

TITLE 100: NORTHERN MARIANAS HOUSING CORPORATION

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Chapter Authority: 2 CMC § 4433; Executive Order 94-3 § 407.

Chapter History: Amdts Adopted 22 Com. Reg. 17589 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17150 (Apr. 20, 2000); Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Amdts Adopted 19 Com. Reg. 15782 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15656 (Sept. 15, 1997); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: 2 CMC § 4411 creates the Mariana Islands Housing Authority (MIHA) as a public corporation within the Commonwealth government, charged with meeting the need for decent, safe and sanitary housing for persons of low and moderate income in the Commonwealth. See 2 CMC §§ 4411-4457. 2 CMC § 4433 sets forth the powers of MIHA, including the general power to do any and all things necessary or convenient to effectuate the purposes of the act and to carry out any of the powers granted by the act. See 2 CMC § 4433(t).

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 407:

Section 407. Marianas Housing Authority.

(a) The Marianas Housing Authority is abolished and its functions transferred to a Division of Housing within the Commonwealth Development Authority, which shall have at its head a Director of Housing.

(b) Any bond or other indebtedness of the Mariana Island Housing Authority shall be assumed by the Commonwealth government, but only upon such terms and security as shall have been agreed to previously by the Authority. The full faith and credit of the Commonwealth shall to secure such bond or other indebtedness, except as may have been pledged prior to such assumption or as otherwise provided by law.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

The Northern Marianas Housing Corporation is a subsidiary corporation of the Commonwealth Development Authority and the successor to MIHA under Executive Order 94-3. See 2 CMC § 4482(d).

Exhibits A through HH referenced in this chapter were not published with the regulations.

Part 001 - General Provisions

§ 100-30-001 Introduction

The Mortgage Credit Division (MCD) of the Northern Marianas Housing Corporation (NMHC) was established as a division of the NMHC for the following purpose:

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- (a) To encourage and create better living standards and a healthier environment for family life for residents of the Commonwealth of the Northern Mariana Islands (CNMI).
- (b) To promote an attractive community by providing modest, safe and sanitary owner-occupied, single-family housing units and assist CNMI residents in obtaining housing loans for residential dwellings to be occupied as primary residences.
- (c) To achieve NMHC's mission to serve as primary lender for eligible and qualified mortgagor(s) and administer the financial or management operation, and/or other needs so as to provide permanent homes for persons with low to moderate income, pursuant to provisions of Public Law 5-67, as amended and codified at 2 CMC division 4.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: The 1998 amendments readopted and republished the Loan Processing Procedures in their entirety. The Commission therefore, cites the 1998 Loan Processing Procedures in the history sections throughout this chapter.

Part 100 - Initial Contact

§ 100-30-101 Inquiry

Interested individual(s) inquires about housing loan program(s). The prospective applicant(s) shall be referred to a loan specialist who shall provide the following information:

- (a) Housing Loan Programs.
 - (1) Direct Family Home Loan (DFHL) program.
 - (2) Rural, economic and community development services.
 - (3) Loan purchase by Guam Savings and Loan Association (GS&LA).
 - (4) Veterans Administration (VA) Native American Direct Loan Program (NADLP).
- (b) Authorized Financing Purposes.
 - (1) Purchase.
 - (2) Construction.
 - (3) Home improvement or rehabilitation.
- (c) Desirable Loans - Priority.
 - (1) First priority will be given to first time homeowners. Other consideration might be given to improve, expand or renovate an existing dwelling. Applicant(s) must occupy the house as their primary residence.
 - (2) Applications will be processed in the order of the following priority criteria of applicant(s).
 - (i) First priority: Family with minor dependent(s).
 - (ii) Second priority: Family without minor dependent(s).

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(iii) Third priority: Individual applicants.

(d) Undesirable Loans.

Loan proceeds may not be utilized to pay off an existing indebtedness unrelated to mortgage financing. Flexibility may be given to refinance an existing mortgage loan so as to reduce an applicant's payment rate.

(e) Preliminary Requirements.

(1) Land document.

(2) Property map.

(3) Verification of employment (exhibit A).

(4) 1040s for the 2 previous years.

(5) Six most current pay statements.

(6) Loan payment information for any outstanding loan.

(7) Savings information, if any.

(8) Most current retirement plan statement.

(9) Judgment(s), if any (divorce and/or probate decree(s)).

(10) DD214, if VA NADLP application.

(11) Original certificate of eligibility, if VA NADLP application.

(12) Specific use of fund statement.

(13) Statement of compliance from Division of Revenue & Tax.

(14) Statement that loan funds are for primary residence (exhibit B).

(15) For construction loans, a copy of the construction contract on AIA approved format, supplemented by the NMHC construction contract supplement (exhibit JJ), or for rehabilitation loans under the HOME Program, a copy of the construction contract on an NMHC approved form.

(16) For construction loans, a statement that the construction contract shall not become operative until the requested NMHC loan is approved and funds are ready for disbursement (exhibit C).

(17) For construction loans to be made for the improvement of homestead lots under the provisions of the Village Homesteading Act of 1979, PL 1-42, 2 CMC §§ 4431-4438; a statement that the construction contract shall not become operative until title to land has been transferred from DLNR-PL, or its successor, to NMHC, and NMHC has then transferred the same to the borrower and simultaneously taken a mortgage on the land (exhibit D).

(18) For construction loans, a statement the contractor shall be bound by the regulations in this chapter (exhibit E).

(19) For construction loans, copies of the government approved and stamped project plans, specifications sheet construction budget, construction and disbursement schedules, contractor performance and payment bonds in an amount sufficient to cover the project costs, and contractor's all risk insurance coverage in an amount not less than the contract amount.

(20) ALTA insurance policy.

(21) Building permit and other required governmental approvals.

(22) Flood insurance policy, if applicable.

(23) Spousal consent to encumber if applicable.

Modified, 1 CMC § 3806(d), (f), (g).

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History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Amdts Adopted 19 Com. Reg. 15782 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15656 (Sept. 15, 1997); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: The original paragraphs of subsection (c) were not designated. The Commission designated subsections (c)(1) and (c)(2).

The November 1997 amendments added a new subsection (c)(2) and amended subsection (c)(1). The 1998 amendments added new subsections (e)(15) through (e)(23) and amended subsections (c)(1), (c)(2) and (e)(14).

