

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

**CHAPTER 4
GUAM HOUSING CORPORATION**

- Article 1. General Provisions.
- Article 2. Community Affordable Housing Action Trust Act.
- Article 3. Government Participation Loan Act.
- Article 4. Guam Housing Mortgage Insurance Corporation.
- Article 5. Requirements and Regulations.
- Article 6. Home Financing Act.
- Article 7. First Time Home Owner Assistance Program Act.
- Article 8. Mortgage Credit Certification Program.
- Article 9. Lease-To-Own Housing Program.
- Article 10. Housing Trust Fund Act.

**ARTICLE 1
GENERAL PROVISIONS**

- § 4101. Creation of Corporation: Name.
- § 4102. Principal Offices.
- § 4103. Authorized Activities of Corporation.
- § 4104. General Powers: Termination Date.
- § 4105. Bonds as Special Obligations.
- § 4105.1. Waiver of Recordation and Other Fees.
- § 4105.2. Bonds as General Obligations of the Housing Corporation.
- § 4106. Trustee for Board and Bondholders.
- § 4106.1. Validity of Pledge.
- § 4107. Utilization of Federal Agencies and Instrumentalities.
- § 4108. Housing Corporation Guarantee Fund.
- § 4109. Direct Loans to Veterans.
- § 4110. Corporation's Use of Funds.
- § 4111. Appropriations.
- § 4112. Board of Directors.
- § 4113. Transfer of Functions.
- § 4114. Rental Housing Guarantee.
- § 4115. Authorization to Accept Direct Advances from the Federal Home Loan Bank.
- § 4116. Debt to Income Ratio.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

§ 4101. Creation of Corporation: Name.

In order to promote the general welfare of the inhabitants of the Territory of Guam through the improvement of housing standards, housing supply and housing affordability in Guam, there is created a body corporate to be known as the Guam Housing Corporation, hereinafter referred to as the “Housing Corporation.” The Housing Corporation shall be deemed to be exercising essential government functions and shall be subject to the general direction of the Governor of Guam

SOURCE: GC § 20000. Amended by P.L. 24-81:2.

§ 4102. Principal Offices.

The Housing Corporation shall have its principal offices in the territory of Guam and shall be deemed to be an inhabitant of this jurisdiction. The Housing Corporation may establish offices in such place or places as it may deem necessary or appropriate in the conduct of its business.

SOURCE: GC § 20001.

§ 4103. Authorized Activities of Corporation.

The Housing Corporation is authorized to engage in the following activities when it finds that such activities will further the purposes of this Chapter and will not conflict with the encouragement and promotion of private enterprise in the territory of Guam:

(a) To encourage and promote the investment of private capital in low and moderate income residential housing in Guam. The Housing Corporation shall formulate its policies so as to encourage and promote the investment of capital owned by residents of Guam.

(b) To engage in land-use planning for residential housing purposes to the end that the most economic and socially beneficial use may be made of land, and to encourage and assist private persons and organizations to act in accordance with the results of such planning.

(c) To encourage and engage in low and moderate income housing activities, including development of

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

residential subdivisions, construction of housing for rental or resale, and to make loans to any person for the purchase, construction, improvement or repair of a home.

(1) All loans shall be of such sound value or so secured as to assure repayment, taking into consideration the policy of I Liheslaturan Guåhan that the lending powers to the Guam Housing Corporation (“Corporation”) shall be administered as a means of accomplishing the purposes stated in § 4101 of this Chapter, and shall bear interest at a rate to be determined by the Board of Directors of the Corporation; provided, that such shall not exceed two percent (2%) over the costs of funds.

(2) Loans shall be made to residents of Guam to enable them to purchase or construct permanent homes which are insurable under a standard Guam Home Owner’s insurance policy to include, but not be limited to, the perils of tropical cyclones, earthquakes and fire.

(3) All loans for the purchase, construction, or purchase of land and construction of such home shall not exceed the Federal Housing Administration loan limit established by the U.S. Department of Housing and Urban Development for Guam.

(4) No loan may be used exclusively for the purchase of land.

(5) The Corporation is authorized to grant loans which use a portion of the mortgage loan proceeds to consolidate existing consumer debts with the mortgage loan, if the consolidation of such consumer debt would cause the applicant to qualify for the Corporation’s loan programs.

(6) Loans shall be given only to residents who have been unable to obtain conventional financing from mortgage lending institutions, including, but not limited to, banks and savings and loan associations. At least one (1) written loan refusal from mortgage

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

lending institutions shall be presented upon application for a Corporation loan.

(d) (1) To encourage and promote the construction of housing units for rent within the capacity of families of low and moderate income.

(2) To assist in the development of tourist hotel facilities as provided in this Chapter.

(e) To make a low interest loan to any homeowner whose living space in his primary residence was damaged as a result of the earthquake on Guam on August 8, 1993 to repair such residence; provided, that the homeowner did not have insurance to cover the loss and did not qualify for a loan from the U.S. Small Business Administration sufficient to complete the earthquake repair, or from any other financial institution. First priority for such loans shall be given to those homeowners whose primary residence is mortgaged to the Housing Corporation.

(f) To encourage and promote the purchase or construction of affordable, typhoon-resistant, permanent homes by the residents of Guam who have not previously been homeowners, by utilizing a special fund to provide financial grants.

SOURCE: GC § 20002; Subsections (a) and (c) amended by P.L. 16-42; Subsection (c) further amended by P.L. 18-2 and P.L. 18-34. Subsection (c) R/R by P.L. 20-210:13. Subsection (c) was further amended by P.L. 22-113:6. Subsection (e) added by P.L. 22-24:6 (8/31/93). Subsection (c) amended by P.L. 24-45:3. Subsection (c) repealed and reenacted by P.L. 24-82:2. Subsection (f) added by P.L. 24-180:2. Subsection (c) amended by P.L. 26-123:7.

2017 NOTE: Subitem designations added pursuant to the authority of 1 GCA § 1606.

§ 4104. General Powers: Termination Date.

The Housing Corporation shall have, and may exercise, the following general powers in carrying on the activities specified in this Chapter:

(a) To have perpetual succession.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(b) To adopt, alter and use a corporate seal, which shall be judicially noticed.

(c) To adopt, amend and repeal by laws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law.

(d) To sue and to be sued in its corporate name.

(e) To determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed and paid, subject to the laws applicable specifically to government corporations.

(f) To acquire, in accordance with Title VII-A of the Government Code and the laws of Guam, any property, real, personal or mixed, tangible or intangible, to hold, maintain, use and operate the same; and to sell, lease or otherwise dispose of the same, whenever any of the foregoing transactions are deemed necessary or appropriate to the conduct of the activities authorized by this Chapter, and on such terms as may be prescribed by the Housing Corporation.

(g) To enter into and perform such contracts, leases, cooperative agreements or other transactions with any agency or instrumentality of the United States, or with any state, territory or possession, or with any political subdivision thereof, or with any person, firm, association or corporation, as may be deemed necessary or appropriate to the conduct of the activities authorized by this Chapter, and on such terms as may be prescribed by the Housing Corporation. Provided, that in no case shall the Housing Corporation contract to undertake an activity for any agency or instrumentality of the United States, or for any state, territory or possession, or for any political subdivision thereof, unless the latter is authorized by law to undertake such activity and furnishes the funds for such purpose.

(h) To execute all instruments necessary or appropriate in the exercise of any of its functions.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(i) To appoint, pursuant to the provisions of the personnel rules adopted pursuant to 4 GCA §§ 4105 and 4106, such officers, agents, attorneys and employees, as may be necessary for the conduct of the business of the Housing Corporation; to delegate to them such powers and to prescribe for them such duties as may be deemed appropriate by the Housing Corporation; to fix and pay such compensation to them for their services as the Housing Corporation may determine, without regard to the compensation laws and to require bonds from such of them as the Housing Corporation may designate, the premiums, therefore, to be paid by the Housing Corporation. Any member of said Board who is found by the Governor or his representative to be guilty of a violation of this Section shall be removed from office by the Governor and any appointee of said Board who is found by the Board to be guilty of a violation of this Section shall be removed from office by said Board. The Housing Corporation shall give due consideration to residents of Guam in the selection and promotion of its officers and employees.

(j) To accept gifts or donations of services or of property -- real, personal or mixed, tangible or intangible -- in aid of any of the activities authorized by this Chapter.

(k) To settle and adjust claims held by it against other persons or parties and by other persons or parties against the Housing Corporation.

(l) To take such action as may be necessary or appropriate to carry out the powers and duties herein or hereafter specifically granted to or imposed upon it.

(m) To borrow funds required to finance or refinance its revenue producing projects or to finance or refinancing a home financing program under § 4602 by the issuance, from time to time, of bonds under such terms and conditions as the Housing Corporation may prescribe, and to pledge and assign specified revenues and other property of the Housing Corporation to the repayment of such bonds.

SOURCE: GC § 20003 Subsection (f) amended by P.L. 16-124; Subsection (i) amended by P.L. 16-23; Subsection (m) amended by P.L.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

16-42. Subsection (a) amended by P.L. 24-81:4. Subsection (m) amended by P.L. 24-81:5.

§ 4105. Bonds as Special Obligations.

Every Bond issued by the Housing Corporation pursuant to this Chapter shall be a special obligation of the Housing Corporation payable solely from the revenues and other property specified in the indenture or resolution providing for the issuance of such bond. Every bond shall recite that it is not public indebtedness of the Territory of Guam as that term is used in §11 of the Organic Act.

SOURCE: GC § 20003.1, as added by P.L. 16-42. Amended by P.L. 24-81:6.

§ 4105.1. Waiver of Recordation and Other Fees.

(a) All fees charged by the Department of Land Management to any party in the recordation or release of any documents pursuant to the administration, pledge, assignment or collateralization of any loan between the Guam Housing Corporation and any of its creditors are hereby waived.

(b) Any fee charged by the Guam Economic Development Authority for any service rendered in regard to a loan agreement between the Guam Housing Corporation and the Bank of Guam is also hereby waived.

SOURCE: Added by P.L. 22-113:3.

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 4105.2. Bonds as General Obligations of the Housing Corporation.

(a) Notwithstanding the provisions of § 4105 of this chapter, the Housing Corporation is authorized to issue debt as a general obligation of the Housing Corporation on an unsecured basis, payable from the Housing Corporation's general operating cash inflows. The amount of such general obligation debt outstanding at any one time shall not exceed the Housing Corporation's net worth as determined by Generally Accepted Accounting Principles ("GAAP").

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(b) Every such bond or other evidence of such debt shall recite that it is not a public indebtedness of the territory of Guam as the term is used in Section 11 of the Organic Act of Guam.

SOURCE: Added by P.L. 22-113:5.

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 4105.3. Definition of *Bonds*.

For purposes of this Chapter the term *bonds* shall mean any bonds, notes or other evidences of indebtedness of the Housing Corporation issued pursuant to this Chapter.

SOURCE: Added by P.L. 24-81:3.

§ 4106. Appointment of Trustee: Provision of Indenture or Resolution.

(a) The Housing Corporation may appoint a bank or trust company to act as trustee for the Board and the holders of the bonds issued hereunder, and the Board may authorize the trustee to act on behalf of the holders of the bonds, or a stated percentage thereof, and to exercise and prosecute on behalf of the holders of the bonds such rights and remedies as may be available to the holders.

