

TITLE 110: NORTHERN MARIANA ISLANDS RETIREMENT FUND

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MEMBER HOME LOAN PROGRAM REGULATIONS**

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Chapter Authority: 1 CMC § 8315(g) (renumbered by PL 13-60 (effective Dec. 5, 2003)).

Chapter History: Amdts Adopted 31 Com. Reg. 29938 (Oct. 29, 2009); Amdts Proposed 31 Com. Reg. 29793 (Aug. 27, 2009); Amdts Adopted 19 Com. Reg. 15796 (Dec. 15, 1997); Amdts Proposed 19 Com. Reg. 15411 (July 15, 1997); Amdts Adopted 18 Com. Reg. 14303 (Aug. 15, 1996); Amdts Proposed 18 Com. Reg. 14152 (June 15, 1996); Amdts Adopted 18 Com. Reg. 14022 (Feb. 15, 1996); Amdts Proposed 17 Com. Reg. 13734 (Oct. 15, 1995); Amdts Adopted 17 Com. Reg. 13533 (June 15, 1995); Amdts Proposed 17 Com. Reg. 13269 (Apr. 15, 1995); Amdts Adopted 17 Com. Reg. 13288 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 12949 (Feb. 15, 1995); Amdts Adopted 17 Com. Reg. 13283 (Apr. 15, 1995); Amdts Proposed 16 Com. Reg. 11882 (May 15, 1994); Amdts Proposed 16 Com. Reg. 11824 (Apr. 15, 1994); Amdts Adopted 16 Com. Reg. 12607 (Nov. 15, 1994); Amdts Proposed 16 Com. Reg. 12426 (Sept. 15, 1994); Amdts Adopted 15 Com. Reg. 11172 (Dec. 15, 1993); Amdts Proposed 15 Com. Reg. 10830 (Sept. 15, 1993); Amdts Adopted 15 Com. Reg. 10870 (Sept. 15, 1993); Amdts Proposed 15 Com. Reg. 10494 (Mar. 15, 1993); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Amdts Adopted 12 Com. Reg. 7387 (Sept. 15, 1990); Amdts Proposed 12 Com. Reg. 6831 (Mar. 15, 1990); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: PL 1-43 (effective Jan. 18, 1980), formerly codified at 1 CMC §§ 8301, et seq., originally created the Northern Mariana Islands Retirement Fund. PL 6-17 (effective May 7, 1989), the “Northern Mariana Islands Retirement Fund Act of 1988,” codified as amended at 1 CMC §§ 8301-8394, repealed and reenacted PL 1-43, as amended. See PL 6-17, ch. 1 § 8312; see also the commission comment to 1 CMC § 8301. PL 13-60 (effective Dec. 5, 2003), the “Retirement Integrity Assurance Act,” amended numerous provisions of the 1988 NMI Retirement Fund Act.

1 CMC § 8312 creates the Northern Mariana Islands Retirement Fund (NMIRF) as an autonomous agency and public corporation of the government of the Commonwealth of the Northern Mariana Islands. NMIRF, through a Board of Trustees, is empowered to establish, maintain and operate a retirement fund program for the public employees of the Commonwealth. 1 CMC § 8315(a). 1 CMC § 8315(g) (renumbered by PL 13-60) authorizes NMIRF to adopt rules and regulations as necessary for the exercise of the funds powers, performance of its duties and administration of its operations.

Part 001 - General Provisions

§ 110-40-001 Scope

The regulations in this chapter shall govern the administration of the Member Home Loan Program as established and adopted herein by the Board of Trustees of the NMI Retirement Fund.

Modified, 1 CMC § 3806(d).

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History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1991 amendments readopted and republished the Member Home Loan Program Regulations in their entirety. The Commission, therefore, cites the 1991 amendments in the history sections throughout this chapter.

§ 110-40-005 Authority

Under and by virtue of the authority provided under 1 CMC § 8315(f) and the Administrative Procedure Act, 1 CMC §§ 9101, et seq., the Board of Trustees hereby promulgates the regulations in this chapter, as amended.

Modified, 1 CMC § 3806(d), (g).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The Commission changed “Procedures” to “Procedure” to correct a manifest error.

PL 13-60 (effective Dec. 5, 2003) renumbered former 1 CMC § 8315(f) as 1 CMC § 8315(g).

§ 110-40-010 Limitations

The regulations in this chapter shall be limited by and interpreted consistent with the NMI Retirement Fund Act of 1988, as amended.

Modified, 1 CMC § 3806(d), (g).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The Commission deleted the word “and” before “the NMI Retirement Fund Act” to correct a manifest error.

§ 110-40-015 Purpose

The purpose of the Member Home Loan Program is to facilitate investment of the assets and funds of the NMI Retirement Fund in a well-secured, prudent, and historically sound investment instrument, and at the same time assist eligible members of the fund by making available certain sums of money for loans to construct, purchase or improve a principal home or residence, or to purchase a leasehold upon which an existing home is situated, or to refinance certain mortgage loans as approved by the Board of Trustees.

Modified, 1 CMC § 3806(f).

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History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

§ 110-40-020 Priority

Member home loans shall be provided in the following order of priority:

- (a) Acquisition or construction of a principal home for first time homeowners;
- (b) Acquisition of a principal home for previous homeowners and home improvement loans;
- (c) Refinancing of current loans for acquiring an existing principal home, whether or not the borrower is a first time homeowner.

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1991 amendments amended subsection (a).

§ 110-40-025 Funding Allocation

The Board may set aside up to 40% of the fund's assets at cost for the Member Home Loan Program. Of the amount set aside by the Board for the Member Home Loan Program, at least fifty percent shall be reserved for loans under § 110-40-020(a). The Board of Trustees may reallocate any of the reserved amounts herein described from time to time as it deems appropriate. (Source: 1 CMC § 8351(b)).

Modified, 1 CMC § 3806(c), (e), (f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

§ 110-40-030 Definitions

As used in the regulations in this chapter:

- (a) "Administrator" means the Administrator of the NMI Retirement Fund.
- (b) "Active member" means a member who is currently included within the membership of the fund. It does not include a member who ceases to be an employee, notwithstanding the member's establishment of vested benefit status. (Source: 1 CMC § 8314(k).)
- (c) "Applicant" means any eligible member signing the note or mortgage, or both, and occupying the subject property, including any guarantor, endorser, or co-signer that occupies the property.

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- (d) “Appraised value” means the value assigned to or placed upon a property and improvements thereon, offered as collateral when securing or obtaining a loan under the regulations in this chapter. The appraised value includes the value of the improved property plus the loan amount, or unimproved property plus the loan amount, approved under the regulations in this chapter.
- (e) “Board” or “Board of Trustees” means the Board of Trustees of the Northern Mariana Islands Retirement Fund as defined in 1 CMC § 8314(f).
- (f) “Borrower” means the person who signs the note evidencing the loan and the mortgage securing it.
- (g) “Buyer” includes a lessee who purchases a principal home on a leasehold land where the lease has more than 30 years remaining.
- (h) “Eligible member” means a person who meets the eligibility requirements as described in § 110-40-110 of the regulations in this chapter.
- (i) “Guarantor, endorsers, or co-signers” means the persons signing the note or mortgage, or both, but who may or may not be occupying the subject property.
- (j) “Home improvement” means a major physical addition made to a principal home situated on improved real property, upon which completion, will substantially add to the life and value of the property. For purposes of the member home loan program, home improvement only includes the renovation of the principal home, in whole or in part, the addition of a bedroom, bathroom, a kitchen, a living room, a change from tin roofing to concrete roofing, or any combination thereof.
- (k) “Improved real property” means real property upon which are situated or shall be constructed permanent buildings suitable for residence, industry, or commerce. (Source: 1 CMC § 8354(a)(4).)
- (l) “Leasehold conversion loan” means a loan obtained for the purpose of and used solely for the borrower’s purchase of the fee simple interest where the borrower’s principal home is situated on leasehold land, whether or not the borrower has an existing first leasehold mortgage loan. (Source: 1 CMC § 8354(a)(6).)
- (m) “Lender” or “participating lender” means a financial institution or an agency of the government which may by law make loans secured by first or second mortgages on real estate and which participates in the Member Home Loan Program under an agreement with the NMI Retirement Fund. Lender or participating lender includes the NMI Retirement Fund, if the fund establishes a branch within its organization.
- (n) “Loan” or “member home loan” means a loan made under the Member Home Loan Program administered and funded by the NMI Retirement Fund.