In subsection (e)(23), the Commission inserted the final period. The Commission corrected the spelling of the word “judgments” in subsection (e)(9) pursuant to 1 CMC § 3806(g).

Exhibits A through HH referenced in this chapter were not published with the regulations.

§ 100-30-105 Eligibility Determination

Upon determining a client’s program eligibility and repayment ability, the loan specialist shall do the following:

- (a) Explain terms and conditions of the specific loan program.
- (b) Provide the appropriate application, verification of employment and checklist.

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Part 200 - Application Intake

§ 100-30-201 Logging

Secretary shall log in the appropriate log book and stamp “RECEIVED” with the date, all incoming applications which are accompanied with all the required documents and/or information for preliminary determination purposes.

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-205 Content Review

Completed applications and pertinent documents and/or information shall be forwarded to the loan documentation clerk, who shall review the contents using the appropriate checklist; (exhibit F for GS&LA, G for VA or H for HOME), and log each application in the appropriate waiting list.

Modified, 1 CMC § 3806(f).

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History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: Exhibits A through HH referenced in this chapter were not published with the regulations.

§ 100-30-210 File Creation

The loan documentation clerk shall create and maintain the application file using the appropriate folder (including label) for the applicable loan program, and prepare the application's acknowledgment letter to be signed by the manager of the Mortgage Credit Division (MCD) and forwarded to the applicant(s).

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-215 Application Assignment

Logged application files shall be forwarded as early as possible to the manager of the MCD, who shall assign the application files to loan specialists or contracted private loan packagers for processing.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-220 Good Faith Estimate

The loan specialist or contracted private loan packager shall prepare the good faith estimate of settlement charges (exhibit I), then contact the applicant(s) to review and sign it within three working days from receipt of application by NMHC.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: Exhibits A through HH referenced in this chapter were not published with the regulations.

§ 100-30-225 Payment of Credit Report Fee

Upon signing of the good faith estimate of settlement charges, the applicant(s) shall make payment of the credit report fee(s) to the Fiscal Division of NMHC, which shall issue a receipt for such payment.

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History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-230 Request for Credit Report

Upon receiving a copy of the payment receipt, the loan specialist or contracted private loan packager shall request, through the manager of the MCD, for the applicable credit report (consumer for GS&LA and residential mortgage for VA NADLP).

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Part 300 - Credit Evaluation; Interview; Loan Report

§ 100-30-301 Procedure

After receipt of the credit report for the applicant(s), the loan specialist or contracted private packager shall proceed as follows in this part.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: This section was originally the introduction to part 300. The Commission created the section title.

§ 100-30-305 Credit Report Review and Evaluation

Review the credit report and evaluate the credit worthiness of the applicant(s).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-310 Certification of Fund Availability

Obtain written certification from the head of the Fiscal Division or the designee for the availability of funds for the proposed loan, if it has been determined that the applicant(s) has/have satisfactory credit history.

Modified, 1 CMC § 3806(f).

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History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-315 Verification of Deposit

Forward verifications of deposit to financial institutions.

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-320 Examination of Land Document

Examine land documents to ensure:

(a) Ownership

Applicant(s) own(s) the property to be secured as collateral for the proposed housing loan, in fee simple or leasehold interest with a remaining term of at least forty years.

(b) Clear Title

Property is free from defect(s) and/or encumbrance(s).

(c) Referral of Title Questions to Legal Counsel

NMHC may forward any question that it has, as to the applicant(s)/borrower(s) interest in the real property or any other collateral that shall secure the loan, to its legal counsel. If NMHC or its legal counsel determines that action should be taken to remove any exceptions to a title report, or that any other action should be taken in regard to the real property or other collateral, then the applicant(s)/borrower(s) must take said action prior to the loan being processed further.

(d) Administration of Collateral

In the event that the borrower(s) fail to provide a current hazard insurance policy for properties improved with outstanding loan funds from NMHC or its predecessor, MIHA, as required, NMHC shall procure a hazard insurance policy and subsequently bill the borrower(s) for the premium amount associated with such coverage. Should any of said properties be abandoned by the borrower(s) and left uninsured, NMHC may secure the property so as to prevent accelerated depreciation of the property and obtain a hazard insurance policy for such property and recover the cost of such policy with proceeds from the rental or sale of the property.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: The 1998 amendments added a new subsection (c) and re-designated subsection (d).

§ 100-30-325 1040 Review and Verification

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Review 1040s for the two previous years and verify that income has been stable throughout the period.

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-330 Review of Construction Contract

The construction contract submitted pursuant to § 100-30-101(e)(15) shall be forwarded to NMHC's legal counsel for review. Said review shall be for the sole purpose of protecting NMHC and shall be limited to ensuring that the contract contains the minimum clauses they deem necessary to protect NMHC. At a minimum, the contract shall contain provisions that cover the following areas:

- (a) Commencement and completion date.
- (b) Extensions of time for completion.
- (c) Contractor's duties to safeguard the project, its employees, and third parties.
- (d) Project clean-up.
- (e) Contractor's warranty.
- (f) Termination of contractor by the owner.
- (g) Progressive payment schedule that provides for a retainage of at least ten percent.
- (h) Withholding of payments by the owner or NMHC for failure to comply with the construction contract, applicable laws, or in the event of insecurity by NMHC.
- (i) Payment and performance bonds.
- (j) Liens by subcontractors and material suppliers and the contractor's duty to obtain releases from all subcontractors and material suppliers.
- (k) Payment of taxes.
- (l) Purchase of insurance to cover the construction project from fire, flood, typhoon, and vandalism, as well as liability insurance, NMHC shall be a named insured.
- (m) Workers compensation insurance.
- (n) Indemnification of the owner and NMHC by the contractor for injuries, both personal and economic, attributable to in whole or in part by any negligent act or omission of contractor, any

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subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

- (o) Default by contractor.
- (p) Alternative dispute resolution process.
- (q) Providing of notices.
- (r) Contract to be governed by, and construed in accordance with, the laws of the Commonwealth of the Northern Mariana Islands (CNMI).

Modified, 1 CMC § 3806(c), (e), (f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998).

