

Rhode Island Housing and Mortgage Finance Corporation
44 Washington Street
Providence, Rhode Island 02903

PUBLIC NOTICE OF PROPOSED RULEMAKING

Pursuant to the provisions of title 42, chapter 55, section 5(5) of the Rhode Island General Laws and in accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-3(a)(1), the Rhode Island Housing and Mortgage Finance Corporation (“Rhode Island Housing”) hereby gives notice of its intent to amend the Rules and Regulations of the Corporation Applicable to the Mortgage Credit Certificate Program, which has been assigned ERLID number 1100.

The First Amendment to the Rules and Regulations of the Corporation Applicable to the Mortgage Credit Certificate Program (the “Proposed Rule”) seeks to clarify Rhode Island Housing’s policies and procedures relating to the agency’s mortgage credit certificate program, commonly known as the FirstHomes Tax Credit Program (the “Program”). The Program is authorized under the Internal Revenue Code, and entitles qualified borrowers to a tax credit against their federal income tax liability in proportion to interest paid on a mortgage loan.

While the Internal Revenue Code and implementing regulations provide the substantive criteria for borrower, mortgage loan, and property eligibility for the Program, among other requirements, the Proposed Rule describes the manner in which Rhode Island Housing administers the Program. This includes descriptions of the borrower application process, credit reservation policies and procedures, method of designation of target geographic areas, and requirements for participation by mortgage lenders. The Proposed Rule aims chiefly to simplify Program operations by providing for future fee, income and purchase price schedules to be published by Program Bulletin. The Internal Revenue Service establishes maximum borrower income and purchase price limits, which change from time to time according to federal criteria, and are thus inappropriate for memorialization in a state agency rule. The Proposed Rule also contains amendments, which (i) correct typographical errors and improve readability; (ii) enhance transparency by incorporating important obligations of lenders already arising under their participation contracts, such as the requirement to inform Rhode Island Housing of borrower eligibility changes and to pay certain participation fees; and (iii) address programmatic inefficiencies, for example by removing a refund provision and outmoded references to telephonic confirmations, and clarifying that the Board of Commissioners may modify the Program in addition to its termination authority.

In the development of the proposed amendment, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach or significant economic impact was identified based on available information.

The Proposed Rule is available for public inspection on the website of the Rhode Island Secretary of State, <http://www.sos.ri.gov/> (also accessible via the Accountability & Transparency page of the Rhode Island Housing website, <http://www.rhodeislandhousing.org/sp.cfm?pageid=988>); by request to

Corinne Myers, Assistant Counsel, at (401) 277-1552 or cmyers@rhodeislandhousing.org; or in person at Rhode Island Housing, 44 Washington Street, Providence, Rhode Island 02903.

In accordance with section 42-35-3 of the Rhode Island General Laws, an oral hearing will be granted if requested by twenty-five (25) persons, or by an agency or an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of the posting date of this notice to Corinne Myers, Assistant Counsel, by email to cmyers@rhodeislandhousing.org or orally or in writing delivered to Rhode Island Housing, 44 Washington Street, Providence, Rhode Island 02903, ATTN: Corinne Myers, Assistant Counsel.

Barbara G. Fields
Acting Executive Director

Rhode Island Housing and Mortgage Finance Corporation
44 Washington Street
Providence, Rhode Island 02903

**CONCISE SUMMARY OF PROPOSED NON-TECHNICAL DIFFERENCES
BETWEEN EXISTING RULES AND PROPOSED NEW RULES**

**First Amendment to the Rules and Regulations of the Corporation
Applicable to the Mortgage Credit Certificate Program**

The following is a concise summary of proposed non-technical differences between existing rules and proposed new rules, provided in accordance with the Administrative Procedures Act, Section 42-35-3(a)(5) of the Rhode Island General Laws:

1. Sections 1.1 and 2.2 of the First Amendment to the Rules and Regulations of the Corporation Applicable to the Mortgage Credit Certificate Program (the "Proposed Rule") have been amended to improve readability and correct typographical errors.
2. Section 3.2 of the Proposed Rule (i) removes the reference to telephonic requests for credit reservations; (ii) removes the 90-day reservation timeframe in favor of periodic publication of reservation instructions by Program Bulletin; (iii) requires participating lenders to inform Rhode Island Housing of any changes affecting a borrower's eligibility for the Program; (iv) clarifies the circumstances under which Rhode Island Housing may cancel a reservation; and (v) clarifies that certain closing documents may require a seller signature.
3. Section 4.2 of the Proposed Rule removes the reference to Schedule A, which previously set forth borrower income limits.
4. Section 4.5 of the Proposed Rule removes the reference to Schedule B, which previously set forth purchase price limits.
5. Section 5.1 of the Proposed Rule removes references to Schedule A and Schedule B.
6. Section 6.1 of the Proposed Rule clarifies that mortgage lenders participating in the Corporation's single family loan program are qualified to participate in the MCC Program but must execute the MCC Participation Agreement.
7. Section 6.3 of the Proposed Rule is amended to removes the dollar amount of the administrative fee in favor of periodic establishment of fees by Program Bulletin, and to eliminate the refund provision. This section also incorporates Rhode Island Housing's existing policy with respect to lender participation fees.
8. Section 7.2 of the Proposed Rule permits the agency's Board of Commissioners to modify the mortgage credit certificate program.
9. Schedule A is deleted in its entirety.
10. Schedule B is deleted in its entirety.

RHODE ISLAND HOUSING AND
MORTGAGE FINANCE CORPORATION

FIRST AMENDMENT TO THE RULES AND REGULATIONS OF THE CORPORATION
APPLICABLE TO THE MORTGAGE CREDIT CERTIFICATE PROGRAM

SECTION 1. THE MORTGAGE CREDIT CERTIFICATE PROGRAM

1.1 Program Explanation and Purposes. Rhode Island Housing and Mortgage Finance Corporation has been designated with authority under the Tax Act to issue Mortgage Credit Certificates ("~~MCC~~MCCs") to qualified Borrowers. Generally, ~~Mortgage Credit Certificates~~MCCs entitle qualified Borrowers to a credit (the "Credit") against their Federal income tax as a percentage of the interest paid on a Mortgage Loan. Under current law, the amount of the Credit shall not exceed the amount of federal income tax paid by the Borrower in the year in which the Credit is taken, but Credits may be carried forward and offset against federal income taxes for a period of three (3) years. Borrowers will apply for Credits through participating Mortgage Lenders, and will be issued an MCC by the Corporation provided that the requirements of the Tax Act and MCC Program have been satisfied.

SECTION 2. CONSTRUCTION

2.1. Construction with Act. Unless otherwise defined herein or unless a different meaning is required from the context in which they are used herein or is required by the Tax Act, all words and terms used in these Regulations are as defined in the Act.

2.2. Definitions. As used in these Regulations:

2.2.1 "Act" means the Housing and Mortgage Finance Corporation Act set forth in Chapter 55 of Title 42 of the Rhode Island General Laws of 1956, as amended.

2.2.2 "Aggregate Family Income" means the aggregate income, as defined by the Tax Act, of each Borrower and of anyone else in the Borrower's household required by the Tax Act to be considered in such calculation. Aggregate Family Income shall be calculated in accordance with the criteria and procedures established under the Tax Act.

2.2.3 "Board of Commissioners" means the Board of Commissioners of the Corporation.

2.2.4 "Borrower" means a person or persons satisfying the Eligibility Criteria set forth in Section 4 of these Regulations and who (i) satisfy(ies) the credit and underwriting criteria established by the Mortgage Lender to whom application for a Mortgage Loan is made and (ii) is or are issued or apply for Credits.

2.2.5 "Closing" means the date documents evidencing a Mortgage Loan are executed by the Borrower.

2.2.6 "Corporation" means Rhode Island Housing and Mortgage Finance Corporation, a public corporation organized and existing under the Act.