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- (o) “Member” means any person who is included within the membership of the fund at any time and includes an active member or a retiree. (Source: 1 CMC 8314(k).)
- (p) “Mortgage” includes a deed of trust for security. (Source: 1 CMC § 8354(a)(4).)
- (q) “NMIRF” or “fund” means the Northern Mariana Islands Retirement Fund.
- (r) “Unimproved real property” means real property upon which no structures or permanent buildings are situated; or upon which temporary structures or buildings are situated but are not suitable for residence, industry or commerce.
- (s) “Program” means the Member Home Loan Program administered by the NMI Retirement Fund.
- (t) “Retiree” means an active member who has retired and becomes a beneficiary of the NMI Retirement Fund, but does not include recipients of any of the survivor’s benefits paid by the fund.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 15 Com. Reg. 11172 (Dec. 15, 1993); Amdts Proposed 15 Com. Reg. 10830 (Sept. 15, 1993); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Amdts Adopted 12 Com. Reg. 7387 (Sept. 15, 1990); Amdts Proposed 12 Com. Reg. 6831 (Mar. 15, 1990); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The Commission inserted a comma after the word “industry” in subsection (k) pursuant to 1 CMC § 3806(g).

The 1990 amendments amended former subsections (h), (j), (k) and (p). The 1991 amendments added new subsections (d) and (r), deleted former subsection (p), moved former subsection (s) to subsection (g) and redesignated the remaining subsections. The 1993 amendments repealed and readopted subsection (j).

Part 100 - Operation of the Program

§ 110-40-101 General Provisions

The following generally describes the operation of the program as it is administered by the NMIRF.

- (a) Periodically, the Board of Trustees may allocate, as part of its overall investment plan, a portion of its assets available for investment in the Member Home Loan Program. The allocation shall be made subject to the limitations of the Retirement Fund Act, as amended, and in such amounts as the Board deems prudent, subject to an aggregate limitation of 40 percent of the fund’s assets at cost. Funds so allocated may be further allocated among the participating lenders.
- (b) Members of the fund desiring a member home loan shall file an application at a participating lender for such a loan.

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(c) Financial institutions or agencies desiring to participate as lenders in the fund's Member Home Loan Program shall file an application with the fund, and upon approval and certification as a participant, such institution or agency shall execute a servicing agreement with the fund and thereafter become a "participating lender."

(d) The participating lender shall:

- (1) Apply to the fund for certification of the applicant's eligibility for a loan;
- (2) Ensure the purpose for which the loan is sought is an eligible purpose as described* § 110-40-105 of this chapter.
- (3) Determine the applicant's creditworthiness;
- (4) Make the loan in its own name as lender;
- (5) Provide the interim or construction financing, if necessary;
- (6) Forward the note, mortgage and the documentation to the fund for its approval of the permanent financing.

(e) If the loan and the mortgage securing the loan comply with the regulations, the participating lender shall endorse the note and assign the mortgage and note to the fund which shall purchase the same from the participating lender without recourse.

(f) The fund may, in its discretion, service the loan or forward it to a participating lender having a loan servicing agreement with the fund.

* So in original.

Modified, 1 CMC § 3806(c), (d), (f), (g).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Amdts Adopted 12 Com. Reg. 7387 (Sept. 15, 1990); Amdts Proposed 12 Com. Reg. 6831 (Mar. 15, 1990); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1990 amendments amended subsection (e). The 1991 amendments amended the opening paragraph.

In the opening paragraph, the Commission inserted the final period. In subsection (a), the Commission deleted a comma after "overall investment" and inserted a comma after "plan" to correct a manifest error.

§ 110-40-105 Purpose of Loan

There shall be no outright cash disbursement or cash take out to the applicant or borrower under the Member Home Loan Program. Member home loans shall be made for the following purposes only, all of which shall be verified before and during the term of the loan:

(a) The construction, purchase, or home improvement of a principal home situated on improved real property;

(b) The refinancing or conversion of a construction, home purchase or improvement loan to a permanent member home loan for a principal home situated on improved real property;

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- (c) The purchase or refinancing of the purchase of the fee simple interest in a principal home situated on improved real property that is a qualified leasehold land;
- (d) The refinancing of an existing member home loan if the purpose is to additionally finance a proposed or prospective home improvement amounting to at least \$5,000;
- (e) The refinancing of an existing second mortgage loan not made under the Member Home Loan Program and convert it to a first mortgage member home loan, if the second mortgage loan was made for the purpose of:
 - (1) Making the down payment for the subject property upon which is situated a principal home;
 - (2) Purchasing leasehold property in fee simple; or
 - (3) Making home improvements;
 - (4) Constructing a new principal home.
- (f) To purchase a note, debt, or other obligation secured by mortgages or insured by the Federal Home Administration (FHA). (Source: 1 CMC § 8354(a)(2).)
- (g) To purchase a note, debt, or other obligations for the repayment of home loans under the Servicemen's Readjustment Act of 1944 or under title II of the National Housing Act. (Source: 1 CMC § 8354(a)(3).)
- (h) The refinancing of an existing mortgage loan not made under the Member Home Loan Program and convert it to a second mortgage member home loan if the original mortgage was taken out for the purpose of:
 - (1) Making home improvements; or
 - (2) Acquisition or construction of a new principal home.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 16 Com. Reg. 12607 (Nov. 15, 1994); Amdts Proposed 16 Com. Reg. 12426 (Sept. 15, 1994); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The Commission inserted a comma after the word "purchase" in subsection (a) pursuant to 1 CMC § 3806(g). The 1991 amendments added new subsection (e)(4) and amended subsection (a). The 1994 amendments added new subsection (h).

§ 110-40-110 Persons Eligible for Member Home Loans

To be eligible for a member home loan, the applicant shall be a retiree or an active member of the fund, with at least thirty-six continuous months of contributing membership in the fund immediately before certification by the fund that the applicant is eligible for the loan, provided that:

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- (a) An active member holding a permanent position classified under the Civil Service System shall have had at least thirty-six continuous months of contributing membership immediately before certification; and shall have at least 18 continuous immediate months of actual work in the member's position;
- (b) An active member holding a position not classified by the Civil Service System, or a position requiring the advice and consent of the Legislature, or an elective position, shall have had at least fifteen years of total service and have been a contributing member of the fund for at least five years on the date of certification of eligibility; and shall have at least 18 continuous immediate months of actual work in the member's position;
- (c) An active member on leave without pay or an active member whose appointment or employment is for a fixed date or limited term, or otherwise temporary in nature, shall not be eligible; provided that a member on authorized educational or child care leave where contributions are made for the member shall be excepted from this subsection;
- (d) A member who has an outstanding member home loan shall not be eligible;
- (e) A vested member who leaves government employment and leaves his/her contribution in the fund, will be eligible to apply for a member home loan following six months after his/her return to government service; members who withdrew their contributions to the fund must have thirty-six months of continuous contributing membership service immediately prior to certification;
- (f) A member who has an outstanding member home loan shall not be eligible to obtain a loan for another person.

Modified, 1 CMC § 3806(d), (e), (f), (g).

History: Amdts Adopted 19 Com. Reg. 15796 (Dec. 15, 1997); Amdts Proposed 19 Com. Reg. 15411 (July 15, 1997); Amdts Adopted 15 Com. Reg. 10870 (Sept. 15, 1993); Amdts Proposed 15 Com. Reg. 10494 (Mar. 15, 1993); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Amdts Adopted 12 Com. Reg. 7387 (Sept. 15, 1990); Amdts Proposed 12 Com. Reg. 6831 (Mar. 15, 1990); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1990 amendments amended subsections (a), (b) and (c). The 1993 amendments added a new subsection (e) and re-designated subsection (f). The 1997 amendments amended subsections (d) and (f).