(b) The indenture or resolution pursuant to which any bonds are issued may provide for

(1) the deposit of all revenues with the trustee and for the holding thereof by the trustee in one or more separate funds or accounts, and

(2) the transfer to such trustee of such portions of revenues as are provided as security for the bonds and for the holding thereof by such trustee in one (1) or more separate funds or accounts.

All money in each such fund or account shall be disbursed only as provided in the indenture or resolution pursuant to which the bonds are issued.

(c) Any indenture or resolution pursuant to which bonds of the Housing Corporation are issued may provide for any or all of the following:

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(1) the payment of the principal and interest of the bonds at one (1) or more places in the Territory or in the United States and in any specified coin or currency of the United States;

(2) the pledge and assignment of all or any portion of the revenues or other property of the Housing Corporation, including, without limitation, mortgage loans and mortgage-backed securities, to secure the payment of the bonds, subject to existing agreements with holders;

(3) reserves or sinking funds in the hands of trustees, paying agents and other depositories and the regulation and disposition thereof;

(4) limitations on the purpose to which the proceeds of sale of bonds may be applied;

(5) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;

(6) the procedure, if any, by which the terms of any contract with the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(7) vesting in a trustee property, rights, powers and duties in trust as the Housing Corporation determines;

(8) the specification of the acts or omissions to act which shall constitute a default in the obligations and duties of the Housing Corporation to the holders of the bonds and providing for the rights and remedies of the holders, and any limitations on such rights and remedies, in the event of such default; and

(9) any other matters of like or different character which in any way affect the security or protection of the holders of the bonds or the rights of the Housing Corporation.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(d) Bonds of the Housing Corporation issued pursuant to this Chapter shall:

- (1) bear such date,
- (2) mature at such times,
- (3) bear interest at such fixed or variable rates,
- (4) be sold at public or private sale at such prices above or below par,
- (5) be in such denominations,
- (6) be in such form,
- (7) carry such registration privileges,
- (8) be executed in such manner and
- (9) be subject to such terms of redemption as provided in the indenture or resolution authorizing their issuance.

SOURCE: GC § 20003.2, as added by P.L. 16-42. Amended by P.L. 24-81:7.

2015 NOTE: Subsection designations in (b), (c) and (d) were altered to adhere to the Compiler's alpha-numeric scheme pursuant to the authority granted by 1 GCA § 1606.

§ 4106.1. Validity of Pledge.

Any pledge made by the Housing Corporation shall be valid and binding from the time the pledge is made. The revenues or other property pledged and thereafter received by the Housing Corporation shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act. The lien of any pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the Housing Corporation, irrespective of whether such parties have notice thereof. Neither the resolution, the indenture nor any other instrument by which a pledge is created need be recorded.

SOURCE: Added by P.L. 24-81:8.

§ 4107. Utilization of Federal Agencies and Instrumentalities.

The Housing Corporation, in carrying on the activities authorized by this Chapter shall utilize, to the extent allowed by

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

law, the available services and facilities of agencies and instrumentalities of the Federal Government or of the government of Guam; and shall not engage in any undertaking which substantially duplicates an undertaking previously initiated and currently being prosecuted within Guam by any such agency or instrumentality.

SOURCE: GC § 20004.

§ 4108. Housing Corporation Guarantee Fund.

(a) The “Finance Agency Guarantee Fund” heretofore created and existing pursuant to former §§ 20002, 20003 and 20003.1 of the Government Code of Guam is hereby redesignated “Housing Corporation Guarantee Fund” and the same is hereby transferred to the Housing Corporation and set aside as a separate and special revolving fund of this Housing Corporation.

(b) The Housing Corporation shall have the power to insure and guarantee, as to principal or interest or both, and upon such conditions, rules and regulations as it may prescribe, but only from the aforesaid Guarantee Fund, the repayment in whole or in part of any loan made by any public or private lending agency authorized to do business in Guam.

SOURCE: GC § 20005.

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 4109. Direct Loans to Veterans.

To assist in the housing needs of voting residents of Guam who are veterans of the Armed Forces of the United States, who served during the Second World War, during the Korean Conflict, or during the war in Vietnam, and who were honorably discharged from service, the Housing Corporation may make direct loans to such veterans.

(a) Such loans shall be made from the Housing Corporation’s Guarantee Fund and upon such terms and conditions and under such rules and regulations as the Board may prescribe.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(b) It is the intent of the Legislature that such loans may be made to such veterans whether or not adequate financing is available on reasonable terms from a lending agency.

(c) No loan in excess of Sixteen Thousand Dollars (\$16,000) shall be made for the construction of a new home provided that up to Two Thousand Dollars (\$2,000) of such amount may be used to purchase a homesite.

SOURCE: GC § 20006.

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 4110. Corporation's Use of Funds.

(a) The Housing Corporation is authorized to use its funds, from whatever source derived, in the exercise of its corporate powers and functions.

(b) The Housing Corporation shall contribute to the government of Guam Retirement Fund on the basis of annual billings as determined by the Department of Labor and Personnel, for the Government's share of the cost of the retirement system applicable to the Housing Corporation's employees and their beneficiaries. The Housing Corporation shall also contribute to the Workmen's Compensation Fund on the basis of annual billings, as determined by the Workmen's Compensation Commissioner, for the benefit payments made from such fund on account of the Housing Corporation's employees.

SOURCE: GC § 20007.

§ 4111. Appropriations.

(a) Appropriations are authorized for payment to the Housing Corporation in the form of a grant, in such amounts as may be estimated in advance in the annual budget as necessary to cover losses to be sustained in the conduct of its activities which are included in the annual budget as predominantly revenue-producing. The Housing Corporation's annual budget program shall specifically set forth any loss sustained in excess of the grant previously made for the last completed fiscal year.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

Appropriations are authorized for payment to the Housing Corporation to cover such additional losses incurred.

(b) Appropriations are also authorized for payment to the Housing Corporation in the form of a grant, to be accounted for as general funds of the Housing Corporation, in such amounts as may be necessary to meet expenses to be incurred for specific programs which are included in the annual budget as not predominantly of a revenue-producing character. Provided, however, that

(1) in the case of activities of a predominantly non-revenue-producing character the expenses shall not exceed the amounts of the grants for these activities, and that

(2) the funds granted under this Subsection shall be expended only upon certification by a duly authorized certifying officer designated by the Housing Corporation.

SOURCE: GC § 20008.

§ 4112. Board of Directors.

(a) The management of the Housing Corporation shall be vested in a Board of Directors consisting of seven (7) members including a chairman who shall be appointed by the Governor of Guam, with the advice and consent of the Legislature.

(1) The Directors shall serve for a period of six (6) years, except that

(A) any director appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term, and

(B) the terms of office of the directors first taking office after June 30, 1963, shall expire, as designated by the Governor at the time of appointment, one (1) the end of two (2) years, one (1) at the end of four (4) years, one (1) at the end of six (6) years, and one (1) at the end of eight (8) years, after June 30, 1963.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(2) Qualifications of Board members shall include demonstrated ability, attachment to the public interest, impartiality, and diversified experience among its members.

(3) The Board shall be responsible for overall policy-making and general supervision.

(4) The Board shall meet at least quarterly.

(5) The Board of Directors shall act only by a majority vote of those present at a meeting attended by a quorum, and such quorum shall consist of four (4) Directors. Subject to the foregoing limitation, vacancies in the membership of the Board shall not affect its power to act.

(6) Directors shall not participate in any decision of the Board which will directly involve or affect their personal business affairs.

(7) The Directors receive no salary for their services on the Board, but under regulations and in amounts prescribed by the Board, with the approval of the Governor, may be paid by the Housing Corporation reasonable per diem fees, and allowances in lieu of subsistence expenses, for attendance at meetings of the Board and for time spent on official service of the Housing Corporation, and their necessary travel expenses to and from meetings or when upon such official service.

(b) The administrative functions shall be performed by a full-time staff headed by a president appointed by the Board, subject to approval of the Governor and the consent of the Legislature.

(c) The president shall be responsible to the Board for the execution of programs and policies adopted by the Board and for the day-to-day operations of the Housing Corporation. Between meetings of the Board, the president shall see that the Housing Corporation faithfully executes the programs and policies adopted by the Board.

SOURCE: GC § 20009.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

2015 NOTE: Subsection designations were added/alterd to adhere to the Compiler's alpha-numeric scheme pursuant to the authority granted by 1 GCA § 1606.

§ 4113. Transfer of Functions.

(a) There is transferred to the Housing Corporation the following property: All the assets and property -- real, personal and mixed, tangible and intangible -- of the Guarantee Fund of the Guam Finance and Development Corporation. The value of the property so transferred shall be fixed at the value shown on the books of the Guam Finance and Development Corporation at the date of transfer.

(b) The Housing Corporation shall assume and discharge all of the liabilities of the Guam Finance and Development Corporation.

(c) The servicing of all loans heretofore granted by the Guam Finance and Development Corporation shall continue to be the responsibility of this Housing Corporation.

SOURCE: GC § 20010.

2017 NOTE: Subitem designation were removed pursuant to the authority granted by 1 GCA § 1606.

§ 4114. Rental Housing Guarantee.

(a) The Housing Corporation is authorized to guarantee payment of loans in an amount not to exceed seventy-five percent (75%) of the total development and construction cost of rental housing under all Federal Housing Administration multi-family housing programs. Any such project must consist of not more than ten (10) rental units. The Housing Corporation may pledge its assets in support of any guarantee hereunder.

(b) The Housing Corporation will provide by regulation for the implementation of this Section, which regulations shall provide, without limitation, for submission to the Housing Corporation of necessary data in support of an application for guarantee, any charge to be made or security to be furnished with respect to such guarantee and for the procedure to be followed in case of default.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(c) The Governor of Guam, with the concurrence of the Committee on Rules of the Guam Legislature, is authorized to execute such documents as may be required to assure the integrity of a guarantee given pursuant to this Section, and, to that end, may pledge the full faith and credit of the government of Guam.

(d) In the event of default in payment on any loan guaranteed, in accordance with applicable regulations, it shall be the primary responsibility of the Housing Corporation to make such payments as may be required in support of its obligation, if the Housing Corporation, for whatever reason, is unable to do so either in whole or in part, any deficiency therein shall be met by appropriation.

SOURCE: GC § 20012.

§ 4115. Authorization to Accept Direct Advances From the Federal Home Loan Bank.

The Federal Housing Finance Board has authorized the Federal Home Loan Bank of Seattle to lend to the Housing Corporation as a non-member mortgagee. Pursuant to the provisions of the Financial Institution Reform Recovery and Enforcement Act authorizing the Federal Home Loan Banking System to extend advances to state housing finance authorities, the provisions of §10b of the Federal Home Loan Bank Act, and the rules and regulations of the Federal Housing Finance Board, the Housing Corporation is hereby authorized to periodically borrow funds from the Federal Home Loan Bank of Seattle (“FHLB”) as needed to finance the Housing Corporation’s lending and real estate development activities in the form of direct FHLB advances under FHLB’s rules regarding non-member mortgagees without further legislative approval. The Housing Corporation shall use all such FHLB advances according to the following preferences: First, to qualified applicants who have submitted applications to the Housing Corporation and are awaiting funding, and second, to all other eligible applicants.