2.2.7 "Mortgage Credit Certificate" or "MCC" means a certificate issued by the Corporation entitling a Borrower to Credits. The form of MCC to be issued to Borrowers, and the terms and conditions contained therein, shall be as determined by the Tax Act.

2.2.8 "Mortgage Lender" means an entity engaged in the business of mortgage lending which is qualified under Section 5 of these Regulations to participate in the MCC Program.

2.2.9 "Mortgage Loan" means a loan from a Mortgage Lender to a Borrower evidenced by a mortgage deed or other instrument. A Mortgage Loan also ~~included~~includes Qualified Home Improvement Loans, Qualified Rehabilitation Loans and any other loans qualifying under the Tax Act. Under the MCC Program, a Mortgage

Loan may be made upon such terms and conditions as may be agreed to by a Borrower and Mortgage Lender.

- 2.2.10 "MCC Participation Agreement—~~"~~" means a written contract between the Corporation and a Mortgage Lender which establishes the terms by which the Mortgage Lender will participate in the MCC Program.
- 2.2.11 "MCC Program" means the Corporation's program of issuing Mortgage Credit Certificates to qualified Borrowers pursuant to these Regulations.
- 2.2.12 "Program Bulletin" means a bulletin issued by the Corporation implementing a section or sections of these Regulations. A program manual shall constitute a Program Bulletin for purposes of these Regulations. Copies of all Program Bulletins shall be maintained by the Corporation at its principal office, and shall be available for inspection and copying from the hours of 9:00 a.m. – 5:00 p.m. on Mondays through Fridays, except holidays.
- 2.2.13 "State" means the State of Rhode Island and Providence Plantations.
- 2.2.14 "Tax Act" means the Internal Revenue Code of 1986, as amended, the rules, revenue rulings and regulations promulgated or deemed to be promulgated thereunder as now in effect or as may be promulgated and from time to time amended, and any corresponding provision of prior to future federal tax laws that apply to the issuance of MCCs.

SECTION 3. PROCEDURES

3.1 Application Process. Applications for Credits shall be made by Borrowers with participating Mortgage Lenders, and will be considered by the Corporation on a first come first served basis. The Corporation will maintain and make available to the public a list of participating Mortgage Lenders as revised from time to time.

3.2 Reservation of Credits. The Corporation will allocate Credits to Borrowers using a reservation system. At the time of application for a Mortgage Loan, each Mortgage Lender will make a preliminary determination as to whether the Borrower qualifies under the MCC Program. If it is initially determined that the Borrower so qualifies, the Mortgage Lender shall request the Corporation ~~by telephone~~ to reserve Credits for the Borrower. ~~The telephonic request shall be confirmed in writing by in such manner as may be established by the Corporation from time to time. The Corporation will provide the Mortgage Lender, which written confirmation (the "Confirmation") must be received by the Corporation within three (3) business days after the telephonic request. If the Confirmation is not received by the Corporation within three (3) business days as aforesaid, the reservation of Credits may be cancelled by the Corporation of the reservation.~~ Credits shall be reserved by the Corporation for a period of ~~ninety (90) days after receipt of the Confirmation.~~

time, as may be established from time to time by Program Bulletin, after delivery of the Confirmation (the "Reservation Period"). The Mortgage Lender shall promptly notify the Corporation of any changes impacting Borrower's eligibility under the MCC Program. The Corporation may cancel any reservation if (i) the Closing does not occur during the Reservation Period, or (ii) if the Corporation determines that changed circumstances render the Borrower ineligible under the MCC Program.

