

825-RICR-20-00-2

TITLE 825 - HOUSING AND MORTGAGE FINANCE CORPORATION

CHAPTER 20 - RULES RELATIVE TO SINGLE-FAMILY LOAN PROGRAMS

SUBCHAPTER 00 - N/A

PART 2 - Mortgage Credit Certificate Program

2.1 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 ("MCCs") to qualified Borrowers. Generally, 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.

2.2 CONSTRUCTION

- A. 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.
- B. Definitions.
 - 1. "Act" means the Housing and Mortgage Finance Corporation Act set forth in R.I. Gen. Laws Chapter 42-55, as amended.

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.
3. "Board of Commissioners" means the Board of Commissioners of the Corporation.
4. "Borrower" means a person or persons satisfying the Eligibility Criteria set forth in § 2.4 of this Part and who satisfy(ies) the credit and underwriting criteria established by the Mortgage Lender to whom application for a Mortgage Loan is made and, is or are issued or apply(ies) for Credits.
5. "Closing" means the date documents evidencing a Mortgage Loan are executed by the Borrower.
6. "Corporation" means Rhode Island Housing and Mortgage Finance Corporation, a public corporation organized and existing under the Act.
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.
8. "Mortgage Lender" means an entity engaged in the business of mortgage lending which is qualified under § 2.6 of this Part to participate in the MCC Program.
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 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.

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.
11. "MCC Program" means the Corporation's program of issuing Mortgage Credit Certificates to qualified Borrowers pursuant to these Regulations.
12. "Program Bulletin" means a bulletin issued by the Corporation implementing a section or sections of this Part. 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.
13. "State" means the State of Rhode Island and Providence Plantations.
14. "Tax Act" means the Internal Revenue Code of 1986, 26 U.S.C., 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.

2.3 PROCEDURES

- A. 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.
- B. Reservation of Credits.
 1. 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 to reserve Credits for the Borrower in such manner as may be established by the Corporation from time to time. The Corporation will provide the Mortgage Lender written confirmation (the "Confirmation") of the reservation. Credits shall be reserved by the Corporation for a period of 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 the Closing does not occur during the Reservation Period, or if the Corporation determines that changed circumstances render the Borrower ineligible under the MCC Program.

2. 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 § 2.6(C) of this Part. 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.

2.4 ELIGIBILITY CRITERIA

- A. Tax Act and Program Requirements. The Property securing a Mortgage Loan shall be the Borrower's principal residence, and 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.
- B. 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.

- C. **Limitation on Prior Homeownership.** Except for Borrowers acquiring properties in Targeted Areas as defined in § 2.5 of this Part 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.
- D. **Qualified Properties.** To be eligible under the MCC Program, a Borrower must be acquiring an existing or new single family residential dwelling and 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.
- E. **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.
- F. **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%).
- G. **Non-Qualifying Loans.** An MCC shall not be issued in connection with 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, the refinancing of an existing mortgage loan, except as may be permitted by the Tax Act.

- H. Documentation. Borrowers shall execute an affidavit or affidavits, in form satisfactory to the Corporation, evidencing an intent to occupy the residence within a reasonable time after the Closing as required by the Tax Act and, 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.

2.5 TARGETED AREAS

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. Communities removed from Targeted Area designation, if any, shall also be designated by Program Bulletin.

2.6 PARTICIPATION BY MORTGAGE LENDERS

- A. 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 but shall be required to execute an MCC Participation Agreement should they elect to participate in the MCC Program.
- B. 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.

C. Administrative Fees.

1. Each Mortgage Lender shall pay to the Corporation a non-refundable administrative fee in an amount 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.
2. 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 an amount established by Program Bulletin. The fee may be collected at any time during the Mortgage Loan application process or at the Closing. 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.
3. 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.

2.7 MISCELLANEOUS

- A. 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.

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

825-RICR-20-00-2

TITLE 825 - HOUSING AND MORTGAGE FINANCE CORPORATION

CHAPTER 20 - RULES RELATIVE TO SINGLE-FAMILY LOAN PROGRAMS

SUBCHAPTER 00 - N/A

PART 2 - Mortgage Credit Certificate Program (825-RICR-20-00-2)

Type of Filing: Technical Revision

Effective Date: 05/06/2015

Editorial Note: This Part was filed with the Department of State prior to the launch of the Rhode Island Code of Regulations. As a result, this digital copy is presented solely as a reference tool. To obtain a certified copy of this Part, contact the Administrative Records Office at (401) 222-2473.