In subsection (f), the Commission changed the final semi-colon to a period.

The 1997 amendments deleted former § 4.4, entitled "Eligibility for Another Loan; Limitations." See 13 Com. Reg. 8235 (Oct. 15, 1991); 13 Com. Reg. 7671 (Apr. 15, 1991); 12 Com. Reg. 7387 (Sept. 15, 1990); 12 Com. Reg. 6831 (Mar. 15, 1990); 11 Com. Reg. 6244 (June 15, 1989); 11 Com. Reg. 5803 (Jan. 15, 1989).

Part 200 - Qualifying Security

§ 110-40-201 Property Qualifying Under the Program; No Construction by Owner

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(a)(1) To qualify under the Member Home Loan Program, the property securing the loan shall be “improved real property” located in the Commonwealth of the Northern Mariana Islands. The member shall own or propose to own the property in fee simple or possess it under a lease agreement acceptable to the Board. This includes homestead property, as such property is defined by the Marianas Public Land Corporation (MPLC), to which the applicant has been duly granted a permit to occupy, provided that a memorandum of understanding has been properly executed between the fund and the MPLC, which permits the borrower to mortgage the homestead property, and grants the fund quiet title to the property in the event of the borrower’s default and foreclosure of an approved loan. The property to be acquired, refinanced, or constructed may include:

- (i) A one to four-family home, dwelling unit or structure which may be attached or detached;
 - (ii) A one-family dwelling unit in a planned development; or
 - (iii) A one-family dwelling unit in a condominium project or townhouse.
- (2) The member shall occupy or agree to continuously occupy the dwelling unit as the member’s principal home during the term of the loan. Any appraisal of the property shall include the value of all improvements, but the value of the dwelling unit or units not occupied by the member shall be deducted in computing the loan-to-value ratio.

(b) Unless the Board finds a compelling justification otherwise on a case by case review, the fund shall not purchase or approve a loan secured by property which is not served by any utilities, lacks or has difficult access to or from a public road, or does not conform to all applicable zoning and land use restrictions or building code regulations, is located on a substandard lot, is a lodging unit, or has any other unusual characteristic that the fund determines to adversely affect its value. The participating lender may request the fund’s prior written approval as to whether a specific property qualifies for purchase by the fund before issuing a loan commitment to the applicant. The Board may establish a minimum lot size. Notwithstanding any provision of the regulations in this chapter to the contrary, construction loans for residential homestead properties lacking access to Commonwealth utilities may be extended, provided that the borrower(s) provide their own power generator and a permanent water catchment and storage system acceptable to the fund. This requirement shall be included as part of the loan agreement.

(c) The fund shall not purchase any member home loan made for the construction of or home improvements to a principal dwelling, unless the construction was done or improvements were made by:

- (1) A duly licensed contractor from a pre-qualified list maintained by the Board; and
- (2) The construction or improvements are in accord with such building and zoning code regulations as the CNMI legislature, or in the absence thereof, the Board, may from time to time adopt.

(d) An interim or construction financing loan shall not be made if the fund determines that the owner or an affiliated business is the contractor.

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- (e) The fund can make an interim or construction financing loan where a family member is the contractor, provided that prior to loan approval and in addition to other requirements provided in the regulations in this chapter, the following applies:
- (1) The borrower must submit:
 - (i) At least three quotations from three different MHLP approved contractors;
 - (ii) Certified or stamped plans and specifications of the proposed construction; and
 - (iii) A contractor's cost breakdown for each quotation.
 - (2) The fund, in its discretion, may request a review of the documents by the Department of Public Works or an independent architectural or engineering firm for compliance and reasonableness of cost estimates claimed.
 - (3) The performance bond and builder's risk required under § 110-40-920 of this chapter must be recorded at the CNMI Recorder's Office and include a provision that in the event the contractor defaults on the contract and the borrower (owner) neglects or refuses to enforce the terms of the bond, the fund is authorized to act on behalf of the owner and to enforce the bond.
 - (4) Receipts showing actual expenditures must accompany all payment requests.
 - (5) A full one year's builder's warranty be provided to the fund, with a clause stipulating that if the borrower refuses to enforce the provisions stated therein, the fund shall have the right, in its sole discretion, to enforce any provision, without the borrower's (owner's) consent.

Modified, 1 CMC § 3806(c), (d), (e), (f).

History: Amdts Adopted 18 Com. Reg. 14303 (Aug. 15, 1996); Amdts Proposed 18 Com. Reg. 14152 (June 15, 1996); Amdts Adopted 16 Com. Reg. 12607 (Nov. 15, 1994); Amdts Proposed 16 Com. Reg. 12426 (Sept. 15, 1994); Amdts Adopted 15 Com. Reg. 10870 (Sept. 15, 1993); Amdts Proposed 15 Com. Reg. 10494 (Mar. 15, 1993); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Amdts Adopted 12 Com. Reg. 7387 (Sept. 15, 1990); Amdts Proposed 12 Com. Reg. 6831 (Mar. 15, 1990); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

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

The 1990 amendments amended subsection (b). The 1991 amendments amended subsections (a)(1) and (d). The 1993 amendments added new subsection (e) and amended subsection (d). The 1994 amendments amended subsection (b). The 1996 amendments amended subsection (b).

§ 110-40-205 Co-ownership or Estate Ownership of Mortgaged Property

The member or the member and the member's spouse, if married, shall have at least a fifty percent interest in the mortgaged property. If the member is not the sole owner of the mortgaged property, all persons whose signatures are required to create a valid first mortgage lien upon the mortgaged property shall sign the mortgage. If the property is owned, in whole or in part, by a decedent, the estate of the decedent shall first be subject to a probate action and a final probate decree.

Modified, 1 CMC § 3806(e).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

§ 110-40-210 Appraisals

Any appraisal required under the regulations in this chapter is subject to review by, and the approval of, the fund. The fund may require that an appraisal be obtained from an approved list of appraisers maintained by the fund. Such a list may include the appraisers approved for listing by FHA. All appraisers must meet the applicable requirements set forth in § 110-40-220 of this chapter.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Amdts Adopted 12 Com. Reg. 7387 (Sept. 15, 1990); Amdts Proposed 12 Com. Reg. 6831 (Mar. 15, 1990); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

§ 110-40-215 Surveys

The fund, in its discretion, may require a survey of the property upon which a principal home will be constructed, purchased or improved, if the last survey was performed more than two years prior to the date of application for a member home loan. This survey must determine the exact location, size and shape of such property. Monument markers shall be visibly placed on each corner of the boundaries surrounding the property being surveyed. The survey work must be done by a surveyor who meets the criteria established in § 110-40-220 of this part. The borrower is wholly responsible for the cost of the survey.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991).

§ 110-40-220 Criteria for Surveyors, Appraisers and Contractors

In order to develop a qualified list of surveyors, appraisers, and contractors, the Board of Trustees may solicit a statement of interest from the general public, and shall require these individuals or firms to:

- (a) Be duly licensed to do business in the Commonwealth;
- (b) Have been in business for the last 3 years immediately prior to being selected for a project under a member home loan or have at least three years of experience as an appraiser or surveyor; except that for contractors whose principal place of business is on the island of Rota or Tinian, such contractors must have been in business for at least 1 year immediately prior to being selected for a project under this chapter.
- (c) In the case of contractors, have constructed a minimum of 10 residential construction projects, one of which was worth at least \$25,000; the Board of Trustees may waive this requirement for good cause or as it deems appropriate under the circumstances.

- (d) Be able to provide a list of projects completed and a short client list;
- (e) Be insured against legal liability, and;
- (f) All contractors must secure a performance bond as required under part 900, § 110-10-920 of this chapter.
- (g) Whenever required by Commonwealth law, or by the CNMI Board of Professional Licensing, any surveyor or appraiser who performs services under this chapter must be certified and licensed as required by such law, or by the CNMI Board of Professional Licensing.

Modified, 1 CMC § 3806(c), (d), (e), (f).

History: Amdts Adopted 18 Com. Reg. 14022 (Feb. 15, 1996); Amdts Proposed 17 Com. Reg. 13734 (Oct. 15, 1995); Amdts Adopted 17 Com. Reg. 13283 (Apr. 15, 1995); Amdts Proposed 16 Com. Reg. 11882 (May 15, 1994); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991).

Commission Comment: The Commission inserted a comma after the word “appraisers” in the section title and the opening paragraph pursuant to 1 CMC § 3806(g). The 1995 amendments amended subsection (b). The 1996 amendments amended subsection (c).

Part 300 - Credit and Payment Ability

§ 110-40-301 Creditworthiness

The lender shall be responsible for determining the creditworthiness of each applicant who applies to it for a member home loan. In making that determination the lender shall take into consideration:

- (a) The applicant’s monthly debt payment to income ratio;
- (b) The applicant’s credit reputation; and
- (c) Any other factor considered by a prudent lender.

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

§ 110-40-305 Underwriting Guidelines; Monthly Mortgage Payment to Income Ratio

As a general rule:

- (a) The lender shall require that the applicant’s monthly mortgage payment does not exceed thirty percent of the applicant’s stable monthly income less any monthly debt payments.

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(b) As used in this section, the term “monthly mortgage payments” shall include, as applicable, the first mortgage payment, mortgage or life insurance payments, hazard and flood insurance payments, lease rent, property taxes, and monthly dues for common element/property charges and maintenance, but excluding dwelling unit utility charges for condominiums and property with similar dues and charges.

(c) As used in this section, the term “monthly debt payment” shall include all monthly payments on installment debts having a remaining term of one year or more. Secondary financing for the subject property, mortgage loan payment for other properties, alimony, child support, and separate maintenance payments shall be considered installment debts, unless the obligations terminate within one year.

(d) As used in this section, the term “stable monthly income” is the applicant’s gross monthly income from the applicant’s primary employment base earnings plus recognizable secondary income averaged for the past 12 months. Secondary income of the applicant, such as rental income, overtime or part time employment may be included in stable monthly income only if those items of secondary income are substantiated by written evidence of the applicant’s previous year’s earnings and that the continuation thereof is probable. Interest and dividends may be considered if substantiated by written evidence and averaged for the past two years. Rental income for the subject property may be considered if substantiated by written evidence.

(e) If the applicant chooses to disclose income from alimony, child support, or maintenance payments, the lender may consider these payments as income to the extent that they are likely to be consistently made. Factors which the lender may consider in making that determination include, but shall not be limited to:

- (1) Whether the payments are received pursuant to written agreement or court decree;
- (2) The length of time the payments have been received;
- (3) The regularity of payments;
- (4) The availability of procedures to compel payment;
- (5) Whether full or partial payments have been made;
- (6) The age of any child; and
- (7) The creditworthiness of the payer, including the credit history of the payer where available to the lender under the Fair Credit Reporting Act (15 USC §§ 1681-1681(t)) or other applicable laws. The lender shall submit to the fund evidence to support its determination.

(f) Factors such as expected pay increases under mandatory contract terms, education, training, technical skills, occupation, potential or expected pay increases, past employment history, and future employment expectations may be taken into account on a case-by-case basis in determining stable monthly income.

(g) Income necessary to qualify the borrower from sources not substantiated in the credit report shall be verified in writing from a reliable source.

(h) When the borrower is self-employed, the minimum acceptable documentation to verify income shall be the:

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- (1) Profit and loss statements for the prior two years, which should include the last statement covering the year before the applicant's date of application; or
 - (2) Tax returns for the previous two years.
- (i) If the member is applying for a leasehold conversion loan, the monthly mortgage payment shall not exceed thirty percent of the applicant's stable monthly income less any monthly debt payment including any other mortgage payment for the subject property.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 19 Com. Reg. 15796 (Dec. 15, 1997); Amdts Proposed 19 Com. Reg. 15411 (July 15, 1997); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Amdts Adopted 12 Com. Reg. 7387 (Sept. 15, 1990); Amdts Proposed 12 Com. Reg. 6831 (Mar. 15, 1990); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1990 amendments amended subsection (i). The 1997 amendments deleted former subsections (i), (j) and (k). The Commission re-designated former subsection (l) as subsection (i).

In subsection (a), the Commission inserted the word "a" before "case-by-case" to correct a manifest error.

Part 400 - Loan Amounts; Minimum and Maximum

§ 110-40-401 First Mortgage Loans on Fee Simple or Leasehold Interests; Insurance Required

- (a)(1) No member home loan secured by a first mortgage on unencumbered improved real estate owned in fee simple shall exceed:
 - (i) \$150,000; and
 - (ii) Seventy-five percent of the lesser of the purchase price or the appraised value of the real estate and improvements mortgaged to secure it. (Source: 1 CMC § 8354(a).)
- (2) The Board may by future regulation make such exceptions to the above as are authorized by 1 CMC § 8354(a)(4).
- (b) No member home loan secured by a first mortgage on a leasehold interest in improved real property shall exceed
 - (1) \$150,000 and
 - (2) Seventy-five percent of the lesser of the purchase price or the appraised value of the leasehold interest and improvements. (Source: 1 CMC § 8354(a)(4).)
- (c) The "value" in a loan-to-value ratio shall in no event exceed the lesser of:
 - (1) \$150,000,
 - (2) The purchase price; or
 - (3) The appraised value of the property to be mortgaged.
- (d) All loans shall be further secured by an insurance or guarantee against default or loss under a mortgage insurance policy issued by a casualty insurance company. If no mortgage insurance is available, the applicant shall purchase a life insurance policy naming the fund as the

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primary beneficiary to the extent of the borrower's current balance remaining unpaid. The mortgage insurance or life insurance, as the case may be, shall be obtained from an insurer licensed to do business in the Commonwealth of the Northern Mariana Islands and shall insure or guarantee against the borrower's default or loss sufficient, in case of death of the borrower, to cover the fund's exposure to the lesser of the purchase price or appraised value of the mortgaged property. Mortgage or life insurance coverage shall remain in force until the principal amount of the loan is reduced to ten percent of the current appraised value of the mortgaged property, at which time the coverage shall be subject to cancellation solely at the Board's option. The borrower shall pay for the premiums for the insurance. A copy of any insurance policy required under this section shall be submitted to the fund after approval of the loan and prior to the release of loan proceeds. (Source: 1 CMC § 8354(a)(4), (5).)

(e) No member home loan secured by a first mortgage shall be made in an amount exceeding \$150,000 or less than \$15,000.

(f) There shall be a minimum cash equity of three percent of the purchase price of a principal home.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 17 Com. Reg. 13283 (Apr. 15, 1995); Amdts Proposed 16 Com. Reg. 11882 (May 15, 1994); Amdts Proposed 16 Com. Reg. 11824 (Apr. 15, 1994); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

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

The 1995 amendments amended subsections (a)(1)(i), (b)(1), (c)(1) and (e).

§ 110-40-405 Leasehold Conversion Loans; Minimum and Maximum Loan Amounts

(a) No leasehold conversion loan shall be made which, when combined with the outstanding balance of a first leasehold home loan, exceeds \$150,000, or when the combined balances of any first leasehold mortgage loan and the amount of the leasehold conversion loan exceeds seventy-five percent of the appraised value of the real estate mortgaged to secure it.

(b) No leasehold conversion loan shall be made in an amount less than \$15,000.

(c) The collateral for a leasehold conversion loan shall be a first mortgage on the fee simple interest and a first or second mortgage on the leasehold interest on the improved real estate. A leasehold conversion loan is a loan obtained for the purpose of and used solely for the borrower's purchase of the fee simple interest in the improved real estate. If the leasehold conversion loan is secured by a second leasehold mortgage on improved real estate, then the fund shall first determine that the first leasehold mortgage does not contain any provisions which might jeopardize the security position of the fund or the borrower's ability to repay the two mortgage loans. (Source: 1 CMC § 8354(a)(6).)

Modified, 1 CMC § 3806(e), (f), (g).

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History: Amdts Adopted 17 Com. Reg. 13283 (Apr. 15, 1995); Amdts Proposed 16 Com. Reg. 11882 (May 15, 1994); Amdts Proposed 16 Com. Reg. 11824 (Apr. 15, 1994); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1995 amendments amended subsections (a) and (b).

In subsection (c), the Commission changed “determined” to “determine” and “contained” to “contain” to correct manifest errors.

§ 110-40-410 Appraisals

Any appraisal required under the regulations in this chapter is subject to the requirements of § 110-40-210.

Modified, 1 CMC § 3806(c), (d).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

§ 110-40-415 Second Mortgage Loans on Fee Simple or Leasehold Interests; Minimum and Maximum Loan Amounts; Insurance Required

(a) No member home loan secured by a second mortgage on encumbered improved real estate owned in fee simple or under an acceptable leasehold shall exceed:

- (1) \$150,000; and
- (2) Seventy-five percent of the difference between the appraised value of the real estate and improvements mortgaged to secure it and the original loan amount of the first mortgage.

(b) No member home loan secured by a second mortgage on encumbered improved real estate owned in fee simple or under an acceptable leasehold shall be made in an amount less than \$15,000.

(c) No member home loan secured by a second mortgage on encumbered improved real estate owned in fee simple or under an acceptable leasehold shall be given unless:

- (1) The borrower obtains the first lienholder’s written consent; and
- (2) The fund determines that the first mortgage does not contain any provisions which might jeopardize the security position of the fund; and
- (3) The fund has made a determination of the borrower’s ability to repay the two mortgage loans using the same underwriting criteria as those used for first mortgages, except for the LTVR which utilizes the more stringent requirement set forth in subsection (a)(2).

(d) As a condition of the loan, the borrower of a second mortgage member home loan shall execute an assignment of all rental income due to the borrower, if any, to the fund in the event of default.

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(e) In the case of second mortgages, the borrower is prohibited from securing additional financing from other lending institutions and using the same real estate mortgaged to the fund, without first obtaining the prior written consent of the fund. Prior to any consent by the fund, the fund shall first determine that the subsequent mortgage does not contain any provisions which might jeopardize the security position of the fund or the borrower's ability to repay the three mortgage loans.

(f) All loans shall be further secured by an insurance or guarantee against default or loss under a mortgage insurance policy and property insurance policy issued by a casualty insurance company. Such policies are subject to the requirements under § 110-40-401(d) of this chapter for mortgage or life insurance coverage and under § 110-40-910 of this chapter for property insurance coverage.

Modified, 1 CMC § 3806(c), (d), (e), (f).

History: Amdts Adopted 16 Com. Reg. 12607 (Nov. 15, 1994); Amdts Proposed 16 Com. Reg. 12426 (Sept. 15, 1994).

Part 500 - Term of Loans

§ 110-40-501 Repayment Period; Leasehold Loan Security Requirements

(a) The term of any member home loan shall not exceed thirty years or any lesser period the Board may in its sole discretion determine to be appropriate upon consideration of the character and economic life of the property securing the loan. There shall be no minimum repayment period requirement.

(b) If the loan is secured by a first mortgage on leasehold property, the fixed rental term of the lease, prepaid or otherwise, shall extend at least two years beyond the stated maturity date of the note, mortgage or other obligation it secures. (Source: 1 CMC § 8354(a)(5)(i).)

(c) The term of any leasehold conversion loan shall not exceed twenty years.

Modified, 1 CMC § 3806(e).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Amdts Adopted 12 Com. Reg. 7387 (Sept. 15, 1990); Amdts Proposed 12 Com. Reg. 6831 (Mar. 15, 1990); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1990 amendments amended subsections (b) and (c).

Part 600 - Assignment and Transfer of Mortgaged Property

§ 110-40-601 Sale or Transfer of Mortgaged Property

(a) Every mortgage shall contain a due-on-sale clause giving the fund the right to require the borrower to make immediate payment in full of the entire indebtedness secured by the mortgage

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if the borrower sells, transfers, leases, subleases, or assigns all or part of the interest in real property securing a member home loan, including any equitable or beneficial interest, without first obtaining the fund's prior written consent.

(b) The due-on-sale clause shall be fully effective as to any sale, lease transfer or assignment of interest in the mortgaged trust property by any trustee, or the sale, lease, transfer or assignment of the borrower's equitable or beneficial interest in the property, without the prior written consent of the fund.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: In subsection (a), the Commission inserted a comma after "transfers" to correct a manifest error.

§ 110-40-605 Consent by the Fund

(a) The fund's consent shall be subject to the Member Home Loan Program policy in effect on the date a request for consent is received by the fund.

(b) The fund's right to require the borrower or the trustee to make payment in full with respect to the sale, lease, transfer or assignment shall be subject to any applicable laws which restrict or prohibit the fund from its exercise of this right.

(c) The fund shall not unreasonably withhold its consent to the borrower's sale, lease, transfer or assignment of the mortgaged property by agreement of sale, provided:

(1) The fund's mortgage priority is not in any way affected by the sale, lease, transfer or assignment;

(2) The borrower has not been and is not in default of the loan or has not broken any promises made in obtaining the loan;

(3) Has notified the fund within a reasonable time of the proposed transaction;

(4) The borrower agrees to the shortening of the remaining loan term to the earlier of the term of the agreement of sale or three years, and to make immediate payment in full of all amounts due if the buyer or lessee under the agreement of sale or lease is not an eligible member;

(5) The borrower agrees to the increase of the interest rate for the loan to the lesser of either four percent above the interest rate then in effect, or the interest rate then in effect for the program; except if the result is less than the interest rate for the loan in effect, there shall be no change in the interest rate;

(6) The borrower agrees to pay or reimburse the lender, participating servicer, or the fund, as the case may be, for all costs or expenses, including reasonable attorney's fees and consent fees incurred to review the proposed transaction and draft documents;

(7) The borrower agrees to acknowledge that the fund shall not consent to any assumption of the loan or to any further sale, lease, transfer or assignment of the mortgaged property;

(8) The borrower agrees to acknowledge that as a condition for the fund's consent, the buyer or lessee shall sign a certification of occupancy in which the lessee or buyer represents and

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agrees to occupy and use the mortgaged property as a principal home for the entire term of the loan;

(9) The borrower agrees to sign the documents as may be necessary, including a loan modification agreement;

(10) The borrower agrees to give assurances as the participating lender or servicer may require to protect the fund's lien priority in the mortgaged property.

(d) If any of the conditions described in subsection (c) of this section, require the borrower to pay an interest rate or finance charge which would exceed the highest rate permitted by law, then the borrower's obligation to pay interest or finance charge shall be limited to the highest rate permitted by law, so that the borrower is not obligated to pay any interest or finance charge which would result in the payment of interest or finance charge in excess of the limit so permitted.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1990 amendments amended subsection (c)(8).

In subsection (c)(8), the Commission changed "the or lessee buyer" to "the lessee or buyer" to correct a manifest error.

Part 700 - Assumption of Loan

§ 110-40-701 Assumption of Loan

No assumption shall be allowed of any loan.

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Amdts Adopted 12 Com. Reg. 7387 (Sept. 15, 1990); Amdts Proposed 12 Com. Reg. 6831 (Mar. 15, 1990); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1990 amendments amended subsection (a). The 1991 amendments deleted former subsection (b).

The 1990 amendments also deleted former § 10.2, entitled "Assumption of Loan: Limitations." See 11 Com. Reg. at 6259-60 (June 15, 1989).

Part 800 - Certification of Borrower and Delivery of Loan

§ 110-40-801 Applicant's Eligibility

(a) The participating lender shall be responsible for obtaining from the fund certification as to whether the applicant is eligible for a member home loan. The name of every applicant who claims to be a member shall be submitted to the fund for certification;

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- (b) Before the applicant's name is submitted for certification, the participating lender shall obtain the sales or lease contract, agreement of sale or lease documents, construction contract, plans and specifications, and/or title insurance;
- (c) The participating lender shall not incur any costs chargeable to the applicant until certification of eligibility is obtained from the fund;
- (d) The terms and conditions of a member home loan shall be in accordance with the regulations in this chapter including amendments thereto in effect on the date the applicant's eligibility is certified.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

§ 110-40-805 Delivery of Loan

- (a) The participating lender shall fully disburse the loan proceeds within four months after the date of certification, or within six months where new home construction is involved under this program, or within six months where a home improvement is involved under this program or the fund's approval shall lapse.
- (b) The participating lender shall deliver the loan file to the fund for approval to purchase within six months after the date of certification, or within 14 months after the date of certification where new home construction is involved under this program, or within ten months after the date of certification where a home improvement is involved under this program;
- (c) The participating lender shall sell the loan to the fund within one month after the date of the letter of approval to purchase by the fund;
- (d) The participating lender may request a precertification of eligibility if the participating lender anticipates that the loan proceeds cannot be disbursed within sixty days after the date of certification.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Amdts Adopted 12 Com. Reg. 7387 (Sept. 15, 1990); Amdts Proposed 12 Com. Reg. 6831 (Mar. 15, 1990); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1990 amendments amended subsections (a), (b) and (c). The 1991 amendments amended subsection (a).

§ 110-40-810 Pre-certification of Eligibility

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- (a) Pre-certification against future allocations may be obtained from the fund for the following purposes:
- (1) To purchase a principal home which is under construction or will be constructed and will be conveyed to the borrower upon completion of construction;
 - (2) To finance the purchase of the fee simple interest on leasehold land on which is located a principal home.
- (b) If the fund pre-certifies the applicant as an eligible member, the participating lender may issue a precommitment to make the applicant a member home loan, subject to the following conditions:
- (1) The availability of funds for the allocation period when the member is re-certified;
 - (2) The eligibility and qualification of the member to take out a loan at loan closing;
 - (3) The possibility that the interest rate may have changed when the member is re-certified as still being eligible.
- (c) The participating lender shall re-certify the member to assure that the member is still eligible to obtain a member home loan within thirty days of the date that the loan proceeds are anticipated to be funded.
- (d) The terms and conditions of the member home loan shall be in accordance with the regulations in this chapter in effect on the date of the member's re-certification of eligibility.
- (e) The application, credit report, appraisal reports, verification of employment and deposits shall be updated if made more than three months before the request for re-certification.
- (f) The participating lender shall deliver the loan file to the fund for approval to purchase within three months after the date of re-certification of member's eligibility or within four months where construction is involved.
- (g) The lender shall sell the loan to the fund within one month after the date of the letter of approval by the fund.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

§ 110-40-815 Disbursement of Loan Proceeds

- (a) Construction Loans. If the loan approved is for new construction, the fund and the contractor to whom the borrower has contracted to build or construct a principal home, shall set a schedule for the disbursement of funds, in writing, in accordance with construction phases set by the contractor and as agreed to by the fund, provided that the initial disbursement shall be no more than 30% of the total amount of the loan. All disbursements, other than the initial disbursement, shall be initiated by presentation to the fund of a billing statement from the contractor.

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(b) Purchase of Existing Home. If the loan is for a purchase of an existing home, the fund shall disburse the entire amount of the loan proceeds to the seller upon the seller's presentation of a deed evidencing a transfer of the home and the property upon which such a home is situated, together with a bill of sale or other evidence properly verifying the price to be paid by the borrower for the purchase of the existing home.

(c) Home Improvement. If a loan is for home improvement, the fund shall disburse the loan proceeds to the contractor, with whom the borrower has contracted to perform the home improvement work, upon the contractor's written presentation to the fund of a statement of the work to be performed on the project, a timetable for completion of the project, and the total cost required for performance of such phases of the project as may be required, provided that the initial disbursement shall be no more than 50% of the total loan amount. Subsequent disbursements shall be dependent upon the phases of work to be performed as set by the contractor and as agreed to by the fund. All disbursements, other than the initial disbursement, shall be initiated by a presentation to the fund of a billing statement from the contractor.

(d) Other Loans. For other loans such as refinancing and conversion loans, the fund shall disburse the loan proceeds in a manner agreed to by the fund and the financial institution carrying the original loan of the borrower. Loan proceeds may be disbursed in their entirety if the fund is satisfied that all necessary documents has been completed and properly recorded. These reports include inspection reports regarding the structural status of the mortgaged home which is being refinanced or converted.

Modified, 1 CMC § 3806(f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991).

Part 900 - Security for Loans

§ 110-40-901 Title Insurance Required

Each member home loan shall be covered by a title insurance policy on the current standard American Land Title Association (ALTA) form issued by a title insurer licensed to do business in the Commonwealth of the Northern Mariana Islands.

(a) Member home loans issued on the islands of Rota or Tinian shall be exempted from this section, if no title insurance is available; however, preliminary title reports shall be procured and any defects or liens shown, that could affect the mortgage with the fund, shall be corrected prior to loan approval;

(b) Member home loans issued on homestead property, that is still in the permit process, shall be exempted from this section, provided that preliminary title reports be procured, and any defects or liens shown, that could affect the mortgage with the fund, shall be corrected prior to loan approval.

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Modified, 1 CMC § 3806(f).

History: Amdts Adopted 15 Com. Reg. 10870 (Sept. 15, 1993); Amdts Proposed 15 Com. Reg. 10494 (Mar. 15, 1993); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1993 amendments added new subsections (a) and (b).

§ 110-40-905 Amount of Coverage

The amount of title insurance coverage shall be at least equal to or higher than the amount of the loan, and the primary beneficiary shall be the fund to the extent of the balance of the loan. The policy shall insure against any mechanic's and materialman's lien.

Modified, 1 CMC § 3806(f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

§ 110-40-910 Other Insurance Coverage

The mortgaged property shall be covered by fire and extended coverage insurance equal to the full replacement costs of the improvements on the mortgaged property without deduction for depreciation.

(a) If the mortgaged property is a condominium apartment, the association of owners or individual owners, as the case may be, shall have and keep in full force and effect a fire and extended coverage insurance policy.

(b) The lender shall assure that the fund is named a loss payee on these policies.

Modified, 1 CMC § 3806(f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

§ 110-40-915 Collateral Required

(a) All member home loans shall be secured by:

(1) First mortgages on unencumbered improved real property owned in fee simple; or

(2) First mortgages on leasehold interests in improved real property provided that the leasehold interest shall have a current term extending at least two years beyond the stated maturity date of the obligation it secures;

(3) In the case of leasehold conversion loans, second mortgages on unencumbered, improved real property as permitted under the conditions set forth in 1 CMC § 8354(a)(6).

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(4) Second mortgages on encumbered improved real property owned in fee simple or an acceptable leasehold as permitted under the conditions set forth in § 110-0-415.

(b) For purposes of this section, “improved real property” owned in fee simple is unencumbered notwithstanding the existence of:

(1) Instruments reserving mineral, oil, timber, or similar rights, rights of way, sewer rights, rights in walls, and other easement rights;

(2) Any liens for taxes or assessments not yet due;

(3) Liens not delinquent for community recreation facilities or for the maintenance of community facilities;

(4) Building restrictions or other restrictive covenants common to the community in which the property is located;

(5) Liens for service and maintenance of water rights where not delinquent. (Source: 1 CMC § 8354(a)(4).)

(c) For purposes of this section, real property under lease is unencumbered notwithstanding a reservation of rents or profits in the owner, if the security for the investment is a full and unrestricted first lien upon the real property and there is no condition or right of re-entry or forfeiture under which the investments can be cut-off, subordinated, or otherwise disturbed. (Source: 1 CMC § 8354(a)(4).)

Modified, 1 CMC § 3806(c).

