

## **HUD Issues Guidance on Monetizing the First-Time Homebuyer Tax Credit**

On May 11, the U.S. Department of Housing and Urban Development (HUD) issued Mortgagee Letter 2009-15, which provides guidance for government agencies and other authorized parties to follow to monetize the first-time homebuyer tax credit through the use of either short- or long-term loans in conjunction with Federal Housing Administration (FHA)-insured mortgage loans. Because the tax credit can't be assigned by the home buyer to a lender or seller at closing, it is necessary that a third party lend the home buyer these funds if the funds are needed to close a purchase.

### Short- or Long-Term Loan Guidelines

According to the Mortgagee Letter, short-term or "bridge loans" can be made by government agencies, nonprofit instrumentalities of government, FHA-approved nonprofits, and FHA-approved lenders when these loans are secured by the tax credit due the home buyer. The amount of a short-term loan may not exceed the anticipated amount of the tax credit plus nominal fees and charges.

Longer-term loans that are secured by a second lien on the property may be made by government agencies, nonprofit instrumentalities of government, and FHA-approved nonprofits, however, the second lien may not exceed that which is needed for the downpayment, closing costs, and prepaid expenses. The advance must provide for principal and interest payments to begin automatically if the borrower does not repay the amount borrowed by a designated deadline. If payments on the tax credit advance are required, they must be included in qualifying the borrower and, when combined with the first mortgage, cannot exceed the borrower's reasonable ability to pay. Payments must be deferred at least 36 months from the settlement date in order to be excluded from qualifying ratios. While a borrower would be allowed to repay the second loan voluntarily, the terms of the loan must not *require* a balloon payment before ten years have elapsed.

### Tax Credit Details

First-time home buyers would receive a tax credit of the lesser of \$8,000 or 10 percent of the purchase price for the purchase of any home on or after January 1, 2009 and before December 1, 2009. To qualify, the sale of the home must actually close during this period. Buyers can take the tax credit on their 2008 or 2009 income tax return.

The tax credit is a true credit. It does not have to be repaid. The only repayment requirement is if the home owner sold the home within three years after the purchase.

First-time home buyers who file as single or head-of-household taxpayers can claim the full \$8,000 credit if their modified adjusted gross income is less than \$75,000. For married couples filing a joint return, the income limit doubles to \$150,000. Single or head-of-household taxpayers who earn between \$75,000 and \$95,000 are eligible to receive a partial first-time home buyer tax credit. Married couples who earn between \$150,000 and \$170,000 are eligible to receive a partial first-time home buyer tax credit.

All homes, whether single-family, townhomes or condominium apartments will qualify, provided that the home will be used as a principal residence and the buyer has not owned a principal residence in the prior three years. This also includes newly-constructed homes.

#### For More Information

Many State Housing Finance Agencies are offering tax credit-related loan programs. More information about these programs can be found on the National Council of State Housing Agencies (NCSHA's) web site at: [www.ncsha.org/section.cfm/3/34/2920](http://www.ncsha.org/section.cfm/3/34/2920).

Further information about the first-time homebuyer tax credit can be found at NAHB's tax credit web site: [www.federalhousingtaxcredit.com](http://www.federalhousingtaxcredit.com).

Information regarding the process by which nonprofit organizations can seek FHA approval can be found at: [www.hud.gov/offices/hsg/sfh/np/np\\_prog.cfm](http://www.hud.gov/offices/hsg/sfh/np/np_prog.cfm).

Each of the four HUD Homeownership Centers maintains a list of approved nonprofits in their service areas. These lists can be accessed via: [www.hud.gov/offices/hsg/sfh/np/np\\_hoc.cfm](http://www.hud.gov/offices/hsg/sfh/np/np_hoc.cfm).