SOURCE: Added by P.L. 22-113:4.

§ 4116. Debt to Income Ratio.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

The Guam Housing Corporation is hereby authorized to increase its debt to income ratio from thirty-eight percent (38%) to forty-one percent (41%) for the purpose of assisting more families in qualifying for mortgage loans. The debt to income ratio may be in conformance with other government programs, such as the Federal Housing Administration (FHA) and Veterans Administration residential mortgage loan programs.

SOURCE: Added by P.L. 25-12:2.

**ARTICLE 2
COMMUNITY AFFORDABLE HOUSING ACTION TRUST ACT**

SOURCE: This entire Article was added by P.L. 21-99:2.

- § 4200. Definitions.
- § 4201. Loans by Financial Institutions.
- § 4202. Insurance of Dwelling.
- § 4203. Loans Made Under this Program.
- § 4204. Interest Free Loan Program.
- § 4205. Government Participation.
- § 4206. Limitations on Interest Free Loans.
- § 4206.1. 3/2 Down Payment Option.
- § 4206.2. 3/2 Option Qualifications.
- § 4207. Interest Free Loan Schedules.
- § 4208. Termination of Interest Free Loan.
- § 4209. Community Affordable Housing Action Trust.
- § 4210. Use of Trust Proceeds for Interest Free Loans.
- § 4211. Repayment of Interest Free Loan.
- § 4212. Qualifications for Interest Free Loan Program.
- § 4213. GHC Participation as a Lender.
- § 4214. Foreclosure Protection Fund.
- § 4215. Mortgage Insurance or Guarantee.

§ 4200. Definitions.

For purposes of this Article, the following terms are defined to mean:

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(a) *Adjusted annual income* means the total family income less five percent (5%) of such total family income less Four Hundred Eighty Dollars (\$480) for each dependent.

(b) *Appraised Value* means the value of the home and lot to be purchased or the value of the home and lot to be constructed or renovated.

(c) *Board* means the board of directors of the Guam Housing Corporation.

(d) *Dependent* means

(1) any child or individual under the age of nineteen (19) over which the head of household of such child or individual has legal guardianship; and

(2) any child or individual under the age of twenty-five (25) over which the head of household of such child or individual has legal guardianship, if such child or individual is a full time student, or

(3) any individual, child, relative, or parent, regardless of age, over which the head of household of such person has an obligation to provide financial support due to mental or physical incapacity.

(e) *Down Payment* means the equity requirements of the homeowner needed to initiate the mortgage for the purchase, construction or renovation of a home.

(f) *Family Income* means the total annual income derived from all sources for each member of the family.

(g) *Family* means two (2) or more persons related by blood, adoption or marriage, living together as a household.

(h) *FHLMC* means the Federal Home Loan Mortgage Corporation, also known as *Freddie Mac*.

(i) *Financial Institution* means any financial institution authorized to make mortgage loans.

(j) *First-time Home Owner* means any individual or family who has not had any ownership interest in a

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

residential dwelling within the five (5) years preceding the date of application. Families or individuals who have had an ownership interest in residential real property within the five (5) year period preceding the date of application but such interest was terminated by a decree of divorce or operation of law qualify as First-time Home Owners.

(k) *FNMA* means the Federal National Mortgage Association, also known as *Fannie Mae*.

(l) *GHC* means the Guam Housing Corporation.

(m) *Government* means the government of Guam.

(n) *Home* means any single family dwelling or single family condominium or town house.

(o) *Index Rate* means the lower of the FNMA or FHLMC rate.

(p) *Individual* means any unmarried person.

(q) *Interest Free Loan* means second mortgages made by the Government that are to be repaid without interest pursuant to the provisions of this Chapter.

(r) *Loan* means the loan made by the Financial Institution or GHC to a family or individual pursuant to the provisions of this Chapter.

(s) *Loan to Value Ratio* means the percentage derived from the loan amount divided by the Maximum Price Factor.

(t) *Maximum Price Factor* means the lesser of the appraised value or the selling price of a Home purchased or constructed under this Chapter, including the underlying real estate.

(u) *Real Estate Owned (REO)* means property acquired by a lender through foreclosure and held in inventory.

(v) *Residential Real Property* means real property consisting of land and a dwelling which has been used as a family's or individual's place of residence.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(w) *Selling Price* means for purposes of this Chapter the purchase price of a completed Home or the purchase price of the lot and the construction cost of the Home to be built on the lot.

2015 NOTE: Subsection designations in (d) were altered to adhere to the Compiler's alpha-numeric scheme pursuant to the authority granted by 1 GCA § 1606.

§ 4201. Loans by Financial Institutions.

Financial Institutions are authorized to make loans under this Article to qualified families or individuals for the purchase or construction of typhoon-resistant residential Homes.

§ 4202. Insurance of Dwelling.

The Financial Institution shall require that each mortgagor maintain adequate property insurance coverage for a Home financed under this Chapter.

§ 4203. Loans Made Under this Program.

Loans made by Financial Institutions shall be limited to First-time Home Owners who have been residents of Guam for a period of not less than five (5) years immediately preceding the date of application.

§ 4204. Interest Free Loan Program.

The Government shall provide Interest Free Loans to qualified individuals or families as second mortgage loans subordinated to first mortgage loans made by the Financial Institution for the purchase or construction of a Home. Interest Free Loans shall be available to each family or individual based on the family's or individual's adjusted income which shall be determined at the time of application and in accordance with the schedule set forth in § 4207 of this Article. All loans so made shall be of such sound value, including credit worthiness, or so secured as to reasonably assure repayment.

§ 4205. Government Participation.

The Government shall provide Interest Free Loans to qualified families or individuals. The Interest Free Loans shall be

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

given in accordance to the schedule set forth in § 4207 within the income limits and maximum loan amounts as follows:

(a) For families or individuals with adjusted incomes up to Forty Five Thousand Seven Hundred Eighty Dollars (\$45,780), the Government's participation shall be determined under Schedule I of § 4207.

(b) For families or individuals with adjusted incomes of more than Forty Five Thousand Seven Hundred Eighty Dollars (\$45,780) up to Fifty Five Thousand Five Hundred Ninety Dollars (\$55,590), the Government's participation shall be determined under Schedule II of § 4207.

(c) For families or individuals with adjusted incomes of more than Fifty Five Thousand Five Hundred Ninety Dollars (\$55,590) up to Sixty Five Thousand Four Hundred Dollars (\$65,400), the Government's participation shall be determined under Schedule III of § 4207.

Income limits contained herein shall be adjusted by GHC as needed.

§ 4206. Limitations on Interest Free Loans.

The total of Interest Free Loans and loans and grants provided for in § 4206.1 shall not exceed Forty Thousand Dollars (\$40,000) per applicant. The total Loan to Value Ratio of the combined Financial Institution loan and the Interest Free Loan shall not exceed Ninety-Five Percent (95%) of the lower of the appraised value or the selling price.

2017 NOTE: Internal reference was altered to reflect the renumbering of 4206a.

§ 4206.1. 3/2 Down Payment Option.

To the extent allowed by the Financial Institution, an applicant may qualify for a grant or an unsecured Interest Free Loan equal to an amount not exceeding Five Percent (5%) of the lower of the appraised value or the selling price of a Home financed under the provisions of this Article. The funds for grants or loans under this subsection shall come from the Community Affordable Housing Action Trust as defined in § 4209 of this Article. The maximum loan or grant shall be five

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

percent (5%) of the lower of the appraised value or the selling price of the Home financed not to exceed Five Thousand Dollars (\$5,000). The Financial Institution may include the repayment of the unsecured Interest Free Loan in the borrower's total debt qualifying ratio.

SOURCE: Added by P.L. 21-099:2 (Mar. 31, 1992) as § 4206a. Renumbered by the Compiler to adhere to its general codification scheme pursuant to the authority granted by 1 GCA § 1606.

§ 4206.2. 3/2 Option Qualifications.

(a) Grants and loans under § 4206.1 shall be limited to the following:

<u>Adjusted Income:</u>	<u>Qualifies For:</u>
Less than \$34,335,	Outright Grant,
\$34,335 to \$39,240,	5 Year Interest Free Loan,
\$39,240 to \$45,780,	3 Year Interest Free Loan,
Over \$45,780,	No Grant or Loan.

(b) Funding under § 4206.1 will be available only if the Financial Institution is a participant in the 3/2 Option program.

(c) All amounts above shall be reduced to the extent the applicant has available resources and any family gifts that may be applied to the Down Payment.

SOURCE: Added by P.L. 21-099:2 (Mar. 31, 1992) as § 4206b. Renumbered by the Compiler to adhere to its general codification scheme pursuant to the authority granted by 1 GCA § 1606.

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

Internal reference was altered to reflect the renumbering of 4206a

§ 4207. Interest Free Loan Schedules.

There are hereby established the following Interest Free Loan Schedules to which this Article applies. The maximum loan amount shall depend in each instance on the Rate Index at the time a loan is made.

(a) Interest Free Loan Schedule I.

Index Rate	Maximum Interest Free Loan
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**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

12.00% or more	35.00% of Maximum Price Factor
10.00% to 11.99%	32.00% of Maximum Price Factor
Less than 10.00%	30.00% of Maximum Price Factor

(b) Interest Free Loan Schedule II.

Index Rate	Maximum Interest Free Loan
12.00% or more	32.00% of Maximum Price Factor
10.00% to 11.99%	30.00% of Maximum Price Factor
Less than 10.00%	28.00% of Maximum Price Factor

(c) Interest Free Loan Schedule III.

Index Rate	Maximum Interest Free Loan
12.00% or more	30.00% of Maximum Price Factor
10.00% to 11.99%	28.00% of Maximum Price Factor
Less than 10.00%	25.00% of Maximum Price Factor

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 4208. Termination of Interest Free Loan.

(a) The mortgagor must pay off the balance of the Interest Free Loan if, during the term of the loan, the Home secured by the mortgage for which the loan was granted is:

- (1) transferred or conveyed;
- (2) sold;
- (3) occupied exclusively by individuals other than the mortgagor(s) or their children; or
- (4) leased before five (5) years of actual occupancy by the mortgagor.

(b) If the Home is leased prior thereto then the Interest Free Loan shall be reamortized at the rate of the GHC loan as an interest bearing loan and such interest shall be remitted to GHC for deposit in the Community Affordable Housing Action Trust (the "Trust").

2017 NOTE: Subsection/subitem designations added/alterd pursuant to the authority of 1 GCA § 1606.

§ 4209. Community Affordable Housing Action Trust.

There is hereby established a fund to be known as the Trust, which shall be maintained by GHC separate and apart from any

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

other funds of the Government or GHC. All monies received by GHC from the Government for funding of Interest Free Loans provided herein shall be deposited in the Trust and shall be used solely for that purpose. GHC shall distribute and manage the Trust proceeds.

NOTE: P.L. 21-099:4 and 5 (Mar. 31 1992), stated:

Section 4. All unused funds previously appropriated to the Corporation Subsidy Fund shall be transferred to the Community Affordable Housing Action Trust.

Section 5. Interest earned on the undisbursed proceeds in the Community Affordable Housing Action Trust and the Foreclosure Protection Fund shall be retained by GHC to cover its expenses in managing these funds.