§ 100-30-335 Applicant(s) Interview

Interview the applicant(s), cross-checking information received through verifications of employment or deposit, credit report, etc.

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-340 Preparation of Applicable Forms

Prepare applicable forms with pertinent data such as:

- (a) Rate loan program disclosure (exhibit J).
- (b) Disclosure statement (exhibit K).
- (c) Item request (exhibit L).
- (d) Saipan review sheet - mortgage (exhibit M).

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: The 1998 amendments amended subsections (a) through (d).

Exhibits A through HH referenced in this chapter were not published with the regulations.

§ 100-30-345 Loan Report

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Prepare loan report (exhibit N), recommending approval or disapproval of the application, then forward the file to the manager of the MCD and the corporate Director for review and action.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: Exhibits A through HH referenced in this chapter were not published with the regulations.

Part 400 - General Approval Criteria

§ 100-30-401 Purpose

Each file shall contain the applicant's written statement as to the purpose of the loan, specifying where funds are needed for purchase, construction or improvement of the applicant's primary residence.

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-405 Repayment

The applicant must have a permanent source of income for repayment of the proposed loan. Monthly installments for the proposed loan shall be twenty-five percent or less of the applicant(s) gross monthly income. Total obligation, inclusive of the proposed loan, shall be thirty-five percent or less of the applicant(s) gross monthly income.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-410 Maturity

Loan maturity shall be set at the time of evaluation, based upon the applicant's existing repayment ability.

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-415 Credit Information

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Applications must be supported by favorable current credit information, including financial statements, credit bureau reports, deposit verification, etc.

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Part 500 - Loan Administration

§ 100-30-501 Approval Process; NMHC Criteria for Approving Loans

Applicant(s) whose payment-to-income ratio for the proposed loan is twenty-five percent or less and debt-to-income ratio of thirty-five percent or less, at the time of loan processing, shall be determined by NMHC to be capable of repaying the proposed loan based on current income versus current liability, so long as they have satisfactory credit history, and adequate collateral for the proposed loan.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-505 Credit File

(a) Access

The loan documentation clerk, loan specialist, manager of the MCD or the corporate Director are privy to the credit file when the need arises to refer to the file for purposes of reference, research, review or copying of pertinent documents for use by applicant(s) or for official business.

(b) Comments

Each credit file should contain comments by the responsible account officer, sufficient to establish the amount, purpose, source of repayment, and repayment program for the loan.

(c) Other Supporting Data

Each credit file should also include financial statement(s), credit investigation(s), and loan write-up.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Part 600 - Pre-approved and Approved Housing Loan Applications

§ 100-30-601 Pre-approved Housing Loan Applications

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File shall be forwarded to the Secretary to be copied and the copy forwarded to GS&LA, RECDS or VA with a transmittal letter from the manager of the MCD for the applicable entity.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-605 Approved Housing Loan Applications

(a) Approval Notice

Upon MCD's receipt of GS&LA's favorable letter of intent to purchase residential real estate loan, VA's pre-qualification letter or RECDS' notice of loan approval and closing, the following steps, as applicable, shall be taken:

(1) Commitment Letter

The MCD manager shall see to it that the controller's authorization is obtained prior to issuance of the commitment letter for the corporate Director's signature, for loans under the DFHL program. The letter must specify all the standard terms and conditions as required by the DFHL Amended Policy and Procedures [NMIAC, title 100, chapter 20]. Original and a copy of the commitment letter shall be forwarded to the applicant(s) and a copy filed in the correspondence section of the applicant's folder pending receipt of the applicant's acknowledgment of the commitment letter.

(2) Request for Grant of Public Domain Land

(i) If the applicant is a homestead permittee, seeking a loan under the provisions of the Village Homesteading Act of 1979, PL 1-42, 2 CMC §§ 4431-4438, the loan documentation clerk shall prepare a request to the Division of Public Land (DPL) of the Department of Lands and Natural Resources (DLNR), for the issuance of a grant of public domain land, for the signature of the manager of MCD. The signed request shall be forwarded to DPL as early as possible. Any commitment letter issued by NMHC pursuant to the terms of subsection (a)(1), above, shall expressly state that a condition of NMHC making a loan and/or extending any credit to the applicant is the issuance of DPL of a grant of public domain land in favor of NMHC for the relevant real property. Despite the terms of any commitment letter and/or action of any NMHC personnel, NMHC shall not be obligated to make any loan to any person covered by the terms of this provision, until such time as a grant of public domain land, in favor of NMHC, for the relevant real property, as issued.

(ii) NMHC may also make loans to the holders of a homestead permit through the use of an accommodation mortgage to be executed by the borrower, homestead permittee, and the Division of Public Lands. If an accommodation mortgage is to be utilized, then the loan documentation clerk shall prepare an accommodation mortgage and forward the same to the Division of Public Lands for approval and execution. Any commitment letter issued by NMHC pursuant to the terms of subsection (a)(1), above, to a homestead permittee who seeks to utilize an accommodation mortgage, shall expressly state that a condition of NMHC making a loan and/or extending any credit to the applicant is the approval and execution by Division of Public Lands of an accommodation mortgage in favor of NMHC for the relevant real property. Despite the terms of any commitment letter and/or action of any NMHC personnel, NMHC shall not be obligated to make any loan to any person covered by the terms of this provision, until such time

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as the accommodation mortgage is fully approved and executed by the Division of Public Lands, in favor of NMHC, for the relevant real property, as issued.

(3) Follow-up

The loan specialist or private loan packager shall then follow up with the applicant(s) to ensure compliance with the terms and conditions of the approved loan as enumerated in the commitment or pre-qualification letter, or notice of loan approval and closing.

(b) Loan Program

(1) GS & LA

(i) The same procedure as stated subsection (a) of this section shall be followed.

(ii) Loan Closing Checklist

The loan documentation clerk shall prepare the loan closing checklist (exhibit O), and place it in the appropriate section of the file.

(iii) Appraisal and Preliminary Title Reports

After MCD's receipt of the copy of the applicant's acknowledgment of commitment letter, written requests for the preliminary title research and appraisal report shall be forwarded to the title and appraisal companies, respectively. For applicant(s) with homestead permit(s), the procedure stated in subsection (a)(2) of this section applies.

