

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

Bill No. 463-31 (con)

Introduced by:

T. R Muña Barnes

2012 MAY 9 2 PM 4: 16  
*[Handwritten 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.

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**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.

**§601 (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 Homeowners 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.

**§601 (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.** Section 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-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.