P.L. 21-099:7 further stated:

Section 7. Authorization for Appropriations. (a) Four Million Five Hundred Thousand Dollars (\$4,500,000) are hereby authorized to be appropriated from the General Fund to the Community Affordable Housing Action Trust established in 4209 of Article 2, Chapter 4, Title 12, Guam Code Annotated, and Five Hundred Thousand Dollars (\$500,000) are hereby authorized to be appropriated to the Foreclosure Protection Fund established in 4214 of such Article 2, for the purpose of carrying out the provisions of such Article 2.

(b) One Million Dollars (\$1,000,000) are authorized to be appropriated to the Government Loan Guarantee Fund established in 4403 of Article 4, Chapter 4, Title 12, Guam Code Annotated, for carrying out the provisions of said Article 4.

§ 4210. Use of Trust Proceeds for Interest Free Loans.

Proceeds from the Trust shall be used exclusively for Interest Free Loans and the 3/2 Option provisions in participation with an underlying mortgage by a participating Financial Institution. The Interest Free Loan shall be subordinate to the underlying loan by the Financial Institution but shall not be subordinate to any other debt or debenture.

§ 4211. Repayment of Interest Free Loan.

The Interest Free Loan shall be repaid monthly by the mortgagor in an amount equal to the loan amount divided by the number of monthly periods until maturity.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(a) The priority for payment of such loan in the event the loan is in arrears is after the Financial Institution's requirements and before other Trust fund obligations.

(b) GHC may establish and charge the mortgagor late fees for all Interest Free Loans that are paid after the grace period.

(c) Where allowed by the participating lender, GHC may authorize deferral of the Interest Free Loan for a period of time not to exceed five (5) years.

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 4212. Qualifications for Interest Free Loan Program.

(a) Prior to applying at a Financial Institution for an Interest Free Loan under this Article, the applicant shall first receive an eligibility letter from GHC.

(b) To qualify for the Interest Free Loan program, an individual or family must meet the income requirements established herein and demonstrate repayment ability.

(c) Any applicant, who intentionally supplies false information on the application for funds under any of the programs established in this Article shall automatically be disqualified from such program. In the event that funds are disbursed by GHC on behalf of such an applicant, there shall be penalty interest as set by GHC charged on the amount disbursed.

§ 4213. GHC Participation as a Lender.

(a) An applicant who is unable to qualify for a mortgage loan with at least three (3) commercial lenders under the program set out in this Article is eligible for a GHC loan under 4103(c) of this Title and may qualify for an Interest Free Loan under this Article; provided, such applicant falls within the income guidelines of this Article.

(b) The Interest Free Loan levels in Schedules I, II and III of § 4207 shall correspond with the prevailing GHC rate and not the index rate as is the case with qualified Financial Institutions.

§ 4214. Foreclosure Protection Fund.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

There is hereby created the Foreclosure Protection Fund (the "Fund"). The Fund shall be used by GHC to protect the interest of the Trust as the second mortgagee and shall be used for the purpose of paying off the first mortgage on foreclosure and may also be used to pay any obligation of the Corporation pursuant to any risk sharing arrangement entered into pursuant to § 4602.

SOURCE: Amended by P.L. 24-81:9.

§ 4215. Mortgage Insurance or Guarantee.

If it is necessary to encourage participation in the program by Financial Institutions, the Corporation may enter cooperative programs to obtain mortgage risk insurance or guarantee loans against losses as a result of default and subsequent foreclosure.

**ARTICLE 3
GOVERNMENT PARTICIPATION LOAN ACT**

SOURCE: This entire Article was added by P.L. 21-99:3.

- § 4300. Definitions.
- § 4301. Loans by the Corporation.
- § 4302. Insurance of Home.
- § 4303. Loans Made Under the This Program.
- § 4304. Interest Free Loan Program.
- § 4305. Government Participation.
- § 4306. Limitations on Interest Free Loans.
- § 4307. Interest Free Loan Schedules.
- § 4308. Termination of Interest Free Loan.
- § 4309. Funding From the Trust.
- § 4310. Use of Trust Proceeds for Interest Free Loans.
- § 4311. Repayment of Interest Free Loan.
- § 4312. Qualifications for Interest Free Loans.

§ 4300. Definitions.

The definitions set out in § 4200 of Article 2 of this Chapter shall apply to this Article 3.

12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION

§ 4301. Loans by the Corporation.

GHC is authorized to make loans under this Article to low and moderate income families for the purchase or construction of their residential Homes. All loans made by GHC shall be subject to the following limitation:

- (a) The maximum Loan to Value Ratio shall not exceed Ninety-Five percent (95%) of the appraised value of the Home.

§ 4302. Insurance of Home.

GHC shall require that each mortgagor maintain adequate property insurance coverage for a Home financed under this Article.

§ 4303. Loans Made Under the This Program.

First mortgage loans made by GHC under this program shall bear interest at the prevailing GHC rate.

§ 4304. Interest Free Loan Program.

The Government shall provide Interest Free Loans to qualified individuals or families as second mortgage loans subordinated to first mortgage loans made by GHC for the purchase or construction of a Home. Interest Free Loans shall be available to each family or individual based on the family's or individual's adjusted income which shall be determined at the time of application and in accordance with the schedule set out in § 4307 of this Article. All loans so made shall be of such sound value, including credit-worthiness or so secured as to reasonably assure repayment.

§ 4305. Government Participation.

The Government shall provide Interest Free Loans to qualified families or individuals. The Interest Free Loans shall be given in accordance to the schedule set forth in § 4307 within income limits and maximum loan amounts as follows:

- (a) For families or individuals with adjusted incomes of up to Twenty Six Thousand One Hundred Sixty Dollars

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(\$26,160), the Government's participation shall be determined under Schedule I of § 4307.

(b) For families or individuals with adjusted incomes of more than Twenty Six Thousand One Hundred Sixty Dollars (\$26,160) up to Twenty Nine Thousand Four Hundred Thirty Dollars (\$29, § 430), the Government's participation shall be determined under Schedule II of § 4307.

(c) For families or individuals with adjusted incomes of more than Twenty Nine Thousand Four Hundred Thirty Dollars (\$29, § 430) up to Thirty Two Thousand Seven Hundred Dollars (\$32,700), the Government's participation shall be determined under Schedule III of § 4307.

(d) For families or individuals with adjusted incomes of more than Thirty Two Thousand Seven Hundred Dollars (\$32,700) up to Thirty Nine Thousand Two Hundred Forty Dollars (\$39,240), the Government's participation shall be determined under Schedule IV of § 4307.

Income limits contained herein shall be adjusted by GHC as needed.

§ 4306. Limitations on Interest Free Loans.

An Interest Free Loan shall not exceed Fifty Thousand Dollars (\$50,000). The total Loan to Value Ratio of the combined GHC loan and the Interest Free Loan shall not exceed Ninety-Five Percent (95%) of the appraised value of the Home.

§ 4307. Interest Free Loan Schedules.

There are hereby established the following Interest Free Loan Schedules to which this Article applies. The maximum loan amount shall depend in each instance on the prevailing GHC Rate at the time a loan is made.

(a) Interest Free Loan Schedule I.

GHC Rate	Maximum Interest Free Loan
12.00% or more	50.00% of The Appraised Value
10.00% to 11.99%	48.00% of The Appraised Value
Less than 10.00%	46.00% of The Appraised Value

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(b) Interest Free Loan Schedule II.

GHC Rate	Maximum Interest Free Loan
12.00% or more	48.00% of The Appraised Value
10.00% to 11.99%	46.00% of The Appraised Value
Less than 10.00%	44.00% of The Appraised Value

(c) Interest Free Loan Schedule III.

GHC Rate	Maximum Interest Free Loan
12.00% or more	46.00% of The Appraised Value
10.00% to 11.99%	44.00% of The Appraised Value
Less than 10.00%	42.00% of The Appraised Value

(d) Interest Free Loan Schedule IV.

GHC Rate	Maximum Interest Free Loan
12.00% or more	44.00% of The Appraised Value
10.00% to 11.99%	42.00% of The Appraised Value
Less than 10.00%	40.00% of The Appraised Value

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 4308. Termination of Interest Free Loan.

The mortgagor must pay off the Interest Free Loan if, during the term of the loan, the Home secured by the mortgage for which the loan was granted is:

(a) transferred or conveyed;

(b) sold;

(c) occupied exclusively by individuals other than the mortgagor (s) or their children; or

(d) leased before five (5) years of actual occupancy by the mortgagor. If the Home is leased prior thereto then the Interest Free Loan shall be reamortized at the rate of the GHC loan as an interest bearing loan and such interest shall be remitted to GHC for deposit in the Community Affordable Housing Action Trust (the "Trust"). Exceptions to this provision may be afforded by GHC under rules and regulations adopted in accordance with the provisions of the Administrative Adjudication Law.

§ 4309. Funding From the Trust.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

All Interest Free Loans under this Article shall be funded by the Trust established in § 4209 of Article 2 of this Chapter.

§ 4310. Use of Trust Proceeds for Interest Free Loans.

Proceeds from the Trust shall be for Interest Free Loans in participation with an underlying mortgage by GHC. The Interest Free Loans shall be subordinate to the underlying first mortgage by GHC but shall not be subordinate to any other debt or debenture.

§ 4311. Repayment of Interest Free Loan.

The Interest Free Loan shall be repaid monthly by the mortgagor in an amount equal to the loan amount divided by the number of monthly periods until maturity. The priority for payment of this loan in the event the loan is in arrears is after GHC's requirements and before other Trust fund obligations. GHC may establish and charge the mortgagor late fees for all Interest Free Loans that are paid after the grace period.

§ 4312. Qualifications for Interest Free Loans.

To qualify for the Interest Free Loan program, an individual "or family must show evidence of rejection from three (3) commercial mortgage lending institutions and be unable to qualify on the basis of income for GHC's regular lending program. Applicants under this section are not eligible for the six percent (6%) loan program authorized by Public Law 20-210.

**ARTICLE 4
GUAM HOUSING MORTGAGE INSURANCE CORPORATION**

SOURCE: This entire Chapter was added by P.L. 21-99:6.

- § 4400. Definitions.
- § 4401. Creation.
- § 4402. Qualifications.
- § 4403. Government Loan Guarantee Fund.
- § 4404. Operations.
- § 4405. Exemption From Regulations.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

§ 4400. Definitions.

The definitions set out in § 4200, Article 2 of this Chapter shall apply to this Article 4.

§ 4401. Creation.

GHC is hereby authorized to create the Guam Housing Corporation Mortgage Insurance Corporation (*GHMIC*). GHMIC shall be a public corporation owned in its entirety by GHC. The Board shall be the board of directors of GHMIC. The Board shall create by-laws and promulgate rules and regulations for GHMIC under the provisions of the Administrative Adjudication Law.

§ 4402. Qualifications.

To qualify for the program set out in this Article, the applicant must be a qualified resident and First-time Home Owner as defined in this Chapter. Applicants must demonstrate that they will not be able to obtain first mortgage loans from mortgage lending institutions on the basis of not having sufficient assets to use as a Down Payment for the loans. Those applicants that demonstrate that they will not be able to obtain a first mortgage loan but can be approved by a mortgage lending institution if they obtain a mortgage loan guarantee from GHC are eligible for a loan guarantee under this Article; provided, that the mortgage lending institution approves the applicant contingent upon the approval of a loan guarantee from GHC.