(2) VA - Loan specialist shall follow up with the applicant(s) to ensure that all the conditions of the pre-qualification letter are met as early as possible.

(3) RECDS - The same procedure as stated in subsection (a) of this section shall be followed.

(c) Preparation and Compilation of Documents

When all the terms and conditions or requirements of the commitment letter, pre-qualification letter or notification of loan approval and closing are met and if applicable, the recorded grant of public domain land is received, the loan specialist shall instruct the loan documentation clerk to prepare and compile the applicable loan closing documents per the loan closing section of the applicable checklist.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: The 1998 amendments added new subsection (a)(2)(ii) and amended subsections (a)(2)(i) and (b)(1)(ii).

Exhibits A through HH referenced in this chapter were not published with the regulations.

Part 700 - Loan Closing

§ 100-30-701 Procedure

The loan specialist shall review the loan closing documents for accuracy and completeness, then proceed as set forth in this part.

Modified, 1 CMC § 3806(d), (f).

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History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: This section was originally the introduction to part VIII, codified at part 700. The Commission created the section title.

§ 100-30-705 Guam Savings and Loan Association

Closing documents (disclosure/settlement statement (exhibit P), loan agreement (exhibit R), promissory note (exhibit S), mortgage (exhibit T)) shall be forwarded to NMHC's legal counsel for review as to form.

(a) Loan Closing Schedule

After receipt of closing documents approved as to form by NMHC's legal counsel, the loan specialist shall contact the applicant(s) and schedule loan closing.

(b) Explanation of Documents

At loan closing, the loan specialist shall explain the purpose of each document to be signed by the applicant(s) or NMHC officials, and ensure that a notary public is present for the signing of the loan agreement, promissory note, and mortgage.

(c) Signing of Documents

Closing documents executed by the applicant(s)/borrower(s) shall be forwarded to the corporate Director and Chairperson of the Board of Directors for their signatures.

(d) Document Recordation

Properly executed and notarized loan agreement (exhibit R), promissory note (exhibit S) and mortgage (exhibit T) shall be copied by the loan documentation clerk for recordation at the Commonwealth Recorder's Office.

(e) Hazard Insurance Register

The loan documentation clerk shall add the borrower's name and hazard insurance expiration date and type of insurance coverage in the borrowers' hazard insurance register for monitoring purposes so that follow up for renewals may be made to ensure that every property that is mortgaged for security of loan extended, has in effect, throughout the term of the corresponding loan, the required insurance policy coverage.

(f) Document Distribution

The recorded loan agreement, promissory note and mortgage shall be distributed as follows:

- (1) Originals filed in the safe after microfilming on a quarterly basis.
- (2) A set of copies to the borrower(s).
- (3) A set of copies to the Fiscal Division.
- (4) A set of copies filed in an eight-part classification folder with the borrower's application and pertinent documents classified by:
 - (i) Correspondence
 - (ii) Insurance

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- (iii) Mortgage - Note
- (iv) Construction
- (v) Appraisal
- (vi) Title
- (vii) Credit report
- (viii) Application.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: The 1998 amendments amended the opening paragraph and subsections (a) and (d).

In subsection (f)(4)(viii), the Commission inserted the final period.

Exhibits A through HH referenced in this chapter were not published with the regulations.

§ 100-30-710 U.S. Department of Veterans Affairs

The loan specialist shall contact the applicant(s) and contractor to schedule execution of four each (original signatures) of the construction loan promissory note (exhibit U), escrow agreement (exhibit V) and real estate construction agreement (exhibit W).

(a) Execution of Documents

Applicant(s) shall sign all of the documents indicated in this section. The contractor is required to sign only the escrow and real estate construction agreements.

(b) Officers' Signatures

The real estate construction and escrow agreements signed by the applicant(s) and the contractor shall be forwarded to the corporate Director and Chairperson of the Board of Directors for their signatures and then sent to the VA Office in Honolulu, Hawaii, along with the construction loan promissory note and a transmittal letter signed by the manager of the MCD.

(c) Document Distribution

Upon receipt of the three sets of the construction loan promissory note, real estate construction and escrow agreements also executed by the U.S. Department of Veterans Affairs loan guaranty officer, one set should be retained in the borrower's file and one each should be distributed to the borrower(s) and contractor. The borrower's set should be accompanied by a transmittal letter, indicating NMHC's approval for construction of the proposed improvement if all requirements are met, noting inspection requirements per VA inspection schedule, which should be enclosed, and an acknowledgment portion at the bottom of the letter.

(d) Loan Fund Disposition

The check received for the entire loan amount from the U.S. Department of Veterans Affairs should be routed to the manager of the MCD for information purposes and then immediately forwarded with copies of the construction loan promissory note, real estate construction and

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escrow agreements, to the controller of the Fiscal Division. The check shall be deposited into a separate account designated for the VA Native American direct loan program.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: The 1998 amendments amended the opening paragraph.

Exhibits A through HH referenced in this chapter were not published with the regulations.

§ 100-30-715 RECDS

The loan specialist shall contact the applicant(s) to schedule loan closing and remind applicant(s) if the appraisal and/or loan packaging (trustee fee) is to be paid from personal funds. If any or all of the said fees will be financed by RECDS, the check from RECDS must be obtained prior to loan closing. At loan closing the following steps shall be followed:

(a) Execution of Documents

Applicant(s) shall execute the following documents:

- (1) Equal opportunity agreement (exhibit X).
- (2) Nondiscrimination certificate (exhibit Y).
- (3) Promissory note (exhibit Z).
- (4) Real estate deed of trust (exhibit AA), which must be notarized and recorded at the Commonwealth Recorder's Office prior to submittal to RECDS.
- (5) Subsidy repayment agreement (exhibit BB), if a subsidized loan.

(b) Loan Specialist's Signatures

Loan Specialist shall sign the following documents:

- (1) Settlement statement (exhibit CC)
- (2) Loan closing statement (exhibit DD)

(c) Completed loan closing documents and the appraisal fee shall be forwarded to RECDS, with a set of copies retained in the borrower's file. If the loan was packaged by a contracted private loan packager and proper billing has been received, the loan specialist shall request the controller of the Fiscal Division, through a properly filled order to pay funds, to disburse the packaging fee accordingly.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: The final paragraph was not designated. The Commission designated it subsection (c).

