

CHAPTER 4
GUAM HOUSING CORPORATION

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Article 1. General Provisions

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§4101. Creation of Corporation: Name. In order to promote the general welfare of the inhabitants of the territory of Guam through the improvement of housing standards in Guam, there is created a body corporate to be known as the Guam Housing Corporation, hereinafter referred to as the Housing Corporation. The Housing Corporation shall be subject to the general direction of the Governor of Guam.

SOURCE: §20000 GC.

§4102. Principal Offices. The Housing Corporation shall have its principal offices in the territory of Guam and shall be deemed to be an inhabitant of this jurisdiction. The Housing

Corporation may establish offices in such place or places as it may deem necessary or appropriate in the conduct of its business.

SOURCE: §20001 GC.

§4103. Authorized Activities of Corporation. The Housing Corporation is authorized to engage in the following activities when it finds that such activities will further the purposes of this Chapter and will not conflict with the encouragement and promotion of private enterprise in the territory of Guam:

(a) To encourage and promote the investment of private capital in low and moderate income residential housing in Guam. The Housing Corporation shall formulate its policies so as to encourage and promote the investment of capital owned by residents of Guam.

(b) To engage in land-use planning for residential housing purposes to the end that the most economic and socially beneficial use may be made of land, and to encourage and assist private persons and organizations to act in accordance with the results of such planning.

(c) To encourage and engage in low and moderate income housing activities, including development of residential subdivisions, construction of housing for rental or resale, and to make loans to any person for the purchase, construction, improvement or repair of a home. All loans so made shall be of such sound value or so secured as reasonably to assure repayment, taking into consideration the policy of the Legislature that the lending powers of the Guam Housing Corporation (the "Corporation") shall be administered as a means of accomplishing the purposes stated in §4101 of this Chapter, and shall bear interest at a rate to be determined by the Board of Directors of the Corporation but not exceeding the Federal Housing Administration rate.

Loans should be made to the residents of Guam to enable them to purchase or construct permanent homes which are typhoon resistant.

Fifty Limit 18014

All loans for the purchase or construction of such homes shall not exceed Eighty Thousand Dollars (\$80,000). An additional sum, not to exceed Fifty Thousand Dollars (\$50,000), may be borrowed for the purchase of land upon which the building is to be constructed. If the borrower already owns land upon which to construct a building, the Fifty Thousand Dollars (\$50,000) to purchase land may be applied for purchase or construction of a building. Loans shall be given only to residents who have been unable to obtain conventional financing from commercial lending institutions, including but not limited to banks and savings and loan associations. At least three (3) written loan refusals from commercial lending institutions shall be presented upon application for a Corporation loan.

(d) To encourage and promote the construction of housing units for rent within the capacity of families of low and moderate income. To assist in the development of tourist hotel facilities as provided in this Chapter.

SOURCE: §20002 GC; Subsections (a) and (c) amended by P.L. 16-42; Subsection (c) further amended by P.L. 18-2 and P.L. 18-34. Subsection (c) R/R by P.L. 20-210:13.

§4104. General Powers: Termination Date. The Housing Corporation shall have, and may exercise, the following general powers in carrying on the activities specified in this Chapter:

(a) To have succession for fifty (50) years, unless sooner dissolved by Act of the Legislature. *Indefinite*

(b) To adopt, alter and use a corporate seal, which shall be judicially noticed.

(c) To adopt, amend and repeal by laws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law.

(d) To sue and to be sued in its corporate name.

(e) To determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed and paid, subject to the laws applicable specifically to government corporations.

(f) To acquire, in accordance with Title VII-A of the Government Code and the laws of Guam, any property, real, personal or mixed, tangible or intangible, to hold, maintain, use and operate the same; and to sell, lease or otherwise dispose of the same, whenever any of the foregoing transactions are deemed necessary or appropriate to the conduct of the activities authorized by this Chapter, and on such terms as may be prescribed by the Housing Corporation.

(g) To enter into and perform such contracts, leases, cooperative agreements or other transactions with any agency or instrumentality of the United States, or with any state, territory or possession, or with any political subdivision thereof, or with any person, firm, association or corporation, as may be deemed necessary or appropriate to the conduct of the activities authorized by this Chapter, and on such terms as may be prescribed by the Housing Corporation. Provided, that in no case shall the Housing Corporation contract to undertake an activity for any agency or instrumentality of the United States, or for any state, territory or possession, or for any political subdivision thereof, unless the latter is authorized by law to undertake such activity and furnishes the funds for such purpose.

(h) To execute all instruments necessary or appropriate in the exercise of any of its functions.

(i) To appoint, pursuant to the provisions of the personnel rules adopted pursuant to 4 GCA §§4105 and 4106, such officers, agents, attorneys and employees, as may be necessary for the conduct of the business of the Housing Corporation; to delegate to them such powers and to prescribe for them such duties as may be deemed appropriate by the Housing Corporation; to fix and pay such compensation to them for their services as the Housing Corporation may determine, without regard to the compensation laws and to require bonds from such of them as the Housing Corporation may designate, the premiums, therefore, to be paid by the Housing Corporation. Any member of said Board who is found by the Governor or his representative to be guilty of a violation of this Section shall be removed from office

by the Governor and any appointee of said Board who is found by the Board to be guilty of a violation of this Section shall be removed from office by said Board. The Housing Corporation shall give due consideration to residents of Guam in the selection and promotion of its officers and employees.