§ 4403. Government Loan Guarantee Fund.

There is hereby created a Government Loan Guarantee Fund (*GLGF*). GLGF shall be managed by GHC. Proceeds from GLGF shall be used for the purpose of capitalizing GHMIC. All investment income from GLGF shall remain the property of GHMIC.

§ 4404. Operations.

GHMIC shall be operated as follows:

- (a) Separate Records Required. GHC shall keep separate records and financial statements and shall in no

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

way consolidate the finances of GHMIC with its own finances.

(b) Limitations of Program Finances. Administrative support services for GHMIC shall be provided by GHC; provided, however, that GHMIC, from its operating revenues, shall reimburse GHC for all the cost of administrative support services, inclusive of personnel services and cost of materials and supplies.

(c) Limits of Liability. GHC shall not be held liable for policy claims against GHMIC. In the event that the policy claims rate exceeds the projection of the actuarially determined funding requirements so as to jeopardize the solvency of the program established in this Article, GHMIC shall request additional appropriations to GLGF.

§ 4405. Exemption From Regulations.

GHMIC shall be exempt from all laws and regulations which give the Director of Revenue and Taxation, as the Commissioner of Banking and Insurance, control over the private insurance industry. Private mortgage insurers who reinsure policies underwritten by GHMIC shall also be exempt from regulation by the Commissioner of Banking and Insurance; provided, that such insurers are regulated by one or more regulatory bodies in any state of the United States.

2011 NOTE: Reference to the "Insurance Commissioner" changed to the "Commissioner of Banking and Insurance" pursuant to P.L. 27-088:10 (May 6, 2004).

**ARTICLE 5
REQUIREMENTS AND REGULATIONS**

SOURCE: This entire Article was added by P.L. 21-99:8.

- § 4500. Definitions.
- § 4501. Residency Requirements.
- § 4502. Assistance Limitations.
- § 4503. Development of Rules and Regulations.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

- § 4504. Representation by Public Defender Service Corporation.
- § 4505. Performance and Payment Bonds.
- § 4506. Prepayment of Loan.
- § 4507. No Release of Fund until Conditions Met.

§ 4500. Definitions.

The definitions set out in § 4200 of Article 2 of this Chapter shall apply to this Article 5.

§ 4501. Residency Requirements.

All applicants for the programs set out in Articles 2, 3 and 4 of this Chapter shall be U.S. citizens or permanent resident aliens who have been residents of Guam for a period of not less than five (5) years immediately preceding the date of application. An applicant who has not been a five (5) year resident for the period immediately preceding the date of application may qualify for these programs if the applicant's residency change was due to active service in the United States Armed Forces or for attendance on a full-time basis at an institution of higher education; provided, that the applicant was a five (5) year resident for the period immediately preceding the start of such active duty or education.

§ 4502. Assistance Limitations.

As the purpose of the programs contained in Articles 2, 3 and 4 of this Chapter is to assist families and individuals who are lacking the necessary resources for the Down Payment or loan qualification requirements, the qualifying amount of the assistance under such programs shall be directly reduced to the extent that the applicant has available resources to use as a Down Payment or to qualify for the mortgage loan.

§ 4503. Development of Rules and Regulations.

GHC shall develop rules and regulations for the programs set out in Articles 2, 3 and 4 of this Chapter under the provisions of the Administrative Adjudication Law.

§ 4504. Representation by Public Defender Service Corporation.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

The Public Defender Service Corporation is hereby authorized to represent, at no cost notwithstanding the Home buyer's income, any Home buyer under any programs set out in this Chapter in any dispute with the Home builder, real estate broker, title insurance company, developer, contractor, sub-contractor, material supplier, bonding company, or their agents and employees over a breach of contract, breach of warranty, tort, fraud, or misrepresentation arising out of the Home purchase, its financing, or its construction.

§ 4505. Performance and Payment Bonds.

Contracts for the construction of Homes under the programs authorized by this Chapter shall require the builder to post one hundred percent (100%) performance and payment bonds, or the equivalent in securities, the beneficiaries of which shall be the Home Owner, the Financial Institution holding the first mortgage on the Home, and the Government, as the case requires.

§ 4506. Prepayment of Loan.

Any prepayment of a loan, which prepayment shall be at the option of the borrower, under any of the programs authorized by this Chapter, shall be applied to the first or second mortgage, at the option of the borrower.

§ 4507. No Release of Fund until Conditions Met.

No funds appropriated towards the program established in this Chapter shall be released by GHC unless one (1) of the following conditions are satisfied:

(a) Local Financial Institutions submit in writing to GHC their intention to participate in one (1) or more of the programs; or

(b) Any Federal Housing Assistance Agency that may participate in one (1) or more of the programs, express its intention, in writing, to underwrite or purchase the local Financial Institution's participation in such program.

2015 NOTE: Subsection designations were altered to adhere to the Compiler's alpha-numeric scheme pursuant to the authority granted by 1 GCA § 1606.

12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION

ARTICLE 6
HOME FINANCING ACT

- § 4601. Definitions.
§ 4602. Authorization of Home Financing Program.

§ 4601. Definitions.

As used in this Article:

(a) *Eligible mortgagors* means persons and families eligible under the criteria of §143 of the Internal Revenue Code of 1986 to receive mortgage loans financed with the proceeds of bonds the interest on which is excludable from gross income for Federal income tax purposes, or if such section is no longer effective or is materially modified, such criteria as may be established by the Board to further the purposes of this Article.

(b) *Home* means any single family detached home, townhouse, condominium unit or two, three and four family dwelling that is to be purchased or improved by an eligible mortgagor and that is located in Guam.

(c) *Home mortgage* means an interest-bearing loan that is made to an eligible mortgagor, which finances the purchase or improvement of a home, is secured by a mortgage, and has an original principal amount not greater than the then current limit for mortgage loans for homes in Guam under the United States Department of Housing and Urban Development mortgage insurance programs authorized under §§ 203(b) or 203(k) of the National Housing Act, or if such programs are no longer in operation to insure new mortgages, such limit as may be established by the Board to further the purposes of this Article.

(d) *Lending institution* means any public or private entity or governmental agency approved by the Housing Corporation and authorized by law to make or participate in making residential loans in Guam.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(e) *Mortgage* means a mortgage, deed of trust or other security instrument which shall constitute a lien on real property in fee simple or on a leasehold under a lease having a remaining term of a duration necessary to protect the interest of the mortgagee thereunder, as determined by the Housing Corporation.

(f) *Mortgage-backed security* means any security, whether guaranteed or not, backed by one (1) or more home mortgages or pools consisting of home mortgages.

SOURCE: Added by P.L. 24-81:10.

2015 NOTE: Subsection designations were added to adhere to the Compiler's general codification scheme pursuant to the authority granted by 1 GCA § 1606.

§ 4602. Authorization of Home Financing Program.

In addition to the powers of the Housing Corporation set forth elsewhere, in this Chapter, and notwithstanding any restrictions, requirements or limitations set forth in Articles 1, 2, 3, 4 and 5 of this Chapter, the Housing Corporation shall have the power to make, purchase, make commitments to purchase, and take assignments from lending institutions, of home mortgages and mortgage-backed securities, under terms and conditions specified by the Housing Corporation. The Housing Corporation may obtain or require mortgagors to obtain mortgage insurance on home mortgages, and may enter into risk-sharing agreements with the providers of the mortgage insurance upon terms and conditions determined by the Housing Corporation. Any obligations of the Housing Corporation to a mortgage insurer under a risk-sharing agreement shall be payable only out of the assets of the Housing Corporation that are not pledged to secure other obligations of the Housing Corporation.

SOURCE: Added by P.L. 24-81:10.

**ARTICLE 7
FIRST-TIME HOMEOWNER ASSISTANCE PROGRAM ACT**

12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION

SOURCE: This article was added by P.L. 24-180:3 as Article 6. Amended by P.L. 29-002:VI:28 (May 18, 2007) the name, Gross Receipts Tax, changed to Business Privilege Tax, effective July 17, 2007. Repealed and reenacted by P.L. 31-166:2 (Jan. 4, 2012).

- § 4701. Establishment and Title.
- § 4702. Definitions.
- § 4703. First-time Homeowner Assistance Program.
- § 4704. Application for First-time Homeowner Assistance.
- § 4705. Administration.
- § 4706. Funding.

§ 4701. Establishment and Title.

The Guam Housing Corporation (GHC) *shall* develop, implement, and administer the *First-time Homeowner Assistance Program* (Program) to provide assistance to first-time homeowners toward the purchase or construction of a home in accordance with this Act.

§ 4702. Definitions.

For purposes of this Act, *except* as otherwise specifically provided, the following words and phrases, together with all of the common derivatives thereof (i.e. verbs, plurals, gender, etc.), *shall* have the meaning ascribed to them in this Section.

(a) *Accredited* means as recognized by the Council for Higher Education Administration (CHEA); for vocational schools, an accrediting agency as recognized by the United States Department of Education, such as the Accrediting Commission of Career Schools and Colleges (ACCSC);

(b) *Applicant* means any individual or family who is applying for First-time Homeowner Relief;

(c) *Commencement date* of an eligible transaction: see § 4703(e);

(d) *Completed* for completion of an eligible transaction: see § 4703(f);

(e) *Comprehensive home building contract* means a contract under which a builder undertakes to build a home on land, from the inception of the building work to the point

12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION

where the home is ready for occupation; and if, for any reason, the work to be carried out under such a contract is not completed, includes any further contract under which the work is to be completed;

(f) *Construction cost* means the final and total amount paid, or to be paid, by a homeowner for the construction of a home, and *shall* include all monies paid for labor and material, contractor's fees, fees of an architect and engineer, survey costs, utility hook-up costs, broker's commissions, and attorney's fees;

(g) *Down payment* means the equity requirements of the homeowner needed to initiate the mortgage for the purchase or construction of a home. It *shall* include points and fees charged by the financial institution;

(h) *Eligibility criteria*: see § 4703(b);

(i) *Eligible transaction*: see § 4703(d);

(j) *Family* means two (2) or more persons related by blood, adoption, or marriage, living together in a household;

(k) *First-time Homeowner* means any individual or family who has *not* had any ownership interest in a home within the five (5) years preceding the commencement date of an eligible transaction for which the First-time Homeowner is applying;

(l) *Financial institution* means any financial institution authorized to make mortgage loans on Guam, as approved by the GHC;

(m) *Full-time basis* means the minimum of twelve (12) or more credit hours per semester or quarter equivalent to twelve (12) semester hours, for degree-seeking undergraduate or graduate studies; for vocational schools, the minimum credits or hours or its equivalent per, semester or quarter or equivalent term, necessary for the school to certify full-time status;

(n) *Home* means a permanent, single family dwelling, or single family condominium or town house, but *does not*

12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION

include semi-permanent dwellings made of wood and tin, and is to be physically occupied by the homeowner on a regular and continuous basis and in which the homeowner intends to exclusively reside;

(o) *Natural Person* means a human being.

(p) *Land costs* means costs to purchase land toward the construction of a home;

(q) *Off-island institution of higher education* means a United States Department of Education accredited vocational school, or college or university *not* physically located in Guam;

(r) *Occupancy requirement* means the requirement that an applicant for First-time Homeowner Assistance must occupy the home to which the application relates as the applicant's principal place of residence within six (6) months after the completion of the eligible transaction;

(s) *Owner* means having absolute dominion (as defined in 21 GCA, Chapter 1, § 1211) over land or a home;

(t) *Assistance* means the financial assistance granted to First-time Homeowners established under this Act;

(u) *Spouse* is the person who is legally married to the applicant.

§ 4703. First-time Homeowner Assistance Program.

(a) Entitlement to Assistance.

(1) Assistance is payable on an application under this Act if:

(A) the applicant complies with the eligibility criteria; and

(B) the transaction for which the Assistance is sought is an eligible transaction.

(2) *Only* one (1) First-time Homeowner Assistance is payable for the same eligible transaction.

(b) Eligibility Criteria for Applicants.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(1) An applicant for first-time homeowner assistance must be a natural person.

(2) Applicant must be a United States citizen or permanent resident alien who is a Resident of Guam. However, unless advised otherwise by the Attorney General of Guam, Guam Housing Corporation shall satisfy demand by U.S. citizens before considering permanent resident aliens who are residents of Guam for the program.

(A) Subject to Subsection (B), an applicant for first-time homeowner assistance must be a United States citizen or permanent resident alien who has been a resident of Guam for a period of *not less than* five (5) years immediately preceding the commencement date of the eligible transaction for which the applicant is applying;

(B) An applicant who has *not* been a five (5) year resident for the period immediately preceding the commencement date of the eligible transaction for which the applicant is applying, may qualify for these programs if the applicant's residency change was due to active service in the United States Armed Forces *or* for attendance, on a full-time basis, at an off-island institution of higher education; *provided*, that the applicant was a five (5) year resident for the period immediately preceding the start of such active duty or education.

(3) Applicant must certify, under penalty of perjury, of being a First-time Homeowner in accordance with § 4702 of this Act, and must receive a Certificate of First-time Homeownership.

(4) Applicant must receive clearance from the Director of Revenue & Taxation that all income tax returns, business privilege tax returns and withholding tax returns which are due from the applicant have been filed (or an extension has been approved or granted thereon by the Director of Revenue & Taxation, which extension has not expired), and that all taxes thereon have been paid or arrangements have

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

been made with the Director for payment thereon and such arrangements are current.

(5) Applicant must attend and complete a home ownership education program and/or workshop or other similar program, as approved or provided by the GHC.

(6) Applicant or (applicant's spouse) must not have received earlier assistance under this Program:

(A) Subject to Subsection (B), an applicant is ineligible if:

(i) the applicant or the applicant's spouse has been a party to an earlier application under this Act; and

(ii) assistance was paid on the application.

(B) An applicant is not ineligible if the assistance was paid but later paid back to the GHC under the conditions on which the assistance was made, unless payment back to the GHC was due to fraud or other illegal acts.

(c) Occupancy Requirement. Applicant must occupy the home to which the application relates as the applicant's principal place of residence within six (6) months after completion of the eligible transaction. Payment of Assistance shall be paid pursuant to § 4705(c) of this Act.

(d) Eligible Transactions. An eligible transaction is:

(1) a contract made for the purchase of a home in Guam not to exceed Three Hundred Thousand Dollars (\$300,000), and *shall* include down payment and closing costs;

(2) a comprehensive home building contract made by the owner of land in Guam, or a person who will on completion of the contract be the owner of land in Guam, to have a home built on the land not to exceed Three Hundred Thousand Dollars (\$300,000), and *shall* include down payment, land, and closing costs;

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(3) an eligible transaction shall include all the money paid, or to be paid, by a homeowner or the construction cost, inclusive of the land value, for the home.

(e) Commencement Date. The commencement date of an eligible transaction is:

(1) in the case of an applicant purchasing a home, the date when the contract is signed between the buyer and seller; or

(2) in the case of an applicant building a home, the date when the construction contract for which the home is to be built is signed.

(f) Eligible Transaction. An eligible transaction is completed when:

(1) in the case of an applicant purchasing a home:

(A) the purchaser becomes entitled to possession of the home under the contract; and

(B) if the purchaser is to obtain a registered title to the land on which the home is situated, the necessary steps to obtain registration of the purchaser's title have been taken.

(2) in the case of an applicant building a home, the building is ready for occupation as a place of residence as identified by the issuance of a certificate of occupancy by the Guam Department of Public Works, or the execution of the contract for the purchase of a home, whichever occurs first.

(g) Eligible Transaction Amount Adjustment. The Board shall from time to time, but not less than every five (5) years, conduct a study to determine the cost of the median price of housing on Guam, and shall by resolution adopted by the Board increase or decrease the amount of the eligible transaction to reflect changes in market price.

SOURCE: Added by P.L. 24-180:3 as 12 GCA § 4603, codified by the Compiler as § 4703. Repealed and reenacted by P.L. 31-166:2 (Jan. 4, 2012). Subsection (d)(1) and (2) amended by P.L. 34-100:1 (May 16, 2018).

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

2018 NOTE: Subitem designations altered/added in subsection (a) pursuant to 1 GCA § 1606.

§ 4704. Application for First-time Homeowner Assistance.

An application for the First-time Homeowner Assistance is to be made to the GHC. An application must be in a form approved by the GHC, and must contain the following:

(a) whether the applicant intends to purchase or construct a home;

(b) the legal description of the property intended for the home;

(c) if the applicant intends to construct a home, applicant must submit the following:

(1) a certificate of title, policy of title insurance, warranty deed or other evidence of fee simple title, or lease to a *Chamorro* Land Trust lot, to the unimproved land intended for construction; and

(2) construction plans and specifications certified by a licensed professional engineer or architect authorized to practice on Guam by the Professional Engineers, Architects, and Land Surveyors Board of Guam; and

(3) a completed construction contract with construction cost of the home to be built.

(d) If the applicant intends to purchase a home, applicant must submit the following:

(1) an executed contract for the purchase of a home with selling price; and

(2) certificate of title, warranty deed, policy of title insurance or other evidence of ownership by the intended seller.

(e) An applicant must provide the GHC with any further information the GHC requires to decide on the application.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(f) Information provided by an applicant in or in relation to an application must, if the GHC so requires, be verified and supported by other evidence required by the GHC.

(g) An application can only be made on or after the commencement date of the eligible transaction to which the application relates and before the eligible transaction is completed.

(h) An applicant may, with the GHC's consent, amend an application.

(i) Any applicant who intentionally supplies false information on the application for assistance under this Act *shall* automatically be disqualified from the First-time Homeowner Assistance Program. In the event that funds are disbursed on behalf of such an applicant, the applicant *shall* be assessed a penalty of ten percent (10%), in addition to repaying the amount disbursed by the GHC. The funds that were disbursed on behalf of such an applicant that are repaid *shall* be deposited back into the First-time Homeowner Assistance Fund. The funds from the ten percent (10%) penalty *shall* be deposited into the GHC's bank account(s) for operational uses.

(j) In the case where an applicant is denied assistance, the GHC *shall* provide the applicant a written denial notice within thirty (30) days of the submission of the application.

(k) Appeal. An applicant may appeal a denial of application within thirty (30) days of receipt of the written denial notice. The applicant *shall* submit to the GHC Board appropriate documentation disputing the basis of the denial. The Board *shall* render a decision within fifteen (15) days after receipt of an appeal, or at the next meeting of the Board following the denial, whichever is sooner. The decision of the Board *shall* be final.

§ 4705. Administration.

12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION

(a) Certificate of First-time Homeownership. GHC *shall* issue a Certificate of First-time Homeownership (Certificate) to an applicant if the applicant meets all the eligibility requirements set forth in this Article.

(1) This Certificate *shall not* be transferable, *except* between joint holders of an original Certificate, and it *shall not* be transferred to a new and separate home.

(2) In case of the death of the holder of an original Certificate, the Certificate *shall* terminate, unless the home covered by the Certificate becomes the home of the decedent's heirs, and they acquire the title to the property within two (2) years of the death.

(b) Amount of Assistance. The amount of the First-time Homeowner Assistance is up to Ten Thousand Dollars (\$10,000) of the eligible transaction.

(c) Payment of Assistance. First-time Homeowner Assistance *shall* be paid by electronic funds transfer, by check, or in any other way the GHC finds appropriate.

(1) First-time Homeowner Assistance *shall* be paid to the financial institution authorized by the GHC and selected by the applicant to which a mortgage loan or construction loan, or both, has been approved for the applicant toward his or her eligible transaction.

(2) The GHC *shall* develop and maintain, on a semi-annual basis, a list of authorized financial institutions as identified in this Section, and *shall* be made readily accessible to the public.

(d) Payment in Anticipation of Compliance with Occupancy Requirement.

(1) The GHC may authorize payment of First-time Homeowner Assistance in anticipation of compliance with the occupancy requirement. If the occupancy requirement is *not* complied with, the applicant must, within fifteen (15) days after the relevant date, give written notice of that fact to the GHC and repay the amount of assistance.

12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION

(2) The relevant date is the earlier of the following:

(A) the end of the period allowed for compliance with the occupancy requirement; or

(B) the date on which it first becomes apparent that the occupancy requirement will *not* be complied with during the period allowed for compliance.

(3) Where the first-time homeowner fails to comply with the occupancy conditions and does *not* repay the amount of assistance, the GHC may approve, by resolution, a Memorandum of Understanding between the GHC and the Department of Revenue and Taxation to garnish the income tax refunds of recipients of the First-time Homeownership Assistance. The GHC *shall* adopt a policy to govern the referral of such tax refund garnishment requests to the Department of Revenue and Taxation.

(e) Development of Rules and Regulations. Within ninety (90) days after enactment of this Act, the GHC *shall* adopt such rules and regulations as may be necessary to implement the provisions of this Act and Subsection (f) of § 4103.

(f) Repayment of Assistance.

(1) A first-time homeowner *shall* repay to the First-time Homeowner Assistance Fund an amount equal to the total assistance received by the homeowner with interest at the rate of ten percent (10%) per annum if, within five (5) years after receipt of the assistance, the home is:

(A) transferred or conveyed;

(B) sold; or

(C) occupied exclusively by any individual or individuals other than the homeowner or the homeowner's children.

(2) The funds that were disbursed on behalf of such an applicant that are repaid *shall* be deposited back into the Housing Trust Fund.

(3) The funds from the ten percent (10%) penalty *shall*

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

be deposited into the GHC’s bank account(s) for operational uses.

SOURCE: Added by P.L. 24-180:3 as 12 GCA § 4605, codified by the Compiler as § 4705. Repealed and reenacted by P.L. 31-166:2 (Jan. 4, 2012). Subsection (b) amended by P.L. 34-100:2 (May 216, 2018).

2018 NOTE: Subitem designations altered/added pursuant to the authority of 1 GCA § 1606.

2017 NOTE: Subsection/subitem designations added/altered pursuant to the authority of 1 GCA § 1606.

§ 4706. Funding.

Funding for the First-time Homeowner Assistance Program *shall* be provided through the Housing Trust Fund established pursuant to § 41004 (a), Article 10, Chapter 4, Title 12 of the Guam Code Annotated.

**ARTICLE 8
MORTGAGE CREDIT CERTIFICATION PROGRAM**

SOURCE: This Chapter was added by P.L. 25-111:2.

