

I Mina'Trentai Unu Na Liheslaturan Guahan

Bill Log Sheet

BILL NOS.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	120 DAY DEADLINE	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	STATUS
463-31 (COR)	T. R Muña Barnes	AN ACT TO ADOPT THE GUAM HOUSING CORPORATION ADMINISTRATIVE RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THE FIRST-TIME HOMEOWNERS ASSISTANCE PROGRAM	5/22/12 4:16 p.m.	5/22/12		Committee on Municipal Affairs, Tourism, Housing and Recreation			



COMMITTEE ON RULES

I Mina'trentai Unu na Liheslaturan Guåhan • The 31st Guam Legislature

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May 22, 2012

MEMORANDUM

To: Pat Santos
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio
Majority Leader & Rules Chair

Subject: Referral of Bill Nos. 462-31 (COR) & 463-31 (COR)

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 462-31 (COR) and 463-31 (COR).

Please ensure that the subject bills are referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Unu na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

(2) Attachment

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

Bill No. 463-31 (cor)

Introduced by:

T. R Muña Barnes

[Signature]

2012 MAY 22 PM 4: 16

[Signature]

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

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

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

6 **“First-Time Homeowner Assistance Program**

7 **Article 1. General Provisions.**

8 **Article 2. Definitions.**

9 **Article 3. First-Time Homeowner Assistance**
10 **Program.**

11 **Article 4. Application for Assistance.**

12 **Article 5. Administration.**

13 **Article 6. Funding.**

14 **Article 1.**

15 **General Provisions.**

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

4 **§102. Scope.** The Guam Housing Corporation shall establish
5 and publish rules and regulations necessary to implement the First-
6 Time Homeowners Assistance Program as enacted by Public Law 31-
7 166.

8 **§103. Communication.** Communication concerning the First-
9 Time Homeowners Assistance Program may be made to:

10 President

11 Guam Housing Corporation

12 PO Box 3457

13 Hagåtña, Guam 96932

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

16 (1) exclude the day of the act, event, or default that
17 begins the period;

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

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

24 **Article 2.**

25 **Definitions.**

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

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

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

14 (c) *Assistance* means assistance under the First-Time
15 Homeowner Assistance Program Act (Public Law 31-
16 166).

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

22 (e) *Completed* means, in reference to a completion date for
23 an eligible transaction and in the case of an applicant
24 purchasing a home, the date the purchaser becomes
25 entitled to possession of the home under the contract and
26 if the purchaser is to obtain a registered title to the land
27 on which the home is situated, the necessary steps to

1 obtain registration of the title have been taken in
2 reference to an applicant building a home, the building is
3 ready for occupancy as identified by the issuance of a
4 certificate of occupancy by the Guam Department of
5 Public Works, or the execution of a contract for the
6 purchase of a home, whichever occurs first.

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

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

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

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

1 of the eligible transaction for which the applicant is
2 applying and otherwise meet the requirements of
3 §4703(b) of Article 7, Chapter 4, Title 12 of the Guam
4 Code Annotated.

5 (j) *Eligible transaction* means a contract for the purchase of
6 a home in Guam the cost of which shall not exceed Two
7 Hundred Fifty Thousand Dollars \$250,000.00 inclusive
8 of any down payment and closing cost. An eligible
9 transaction shall also include a home building contract
10 made by the owner of land, or a person who will on
11 completion of the building contract and closing of the
12 loan be the owner of the land, to have a home built on
13 that land the contract price of which shall not exceed
14 Two Hundred Fifty Thousand Dollars \$250,000.00
15 inclusive of any down payment, the cost of the land and
16 closing cost.

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

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

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

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

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

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

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

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

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

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

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

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

6 **§202. Construction.** Unless specifically stated otherwise, in
7 these rules and regulations pronouns of either gender apply equally to
8 the other gender, the singular of a noun includes the plural and the
9 plural includes the singular, and phrases in the conjunctive include the
10 disjunctive.

11 **Article 3.**

12 **First-Time Homeowner Assistance Program.**

13 **§301. Entitlement to Assistance.** Eligible applicants engaged
14 in eligible transactions may receive assistance under the First-Time
15 Homeowners Assistance Program.

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

20 **§303. Who is a Resident of Guam.** For purposes of this
21 program, a resident of Guam is a United States citizen or permanent
22 resident alien who has been a bona fide resident of Guam for not less
23 than five (5) years immediately preceding the commencement date of
24 the eligible transaction for which the applicant is applying. Indicia of
25 residence on Guam shall include, but not be limited to, payment of

1 Guam personal income taxes, or filing of tax returns, as evidenced by
2 a certification from the Department of Revenue and Taxation
3 evidencing payment or filing of tax returns for the five calendar years
4 immediately preceding the commencement date of the eligible
5 transaction, maintaining and occupying, but not owning, a home or
6 other living accommodation on Guam as evidenced by a lease
7 agreement(s) or other documentation for the five calendar years
8 immediately preceding the commencement date of the eligible
9 transaction, having temporarily departed Guam with the intention of
10 returning and not being registered to vote in any other jurisdiction
11 since departing Guam, and/ or being a registered voter on Guam for
12 the five calendar years immediately preceding the commencement
13 date of the eligible transaction as evidenced by a certification from the
14 Guam Election Commission.

15 **§303 (a). Exceptions.** An applicant who has not been a
16 bona fide resident of Guam for not less than five (5) years
17 immediately preceding the commencement date of the eligible
18 transaction for which the applicant is applying may nevertheless
19 qualify if his failure to meet the residency requirement was due to
20 active service in a United States armed force or attendance at an off-
21 island institution of higher learning provided he was a five (5) year
22 resident for the period immediately preceding such active duty or
23 education.

24 **§303 (b). Home Ownership Education Program.** All
25 applicants must attend and complete a home ownership education
26 workshop as approved of or provided by GHC.

1 **§303 (c). Fees.** If the GHC provides the Home Ownership
2 Education Program, all applicants shall pay a fee in the amount of up
3 to Seventy-Five Dollars (\$75.00), payable by the applicant at the time
4 of closing, to allay costs of the program.

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

8 **§304 (a). Order.** Applications for assistance shall be
9 considered in the order received by the GHC.

10 **§305. When Demand is Satisfied.** Demand for assistance by
11 United States citizens shall be deemed satisfied when there remains
12 funds available to award assistance to a permanent resident alien after
13 subtracting from the program funds the amount of all acceptable and
14 payable applications filed with the GHC from United States citizens.
15 In the event the application for assistance of a resident permanent
16 alien is under consideration and demand becomes unsatisfied, the
17 permanent resident alien's application shall still be considered in the
18 same manner as that of a United States citizen.

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

1 **§402 (a). Applications Out of Time.** In no event may an
2 application for assistance made before the commencement date or
3 after the date the eligible transaction is completed be treated as timely.

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

7 **§403 (a). Recovery of Disbursed Funds.** If the GHC has
8 disbursed funds to an applicant who is shown to have intentionally
9 submitted false information, the GHC shall recover those funds
10 through a civil action or otherwise.

11 **§403 (b). Recoupment and Penalty.** As part of the
12 application, the applicant must agree that in the event he has
13 intentionally submitted false information in support of his application,
14 then applicant will reimburse the GHC in the amount of assistance
15 disbursed and pay an administrative penalty in the amount of ten per
16 centum (10%) of the amount disbursed. This recoupment and penalty
17 is in addition to, and not in place of, any other civil or criminal
18 penalty or cause of action.

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

22 **§404 (a). Notice.** Notice to an applicant is deemed complete
23 upon actual service to the applicant or upon deposit of the notice for
24 delivery with the United States Postal Service to the applicant's last,
25 best known address. Applicant shall be conclusively presumed to
26 have received the notice upon actual service or on the third day

1 following deposit of the notice with the United States Postal Service,
2 or whichever date is the earlier.

3 **§404 (b). Address.** An applicant's last, best known address
4 is that address last provided to the GHC on the application for
5 assistance.

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

12 **Article 5.**

13 **Administration.**

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

18 **§501 (a). Transferability.** Certificates *shall not* be
19 transferable, *except* between joint holders of an original Certificate,
20 and it *shall not* be transferred to a new and separate home. In case of
21 the death of the holder of an original Certificate, the Certificate *shall*
22 terminate, unless the home covered by the Certificate becomes the
23 home of the decedent's heirs, and they acquire the title to the property
24 within two (2) years of the death.

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

1 **§502 (a). Payment of Assistance.** First-time Homeowner
2 Assistance shall be paid by electronic funds transfer, by check, or in
3 any other way the GHC finds appropriate. First-time Homeowner
4 Assistance *shall* be paid to the financial institution authorized by the
5 GHC and selected by the applicant which has approved a mortgage
6 loan or construction loan for the applicant for an eligible transaction.

7 **§502 (b). Payment in Anticipation of Compliance with**
8 **Occupancy Requirement.** The GHC may authorize payment of
9 First-time Homeowner Assistance in anticipation of compliance with
10 the occupancy requirement. If the occupancy requirement is *not*
11 complied with, the applicant must, within fifteen (15) days after the
12 relevant date, give written notice of that fact to the GHC and repay the
13 amount of assistance. The relevant date is the earlier of the following:

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

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

19 **§502 (b). Repayment of Assistance.** A first-time
20 homeowner shall repay to the Housing Trust Fund an amount equal to
21 the total assistance received by the homeowner with interest at the rate
22 of ten percent (10%) per annum if, within five (5) years after receipt
23 of the assistance, the home is:

24 (1) transferred or conveyed;

25 (2) sold; or

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

1 **Article 6.**

2 **Funding.**

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

6 **§601 (a). Funding Source.** Five Hundred Thousand Dollars
7 (\$500,000) is appropriated from the GHC annual revenues and/or
8 income to the Fund as seed capital for the First-Time Homeowners
9 Assistance Program. If the GHC annual operating revenue and/or
10 income are not sufficient to fully fund the seed capital, such seed
11 capital is hereby appropriated from the GHC fund balance or its
12 equivalent.

13 **§601 (b). Continuing Funding.** For the fiscal years
14 thereafter, up to Five Hundred Thousand Dollars (\$500,000) is hereby
15 appropriated from the GHC's annual revenues as needed to ensure the
16 reserved balance of the Fund is *at least* Five Hundred Thousand
17 Dollars (\$500,000) at the beginning of each fiscal year. If the GHC's
18 annual revenues and/or income are not sufficient to provide the
19 funding in any fiscal year, the difference between what is required and
20 what is appropriated from the GHC's annual revenues and/or income,
21 is hereby appropriated from the GHC's fund balance or its
22 equivalent.”

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

25 “(b) *Applicant* means any individual or family who is applying for
26 First-time Homeowner Assistance-Relief.”

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

3 “Any applicant who intentionally supplies false information on the
4 application for assistance under this Act *shall* automatically be disqualified
5 from the First-time Homeowner Assistance Program. In the event that funds
6 are disbursed on behalf of such an applicant, the applicant *shall* be assessed
7 a penalty of ten percent (10%), in addition to repaying the amount disbursed
8 by the GHC. The funds that were disbursed on behalf of such an applicant
9 that are repaid *shall* be deposited back into the ~~First-time Homeowner~~
10 ~~Assistance-Housing Trust~~ Fund. The funds from the ten percent (10%)
11 penalty *shall* be deposited into the GHC’s bank account(s) for operational
12 uses.”

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

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

20 **Section 5. Effective Date.** This Act shall be effective upon
21 enactment into law.

22 **Section 6. Severability.** If any provisions of this Act or the
23 application thereof to any person or circumstance is held invalid, such
24 invalidity *shall* not affect any other provision or application of this Act
25 which can be given effect without the invalid provision or application, and to
26 this end the provisions of this Act are severable.