(j) To accept gifts or donations of services or of property -- real, personal or mixed, tangible or intangible -- in aid of any of the activities authorized by this Chapter.

(k) To settle and adjust claims held by it against other persons or parties and by other persons or parties against the Housing Corporation.

(l) To take such action as may be necessary or appropriate to carry out the powers and duties herein or hereafter specifically granted to or imposed upon it.

(m) To borrow funds required to finance or refinance its revenue producing projects by the issuance, from time to time, of bonds, notes or other evidences of indebtedness under such terms and conditions as the Housing Corporation may prescribe, and to dedicate revenue derived therefrom to the repayment of such bonds, notes or other evidences of indebtedness.

SOURCE: §20003 GC; Subsection (f) amended by P.L. 16-124; Subsection (i) amended by P.L. 16-23; Subsection (m) amended by P.L. 16-42.

§4105. Bonds as Special Obligations. Every bond, note or other evidence of indebtedness shall recite that it is not a general indebtedness of the Housing Corporation but rather is a special obligation of the Housing Corporation payable solely from the revenue specified in the indenture or resolution providing for its issuance. Every bond shall recite that it is not public indebtedness of the territory of Guam as that term is used in Section 11 of the Organic Act.

SOURCE: §20003.1 GC, as added by P.L. 16-42.

§4106. Trustee for Board and Bondholders. (a) The Housing Corporation may appoint a bank or trust company to act as trustee for the Board and the holders of the bonds issued hereunder, and the Board may authorize the trustee to act on

behalf of the holders of the bonds, or any stated percentage thereof, and to exercise and prosecute on behalf of the holders of the bonds such rights and remedies as may be available to the holders.

(b) The indenture or resolution pursuant to which any bonds are issued may provide for (i) the deposit of all revenues with the trustee and for the holding thereof by the trustee in one or more separate funds or accounts and (ii) the transfer to such trustee of such portions of revenues as are provided as security for the bonds and for the holding thereof by such trustee in one or more separate funds or accounts. All money in such fund or account shall be disbursed only as provided in the indenture or resolution pursuant to which the bonds are issued.

(c) Any indenture or resolution pursuant to which bonds of the Housing Corporation are issued may provide for the payment of the principal and interest of the bonds at one or more places in the Territory or in the United States and in any specified coin or currency of the United States.

SOURCE: §20003.2 GC, as added by P.L. 16-42.

§4107. Utilization of Federal Agencies and Instrumentalities. The Housing Corporation, in carrying on the activities authorized by this Chapter shall utilize, to the extent allowed by law, the available services and facilities of agencies and instrumentalities of the Federal Government or of the government of Guam; and shall not engage in any undertaking which substantially duplicates an undertaking previously initiated and currently being prosecuted within Guam by any such agency or instrumentality.

SOURCE: §20004 GC.

§4108. Housing Corporation Guarantee Fund. The "Finance Agency Guarantee Fund" heretofore created and existing pursuant to former §§20002, 20003 and 20003.1 of the Government Code of Guam is hereby redesignated "Housing Corporation Guarantee Fund" and the same is hereby transferred to the Housing Corporation and set aside as a separate and special revolving fund of this Housing Corporation. The Housing

Corporation shall have the power to insure and guarantee, as to principal or interest or both, and upon such conditions, rules and regulations as it may prescribe, but only from the aforesaid Guarantee Fund, the repayment in whole or in part of any loan made by any public or private lending agency authorized to do business in Guam.

SOURCE: §20005 GC.

§4109. Direct Loans to Veterans. To assist in the housing needs of voting residents of Guam who are veterans of the Armed Forces of the United States, who served during the Second World War, during the Korean Conflict, or during the war in Vietnam, and who were honorably discharged from service, the Housing Corporation may make direct loans to such veterans. Such loans shall be made from the Housing Corporation's Guarantee Fund and upon such terms and conditions and under such rules and regulations as the Board may prescribe. It is the intent of the Legislature that such loans may be made to such veterans whether or not adequate financing is available on reasonable terms from a lending agency. No loan in excess of Sixteen Thousand Dollars (\$16,000) shall be made for the construction of a new home provided that up to Two Thousand Dollars (\$2,000) of such amount may be used to purchase a homesite.

SOURCE: §20006 GC.

§4110. Corporation's Use of Funds. (a) The Housing Corporation is authorized to use its funds, from whatever source derived, in the exercise of its corporate powers and functions.

(b) The Housing Corporation shall contribute to the government of Guam Retirement Fund on the basis of annual billings as determined by the Department of Labor and Personnel, for the Government's share of the cost of the retirement system applicable to the Housing Corporation's employees and their beneficiaries. The Housing Corporation shall also contribute to the Workmen's Compensation Fund on the basis of annual billings, as determined by the Workmen's Com-

pensation Commissioner, for the benefit payments made from such fund on account of the Housing Corporation's employees.

SOURCE: §20007 GC.

§4111. Appropriations. (a) Appropriations are authorized for payment to the Housing Corporation in the form of a grant, in such amounts as may be estimated in advance in the annual budget as necessary to cover losses to be sustained in the conduct of its activities which are included in the annual budget as predominantly revenue-producing. The Housing Corporation's annual budget program shall specifically set forth any loss sustained in excess of the grant previously made for the last completed fiscal year. Appropriations are authorized for payment to the Housing Corporation to cover such additional losses incurred.

(b) Appropriations are also authorized for payment to the Housing Corporation in the form of a grant, to be accounted for as general funds of the Housing Corporation, in such amounts as may be necessary to meet expenses to be incurred for specific programs which are included in the annual budget as not predominantly of a revenue-producing character. Provided, however, that (1) in the case of activities of a predominantly non-revenue-producing character the expenses shall not exceed the amounts of the grants for these activities, and that (2) the funds granted under this Subsection shall be expended only upon certification by a duly authorized certifying officer designated by the Housing Corporation.

SOURCE: §20008 GC.

§4112. Board of Directors. The management of the Housing Corporation shall be vested in a Board of Directors consisting of seven (7) members including a chairman who shall be appointed by the Governor of Guam, with the advice and consent of the Legislature.

The Directors shall serve for a period of six (6) years, except that (1) any director appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was

appointed, shall be appointed for the remainder of such term, and (2) the terms of office of the directors first taking office after June 30, 1963, shall expire, as designated by the Governor at the time of appointment, one (1) the end of two (2) years, one (1) at the end of four (4) years, one (1) at the end of six (6) years, and one (1) at the end of eight (8) years, after June 30, 1963. Qualifications of Board members shall include demonstrated ability, attachment to the public interest, impartiality, and diversified experience among its members. The Board shall be responsible for overall policy-making and general supervision. The Board shall meet at least quarterly. The Board of Directors shall act only by a majority vote of those present at a meeting attended by a quorum, and such quorum shall consist of four (4) Directors. Subject to the foregoing limitation, vacancies in the membership of the Board shall not affect its power to act. Directors shall not participate in any decision of the Board which will directly involve or affect their personal business affairs. The Directors receive no salary for their services on the Board, but under regulations and in amounts prescribed by the Board, with the approval of the Governor, may be paid by the Housing Corporation reasonable per diem fees, and allowances in lieu of subsistence expenses, for attendance at meetings of the Board and for time spent on official service of the Housing Corporation, and their necessary travel expenses to and from meetings or when upon such official service. The administrative functions shall be performed by a full-time staff headed by a president appointed by the Board, subject to approval of the Governor and the consent of the Legislature. The president shall be responsible to the Board for the execution of programs and policies adopted by the Board and for the day-to-day operations of the Housing Corporation. Between meetings of the Board, the president shall see that the Housing Corporation faithfully executes the programs and policies adopted by the Board.

SOURCE: §20009 GC.

§4113. Transfer of Functions. (a) There is transferred to the Housing Corporation the following property:

(1) All the assets and property -- real, personal and mixed, tangible and intangible -- of the Guarantee Fund of the Guam Finance and Development Corporation. The value of the property so transferred shall be fixed at the value shown on the books of the Guam Finance and Development Corporation at the date of transfer.

(b) The Housing Corporation shall assume and discharge all of the liabilities of the Guam Finance and Development Corporation.

(c) The servicing of all loans heretofore granted by the Guam Finance and Development Corporation shall continue to be the responsibility of this Housing Corporation.

SOURCE: §20010 GC.

§4114. Rental Housing Guarantee. (a) The Housing Corporation is authorized to guarantee payment of loans in an amount not to exceed seventy-five percent (75%) of the total development and construction cost of rental housing under all Federal Housing Administration multi-family housing programs. Any such project must consist of not more than ten (10) rental units. The Housing Corporation may pledge its assets in support of any guarantee hereunder.

(b) The Housing Corporation will provide by regulation for the implementation of this Section, which regulations shall provide, without limitation, for submission to the Housing Corporation of necessary data in support of an application for guarantee, any charge to be made or security to be furnished with respect to such guarantee and for the procedure to be followed in case of default.

(c) The Governor of Guam, with the concurrence of the Committee on Rules of the Guam Legislature, is authorized to execute such documents as may be required to assure the integrity of a guarantee given pursuant to this Section, and, to that end, may pledge the full faith and credit of the government of Guam.

(d) In the event of default in payment on any loan guaranteed, in accordance with applicable regulations, it shall be the primary responsibility of the Housing Corporation to make such payments as may be required in support of its obligation, if the Housing Corporation, for whatever reason, is unable to do so either in whole or in part, any deficiency therein shall be met by appropriation.

SOURCE: §20012 GC.

Article 2

Community Affordable Housing Action Trust Act

- §4200. Definitions.
- §4201. Loans by Financial Institutions.
- §4202. Insurance of Dwelling.
- §4203. Loans Made Under this Program.
- §4204. Interest Free Loan Program.
- §4205. Government Participation and Term Thereof.
- §4206. Limitations on Interest Free Loans.
- §4206a. 3/2 Down Payment Option.
- §4206b. 3/2 Option Qualifications.
- §4207. Interest Free Loan Schedules.
- §4208. Termination of Interest Free Loans.
- §4209. Community Affordable Housing Action Trust Fund.
- §4210. Use of Trust Proceeds for Interest Free Loans.
- §4211. Repayment of Interest Free Loan Proceeds.
- §4212. Qualification for Interest Free Loans.
- §4213. GHC Participation.
- §4214. Foreclosure Protection Fund.
- §4215. Mortgage Insurance or Guarantee.

SOURCE: This entire Article was added by P.L. 21-99:2.

§4200. Definitions. For purposes of this Article, the following terms are defined to mean:

(a) *Adjusted annual income* means the total family income less five percent (5%) of such total family income less Four Hundred Eighty Dollars (\$480) for each dependent.

(b) *Appraised Value* means the value of the home and lot to be purchased or the value of the home and lot to be constructed or renovated.

(c) *Board* means the board of directors of the Guam Housing Corporation.

(d) *Dependent* means (i) any child or individual under the age of nineteen (19) over which the head of household of such

child or individual has legal guardianship; and (ii) any child or individual under the age of twenty-five (25) over which the head of household of such child or individual has legal guardianship, if such child or individual is a full time student, or (iii) any individual, child, relative, or parent, regardless of age, over which the head of household of such person has an obligation to provide financial support due to mental or physical incapacity.

(e) *Down Payment* means the equity requirements of the homeowner needed to initiate the mortgage for the purchase, construction or renovation of a home.

(f) *Family Income* means the total annual income derived from all sources for each member of the family.

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

(h) *FHLMC* means the Federal Home Loan Mortgage Corporation, also known as *Freddie Mac*.

(i) *Financial Institution* means any financial institution authorized to make mortgage loans.

(j) *First-time Home Owner* means any individual or family who has not had any ownership interest in a residential dwelling within the five (5) years preceding the date of application. Families or individuals who have had an ownership interest in residential real property within the five (5) year period preceding the date of application but such interest was terminated by a decree of divorce or operation of law qualify as First-time Home Owners.

(k) *FNMA* means the Federal National Mortgage Association, also known as *Fannie Mae*.

(l) *GHC* means the Guam Housing Corporation.

(m) *Government* means the government of Guam.

(n) *Home* means any single family dwelling or single family condominium or town house.

(o) *Index Rate* means the lower of the FNMA or FHLMC rate.

(p) *Individual* means any unmarried person.

(q) *Interest Free Loan* means second mortgages made by the Government that are to be repaid without interest pursuant to the provisions of this Chapter.

(r) *Loan* means the loan made by the Financial Institution or GHC to a family or individual pursuant to the provisions of this Chapter.

(s) *Loan to Value Ratio* means the percentage derived from the loan amount divided by the Maximum Price Factor.

(t) *Maximum Price Factor* means the lesser of the appraised value or the selling price of a Home purchased or constructed under this Chapter, including the underlying real estate.

(u) *Real Estate Owned (REO)* means property acquired by a lender through foreclosure and held in inventory.

(v) *Residential Real Property* means real property consisting of land and a dwelling which has been used as a family's or individual's place of residence.

(w) *Selling Price* means for purposes of this Chapter the purchase price of a completed Home or the purchase price of the lot and the construction cost of the Home to be built on the lot.

§4201. Loans by Financial Institutions. Financial Institutions are authorized to make loans under this Article to qualified families or individuals for the purchase or construction of typhoon-resistant residential Homes.

§4202. Insurance of Dwelling. The Financial Institution shall require that each mortgagor maintain adequate property insurance coverage for a Home financed under this Chapter.

§4203. Loans Made Under this Program. Loans made by Financial Institutions shall be limited to First-time Home Owners who have been residents of Guam for a period of not

less than five (5) years immediately preceding the date of application.

§4204. Interest Free Loan Program. The Government shall provide Interest Free Loans to qualified individuals or families as second mortgage loans subordinated to first mortgage loans made by the Financial Institution for the purchase or construction of a Home. Interest Free Loans shall be available to each family or individual based on the family's or individual's adjusted income which shall be determined at the time of application and in accordance with the schedule set forth in §4207 of this Article. All loans so made shall be of such sound value, including credit worthiness, or so secured as to reasonably assure repayment.

§4205. Government Participation. The Government shall provide Interest Free Loans to qualified families or individuals. The Interest Free Loans shall be given in accordance to the schedule set forth in §4207 within the income limits and maximum loan amounts as follows:

(a) For families or individuals with adjusted incomes up to Forty Five Thousand Seven Hundred Eighty Dollars (\$45,780), the Government's participation shall be determined under Schedule I of §4207.

(b) For families or individuals with adjusted incomes of more than Forty Five Thousand Seven Hundred Eighty Dollars (\$45,780) up to Fifty Five Thousand Five Hundred Ninety Dollars (\$55,590), the Government's participation shall be determined under Schedule II of §4207.

(c) For families or individuals with adjusted incomes of more than Fifty Five Thousand Five Hundred Ninety Dollars (\$55,590) up to Sixty Five Thousand Four Hundred Dollars (\$65,400), the Government's participation shall be determined under Schedule III of §4207.

Income limits contained herein shall be adjusted by GHC as needed.

§4206. Limitations on Interest Free Loans. The total of Interest Free Loans and loans and grants provided for in §4206a shall not exceed Forty Thousand Dollars (\$40,000) per applicant. The total Loan to Value Ratio of the combined Financial Institution loan and the Interest Free Loan shall not exceed Ninety-Five Percent (95%) of the lower of the appraised value or the selling price.

§4206a. 3/ 2 Down Payment Option. To the extent allowed by the Financial Institution, an applicant may qualify for a grant or an unsecured Interest Free Loan equal to an amount not exceeding Five Percent (5%) of the lower of the appraised value or the selling price of a Home financed under the provisions of this Article. The funds for grants or loans under this subsection shall come from the Community Affordable Housing Action Trust as defined in §4209 of this Article. The maximum loan or grant shall be five percent (5%) of the lower of the appraised value or the selling price of the Home financed not to exceed Five Thousand Dollars (\$5,000). The Financial Institution may include the repayment of the unsecured Interest Free Loan in the borrower's total debt qualifying ratio.

§4206b. 3/ 2 Option Qualifications. Grants and loans under §4206a shall be limited to the following:

<u>Adjusted Income:</u>	<u>Qualifies For:</u>
Less than \$34,335,	Outright Grant,
\$34,335 to \$39,240,	5 Year Interest Free Loan,
\$39,240 to \$45,780,	3 Year Interest Free Loan,
Over \$45,780,	No Grant or Loan.

Funding under §4206a will be available only if the Financial Institution is a participant in the 3/2 Option program. All amounts above shall be reduced to the extent the applicant has available resources and any family gifts that may be applied to the Down Payment.

§4207. Interest Free Loan Schedules. There are hereby established the following Interest Free Loan Schedules to which

this Article applies. The maximum loan amount shall depend in each instance on the Rate Index at the time a loan is made.

Interest Free Loan Schedule I.

Index Rate	Maximum Interest Free Loan
12.00% or more	35.00% of Maximum Price Factor
10.00% to 11.99%	32.00% of Maximum Price Factor
Less than 10.00%	30.00% of Maximum Price Factor

Interest Free Loan Schedule II.

Index Rate	Maximum Interest Free Loan
12.00% or more	32.00% of Maximum Price Factor
10.00% to 11.99%	30.00% of Maximum Price Factor
Less than 10.00%	28.00% of Maximum Price Factor

Interest Free Loan Schedule III.

Index Rate	Maximum Interest Free Loan
12.00% or more	30.00% of Maximum Price Factor
10.00% to 11.99%	28.00% of Maximum Price Factor
Less than 10.00%	25.00% of Maximum Price Factor

§4208. Termination of Interest Free Loan. The mortgagor must pay off the balance of the Interest Free Loan if, during the term of the loan, the Home secured by the mortgage for which the loan was granted is:

- (a) transferred or conveyed;
- (b) sold;
- (c) occupied exclusively by individuals other than the mortgagor(s) or their children; or
- (d) leased before five (5) years of actual occupancy by the mortgagor. If the Home is leased prior thereto then the Interest Free Loan shall be reamortized at the rate of the GHC loan as

an interest bearing loan and such interest shall be remitted to GHC for deposit in the Community Affordable Housing Action Trust (the "Trust").

§4209. Community Affordable Housing Action Trust. There is hereby established a fund to be known as the Trust, which shall be maintained by GHC separate and apart from any other funds of the Government or GHC. All monies received by GHC from the Government for funding of Interest Free Loans provided herein shall be deposited in the Trust and shall be used solely for that purpose. GHC shall distribute and manage the Trust proceeds.

§4210. Use of Trust Proceeds for Interest Free Loans. Proceeds from the Trust shall be used exclusively for Interest Free Loans and the 3/2 Option provisions in participation with an underlying mortgage by a participating Financial Institution. The Interest Free Loan shall be subordinate to the underlying loan by the Financial Institution but shall not be subordinate to any other debt or debenture.

§4211. Repayment of Interest Free Loan. The Interest Free Loan shall be repaid monthly by the mortgagor in an amount equal to the loan amount divided by the number of monthly periods until maturity. The priority for payment of such loan in the event the loan is in arrears is after the Financial Institution's requirements and before other Trust fund obligations. GHC may establish and charge the mortgagor late fees for all Interest Free Loans that are paid after the grace period. Where allowed by the participating lender, GHC may authorize deferral of the Interest Free Loan for a period of time not to exceed five (5) years.

§4212. Qualifications for Interest Free Loan Program. (a) Prior to applying at a Financial Institution for an Interest Free Loan under this Article, the applicant shall first receive an eligibility letter from GHC.

(b) To qualify for the Interest Free Loan program, an individual or family must meet the income requirements established herein and demonstrate repayment ability.

(c) Any applicant, who intentionally supplies false information on the application for funds under any of the programs established in this Article shall automatically be disqualified from such program. In the event that funds are disbursed by GHC on behalf of such an applicant, there shall be penalty interest as set by GHC charged on the amount disbursed.

§4213. GHC Participation as a Lender. (a) An applicant who is unable to qualify for a mortgage loan with at least three (3) commercial lenders under the program set out in this Article is eligible for a GHC loan under 4103(c) of this Title and may qualify for an Interest Free Loan under this Article; provided, such applicant falls within the income guidelines of this Article.

(b) The Interest Free Loan levels in Schedules I, II and III of §4207 shall correspond with the prevailing GHC rate and not the index rate as is the case with qualified Financial Institutions.

§4214. Foreclosure Protection Fund. There is hereby created the Foreclosure Protection Fund (the "Fund"). The Fund shall be used by GHC to protect the interest of the Trust as the second mortgagee and shall be used exclusively for the purpose of paying off the first mortgage on foreclosure.

§4215. Mortgage Insurance or Guarantee. If it is necessary to encourage participation in the program by Financial Institutions, the Corporation may enter cooperative programs to obtain mortgage risk insurance or guarantee loans against losses as a result of default and subsequent foreclosure.

Article 3

Government Participation Loan Act

- §4300. Definitions.
- §4301. Loans by the Corporation.
- §4302. Insurance of Home.
- §4303. Loans Made Under This Program.
- §4304. Interest Free Loan Program.
- §4305. Government Participation.
- §4306. Limitations on Interest Free Loans.
- §4307. Interest Free Loan Schedule.
- §4308. Termination of Interest Free Loan.
- §4309. Funding From the Community Affordable Housing Action Trust.
- §4310. Use of Trust Proceeds for Interest Free Loans.
- §4311. Repayment of Interest Free Loans.
- §4312. Qualifications for Interest Free Loans.

SOURCE: This entire Article was added by P.L. 21-99:3.

§4300. Definitions. The definitions set out in 4200 of Article 2 of this Chapter shall apply to this Article 3.

§4301. Loans by the Corporation. GHC is authorized to make loans under this Article to low and moderate income families for the purchase or construction of their residential Homes. All loans made by GHC shall be subject to the following limitation:

(a) The maximum Loan to Value Ratio shall not exceed Ninety-Five percent (95%) of the appraised value of the Home.

§4302. Insurance of Home. GHC shall require that each mortgagor maintain adequate property insurance coverage for a Home financed under this Article.

§4303. Loans Made Under the This Program. First mortgage loans made by GHC under this program shall bear interest at the prevailing GHC rate.

§4304. Interest Free Loan Program. The Government shall provide Interest Free Loans to qualified individuals or families as second mortgage loans subordinated to first mortgage loans made by GHC for the purchase or construction of a Home. Interest Free Loans shall be available to each family or individual based on the family's or individual's adjusted income which shall be determined at the time of application and in accordance with the schedule set out in §4307 of this Article. All loans so made shall be of such sound value, including credit-worthiness or so secured as to reasonably assure repayment.

§4305. Government Participation. The Government shall provide Interest Free Loans to qualified families or individuals. The Interest Free Loans shall be given in accordance to the schedule set forth in §4307 within income limits and maximum loan amounts as follows:

(a) For families or individuals with adjusted incomes of up to Twenty Six Thousand One Hundred Sixty Dollars (\$26,160), the Government's participation shall be determined under Schedule I of §4307.

(b) For families or individuals with adjusted incomes of more than Twenty Six Thousand One Hundred Sixty Dollars (\$26,160) up to Twenty Nine Thousand Four Hundred Thirty Dollars (\$29,430), the Government's participation shall be determined under Schedule II of §4307.

(c) For families or individuals with adjusted incomes of more than Twenty Nine Thousand Four Hundred Thirty Dollars (\$29,430) up to Thirty Two Thousand Seven Hundred Dollars (\$32,700), the Government's participation shall be determined under Schedule III of §4307.

(d) For families or individuals with adjusted incomes of more than Thirty Two Thousand Seven Hundred Dollars (\$32,700) up to Thirty Nine Thousand Two Hundred Forty Dollars (\$39,240), the Government's participation shall be determined under Schedule IV of §4307.

Income limits contained herein shall be adjusted by GHC as needed.

§4306. Limitations on Interest Free Loans. An Interest Free Loan shall not exceed Fifty Thousand Dollars (\$50,000). The total Loan to Value Ratio of the combined GHC loan and the Interest Free Loan shall not exceed Ninety-Five Percent (95%) of the appraised value of the Home.

§4307. Interest Free Loan Schedules. There are hereby established the following Interest Free Loan Schedules to which this Article applies. The maximum loan amount shall depend in each instance on the prevailing GHC Rate at the time a loan is made.

Interest Free Loan Schedule I.

GHC Rate	Maximum Interest Free Loan
12.00% or more	50.00% of The Appraised Value
10.00% to 11.99%	48.00% of The Appraised Value
Less than 10.00%	46.00% of The Appraised Value

Interest Free Loan Schedule II.

GHC Rate	Maximum Interest Free Loan
12.00% or more	48.00% of The Appraised Value
10.00% to 11.99%	46.00% of The Appraised Value
Less than 10.00%	44.00% of The Appraised Value

Interest Free Loan Schedule III.

GHC Rate	Maximum Interest Free Loan
12.00% or more	46.00% of The Appraised Value
10.00% to 11.99%	44.00% of The Appraised Value
Less than 10.00%	42.00% of The Appraised Value

Interest Free Loan Schedule IV.

GHC Rate	Maximum Interest Free Loan
12.00% or more	44.00% of The Appraised Value
10.00% to 11.99%	42.00% of The Appraised Value
Less than 10.00%	40.00% of The Appraised Value

§4308. Termination of Interest Free Loan. The mortgagor must pay off the Interest Free Loan if, during the term of the loan, the Home secured by the mortgage for which the loan was granted is:

- (a) transferred or conveyed;
- (b) sold;
- (c) occupied exclusively by individuals other than the mortgagor (s) or their children; or
- (d) leased before five (5) years of actual occupancy by the mortgagor. If the Home is leased prior thereto then the Interest Free Loan shall be reamortized at the rate of the GHC loan as an interest bearing loan and such interest shall be remitted to GHC for deposit in the Community Affordable Housing Action Trust (the "Trust"). Exceptions to this provision may be afforded by GHC under rules and regulations adopted in accordance with the provisions of the Administrative Adjudication Law.

§4309. Funding From the Trust. All Interest Free Loans under this Article shall be funded by the Trust established in 4209 of Article 2 of this Chapter.

§4310. Use of Trust Proceeds for Interest Free Loans. Proceeds from the Trust shall be for Interest Free Loans in participation with an underlying mortgage by GHC. The Interest Free Loans shall be subordinate to the underlying first mortgage by GHC but shall not be subordinate to any other debt or debenture.

§4311. Repayment of Interest Free Loan. The Interest Free Loan shall be repaid monthly by the mortgagor in an amount

equal to the loan amount divided by the number of monthly periods until maturity. The priority for payment of this loan in the event the loan is in arrears is after GHC's requirements and before other Trust fund obligations. GHC may establish and charge the mortgagor late fees for all Interest Free Loans that are paid after the grace period.

§4312. Qualifications for Interest Free Loans. To qualify for the Interest Free Loan program, an individual "or family must show evidence of rejection from three (3) commercial mortgage lending institutions and be unable to qualify on the basis of income for GHC's regular lending program. Applicants under this section are not eligible for the six percent (6%) loan program authorized by Public Law 20-210.

NOTE: P.L. 21-99, sections 5 and 6, add the following uncoded law:

Section 4. All unused funds previously appropriated to the Corporation Subsidy Fund shall be transferred to the Community Affordable Housing Action Trust.

Section 5. Interest earned on the undisbursed proceeds in the Community Affordable Housing Action Trust and the Foreclosure Protection Fund shall be retained by GHC to cover its expenses in managing these funds.

lished in 4214 of such Article 2, for the purpose of carrying out the provisions of such Article 2.

(b) One Million Dollars (\$1,000,000) are authorized to be appropriated to the Government Loan Guarantee Fund established in 4403 of Article 4, Chapter 4, Title 12, Guam Code Annotated, for carrying out the provisions of said Article 4.

Article 5

Requirements and Regulations

- §4500. Definitions.
- §4501. Residency Requirements.
- §4502. Assistance Limitations.
- §4503. Development of Rules and Regulations.
- §4504. Representation by Public Defender Service Corporation.
- §4505. Performance and Payment Bonds.
- §4506. Prepayment of Loan.
- §4507. No Release of Funds until Conditions Met.

SOURCE: This entire Article was added by P.L. 21-99:8.

§4500. Definitions. The definitions set out in 4200 of Article 2 of this Chapter shall apply to this Article 5.

§4501. Residency Requirements. All applicants for the programs set out in Articles 2, 3 and 4 of this Chapter shall be U.S. citizens or permanent resident aliens who have been residents of Guam for a period of not less than five (5) years immediately preceding the date of application. An applicant who has not been a five (5) year resident for the period immediately preceding the date of application may qualify for these programs if the applicant's residency change was due to active service in the United States Armed Forces or for attendance on a full-time basis at an institution of higher education; provided, that the applicant was a five (5) year resident for the period immediately preceding the start of such active duty or education.

§4502. Assistance Limitations. As the purpose of the programs contained in Articles 2, 3 and 4 of this Chapter is to assist families and individuals who are lacking the necessary resources for the Down Payment or loan qualification requirements, the qualifying amount of the assistance under such programs shall be directly reduced to the extent that the

Article 4

Guam Housing Mortgage Insurance Corporation

- §4400. Definitions.
- §4401. Creation.
- §4402. Qualifications.
- §4403. Government Loan Guarantee Fund.
- §4404. Operations.
- §4405. Exemption From Regulation.

SOURCE: This entire Chapter was added by P.L. 21-99:6.

§4400. **Definitions.** The definitions set out in 4200, Article 2 of this Chapter shall apply to this Article 4.

§4401. **Creation.** GHC is hereby authorized to create the Guam Housing Corporation Mortgage Insurance Corporation (GHMIC). GHMIC shall be a public corporation owned in its entirety by GHC. The Board shall be the board of directors of GHMIC. The Board shall create by-laws and promulgate rules and regulations for GHMIC under the provisions of the Administrative Adjudication Law.

§4402. **Qualifications.** To qualify for the program set out in this Article, the applicant must be a qualified resident and First-time Home Owner as defined in this Chapter. Applicants must demonstrate that they will not be able to obtain first mortgage loans from mortgage lending institutions on the basis of not having sufficient assets to use as a Down Payment for the loans. Those applicants that demonstrate that they will not be able to obtain a first mortgage loan but can be approved by a mortgage lending institution if they obtain a mortgage loan guarantee from GHC are eligible for a loan guarantee under this Article; provided, that the mortgage lending institution approves the applicant contingent upon the approval of a loan guarantee from GHC.

§4403. **Government Loan Guarantee Fund.** There is hereby created a Government Loan Guarantee Fund (GLGF). GLGF

shall be managed by GHC. Proceeds from GLGF shall be used for the purpose of capitalizing GHMIC. All investment income from GLGF shall remain the property of GHMIC.

§4404. **Operations.** GHMIC shall be operated as follows: (a) **Separate Records Required.** GHC shall keep separate records and financial statements and shall in no way consolidate the finances of GHMIC with its own finances.

(b) **Limitations of Program Finances.** Administrative support services for GHMIC shall be provided by GHC; provided, however, that GHMIC, from its operating revenues, shall reimburse GHC for all the cost of administrative support services, inclusive of personnel services and cost of materials and supplies.