- § 4801. Title.
- § 4802. Legislative Findings and Policy.
- § 4803. Definitions.
- § 4804. Mortgage Credit Program; Established.
- § 4805. Rules and Regulations.
- § 4806. Severability.

§ 4801. Title.

This Act shall be cited and referred to as “*The Mortgage Credit Certificate Program Act of 2000.*”

§ 4802. Legislative Findings and Policy.

(a) In its continuing efforts to create incentives for first-time homeowners, it is the intent of *I Liheslaturan Guåhan* to create incentives for first-time homeowners to purchase their dream homes aimed at enhancing the general welfare of our residents,

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

while at the same time, give a much-needed boost to the construction industry.

(b) In its diligence to assist first-time homeowners, *I Liheslaturan Guåhan* finds that Congress, through the enactment of the 1984 Tax Reform Act, authorized a Mortgage Credit Certificate Program. More importantly, *I Liheslaturan Guåhan* finds that the purpose of the Mortgage Credit Certificate Program is to provide housing assistance to families of low and moderate income. *I Liheslaturan Guåhan* finds that the intent of the Mortgage Credit Certificate Program is to reduce the amount of Federal income tax paid by the homeowner, thereby giving him more available income to qualify for a mortgage loan and assistance with house payments.

2017 NOTE: Subsection designations added/altered pursuant to the authority of 1 GCA § 1606.

§ 4803. Definitions.

For purposes of this Article, the following words and phrases are defined to mean:

(a) *Eligibility* means those persons meeting the following requirements:

(1) the buyer's household income must fall within a specified limit set aside by the Internal Revenue Service;

(2) the mortgage loan must be a new loan, not a refinancing; and

(3) the home must become the buyer's principal residence within sixty (60) days of closing.

(b) *First time homebuyer* means any individual or family who has not had any ownership interest in a residential dwelling within the five (5) years preceding the date of application. A family or individual who has had an ownership interest in residential real property within the five (5) year period preceding the date of application, but such interest was terminated by a decree of divorce or operation of law, does qualify as a first-time homeowner.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(c) *Mortgage credit certificate* means the method of providing housing assistance to eligible homebuyers authorized by Congress in the 1984 Tax Reform Act.

(d) *Recapture or recapture tax* means a supplemental Federal income tax to which mortgage credit certificate recipients may be subject if they sell the house they purchased with mortgage credit certificate assistance within nine (9) years of the date of purchase.

(e) *Tax credit* means an entitlement authorizing the taxpayer to subtract the amount of credit from his Federal income tax.

(f) *Tax deduction* means that amount subtracted from the adjusted gross income tax before calculating the Federal income tax.

2015 NOTE: Subsection designations in (a) were altered to adhere to the Compiler's alpha-numeric scheme pursuant to the authority granted by 1 GCA § 1606.

§ 4804. Mortgage Credit Program; Established.

(a) Establishment. There is hereby established within the Guam Housing Corporation ("*Corporation*") a Mortgage Credit Certificate Program ("*Credit Program*"). The expectation of the Credit Program is to provide assistance to qualified and eligible first-time homeowners in obtaining an income tax credit. The Credit Program reduces the amount of taxes the holder of the certificate would pay. The objective of the Credit Program is to assist a first time homebuyer qualify for a loan by allowing the lender to reduce the housing expense ratio by the amount of tax savings.

(b) Mortgage Credit Certificate. The Corporation shall issue to first time homebuyers a Mortgage Credit Certificate ("*Credit Certificate*"). The purpose of the Credit Certificate is to provide housing assistance to eligible first time homebuyers authorized by Congress in the 1984 Tax Reform Act.

(1) Credit Against Taxes. The Mortgage Credit Certificate gives the homebuyer a Federal tax credit each year the buyer keeps the same mortgage loan and lives in

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

the same house. The qualified homebuyer who is awarded a Mortgage Credit Certificate may take an annual credit against their Federal income taxes. The credit is subtracted dollar for dollar from Federal income taxes due.

(2) Median Income.

(A) For households that are eighty percent (80%) of the area's median income and below, the credit equal to twenty percent (20%) of the annual interest paid on the homebuyer's mortgage.

(B) For households that are above eighty percent (80%) of the area's median income and not exceeding the Mortgage Credit Certificate income limits, the credit is equal to fifteen percent (15%) of the annual interest paid on the homebuyer's mortgage.

(C) The remainder of the mortgage interest is taken as a deduction from gross income on the homebuyer's income tax return in the usual manner which shall be paid directly to the financial institution as part of the down payment and/or closing costs, for the purpose of reducing the first-time homeowner's financial requirement to secure a mortgage loan.

(3) Relief. The relief shall be available to each family or individual in addition to any other grants or loans that the family or individual may receive from the Corporation or other agencies, in accordance with the provisions set forth in this Article.

2017 NOTE: Subitem designations in (b) were added to adhere to the Compiler's alpha-numeric scheme pursuant to the authority granted by 1 GCA § 1606.

§ 4805. Rules, Regulations and Restrictions.

The Corporation shall within forty-five (45) days upon enactment promulgate the necessary rules and regulations with regard to implementing the Mortgage Credit Certificate Program and the Corporation's participation with any financial institution, currently licensed and doing business on Guam. The rules shall include the Corporation's requirements, including, but not

12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION

limited to, qualifying applicants for the mortgage credit certificate program.

§ 4806. 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 application, and to this end the provisions of this Law are severable.

**ARTICLE 9
LEASE-TO-OWN HOUSING PROGRAM**

SOURCE: This Article was added by P.L. 25-116:2 as “Article 7”.
The Compiler has renumbered this Article to 9 since both Articles 7 and 8 have been occupied.

- § 4901. Title.
- § 4902. Legislative Findings.
- § 4903. Legislative Policy.
- § 4904. Definitions.
- § 4905. Lease-to-Own Program; Establishment; Authorization to Participate.
- § 4906. Authorization to Acquire Mortgage Loans.
- § 4907. Lease-to-Own Contract.
- § 4908. Tenant-Purchaser Escrow Account.
- § 4909. Closing of Transfer of Title.
- § 4910. Rules, Regulations and Restrictions.
- § 4911. Severability.

§ 4901. Title.

This Article shall be known and shall be cited as “*The Lease-to-Own Housing Program Act of 2000.*”

§ 4902. Legislative Findings.

(a) *I Liheslaturan Guåhan* finds that in 1997, Guam Housing Corporation announced a bid for the design, building

12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION

and financing of infrastructure requirements for Lada Estates. As a result, Maeda Pacific Corporation (“Maeda”) the selected bidder, was granted a contract to design, build and finance the project. The Guam Housing Corporation and Maeda executed a contract in the amount over Ten Million Dollars to fulfill the project’s scope of work.

(b) Furthermore, *I Liheslaturan Guåhan* finds that Maeda agreed to the terms such that payment would be due from a developer who would finance both the outstanding contract with Maeda and the development of the units at Lada Estates. To date, Guam Housing Corporation has entertained several bids, but is unable to secure any contract with a developer. Also, *I Liheslaturan Guåhan* finds that the infrastructure project was due and payable on or before November 1998.

(c) *I Liheslaturan Guåhan* also finds that while there have been several bid announcements, initiated by the Guam Housing Corporation, for the construction of the Lada Estates project which have been advertised in conformance with the procurement laws of Guam. Unfortunately, no bidder has been able to meet the required terms of the contract due to the provisions requiring substantial up front financial reimbursement to Maeda. As a result of this hindrance, Maeda has agreed to renegotiate some of the terms to allow for easier repayment criteria.

(d) More importantly, *I Liheslaturan Guåhan* in discussions with the Guam Housing Corporation and the mortgage community, identified the key problems that adversely affected the eligibility of customers and clients to participate in purchasing of not only the Lada Estates residential project, but also various single family housing development projects on Guam. Some of the problems are identified as:

(1) most prospective clients have high debt to income ratios five (5) year short term debts;

(2) most prospective clients are unable to meet the required closing cost and down payment for their first-time home; *and*

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(3) most prospective first-time homebuyers may need the lease-to-own housing program so that they may utilize the lease term to re-establish their credit and thus qualify for a typical residential loan at the time of escrow closing of the purchase.

2017 NOTE: Subsection designations were added/alterd to adhere to the Compiler's alpha-numeric scheme pursuant to the authority granted by 1 GCA § 1606.

2015 NOTE: Subsection designations were altered to adhere to the Compiler's alpha-numeric scheme pursuant to the authority granted by 1 GCA § 1606.

§ 4903. Legislative Policy.

(a) *I Liheslaturan Guåhan* in its continuing effort to promote affordable housing programs for the people finds that for many individuals and families the primary obstacle to homeownership is their inability to save money for the initial cost of buying a home, such as down payment and closing costs. To effectuate additional housing programs, *I Liheslaturan Guåhan* in its wisdom wishes to hereby establish a "*Lease-to-Own Housing Program*". Said Program shall 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 (3) to five (5) years. This would encourage public and private collaboration in the search for the suitable financing mechanism or mechanisms which could benefit the families who can afford to purchase homes given financial assistance for closing costs and down payment. *I Liheslaturan Guåhan* wishes to encourage the participation of the private sector working through the authority vested in the Guam Housing Corporation through this Act. Furthermore, *I Liheslaturan Guåhan* recognizes the opportunity for certain lending institutions and lenders of capital to assist families in purchasing or building their first home on their lot or purchasing homes available in the market. *I Liheslaturan Guåhan* also wishes to recognize that the programs contained herein are Community Reinvestment Act qualified, and in conformance with various housing programs administered by the Guam Housing Corporation, particularly

12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION

those which can accommodate the concept of “*lease-to-own*” residential units of various sorts.

(b) *I Liheslaturan Guåhan* encourages the granting of any Guam Economic Development Authority also qualifying certificate benefits to the developers involved in the Lada Estates project, as well as other similar housing projects. In the case where a government entity is the developer, such benefits may be passed on to the participating contractors provided that such incentive would decrease the overall unit cost of housing in the respective project.

2017 NOTE: Subsection designations were added to adhere to the Compiler’s alpha-numeric scheme pursuant to the authority granted by 1 GCA § 1606.

§ 4904. 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 or its successor codes as adopted by Chapter 67 of Title 21, Guam Code Annotated, and in consonance with the Guam zoning and subdivision laws whose selling price meets the criteria set forth in the Guam Economic Development Authority Rules and Regulations pertaining to “affordable housing” adopted pursuant to Public Law Number 24-266.

(b) “*Corporation*” shall mean the Guam Housing Corporation created pursuant to § 4101 of Title 12 of the Guam Code Annotated.

(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 person who is a party to the lease-to-own contract.

SOURCE: Subsection (a) amended by P.L. 30-199:21 (Sept. 21, 2010).

§ 4905. Lease-to-Own Program; Establishment; Authorization to Participate.

The Guam Housing Corporation (“Corporation”) is hereby authorized to participate in 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.

§ 4906. Authorization to Acquire Mortgage Loans.

The Corporation 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.

§ 4907. Lease-to-Own Contract.

The Corporation is empowered to purchase or build, as well as incur debt to achieve same, residences which the Corporation 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:

(A) 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;

(B) the cost of routine maintenance of the residence, *unless* the lease-to-own contract requires the Tenant-Purchaser to perform such maintenance at his own expense;

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(C) an amount sufficient to pay interest on the mortgage loan held by the Corporation on the residence, *less* the estimated earnings on the escrow fund provided in § 4708 of this Act which is allocable to such mortgage held by the Corporation;

(D) 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 Tenant-Purchaser’s required down payment under the lease-to-own contract, plus the estimated closing costs of purchase which will be allocable to the Tenant-Purchaser, including the seller’s closing cost at the initial closing of the mortgage to the seller; *and*

(E) 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;

(A) if 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 the five (5) years allowed would result in the escrow being forfeited to the successor Tenant-Purchaser, *and not* the Corporation;

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(5) a provision that the Tenant-Purchaser shall have the option upon reasonable notice to the seller and the Corporation 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 the Corporation of the mortgage loan on the residence so long as the Corporation holds the mortgage loan. The Corporation 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) The Corporation shall adopt procedures to ensure that the payments contemplated by § 4707(a)(2) of this Section are in fact applied to those purposes.

2015 NOTE: Subsection designations in (a)(2) and (3) were altered to adhere to the Compiler's alpha-numeric scheme pursuant to the authority granted by 1 GCA § 1606.

§ 4908. Tenant-Purchaser Escrow Account.

(a) (1) The mortgage loan documents, with respect to a mortgage loan(s) in effect *prior to* the Tenant-Purchaser's purchase of their respective units, shall provide there shall be retained over the Tenant-Purchaser's lease term an amount held as additional security for such loan(s) called the Tenant-Purchaser Escrow Account. The Tenant-Purchaser Escrow Account will receive a predetermined portion of the Tenant-Purchaser's monthly rental amount as provided for in § 4707(a)(2)(iv) of this Act, such portion to be determined at commencement of the Tenant-Purchaser's

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

lease. The total amount contributed to the Tenant-Purchaser Escrow Account by the Tenant-Purchaser over the lease term should *not* be less than ten percent (10%) of the Tenant-Purchaser's anticipated purchase price. Such Tenant-Purchaser Escrow Account shall be held by a Trustee for the benefit of the Corporation and the first mortgagee(s). The Corporation will approve such Trustee. At the time of the Tenant-Purchaser's purchase of the respective unit, the Trustee shall release and disperse the Tenant-Purchaser Escrow Account to the unit Seller to meet the Tenant-Purchaser's down payment requirement.

(2) The escrow amounts pertaining to various lease-to-own loans may be commingled for investment purposes. Trustees shall keep separate records showing the amount in each Tenant-Purchaser Escrow Account. Investment earnings on the Tenant-Purchaser Escrow Account shall accrue to the benefit of the Tenant-Purchaser.

(b) The Trustee shall periodically advise both the Corporation and the Seller as to the amount and earnings in each Tenant-Purchaser Escrow Account.

(c) In the event a default by the Tenant-Purchaser occurs, as provided for in § 4707(a)(5), the Trustee shall release only that portion of the respective Tenant-Purchaser Escrow Account that is needed to meet the following funding requirements:

(1) any costs incurred by the Corporation related to deferred maintenance of the Tenant-Purchaser's respective housing unit;

(2) any costs to the Corporation due to re-advertising, administrative financial fees and other liabilities that may be a result of the Tenant-Purchaser caused default; and

(3) all funds remaining in the unit specific Tenant-Purchaser Escrow Account will be retained by the Trustee for the benefit of the next prospective Tenant-Purchaser to occupy the defaulted unit, as is intended by and provided for in § 4704(a)(5) of this Act.

2017 NOTE: Subitem designations added to subsection (a) pursuant to the authority of 1 GCA § 1606.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

2015 NOTE: Subsection designations (c) were altered to adhere to the Compiler's alpha-numeric scheme pursuant to the authority granted by 1 GCA § 1606.

§ 4909. 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, the Corporation shall disburse the escrow amount to or for the account of the Tenant-Purchaser.

(b) Insurance. At such closing the Corporation may require the Tenant-Purchaser to furnish private mortgage insurance if such insurance is required in the case of other mortgage loans under this Title. *If* such insurance is *not* obtainable in the private market at the time of such closing, the Corporation is authorized to issue such insurance.

§ 4910. Rules, Regulations and Restrictions.

The Corporation shall establish such requirements with regard to lease-to-own contracts, lease-to-own residence, the qualifications of Tenant-Purchaser and the Corporation's participation in any lease-to-own program, as may be deemed appropriate by the Corporation to achieve the objectives of this Act. The Corporation's requirements, including, but not limited to income limit applicable to the Tenant-Purchaser and the purchase price of the residence, 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.

§ 4911. 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 application, and to this end the provisions of this Law are severable.

**ARTICLE 10
HOUSING TRUST FUND ACT**

12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION

SOURCE: This Article was added by P.L. 31-166:3 (Jan. 4, 2012).

- § 41001. Establishment and Title.
- § 41002. Purpose.
- § 41003. Housing Trust Fund Authorized Programs.
- § 41004. Funding for Authorized Programs.
- § 41005. Administration.
- § 41006. Annual Audit.

§ 41001. Establishment and Title.

There is hereby created, separate and apart from any other funds of the government of Guam, and under the administration and control of the GHC, the *Housing Trust Fund* (Fund).

§ 41002. Purpose.

The purpose of the Fund is to support the affordability and accessibility of housing for the residents of Guam, and to finance support services that assist low-income households in obtaining and maintaining affordable housing.

§ 41003. Housing Trust Fund Authorized Programs.

Programs established or planned to be established by the GHC and funded through the Housing Trust Fund *shall* require appropriate legislative action and authorization. Before such legislative action and authorization, the GHC *shall* provide a written report of each program established or planned to be established by the GHC to the Speaker of *I Liheslaturan Guåhan*. Such report *shall* detail the funding mechanism(s) or source(s) to fund each program, the missions, objectives, and goals of each program, the annual amount necessary to fund each program, descriptions of the targeted population such program intends to assist, use or inclusion of any *Chamorro* Land Trust properties in achieving the missions, objectives, and goals of each program, and any other information *I Liheslaturan Guåhan* sees fit in determining the viability, feasibility, and necessity of such programs.

- (a) Authorized Program #1 - the First-time Homeowner Assistance Program established by Article 7, Chapter 4, Title 12 of the Guam Code Annotated is hereby

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

authorized and approved by *I Liheslaturan Guåhan* and funded by the Housing Trust Fund established herein.

(b) Authorized Program #2 – the Pilot Housing First Program established by the Guam Housing Corporation pursuant to §§ 127115(h) and 127116(g) of Chapter 127, Title 11 GCA.

SOURCE: Added P.L. 31-166:3 (Jan. 4, 2012). Subsection (b) added by P.L. 33-231:5 (Jan. 9, 2017).

2017 NOTE: Pursuant to P.L. 33-231:6 (Jan. 9, 2017), the Pilot Housing First Program established by subsection (b) “*shall* come to an end twelve (12) months after the date of its implementation.”

§ 41004. Funding for Authorized Programs.

Funding for authorized programs *shall* be identified by the GHC pursuant to § 41003 of the Housing Trust Fund Act, and is subject to appropriate legislative authorization and approval. *I Liheslatura* may, from time to time, make appropriations to the Fund to be used for programs authorized by the GHC Board of Directors, and approved by *I Liheslatura* in accordance with this Act. *I Liheslatura* may enact laws specifically designating revenue sources, which *shall* be deposited directly into the Fund.

(a) Authorized Program #1 - Funding for the First-time Homeowner Assistance Program.

(1) The GHC *shall* provide the funding source for the First-time Homeowner Assistance Program within the Fund, pursuant to the Housing Trust Fund Act, from its current operating and/or non-operating revenues and/or income.

(2) In the fiscal year of the enactment of the Housing Trust Fund Act, Five Hundred Thousand Dollars (\$500,000) is hereby appropriated from the GHC’s annual operating and/or non-operating revenues and/or income to the Fund as seed capital for the Programs authorized in § 41003 of the Housing Trust Fund Act.

(3) If, in the fiscal year of the enactment of the Housing Trust Fund Act, the GHC’s annual operating

12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION

and/or non-operating revenues and/or income are *not* sufficient to fully fund the seed capital, such seed capital of Five Hundred Thousand Dollars (\$500,000), or the difference between such amount and what is appropriated from the GHC's operating and/or non-operating revenues and/or income, is hereby appropriated from the GHC's fund balance or its equivalent.

(4) For the fiscal years thereafter, up to Two Hundred Fifty Thousand Dollars (\$250,000) is hereby appropriated from the GHC's annual operating and/or non-operating revenues as needed to ensure the reserved balance of the Fund required in Subsection (6) is at least Two Hundred Fifty Thousand Dollars (\$250,000) at the beginning of each fiscal year through Fiscal Year 2017. For Fiscal Year 2018, the amount appropriated and reserved balance at the beginning of the fiscal year *shall* be reduced to Fifty Thousand Dollars (\$50,000). The requirements of this Subsection *shall* be repealed on September 30, 2018.

(5) If, in the fiscal years thereafter, the GHC's annual operating and/or non-operating revenues and/or income are not sufficient to provide the funding necessary to fulfill the requirements set forth in § 41004(a)(4), the difference between what is required and what is appropriated from the GHC's annual operating and/or non-operating revenues and/or income, is hereby appropriated from the GHC's fund balance or its equivalent. The requirements of this Subsection *shall* be repealed on September 30, 2018.

(6) The funds authorized for the First-time Homeowner Assistance Program *shall* be reserved within the Housing Trust Fund, and *shall only* be authorized for the use of the First-time Homeowner Assistance Program, and for *no* other program.

(b) Continuing Appropriation. The appropriations made to the Fund *shall not* lapse and *shall* continue until fully expended for the purposes pursuant to this Act.

**12 GCA AUTONOMOUS AGENCIES
CH. 4 GUAM HOUSING CORPORATION**

(c) The funds transferred to the Fund under this Act *shall not* be subject to *I Maga'lahi's* transfer authority.

SOURCE: Added by P.L. 31-166:3 (Jan. 4, 2012). Subsections (a)(4) and (5) amended by P.L. 33-030:6 (June 2, 2015).

§ 41005. Administration.

The Fund *shall* be administered by the GHC. The GHC *shall*:

(a) Administer the Fund.

(b) Develop and implement appropriate rules, procedures, guidelines, and regulations for the proper operation of the Fund, including the necessary internal controls over the Fund.

(c) Review requests for funding from the Fund and make program funding recommendations pursuant to § 41003 of this Act.

(d) Prepare and submit an annual report to *I Maga'låhen Guåhan* and the Speaker of *I Liheslaturan Guåhan* concerning the administration and activities of the Fund.

§ 41006. Annual Audit.

An annual audit *shall* be conducted on the Fund and *shall* be submitted to *I Maga'låhen Guåhan* and the Speaker of *I Liheslaturan Guåhan* within the same period of the Guam Housing Corporation's annual yearly audit. Such annual audits *shall* be conducted or cause to be conducted by the Office of Public Accountability. The funding for each annual audit *shall* be funded by the GHC in an amount to be approved by the GHC Board of Directors.

SOURCE: Added by P.L. 31-166:3 (Jan. 4, 2012), amended by P.L. 33-030:2 (June 2, 2015).