History: Amdts Adopted 16 Com. Reg. 12607 (Nov. 15, 1994); Amdts Proposed 16 Com. Reg. 12426 (Sept. 15, 1994); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1994 amendments added a new subsection (a)(4).

§ 110-40-920 Construction Insurance or Performance Bond

The fund shall require the contractor to secure insurance coverage in an amount equal to the total loan to protect against builder’s risk and 100% performance bond during the construction period, and prior to completion of construction. The contractor shall name the fund the loss payee up to the amount of funds already disbursed, plus any applicable interest. Any proceeds recovered under policies secured pursuant to this section in excess of the amount to be paid to the fund, shall be paid to the contractor. Contractors for the islands of Tinian and Rota may be exempted from the requirements of this section if they submit a written denial from at least 3 casualty insurance providers.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 15 Com. Reg. 10870 (Sept. 15, 1993); Amdts Proposed 15 Com. Reg. 10494 (Mar. 15, 1993); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991).

Part 1000 - Loan Charges and Fees

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§ 110-40-1001 Interest Rate

(a) The Board of Trustees shall set the interest rate for member home loan mortgages. Changes of the interest rate may be made from time to time as the Board deems proper, provided that public notice in a newspaper of general circulation of any such changes shall have been made prior to the effective date of the change. The interest rate for first mortgages shall be the prevailing local mortgage rate minus 1%, but not less than the actuarial assumption rate plus 2%. The interest rate for second mortgages shall be the prevailing local mortgage rate plus 2%, but not less than the actuarial assumption rate plus 2%. The “prevailing local mortgage rate” means the average rate charged by local lenders providing loans similar to the Member Home Loan Program.

(b) An active member of the fund or a retiree may apply with the lender servicing the loan for an interest rate reduction if the fund’s prevailing interest rate is less than the interest rate on the borrower’s original note, subject to all of the following conditions:

- (1) The active member of the fund or retiree shall be currently residing on the mortgaged property;
- (2) The lender servicing the loan, may charge a fee of \$300 or one-half of one percent of the loan balance, whichever is greater;
- (3) Only one interest rate reduction shall be allowed during the term of the loan;
- (4) The borrower(s) shall complete a loan application and execute a revision agreement;
- (5) The loan shall be re-amortized over its remaining term;
- (6) The new interest rate shall become effective the first day of the month following the date of execution of the revision agreement by the borrower;
- (7) The mortgage loan shall have been at all times current in monthly installments;
- (8) The revision agreement shall be executed by all borrower(s).

(c) An active employee who has an outstanding member home loan who terminates government employment or ceases to be a contributing member of the fund for any reason other than for age, service, or disability retirement, will be charged the average of the mortgage rates in effect for major local banks on the date of termination.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 19 Com. Reg. 15796 (Dec. 15, 1997); Amdts Proposed 19 Com. Reg. 15411 (July 15, 1997); Amdts Adopted 17 Com. Reg. 13288 (Apr. 15, 1995); Amdts Proposed 17 Com. Reg. 12949 (Feb. 15, 1995); Amdts Adopted 16 Com. Reg. 12607 (Nov. 15, 1994); Amdts Proposed 16 Com. Reg. 12426 (Sept. 15, 1994); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Amdts Adopted 12 Com. Reg. 7387 (Sept. 15, 1990); Amdts Proposed 12 Com. Reg. 6831 (Mar. 15, 1990); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1990, 1991, 1994 and 1995 amendments amended subsection (a). The 1997 amendments added a new subsection (c).

§ 110-40-1005 Allowable Loan Charges; Prepayment Penalties

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- (a) If the borrower pays off the entire member home loan balance within one year after the date of the note, there shall be a prepayment penalty of six percent of the balance to be paid off. The prepayment penalty is assessed to recover administrative costs.
- (b) The lender may require the borrower to pay all reasonable fees and charges ordinarily charged to and paid by a borrower for a loan, except:
- (1) For the loan origination fee, the lender may charge \$300 or two percent of the loan amount, whichever is greater; and for interim construction financing that turns into permanent financing the lender may charge 2%.
 - (2) For the inspection fee, the lender may charge \$40 per inspection, but limited to four inspections for construction loans and two inspections for home improvement loans.
- (c) The lender may charge a deposit fee when the application is made. The deposit shall be credited towards the closing costs if the loan is made. If the loan fails approval, or the borrower cancels the loan application prior to approval, the deposit fee shall be returned to the applicant, less any costs chargeable to the applicant. The deposit fee shall be 3% of the total loan amount.
- (d) The lender may charge the borrower for services rendered as follows:
- | | |
|-----------------------------------|----------------------|
| (1) Credit report fee | Actual cost |
| (2) Title insurance fee | Actual cost |
| (3) Appraisal report fee | Actual cost |
| (4) Recordation fee | Actual cost |
| (5) Late payment of loan fee | 4% of amount due |
| (6) Returned check processing fee | \$20 each occurrence |

Modified, 1 CMC § 3806(e), (f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Amdts Adopted 12 Com. Reg. 7387 (Sept. 15, 1990); Amdts Proposed 12 Com. Reg. 6831 (Mar. 15, 1990); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1990 amendments amended subsections (b)(1) and (b)(2). The 1991 amendments added new subsection (d) and amended subsections (b)(1) and (c).

§ 110-40-1010 Servicing Agreements

The fund may enter into mortgage servicing agreements with participating lenders which may be reimbursed the customary fee charged by the trade. With respect to each mortgage serviced, the servicer shall furnish the fund such postings of all cash transactions affecting the mortgage as the fund may require.

Modified, 1 CMC § 3806(f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Part 1100 - Proof of Occupancy

§ 110-40-1101 Affidavit of Occupancy

Consistent with the purpose and objectives of the member home loan program, every applicant who will reside on the mortgaged property applying for a member home loan shall file with the participating lender an affidavit or declaration under penalty of perjury stating that:

(a) The applicant will occupy the mortgaged property as the applicant’s principal place of abode within forty-five days after the date of closing of the loan where an existing structure of residence is acquired, or within forty-five days after notice from the contractor or developer that the residence is ready for occupancy;

(b) The applicant will occupy the residence as a principal place of abode continuously for the initial five years of the loan term; after the expiration of the five year period, in the event the applicant sells, leases, rents, assigns, or conveys any interest to the property for any period exceeding one year, including options and rights of renewal, then all indebtedness owing by and chargeable to the applicant shall become immediately due and payable.

(c) If the applicant fails to comply with this section, any and all indebtedness owing by and chargeable to the applicant by way of a mortgage loan made on the basis of the application filed in connection with the loan shall become immediately due and payable in full, unless for good cause shown, the period to occupy is extended by the fund in writing.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 17 Com. Reg. 13533 (June 15, 1995); Amdts Proposed 17 Com. Reg. 13269 (Apr. 15, 1995); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The Commission inserted a comma after the word “conveys” in subsection (b) pursuant to 1 CMC § 3806(g). The 1991 amendments amended subsection (b). The 1995 amendments amended subsection (b).

Part 1200 - Sanctions, Delinquent Loans, and Foreclosure

§ 110-40-1201 Sanctions

(a) The applicant shall sign the application for a mortgage loan. By doing so, the applicant shall be considered to have verified the truth of all statements made in the application. The applicant shall be subject to the provisions of 1 CMC §§ 8385, et seq.

(b) If the applicant or borrower makes any false or untrue statement, intentionally or otherwise, for a mortgage loan, the fund may, after providing the opportunity for a hearing in accordance with the Administrative Procedure Act, 1 CMC §§ 9108, et seq., determine that the applicant or borrower shall not be eligible for a mortgage loan for a period up to five years after the date the fund actually learns or discovers the false or untrue statement.

(2) If the fund has already purchased the mortgage loan made to the applicant or borrower, such applicant or borrower shall not be eligible for another mortgage loan for 10 years, and the

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loan already purchased by the fund shall immediately become due and payable in full, for which the fund shall demand full payment thereof.

