. NMHC requirements, including but not limited to income limit applicable to the tenant-purchaser and the purchase price of the resident, must be satisfied at or before the time the mortgage loan is purchased, and the tenant-purchaser must be deemed qualified by the Corporation at that time.

Section 10. Severability. If any provision of this law or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall *not* affect other provisions or applications of this law which can be given effect without the invalid provisions or applications, and to this ends the provisions of this law of severable.

Section 11. Savings Clause. This Act and any repealer contained herein shall not be construed as effecting any existing right acquired under contract or acquired under statuses. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

Section 12. Effective Date. This Act shall take effect upon its approval by the Governor, or upon its becoming law without such approval.

CERTIFIED BY:

/s/ Benigno R. Fitia
BENIGNO R. FITIAL
SPEAKER OF THE HOUSE

ATTESTED TO BY:

/s/ Evelyn C. Fleming
EVELYN C. FLEMING
HOUSE CLERK

Approved this 25th day of August, 2000

/s/ Pedro P. Tenorio
PEDRO P. TENORIO
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS