I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Bill No. 463-31 (COR), "AN ACT TO ADOPT THE GUAM HOUSING CORPORATION ADMINISTRATIVE RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THE FIRST-TIME HOMEOWNER ASSISTANCE PROGRAM",** was on the 4th day of June, 2012, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 7th day of June, 2012, at 1:10 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

Bill No. 463-31 (COR)
As amended on the Floor.

Introduced by: T. R Muña Barnes
Judith T. Won Pat, Ed.D.
T. C. Ada
V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Dueñas
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
Adolpho B. Palacios, Sr.
V. C. Pangelinan
Dennis G. Rodriguez, Jr.
R. J. Respicio
M. Silva Taijeron
Aline A.Yamashita, Ph.D.

AN ACT TO ADOPT THE GUAM HOUSING CORPORATION ADMINISTRATIVE RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THE FIRST-TIME HOMEOWNER ASSISTANCE PROGRAM.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Pursuant to §4705 (e) of Chapter 4, Title 12, Guam Code Annotated, the Guam Housing Corporation Administrative Rules and Regulations for the implementation of the First-Time Homeowner Assistance Program are hereby adopted.

"**First-Time Homeowner Assistance Program**

Article 1. General Provisions.
Article 2. Definitions.
Article 3. First-Time Homeowner Assistance Program.
Article 4. Application for Assistance.
Article 5. Administration.
Article 6. Funding.

Article 1
General Provisions

§ 101. Authority. The Rules and Regulations are hereby implemented pursuant to §4705(e) of Article 7, Chapter 4, Title 12 of the Guam Code Annotated.

§ 102. Scope. The Guam Housing Corporation *shall* establish and publish rules and regulations necessary to implement the First-Time Homeowner Assistance Program as enacted by Public Law 31-166.

§ 103. Communication. Communication concerning the First-Time Homeowner Assistance Program may be made to:

President
Guam Housing Corporation
P.O. Box 3457
Hagåtña, Guam 96932

§ 104. Computing Time. The following rules apply in computing any period of time specified in these rules:

(a) exclude the day of the act, event, or default that begins the period;

(b) exclude intermediate Saturdays, Sundays and legal holidays when the period is *less than* eleven (11) days; and

(c) include the last day of the period *unless* it is a Saturday, Sunday, legal holiday, or, if the act to be done is filing a paper in court, a day on which the weather or other conditions make the court clerk's office inaccessible.

Article 2

Definitions

§ 201. Definitions. The following words and phrases, when used in these rules and regulations, *shall* have the meaning ascribed to them in this Section.

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

(b) *Applicant* means any individual or family who is applying for first-time homeowner assistance under the First-Time Homeowner Assistance Program Act (Public Law 31-166).

(c) *Assistance* means assistance under the First-Time Homeowner Assistance Program Act (Public Law 31-166).

(d) *Commencement date* means, for the purchase of a home, the date when the contract is signed between the buyer and the seller. In the case of an applicant building a home, the date when the construction contract for the home is signed by both parties.

(e) *Completed* means, in reference to a completion date for an eligible transaction and in the case of an applicant purchasing a home, the date the purchaser becomes entitled to possession of the

home under the contract and if the purchaser is to obtain a registered title to the land on which the home is situated, the necessary steps to obtain registration of the title have been taken in reference to an applicant building a home, the building is ready for occupancy as identified by the issuance of a certificate of occupancy by the Guam Department of Public Works, or the execution of a contract for the purchase of a home, whichever occurs first.

(f) *Comprehensive home building contract* means a contract under which a builder undertakes to build a home on land, from the inception of the building work to the point where the home is ready for occupation; and if, for any reason, the work to be carried out under such a contract is not completed, includes any further contract under which the work is to be completed.

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

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

(i) *Eligibility criteria* mean a natural person who is a United States citizen, or a permanent resident alien, and who has been a resident of Guam for a period of *not less than* five (5) years immediately preceding the commencement date of the eligible

transaction for which the applicant is applying, and otherwise meet the requirements of §4703(b) of Article 7, Chapter 4, Title 12 of the Guam Code Annotated.

(j) *Eligible transaction* means a contract for the purchase of a home in Guam the cost of which *shall not* exceed Two Hundred Fifty Thousand Dollars ($250,000), inclusive of any down payment and closing cost. An eligible transaction *shall* also include a home building contract made by the owner of land, or a person who will on completion of the building contract and closing of the loan be the owner of the land, to have a home built on that land, the contract price of which *shall not* exceed Two Hundred Fifty Thousand Dollars ($250,000), inclusive of any down payment, the cost of the land and closing cost.

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

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

(m) *Financial institution* means any financial institution authorized to make mortgage loans on Guam, as approved by the Guam Housing Corporation.

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

per, semester or quarter or equivalent term, necessary for the school to certify full-time status.

(o) *GHC* means the Guam Housing Corporation, its officers, employees, agents and designees.

(p) *Home* means a permanent, single family dwelling, or single family condominium or town house, but *does not* include semi-permanent dwellings made of wood and tin, and is to be physically occupied by the homeowner on a regular and continuous basis, and in which the homeowner intends to exclusively reside.

(q) *Natural person* means a human being.

(r) *Land cost* means costs to purchase land toward the construction of a home.

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

(t) *Occupancy requirement* means the requirement that an applicant for First-time Homeowner Assistance must occupy the home to which the application relates as the applicant's principal place of residence within six (6) months after the completion of the eligible transaction.

(u) *Owner* means the person who has the absolute dominion over the property, and may use it or dispose of it according to his or her pleasure, subject only to general laws.

(v) *Spouse* is the person who is legally married to the owner.

§ 202. Construction. Unless specifically stated otherwise, in these rules and regulations pronouns of either gender apply equally to the other

gender, the singular of a noun includes the plural and the plural includes the singular, and phrases in the conjunctive include the disjunctive.

Article 3

First-Time Homeowner Assistance Program

§ 301. Entitlement to Assistance. Eligible applicants engaged in eligible transactions may receive assistance under the First-Time Homeowner Assistance Program.

§ 302. Eligibility Criteria. Subject to the requirements of §4703 of Article 7, Chapter 4, Title 12 of the Guam Code Annotated, United States citizens and permanent resident aliens who are residents of Guam are eligible for assistance.

§ 303. Who is a Resident of Guam. For purposes of this program, a resident of Guam is a United States citizen or permanent resident alien who has been a bona fide resident of Guam for *not less than* five (5) years immediately preceding the commencement date of the eligible transaction for which the applicant is applying. Indicia of residence on Guam *shall* include, but *not* be limited to, payment of Guam personal income taxes, or filing of tax returns, as evidenced by a certification from the Department of Revenue and Taxation evidencing payment or filing of tax returns for the five (5) calendar years immediately preceding the commencement date of the eligible transaction; maintaining and occupying, but not owning, a home or other living accommodation on Guam as evidenced by a lease agreement(s) or other documentation for the five (5) calendar years immediately preceding the commencement date of the eligible transaction; having temporarily departed Guam with the intention of returning and not

being registered to vote in any other jurisdiction since departing Guam, and/ or being a registered voter on Guam for the five (5) calendar years immediately preceding the commencement date of the eligible transaction as evidenced by a certification from the Guam Election Commission.

(a) **Exceptions.** An applicant who has *not* been a *bona fide* resident of Guam for *not less than* five (5) years immediately preceding the commencement date of the eligible transaction for which the applicant is applying may nevertheless qualify *if* his failure to meet the residency requirement was due to active service in a United States armed force or attendance at an off-island institution of higher learning, provided, he was a five (5) year resident for the period immediately preceding such active duty or education.

(b) **Home Ownership Education Program.** All applicants must attend and complete a home ownership education workshop as approved of or provided by GHC.

(c) **Fees.** If the GHC provides the Home Ownership Education Program, all applicants *shall* pay a fee in the amount of up to Seventy-Five Dollars ($75.00), payable by the applicant at the time of closing, to allay costs of the program.

§304. Preference. Demand for assistance by United States citizens *shall* be satisfied before considering applications for assistance from otherwise eligible permanent resident aliens.

(a) **Order.** Applications for assistance *shall* be considered in the order received by the GHC.

§ 305. When Demand is Satisfied. Demand for assistance by United States citizens *shall* be deemed satisfied when there remains funds

available to award assistance to a permanent resident alien after subtracting from the program funds the amount of all acceptable and payable applications filed with the GHC from United States citizens. In the event the application for assistance of a permanent resident alien is under consideration and demand becomes unsatisfied, the permanent resident alien's application *shall* still be considered in the same manner as that of a United States citizen.

§ 306. Affidavit of Occupancy. Within six (6) months of the completion of the eligible transaction, an applicant must file with the GHC an affidavit, in a form approved by the GHC, evidencing their occupancy of the home to which the application relates as the applicant's principal place of residence. As part of the application, the applicant must agree that in the event he fails to file such an affidavit, then the applicant will pay to the GHC an administrative penalty in the amount of ten percent (10%) of the amount disbursed, in addition to filing an affidavit.

§ 307. Eligible Transaction Amount. The amount of an eligible transaction *shall* be *no more than* Two Hundred Fifty Thousand Dollars ($250,000), inclusive of any down payment, land purchase cost and closing cost.

(a) **Adjustment.** The amount of an eligible transaction may be raised or lowered by resolution of the Board of Directors of the Guam Housing Corporation to reflect changes in market price and based at least in part upon a determination of the median home price on Guam.

(b) **Determining Median Housing Price.** The Board of Directors of the Guam Housing Corporation *shall*, but *not less than*

every five (5) years commencing from the date *I Maga'lahen Guåhan* signed Public Law 31-166 into law, conduct a study to determine the median home price on Guam.

Article 4

Application for Assistance

§ 401. Application for Assistance. Applications for assistance under the program must be made on forms, and in the manner, provided by the GHC.

(a) **Approved Forms are Appended Hereto.** Forms are subject to revision and amendment as deemed necessary by the Guam Housing Corporation.

§ 402. Time for Application. Applications for assistance can be made on or after the commencement date of the eligible transaction and before the eligible transaction is completed.

(a) **Applications Out of Time.** In *no* event may an application for assistance made before the commencement date or after the date the eligible transaction is completed be treated as timely.

§ 403. Disqualification from the Program. Any applicant who intentionally supplies false information as part of the application for assistance *shall* be disqualified from assistance under the program.

(a) **Recovery of Disbursed Funds.** *If* the GHC has disbursed funds to an applicant who is shown to have intentionally submitted false information, the GHC *shall* recover those funds through a civil action or otherwise.

(b) **Recoupment and Penalty.** As part of the application, the applicant must agree that in the event he has intentionally submitted false information in support of his application, then applicant will reimburse the GHC in the amount of assistance disbursed, and pay an administrative penalty in the amount of ten percent (10%) of the amount disbursed. This recoupment and penalty is in addition to, and not in place of, any other civil or criminal penalty or cause of action.

§ 404. Denial of an Application. Where the GHC denies an application for assistance, it *shall* give notice to the applicant within thirty (30) days following the date of receipt of the application.

(a) **Notice.** Notice to an applicant is deemed complete upon actual service to the applicant or upon deposit of the notice for delivery with the United States Postal Service to the applicant's last, best known address. Applicant *shall* be conclusively presumed to have received the notice upon actual service or on the third day following deposit of the notice with the United States Postal Service, *or* whichever date is the earlier.

(b) **Address.** An applicant's last, best known address is that address last provided to the GHC on the application for assistance.

§ 405. Participation of Financial Institution. The Guam Housing Corporation *shall* develop and maintain a list of financial institutions authorized to participate in this program. Each such financial institution must be an approved Freddie Mac, Fannie Mae, FHA, Rural Development or Veteran's Administration lender to participate in this program.

Article 5

Administration

§ 501. Certificate of First-time Homeownership. GHC *shall* issue a Certificate of First-time Homeownership (Certificate) to eligible applicants. Eligible Applicants are those applicants that meet the requirements of Article 3 of these Rules and Regulations

(a) **Transferability.** Certificates *shall not* be transferable, *except* between joint holders of an original Certificate, and it *shall not* be transferred to a new and separate home. In case of the death of the holder of an original Certificate, the Certificate *shall* terminate, *unless* the home covered by the Certificate becomes the home of the decedent's heirs, and they acquire the title to the property within two (2) years of the death.

§ 502. Amount of Assistance. The amount of the First-time Homeowner Assistance is four percent (4%) of the eligible transaction.

(a) **Payment of Assistance.** First-time Homeowner Assistance *shall* be paid by electronic funds transfer, by check, or in any other way the GHC finds appropriate. First-time Homeowner Assistance *shall* be paid to the financial institution authorized by the GHC and selected by the applicant which has approved a mortgage loan or construction loan for the applicant for an eligible transaction.

(b) **Payment in Anticipation of Compliance with Occupancy Requirement.** The GHC may authorize payment of First-time Homeowner Assistance in anticipation of compliance with the occupancy requirement. If the occupancy requirement is *not* complied with, the applicant must, within fifteen (15) days after the

relevant date, give written notice of that fact to the GHC and repay the amount of assistance. The relevant date is the earlier of the following:

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

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

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

(1) transferred or conveyed;

(2) sold; or

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

Article 6

Funding

§ 601. Funding. The GHC *shall* provide the funding source for the First-time Homeowner Assistance Program from its current revenues and/or income.

(a) **Funding Source.** Five Hundred Thousand Dollars ($500,000) is appropriated from the GHC annual revenues and/or income to the Fund as seed capital for the First-Time Homeowner

Assistance Program. If the GHC annual operating revenue and/or income are *not* sufficient to fully fund the seed capital, such seed capital is hereby appropriated from the GHC fund balance or its equivalent.

(b) **Continuing Funding.** For the fiscal years thereafter, up to Five Hundred Thousand Dollars ($500,000) is hereby appropriated from the GHC's annual revenues as needed to ensure the reserved balance of the Fund is *at least* Five Hundred Thousand Dollars ($500,000) at the beginning of each fiscal year. If the GHC's annual revenues and/or income are *not* sufficient to provide the funding in any fiscal year, the difference between what is required and what is appropriated from the GHC's annual revenues and/or income, is hereby appropriated from the GHC's fund balance or its equivalent."

Section 2. §4702(b) of Article 7, Chapter 4, Title 12 of the Guam Code Annotated is hereby *amended* to read as follows:

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

Section 3. §4704(i) of Article 7, Chapter 4, Title 12 of the Guam Code Annotated is hereby *amended* to read as follows:

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

Trust Fund. The funds from the ten percent (10%) penalty *shall* be deposited into the GHC's bank account(s) for operational uses."

Section 4. §4705(f) of Article 7, Chapter 4, Title 12 of the Guam Code Annotated is hereby *amended* to read as follows:

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

(1) transferred or conveyed;

(2) sold; or

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

The funds that were disbursed on behalf of such an applicant that are repaid *shall* be deposited back into the Housing Trust Fund. The funds from the ten percent (10%) penalty *shall* be deposited into the GHC's bank account(s) for operational uses."

Section 5. Severability. *If* any provisions of this Act or the application thereof to any person or circumstance is held invalid, such invalidity *shall not* affect any other provision or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.