(c) **Limits of Liability.** GHC shall not be held liable for policy claims against GHMIC. In the event that the policy claims rate exceeds the projection of the actuarially determined funding requirements so as to jeopardize the solvency of the program established in this Article, GHMIC shall request additional appropriations to GLGF.

§4405. **Exemption From Regulations.** GHMIC shall be exempt from all laws and regulations which give the Director of Revenue and Taxation, as the Insurance Commissioner, control over the private insurance industry. Private mortgage insurers who reinsure policies underwritten by GHMIC shall also be exempt from regulation by the Insurance Commissioner; provided, that such insurers are regulated by one or more regulatory bodies in any state of the United States.

NOTE: P.L. 21-99 adds the following uncodified law:

Section 7. Authorization for Appropriations. (a) Four Million Five Hundred Thousand Dollars (\$4,500,000) are hereby authorized to be appropriated from the General Fund to the Community Affordable Housing Action Trust established in 4209 of Article 2, Chapter 4, Title 12, Guam Code Annotated, and Five Hundred Thousand Dollars (\$500,000) are hereby authorized to be appropriated to the Foreclosure Protection Fund estab-

applicant has available resources to use as a Down Payment or to qualify for the mortgage loan.

§4503. Development of Rules and Regulations. GHC shall develop rules and regulations for the programs set out in Articles 2, 3 and 4 of this Chapter under the provisions of the Administrative Adjudication Law.

§4504. Representation by Public Defender Service Corporation. The Public Defender Service Corporation is hereby authorized to represent, at no cost notwithstanding the Home buyer's income, any Home buyer under any programs set out in this Chapter in any dispute with the Home builder, real estate broker, title insurance company, developer, contractor, sub-contractor, material supplier, bonding company, or their agents and employees over a breach of contract, breach of warranty, tort, fraud, or misrepresentation arising out of the Home purchase, its financing, or its construction.

§4505. Performance and Payment Bonds. Contracts for the construction of Homes under the programs authorized by this Chapter shall require the builder to post one hundred percent (100%) performance and payment bonds, or the equivalent in securities, the beneficiaries of which shall be the Home Owner, the Financial Institution holding the first mortgage on the Home, and the Government, as the case requires.

§4506. Prepayment of Loan. Any prepayment of a loan, which prepayment shall be at the option of the borrower, under any of the programs authorized by this Chapter, shall be applied to the first or second mortgage, at the option of the borrower.

§4507. No Release of Fund until Conditions Met. No funds appropriated towards the program established in this Chapter shall be released by GHC unless one (1) of the following conditions are satisfied:

(1) Local Financial Institutions submit in writing to GHC their intention to participate in one (1) or more of the programs; or

(2) Any Federal Housing Assistance Agency that may participate in one (1) or more of the programs, express its intention, in writing, to underwrite or purchase the local Financial Institution's participation in such program.

NOTE: P.L. 21-99 continued the following uncodified law:

Section 9. Preparation of Master Plan for the Development of Affordable, Special Needs and Market Units on Portions of Lot No. 5402 in the Municipality of Mangilao. The Governor is hereby authorized to place portions of Lot No. 5402 in the Municipality of Mangilao, consisting of Two Hundred Seventy-Two and One-Half (272.5) acres, under the administrative jurisdiction of the Guam Housing Corporation ("GHC") to prepare a master plan for the development of affordable units, market units, and special needs housing units. The master plan shall include but not be limited to a land use plan, desired Home specifications including floor plans, archaeological surveys, topographical surveys, environment impact assessments, on-site/off-site infrastructure needs, the type of building system utilized, Home buyer takeout financing strategies and target selling prices of the affordable units.

GHC is, in addition, authorized to enter into joint ventures with private landowners and/or developers in the development of affordable housing on private properties under this Act. All documents relating to such joint ventures must be submitted to the Legislature for final approval prior to the development or construction of any project by such a joint venture.

For purposes of this section "affordable units" are those that are sold at below market prices to low, moderate, and middle income groups; "market units" are those that are sold at market prices in the general real estate market with the profits being used as means of funding the costs associated with the development and selling the affordable and special needs units; and "special needs units" are those that are sold or leased to special needs groups such as the handicapped or elderly. The master plan shall include the number of affordable, market, and special needs residential units with no

more than thirty percent (30%) of the total residential units to be built as market units. The affordable and special needs units shall be allocated among Home buyers, approved by GHC, based on the results of the comprehensive housing study currently under solicitation by GHC and the Guam Economic Development Authority.

Upon completion, GHC shall submit the completed master plan along with recommendations regarding infrastructure needs, development bonds, and other essential items to the Legislature for authorization for further development. No commitment for sales of Homes financed under the programs set out in this Chapter may be made until the master plan is completed and approved by the Legislature by statute.

Section 10. Appropriation For Master Plan. Nine Hundred Thousand Dollars (\$900,000) are hereby authorized to be appropriated from the General Fund to the Guam Housing Corporation to complete the master plan described in Section 9 of this Act.

Section 11. Appropriations to Guam Housing Corporation Revolving Loan Fund. There is hereby authorized to be appropriated from the General Fund to the Guam Housing Corporation Revolving Loan Fund the sum of TEN MILLION DOLLARS (\$10,000,000) to be used under the provisions set out in by Public Law 20-210.

Section 12. Severability. If any provisions of this Act or the application thereof to any person or circumstance, are 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 the Act are severable.