The 1998 amendments amended subsections (a) and (b).

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Exhibits A through HH referenced in this chapter were not published with the regulations.

Part 800 - Disbursement of Loan Funds

§ 100-30-801 Introduction

Following completion, execution, review and proper filing of all loan documents, loan funds shall be allocated for disbursement.

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: This section was originally the introduction to part IX, codified at part 800. The Commission created the section title.

§ 100-30-805 Request for Disbursement

Each request for disbursement that has been concurred by the borrower(s) shall be logged by the Secretary in the in-coming logbook and then forwarded to the manager of the MCD who shall have the loan documentation clerk process the order to pay funds (exhibit EE) after verifying the billing accuracy with the increment schedule specified in the project's contract. The order to pay funds must be:

- (a) Signed by the manager of the MCD.
- (b) Pre-approved by the controller of the Fiscal Division.
- (c) Concurred by the corporate Director.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: The 1998 amendments amended the opening paragraph.

Exhibits A through HH referenced in this chapter were not published with the regulations.

§ 100-30-810 Supporting Documents

Except for the initial request for disbursement, each subsequent billing shall be accompanied by:

- (a) The contractor's progress report with project photos.
- (b) The private inspector's current report.
- (c) Endorsement(s) by government inspector(s).

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- (d) Test results and/or treatment reports, if applicable.

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-815 Change Orders

(a) Prior to a change order becoming effective, it must be approved by both the borrower/owner, their private inspector, if applicable, and the contractor. In addition, the change order shall not become effective until a copy of the change order, with all of the signatures noted above, is served on NMHC, the bonding company that issued the performance and payment bonds, and any insurance company who has issued property insurance on the land on which the home is to be constructed.

(b) If a change order will increase the total project cost, then it shall not become effective until the bonding company and insurance company that issued the property insurance, provides NMHC with written notice that the bonding and insurance company will cover the additional costs associated with the change order in the performance and payment bonds and insurance policy, or until the dollar amount of the performance and payment bonds and insurance policy is increased.

(c) If a change order will increase the project costs such that the amount borrowed must be increased, then in addition to any provision above, the change order shall not become effective until the total loan figure is increased to cover the additional costs associated with the change order and any and all documents that NMHC deems necessary to protect its investment are executed by the borrower/owner and contractor, unless the borrower/owner intends to fund the additional cost themselves and signs a certification of the same and provides a copy of the certification to NMHC.

(d) If the contractor performs the work called for in a change order prior to its becoming effective, pursuant to the provisions of this section, then the contractor shall not seek payment from NMHC or from the proceeds of the loan made by NMHC under the provisions of the regulations in this chapter. The contractor shall further complete the construction project as originally set forth in the parties' construction contract, as modified by any change orders that are deemed effective by the provisions of this section. Further, the contractor shall take no action which shall in any way impair NMHC's security interest in the property.

(e) If NMHC makes payment for work performed on a change order that has not become effective under the provisions of this section, then it shall request an immediate refund from the contractor. The contractor shall immediately refund said payment. However, NMHC may, in its sole discretion, deduct any of said monies from future payments to be made under the construction contract rather than requesting a refund.

Modified, 1 CMC § 3806(d), (f).

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History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (e). The Commission corrected the phrase “parties construction contract” in subsection (d) to “parties’ construction contract” pursuant to 1 CMC § 3806(g).

§ 100-30-820 Final Billing

(a) The final billing shall include:

- (1) The builder’s warranty.
- (2) Termite treatment warranty.
- (3) Contractor’s affidavit that all liens have been paid and certificates from all subcontractors and material suppliers that all bills/invoices relating to the project have been paid by the contractor.
- (4) Certificate of occupancy from the Building Safety Office.
- (5) Certification for use of septic system, if applicable.

(b) The Fiscal Division may process the disbursement if all requirements are met. If, in the sole discretion of NMHC, NMHC has any reason to believe that all subcontractors, material suppliers, and/or any other individual or entity that is eligible to file a lien, has not been fully paid, then NMHC may withhold the final disbursement, or any portion thereof, until the period for filing a lien has expired.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The 1998 amendments amended subsections (a)(3) and (b).

Part 900 - Other Requirements

§ 100-30-901 Project Completion

Hazard/occupancy insurance policy with fire, typhoon, earthquake and flood coverages for a minimum of the loan amount must be submitted upon completion of the project.

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-905 Note Sale

Loans for completed project which are to be sold shall be further processed, including:

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- (a) Assignment of promissory note and mortgage (exhibit FF).
- (b) Notice of assignment, sale or transfer of servicing rights (exhibit GG).

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: The 1998 amendments amended subsections (a) and (b).

Exhibits A through HH referenced in this chapter were not published with the regulations.

§ 100-30-910 Loan Disapproval

Should a loan application be disapproved, the manager of the MCD shall instruct the loan specialist to prepare for the corporate Director's signature, the denial letter stating the reason(s) for denial. The original shall be forwarded to the applicant(s), with copies placed in the reading and application files.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-915 Problem Loan Identification and Administration

The head of the Fiscal Division shall provide copies of all delinquency notices to the manager of the MCD, who shall assign follow up of the notices with the respective account officer of each problem loan or any other loan specialist. The attached problem loan write-up sheet (exhibit HH) shall be completed and filed in the particular loan file.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: Exhibits A through HH referenced in this chapter were not published with the regulations.

§ 100-30-920 Revision of Loan

(a) Each request for loan revision shall be reviewed by the manager of the MCD and the controller, who shall make recommendation(s) to the corporate Director, based on the loan specialist's evaluation ensuring that the value of the property being secured is adequate for the proposed revision. If necessary, the request may be forwarded to the Board of Directors.

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(b) Once a decision is made, the loan specialist shall process the revision. Correspondence(s) pertaining to the request shall be prepared for the corporate Director's signature.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 100-30-925 Collection and Foreclosure

(a) Collection and Foreclosure Procedure

The Chairman, or designee, shall closely monitor the repayment of all loans by NMHC borrowers. All loan installments shall be due and payable monthly.

(1)(i) If any payment is not received by the thirtieth day after the due date, then the corporate Director or designee, shall personally contact the borrowers immediately by telephone and by written letter informing them of the payment default.