(c) The borrower shall be required to make immediate payment in full of all sums secured by the mortgage if the borrower fails to fulfill any promise for a mortgage or with respect to a mortgage loan or makes or has made false statement to qualify or be eligible for a mortgage loan or with respect to a mortgage loan under the Member Home Loan Program.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 31 Com. Reg. 29938 (Oct. 29, 2009); Amdts Proposed 31 Com. Reg. 29793 (Aug. 27, 2009); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Amdts Adopted 12 Com. Reg. 7387 (Sept. 15, 1990); Amdts Proposed 12 Com. Reg. 6831 (Mar. 15, 1990); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1990 amendments moved this part from former part 16 to part 15, codified at part 1200. See 11 Com. Reg. at 6266-67 (June 15, 1989). The 1990 amendments also amended subsection (b)(2). The 2009 amendments removed the former subsection (b)(2) and consolidated the former subsection (b)(1) into the body of subsection (b).

In subsection (b), the Commission changed “Procedures” to “Procedure” to correct a manifest error.

§ 110-40-1203 Delinquent Loans

(a) The following steps shall be taken in addressing delinquent loans and collection efforts.

(1) 30+ days past due – issue Delinquency Notice – 30 Days Past Due to customer requesting payment to bring account current. Continue sending DN and charging late fees as long as there are past due amounts.

(2) 60+ days past due – if account becomes more delinquent past 60 days, issue Delinquency Notice – 30 Days indicating that if the payments do not improve and account continues to deteriorate, the Fund may take legal action.

(3) 90+ days past due – if account becomes more delinquent past 90 days, issue Delinquency Notice – 90 Days Past Due indicating that if the payments do not improve within 30 days, the account will be referred to foreclosure attorney for processing.

(4) 120+ days past due – issue Final Delinquency Notice/Notice of Default, indicating account will be forwarded to foreclosure attorney immediately for processing without further notice.

(b) Allowable workout plans – Borrowers who are 120 days or more delinquent may be granted the following options to bring the account current. These are onetime options only. Any deviations or defaults on the agreed upon option shall result in the automatic transfer of the account to the foreclosure attorney for immediate processing.

(1) Fully Paid at Maturity – Borrower agrees to make payments adequate in amounts to payoff the loan by the original maturity date inclusive of penalty fees.

(2) Balloon Payment – Borrower agrees to make payments adequate in amounts to pay down the loan to at most 1/4th of the original loan amount with balloon payment at the original maturity date inclusive of penalty fees.

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- (3) Refinance – Loan total outstanding balance including past due and penalties due over a new 360 month term. The refinance loan shall be processed as if a new loan under these regulations.
- (4) Deed in Lieu of Foreclosure – provided that Loan-to-Value Ratio is at most 75% of current appraised value.

History: Adopted 31 Com. Reg. 29938 (Oct. 29, 2009); Proposed 31 Com. Reg. 29793 (Aug. 27, 2009).

Commission Comment: The paragraphs of this section were undesignated in the original regulation. The Commission designated them as subsections (a) and (b). The Commission inserted periods at the ends of subsections (a)(1) through (a)(4), (b)(1), and (b)(4) pursuant to 1 CMC § 3806(g).

§ 110-40-1205 Foreclosure and Post Foreclosure

(a) The Fund shall comply with such foreclosure restrictions as are established by 1 CMC § 8374(a)(6) and other applicable law. Delinquent borrowers who are either unwilling or unable to adhere to work out plans provided in section 110-40-1203 shall be deemed not recoverable and shall be forwarded to the Fund's foreclosure attorney. Should at any time the delinquent borrower propose another work out plan, borrower must present the plan directly to the Board of Trustees for consideration. In no instance shall Fund management advise delinquent borrowers in foreclosure except that:

- (1) they have the option to be heard by the board, or
- (2) hire an attorney.

(b) While in foreclosure, foreclosure attorney may market the property and list it with a real estate agent or broker on a non-exclusive basis. Fund shall obtain a full appraisal report on each mortgaged property in foreclosure at the start of the foreclosure process. The defaulted borrower shall be legally evicted from the property so that it can be marketed and shown to potential buyers. Interested parties must sign an agreement indemnifying and holding the Board and the Fund harmless of any and all injuries or damages that might occur while viewing the property.

(c) Foreclosure Sale/Public Auction – Fund shall enter a credit bid at the auction for not less than the most recent appraised value. Deficient amounts shall be pursued to the extent permitted by law unless otherwise indicated by the Board of Trustees.

(d) Post Foreclosure – Should the Fund purchase the property at auction, the property shall be marketed for sale by the Fund. Copies of relevant pages of the appraisal reports shall be made available to interested parties and shown the property.* Interested parties must sign an agreement indemnifying and holding the Board and the Fund harmless of any and all injuries or damages that might occur while viewing the property. The Fund shall only entertain written offers and all such offers shall be presented to the Board of Trustees within reasonable time for consideration. Only the Board may accept or reject an offer.

(e) Fund management must report status of all delinquency to Board of Trustees at regular meetings or to Finance & Investment Committee. The report must include a list of each delinquent borrower and an update on status.

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* So in original.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 31 Com. Reg. 29938 (Oct. 29, 2009); Amdts Proposed 31 Com. Reg. 29793 (Aug. 27, 2009); Amdts Adopted 15 Com. Reg. 10870 (Sept. 15, 1993); Amdts Proposed 15 Com. Reg. 10494 (Mar. 15, 1993); Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The paragraphs of this section were undesignated in the original regulation. The Commission designated them as subsections (a) through (e) pursuant to 1 CMC § 3806(a).

The 2009 amendments amended subsection (a) and added subsections (b) through (e).

Part 1300 - Reconsideration of Loan Application

§ 110-40-1301 Request for Review

(a) If an application for a loan is not approved by the fund, the applicant may request the Board of Trustees, in writing, to review and reconsider any decision or determination relating to the application, except that the applicant's credit reputation or creditworthiness shall be a matter solely for the lender to determine.

(b) A borrower under an existing member home loan may request the Board to review or reconsider any decision or determination relating to the loan.

(c) The request for review and reconsideration shall be in writing, and shall be filed with the fund within thirty days after receipt of the notice of disapproval, and shall contain a statement of the facts and include copies of all documents upon which the applicant or borrower relies in support of the request for review. The Board may appoint a hearing officer from among its members to conduct such a review.

(d) The Board may request the submission of additional information or documents and may request the applicant or borrower to appear at a specified place, date, and time to submit oral testimony in support of the request for review.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Amdts Adopted 12 Com. Reg. 7387 (Sept. 15, 1990); Amdts Proposed 12 Com. Reg. 6831 (Mar. 15, 1990); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The 1990 amendments moved this part from former part 15 to part 16, codified at part 1300. See 11 Com. Reg. at 6266 (June 15, 1989). The 1990 amendments amended subsection (c).

The Commission inserted a comma after the word "date" in subsection (d) pursuant to 1 CMC § 3806(g).

Part 1400 - Miscellaneous Provisions

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§ 110-40-1401 Headings

Headings or titles of sections contained herein are for convenience and shall not be used in construction or application of any section contained herein.

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

Commission Comment: The Commission changed the title of this part from “General Provisions” to “Miscellaneous Provisions” to maintain consistency throughout the administrative code.

§ 110-40-1405 Severability

If any part or section of the regulations in this chapter are found to be invalid by a court of competent jurisdiction, all valid portions that are severable shall remain in effect. If a part or section hereof is invalid in one or more of its applications, that part remains in effect in all valid applications that are severable from its invalid applications.

Modified, 1 CMC § 3806(d).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).

§ 110-40-1410 Effective Date

The effective date of the regulations in this chapter shall be pursuant to 1 CMC § 9105(b).

Modified, 1 CMC § 3806(d).

History: Amdts Certified 14 Com. Reg. 8653 (Jan. 15, 1992); Amdts Adopted 13 Com. Reg. 8235 (Oct. 15, 1991); Amdts Proposed 13 Com. Reg. 7671 (Apr. 15, 1991); Adopted 11 Com. Reg. 6244 (June 15, 1989); Proposed 11 Com. Reg. 5803 (Jan. 15, 1989).