The Mortgage Lender shall thereafter, but in any event at least five (5) business days prior to the Closing, promptly deliver to the Corporation such affidavits, documents, certifications, tax returns, employment information and other materials and data (the "MCC Document") as the Corporation may require to make an initial eligibility determination together with the non-refundable fee set forth in Section 6.3 hereof. An MCC shall be issued by the Corporation after receipt of documents, affidavits and certifications signed by the Borrower and/or the seller, as applicable, at the Closing which are required by the Corporation to evidence compliance with the Tax Act and MCC Program requirements. ~~The Corporation may by Program Bulletin establish a time or times when telephonic requests for reservations of Credits will be entertained and designate a person or persons to receive such requests.~~

SECTION 4. ELIGIBILITY CRITERIA

4.1 Tax Act and Program Requirements. The Property securing a Mortgage Loan shall be (i) the Borrower's principal residence, and (ii) occupied by the Borrower within a reasonable time (e.g., sixty (60) days) after the Closing or completion of rehabilitation or improvements, as required by the Tax Act.

4.2 Income Limits. The Aggregate Family Income of Borrowers shall be established by the Corporation and made available by Program Bulletin from time to time, but shall not in any event exceed the Aggregate Family Income limits established pursuant to the Tax Act. ~~Until revised by Program Bulletin, the Aggregate Family Income limits shall be as set forth on Schedule A attached to these Regulations.~~

4.3 Limitation on Prior Homeownership. Except for Borrowers acquiring properties in Targeted Areas as defined in Section 5 of these Regulations who are not subject to limitations on prior homeownership under the Tax Act, no Borrower shall be eligible for Credits if he or she has owned a principal residence within the three (3) year period prior to the Closing of the Mortgage Loan.

4.4 Qualified Properties. To be eligible under the MCC Program, a Borrower (i) must be acquiring an existing or new single family residential dwelling and (ii) the property must be located in the State. A single family residential dwelling shall include a condominium unit and, if approved by the Corporation, a share in a qualified cooperative housing corporation or any other similar housing corporation. Two, three and four family residences that have been occupied as such for not less than five (5) years prior to Closing and are located in the State also shall constitute qualified properties.

4.5 Acquisition Cost Limits. The acquisition cost of qualified properties shall be established by the Corporation and made available by Program Bulletin from time to time, but shall not in any event exceed the acquisition cost limits established under the Tax Act. ~~Until revised by Program Bulletin, the acquisition cost limits shall be as set forth in Schedule B attached to these Regulations. in connection with the Proposal;~~

4.6 Amount of Credit. Under the Tax Act, qualified Borrowers are entitled to a Credit, as established by the Corporation, in the amount of between ten (10%) percent and fifty percent (50%) of the interest paid on the Mortgage Loan each year during the loan term. Until revised by Program Bulletin, the amount of the Credit is hereby established at twenty percent (20%).

4.7 Non-Qualifying Loans. An MCC shall not be issued in connection with (i) any loan made or acquired under any program established pursuant to the Rules and Regulations of the Corporation Applicable to the Mortgage Finance Programs as the same may be amended from time to time (the "Single Family Program Regulations") or (ii) the refinancing of an existing mortgage loan, except as may be permitted by the Tax Act.

4.8 Documentation. Borrowers shall execute an affidavit or affidavits, in form satisfactory to the Corporation, (i) evidencing an intent to occupy the residence within a reasonable time after the Closing as required by the Tax Act and (ii) evidencing an intent to use and occupy the property as the Borrower's principal residence for the term of the Mortgage Loan. Borrowers and Mortgage Lenders shall also execute such other affidavits, documents, Treasury and other forms and certifications as may be required by the Corporation to evidence compliance with the Tax Act and the requirements of the MCC Program.

SECTION 5. TARGETED AREAS

5.1 Designation of Targeted Areas. The Corporation shall from time to time by Program Bulletin designate targeted areas ("Targeted Areas") for which income and acquisition cost limits may be different than for other areas of the State, and other MCC Program requirements may be waived by the Corporation by Program Bulletin, if the Tax Act so provides. ~~The Targeted Areas, together with the income limits and acquisition cost limits for such Targeted Areas are set forth in Schedule A and Schedule B attached hereto, respectively, and shall remain in effect until revised by Program Bulletin of the Corporation.~~ Communities removed from Targeted Area designation, if any, shall also be designated by Program Bulletin.

SECTION 6. PARTICIPATION BY MORTGAGE LENDERS

6.1 Application by Mortgage Lender. To participate in the MCC Program, a lending institution shall submit an application to the Corporation (containing such information as the Corporation may establish by Program Bulletin) which may be obtained by writing or telephoning the Corporation at its

principal office located at 44 Washington Street, Providence, Rhode Island 02903. If the application is approved, such institution shall enter into an MCC Participation Agreement in form prescribed by the Corporation which shall set forth procedures for the issuance of MCCs to Borrowers, reporting requirements and other obligations of the Mortgage Lender. All Mortgage Lenders approved by the Corporation under the Single Family Program Regulations prior to the effective date of these Regulations shall be deemed to be qualified as Mortgage Lenders under the MCC Program ~~without further application to the Corporation~~ but shall be required to execute an MCC Participation Agreement should they elect to participate in the MCC Program.

6.2 Qualifications. To qualify as a Mortgage Lender, the institution must make residential mortgage loans in the regular, usual and ordinary course of business and must be an approved FNMA or FHLMC seller/servicer or otherwise be approved by the Corporation as having the capability and experience necessary to originate loans responsibly in furtherance of the purposes of the MCC Program.

6.3 Administrative Fees. Each Mortgage Lender shall pay to the Corporation a non-refundable administrative fee in ~~the~~an amount ~~of One Hundred Twenty Five Dollars (\$125.00)~~established by Program Bulletin for each reservation of Credits. Such fee shall be submitted with the MCC Documents, and may be recovered by the Mortgage Lender from the Borrower at any time during the Mortgage Loan application process or at the closing.

In addition, each Mortgage Lender may collect a fee from Borrowers for its own account at the Closing to cover its own administrative costs. The amount of such fee shall not exceed ~~One Hundred Twenty Five Dollars (\$125.00)~~an amount established by Program Bulletin. The fee may be collected at any time during the Mortgage Loan application process or at the Closing, ~~but shall be refunded to the Borrower if the Mortgage Loan does not close.~~ The amount of the fees that may or shall be charged under the MCC Program may be increased or decreased by Program Bulletin from time to time.

Nothing contained in these Regulations shall be deemed to prohibit or limit a Mortgage Lender from charging application fees, appraisal fees, points and other fees customarily charged by financial institutions to borrowers applying for Mortgage Loans. The Corporation may charge Mortgage Lenders fees for participation in the MCC Program as established from time to time by Program Bulletin. Fees charged by the Corporation and by Mortgage Lenders in connection with the MCC Program may not exceed those allowable under the Tax Act.

SECTION 7. MISCELLANEOUS

7.1 Consistency with Tax Act. These Regulations are intended to be interpreted consistently with the provisions of the Tax Act. To the extent there is an inconsistency between these Regulations and the Tax Act, the provisions of the Tax Act shall control. Should any amendment to the Tax Act require amendment to any provision of these Regulations, such provision of these Regulations shall be deemed to have been amended upon the effective date of the amendment to the Tax Act without any further action on the part of the Corporation.

7.2 Termination of the MCC Program. The Board of Commissioners reserves the right to modify or terminate the MCC Program at any time.

Mortgage Credit Certificate Regulations

Schedule A

INCOME LIMITS

Most Areas of the State

Household Annual Income Limit \$38,700

Target Areas

Household Annual Income Limit \$47,180

Mortgage Credit Certificate Regulations

Schedule B

PURCHASE PRICE LIMITS

Most Areas of the State

———— New Single Family	———— \$130,266
———— Existing Single Family	———— \$113,978
———— Existing Two Family	———— \$128,339
———— Existing Three Family	———— \$155,352
———— Existing Four Family	———— \$180,655

Target Areas

———— New Single Family	———— \$159,165
———— Existing Single Family	———— \$139,306
———— Existing Two Family	———— \$156,859
———— Existing Three Family	———— \$189,874
———— Existing Four Family	———— \$220,800