(ii) The corporate Director shall also send out such notices of default and other letters as are required by the loan agreement and other loan documents.

(2) If any payment is not received by the sixtieth day after the due date, then the corporate Director, or designee, shall personally contact the borrower by telephone and by written letter informing them of the payment default.

(3) If any payment is ninety days or more delinquent, the matter shall be brought to the attention of the Board. The Board shall consider the matter and make a determination as to whether the matter should be forwarded to an attorney for collection, or if the corporate Director should take further actions in an attempt to collect the debt without litigation. If the matter is not forwarded to an attorney for collection, the matter shall be revisited by the Board at each successive meeting until the delinquency is cured.

(4) If the matter is forwarded to attorney for collection, then NMHC shall inform the attorney of the status of the account and provide them with all necessary documents to bring a foreclosure action on the same. The attorney shall send the borrower a notice of default in accordance with the CNMI Mortgage Foreclosure Act (2 CMC § 4537).

(5) If, after the notice of default is sent to the borrower, and the borrower fails to begin curing the delinquency, in a manner and speed that is satisfactory, in the sole discretion of the corporate Director, then the attorney shall file a lawsuit to collect the loan and foreclose upon the mortgage.

(6) Upon filing of the lawsuit, the principal of the loan shall be accelerated and the entire principal balance plus any accrued interest shall become immediately due and payable. Interest shall accrue on the principal at the rate established in the loan agreement. Prior to entry of judgment, borrower(s) may have the right, as set forth by CNMI law, to cure the default and bring the loan current.

(7) Upon entry, of judgment in the lawsuit, a copy of the judgment shall be served upon the borrower. If the borrower fails to pay the entire outstanding loan balance plus accrued interest and attorneys fees within three months from the time the borrower is served with the copy of the judgment, all properties mortgaged as security for the loan shall be noticed for sale by way of

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public auction. The notice shall provide that the minimum bid is the total principal, interest, attorneys' fees and costs of sale, or the appraised value whichever is greater.

(8) In the event that no bidders are willing to make a minimum bid, the property shall be withdrawn and noticed for a second sale. As such sale, the minimum bid shall be the same amount.

(9) NMHC may bid on the property at any public auction.

(10) If no bidders offer a minimum bid at the second sale, the property, shall be withdrawn, and in the discretion of the corporate Director, or designee, shall either be noticed for a third sale or temporarily removed from the market if, in the discretion of the corporate Director, the likelihood of sale would be greater at a future time. In the event a third sale is authorized, the property, shall be offered with the minimum bid set at the appraised value of the property, or the amount outstanding and due to NMHC, whichever is less. NMHC shall bid the minimum bid on the property.

(11) If the property, is sold at an auction, the attorney shall prepare a certificate of sale, deliver a copy to the buyer and record the original.

(12) If NMHC obtains the property, then it shall proceed to make all efforts to sell it at the highest price possible. NMHC may finance the purchase of the house by a borrower in accordance with its policies in subsection (d) below. If NMHC sells the property, prior to the expiration of the redemption period, it shall so notify the buyer and ensure that all sales documents reflect the same.

(13) After one year, if the borrower has not made an effort to redeem the property from the purchaser, the attorney shall prepare a deed of sale to be executed and delivered to the purchaser.

(14) If any of the above procedures conflict with any applicable provision of law, or a term in any of the loan documents, then said law or contract term shall control.

(15) If the borrower has executed a deed of trust, and the same has been sold/assigned to NMHC, due to delinquency in payment, then the same procedures outlined above shall be followed; provided that if the deed of trust allows for foreclosure by way of a private power of sale, then NMHC may follow the terms of the deed and applicable law and handle the foreclosure in house, by way of said power of sale, without referring the matter to an attorney for collection and foreclosure.

(b) Loan Workout

(1) The Board may recommend a "loan workout" wherein there exists a possibility for NMHC to recover its funds without foreclosure. Such "loan workout" should be considered only as an alternative to foreclosure and will be authorized on a case-by-case basis on substantial evidence provided by the borrower(s) that the loan is recoverable. Any new terms of repayment shall not exceed the period of repayment authorized in this policy inclusive of the date when the loan was made and all grace periods.

(2) It is the policy of NMHC not to allow the refinancing of loans solely on the basis of delinquency. Further, it is the policy of NMHC not to allow delinquent/outstanding charges — principal, accrued interest, insurance charges, etc., to be consolidated, or added to the principal balance of a loan for the purposes of refinancing. All outstanding charges must be paid prior to NMHC entertaining a request to refinance a loan.

(3) Any outstanding payments, whether they be principal, accrued interest, or other charges shall be due and payable in accordance with the terms of the applicable loan document. When

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payment is made on a loan, the payment shall not be applied to the principal of the loan until all other outstanding charges have been paid.

(4) This policy shall also apply to a housing loan that is taken over by a new borrower.

(c) **Disposal of Distressed Property Purchased by NMHC**

In the event that NMHC has purchased a property at public auction, in which it has foreclosed a defaulted mortgage, it may sell the same to a person who lacks the financial resources to fully pay the sales price, by financing the purchase through a direct family home loan. In order to participate under this program, the borrower must:

- (1) Be a first-time homeowner;
- (2) Be credit worthy, as determined in the sole discretion of NMHC;
- (3) Agree to an interest rate of nine percent;
- (4) Agree that the loan amount will be amortized over a period not to exceed fifteen years;
- (5) Make a down payment of twenty-five percent of the total purchase price, plus all closing costs, which shall be due and payable to NMHC on loan closing;
- (6) Execute, on a document provide by NMHC, a mortgage on the property, to be purchased to secure the approved loan; and
- (7) Obtain an appraisal report for the property, by an appraiser approved by NMHC. If the appraisal report shows that the property does not have a market value sufficient to secure the loan, then the borrower shall provide additional sources of collateral to fully secure the loan, or additional sources of capital so that the loan may be reduced.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Amdts Adopted 19 Com. Reg. 15782 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15656 (Sept. 15, 1997); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

Commission Comment: The original paragraphs of subsections (a)(1) and (b) were not designated. The Commission designated subsections (a)(1)(i) and (ii) and (b)(1) through (b)(4). The Commission corrected the phrase “attorneys fees” in subsection (a)(7) to “attorneys’ fees” pursuant to 1 CMC § 3806(g).

The November 1997 amendments replaced this section in its entirety with numerous amendments. The 1998 amendments added new subsections (b)(2) through (b)(4), deleted former subsection (c) and amended subsections (a)(6) and (b)(1).

§ 100-30-930 Charge-off

Installment loans which are seriously behind and have been processed to no avail, may be charged off based upon the recommendations of the head of the Fiscal Division, and the manager of the MCD, with the approval of the corporate Director.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-935 Satisfaction of Loan

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Upon receipt of a memorandum from the Fiscal Division of a satisfaction of loan, the manager of the MCD or designee, shall ensure that a proper release of mortgage is processed and executed by the corporate Director and the Chairperson of the Board of Directors within one week from the receipt of such memorandum. The original promissory note, mortgage and release of mortgage shall be provided to the borrower(s) with the borrower(s) acknowledgment of receipt, provided that copies are retained in the respective file.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-940 File Disposition

Files of loans which have been satisfied and issued a release of mortgage shall be maintained in a paid off loan file in alphabetical order for seven years. After such time, these files may be disposed.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-945 Reports

The loan specialists shall furnish the manager of the MCD monthly reports which are due by the second working day of each month for the previous month. The manager of the MCD shall furnish the corporate Director monthly reports which are due by the fifth working day of each month, incorporating information provided by the loan specialists.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Adopted 18 Com. Reg. 14655 (Nov. 15, 1996); Proposed 18 Com. Reg. 14264 (Aug. 15, 1996).

§ 100-30-950 Renting or Leasing out an NMHC (MIHA) Financed Dwelling Unit

(a) Borrower(s) who contemplate on leasing or renting their home, that was financed through a loan from the NMHC, or its predecessor, MIHA, to develop a homestead lot, that contains, in the deed, grant of public domain land, or as a rider to the borrower(s) mortgage, a prohibition against renting or leasing the property for a set period of time; or other borrower(s) whose mortgage contains a prohibition against renting or leasing the property for a set period of time, may request in writing, for a one year release from such prohibition set forth in any loan document entered into with NMHC or MIHA. Said written request must clearly set forth the reasons which justify why said prohibitions should be waived by NMHC.

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(b) Upon receipt of a request for waiver of prohibition, the same will be date-stamped and logged in NMHC's incoming log book. It will then be forwarded to the corporate Director for consideration.

(c) NMHC may issue a written authorization to borrower(s) to rent or lease out a MIHA - or NMHC - financed house, for a period not to exceed one year, under the following circumstance only:

- (1) Borrower(s) must temporarily move off-island for educational or medical purpose; or
- (2) Borrower(s) must temporarily relocate to care for or assist a family member, such as the elderly, physically challenged individual, etc., who is determined by a qualified physician, to require assistance with daily routine activities.

(d) If the borrower(s) wish to extend the one year waiver for an additional one year period, they must submit a new written request sixty days prior to the lapse of the previous one period waiver. There shall be no limitation on the number of waivers that a borrower may receive and the same shall be issued for as long as NMHC determines that justification exists for the issuance of the same.

(e) A borrower may appeal a denial of a written request for a waiver of prohibition, to the NMHC Board of Directors in accordance with the provisions of the CNMI APA [1 CMC §§ 9101, et seq.] for appealing adverse agency actions.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Amdts Adopted 19 Com. Reg. 15782 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15656 (Sept. 15, 1997).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (e).

The 1998 amendments amended subsection (a).

§ 100-30-955 Loan Refinancing

Borrowers may seek to have their loan refinanced or an exemption from NMHC's standard policies and procedures by petitioning NMHC's corporate Director. All such petitions shall be directed to NMHC's Loan Review Committee and must set forth the grounds upon which relief is sought and the exact relief sought. NMHC's Board shall only grant exemptions from NMHC's standard policies and procedures, or allow refinancing, when, in their sole discretion, compelling grounds for the same exist, and the granting of an exemption or refinancing shall also be in the best interest of the corporation.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Amdts Adopted 19 Com. Reg. 15782 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15656 (Sept. 15, 1997).

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Commission Comment: The 1998 amendments deleted former subsections (a) through (d) and amended the current section.

§ 100-30-960 Appeals

Any applicant/borrower who is aggrieved by an action of NMHC may appeal to the NMHC Board of Directors, in accordance with the provisions of the CNMI APA [1 CMC §§ 9101, et seq.] for appealing adverse agency actions.

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998); Amdts Adopted 19 Com. Reg. 15782 (Nov. 15, 1997); Amdts Proposed 19 Com. Reg. 15656 (Sept. 15, 1997).

§ 100-30-965 Applicability

The regulations in this chapter shall apply to any person who obtains a loan under the provisions of the rules and regulations in this chapter. These regulations shall also apply to any contractor utilized by any person who borrows money under these provisions.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998).

§ 100-30-970 Applicability of Other Laws, Regulations and Rules

In addition to the regulations in this chapter, loans issued by NMHC may be controlled and/or effected by the general laws of the CNMI and/or the United States. Further, the rules of agencies of said governments may also effect and/or govern loans made by NMHC, specifically the rules and regulations of the United States Department of Housing and Urban Development (HUD) or Veterans Affairs (VA). To the extent that there is a conflict between these rules and the provision of any applicable law, or federal regulation, said law or federal regulation shall control.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998).

Commission Comment: The Commission corrected the spelling of “affected” pursuant to 1 CMC § 3806(g). The Commission corrected the title of the United States Department of Housing and Urban Development and of Veterans Affairs pursuant to 1 CMC § 3806(g).

§ 100-30-975 Applicability of Rules and Procedures of Private Lenders

If a loan is to be processed under a program whereby NMHC will sell the loan to a private lender such as GS&LA, then the rules, policies, and procedures of said lender shall be applicable to the processing of the loan. Further, if there is any conflict between NMHC’s regulations and the policies of the lender, then the lender’s policies shall control.

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Modified, 1 CMC § 3806(g).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998).

Commission Comment: The Commission inserted “be” before “processed” to correct a manifest error.

§ 100-30-980 Accommodation Mortgages Issues to Holders of Homestead Permits

NMHC may loan funds to holders of homestead permits through the use of accommodation mortgages, that are to be executed by the borrower, and the Division of Public Lands. If NMHC is unable to sell the loan to a bank, due to the fact that an accommodation mortgage has been utilized, then NMHC may retain the loan until such time as the homestead permit holder obtains a deed to the homestead site from the Division of Public Land, or until such time as NMHC is able to sell the loan. After a deed is issued, then NMHC may process the loan under any program that it is then participating in, or sell the loan. At the time the loan is first made, in addition to the execution of the accommodation mortgage, NMHC shall also have the borrower and/or homestead permit holder execute a standard mortgage. After a deed is issued, NMHC shall not release the Division of Public Lands from the accommodation mortgage until it has first recorded a notice with the Recorder’s Office, giving notice that the accommodation mortgage was utilized due to the fact that the borrower did not hold the real property in fee simple, and that in addition to the accommodation mortgage, the borrower also executed a standard mortgage on their interest in the property, and that said mortgage is still in existence and valid. NMHC may also require the borrower to execute a new mortgage after the deed is issued, or such other instruments NMHC deems necessary to protect its security interest in the real property.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998).

§ 100-30-985 Forms

NMHC may require an applicant/borrower to execute forms prepared by NMHC, or other parties. NMHC may further require that the borrower and any contractor utilized by the borrower, utilize forms prepared by NMHC or another party. NMHC has the right to revise or change the forms that it utilizes and/or requires an applicant and/or their contractor to utilize, at its sole discretion. NMHC may refuse to make disbursements if a borrower and/or their contractor fails to utilize a form required by NMHC.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 20 Com. Reg. 16269 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 16042 (July 15, 1998); Amdts Proposed 20 Com. Reg. 15807 (Jan. 15, 1998).

§ 100-30-990 Limitation on Applicant/Borrower Selection of Contractors; Mandatory Criteria for Contractors to Participate/Construct/Rehabilitate Homes Financed by NMHC

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- (a) Applicants/borrowers may only contract, for the construction and/or rehabilitation of a home, to be financed in whole, or in part, by NMHC, with a construction contractor that has been approved by NMHC.
- (b) To obtain NMHC approval to participate/construct/rehabilitate homes receiving NMHC financing, a contractor must submit the following documents:
- (1) Most current financial statement and a copy of BGR for the last two years;
 - (2) Statement of experience in and length of existence of construction business;
 - (3) List of on going*/past projects including location and amount of project;
 - (4) Certificate of compliance issued by the Division of Revenue and Tax;
 - (5) Copy of workman's compensation policy;
 - (6) Copy of valid business license;
 - (7) Name of insurance company currently dealing with contractor for coverage on hazards, bonds, etc.;
 - (8) Articles of incorporation and by-laws of the company, if applicable; and
 - (9) Copy of most recent annual report, if applicable.
- (c) In addition to supplying NMHC with the above referenced documents, the contractor must certify in writing that:
- (1) It has supplied the above requested documents;
 - (2) It has no pending complaints or disputes from clients on projects that it is currently working on;
 - (3) There are no pending complaints, cases, or liens, filed against contractor at the Division of Labor, Superior Court, or the U.S. District Court, for unfair labor practices, breach of contract, non payment of wages, or any other ground;
 - (4) There are no claims or unpaid obligations on materials purchased by contractor that are past due; and
 - (5) Contractor is able to obtain the necessary bonding required in order for NMHC to close the applicable loan.
- (d) If a contractor has been previously approved by NMHC, and any of the information required to be submitted above has changed, then the contractor must advise NMHC of the same and submit documents explaining the same. In addition, an approved contractor, on an annual basis, must establish that it has renewed its business license, worker's compensation insurance coverage, any other applicable insurance, and paid taxes for the previous year.
- (e) Should an approved contractor:
- (1) Have a claim filed on a bond issued to them;
 - (2) Have a lien filed against them for failure to pay a construction related debt;
 - (3) Have a determination issued by the CNMI Department of Labor and Immigration, Division of Labor, that the contractor has failed to pay wages to its employees in compliance with applicable law, or otherwise violated any law pertaining to its employees;
 - (4) Have a complaint filed against it by the US Department of Labor, IRS, or other government agency;
 - (5) Fail to renew their business license;
 - (6) Be unable to obtain bonding or necessary insurance;

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(7) Be issued a notice of deficiency or other notice that it has an outstanding obligation for taxes due and owing to either the CNMI, federal, or other governmental body; then the Executive Director, in consultation with the manager, Mortgage Credit Division, shall bar/suspend the contractor from working, in any manner, on a home financed by NMHC, until such time as the contractor provides assurances, adequate to NMHC in its sole discretion, that the contractor is financially capable of constructing the home in question, free and clear of any and all liens or encumbrances. The contractor will further be limited to working on NMHC houses, such that the contractor must be approved on a project by project basis, until such time as the contractor has remedied whichever of the above referenced criteria is applicable to it.

(f) A decision by the management to bar or suspend a contractor may be appealed to NMHC's Board of Directors. All appeals shall be governed by the APA [1 CMC §§ 9101, et seq.].

(g) If a contractor has been barred/suspended, then regardless of the result of an appeal, they may reapply for NMHC approval, sixty days after their being barred/ suspended, and may reapply every sixty days thereafter.

* So in original.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 22 Com. Reg. 17589 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17150 (Apr. 20, 2000).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (g).

Executive Order 03-01 (effective May 9, 2003), the "Department of Labor and Immigration Reorganization Plan of 2003," renamed the Department of Labor and Immigration to the Department of Labor.

§ 100-30-995 Liquidated Damage Assessments for NMHC Financed Construction Projects

All contracts for home construction or rehabilitation, funded in whole, or in part, by NMHC, must contain a provision for mandatory liquidated damages as follows:

Construction Amount	Liquidated Damages (Per Day)
\$1 – 25,000	\$100.00
25,001 – 50,000	\$125.00
50,001 – 75,000	\$150.00
75,001 – 100,000	\$175.00
100,001 and above	\$200.00

History: Amdts Adopted 22 Com. Reg. 17589 (Nov. 20, 2000); Amdts Proposed 22 Com. Reg. 17150 (Apr. 20, 2000).