



# The Florida Homebuyer Opportunity Program is Extended



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The Florida Homebuyer Opportunity Program (FHOP) was created by the Florida Legislature in 2009 under Section 47 of the General Appropriation Act to help eligible Floridians access the \$8,000 federal tax credit for homeownership more quickly. Senator Fasano championed this cause which resulted in a \$30 million appropriation through the SHIP program. The original deadline for the federal tax credit program was November 30, 2009.

The Worker, Homeownership and Business Assistance Act of 2009, signed into law by President Obama on Nov. 6, 2009, extends and expands the first-time homebuyer tax credit. The extended credit applies to first-time home buyers who purchase homes between November 7, 2009 and April 30, 2010. The extension of time is good news for those who have been struggling to expend FHOP monies by the November deadline. The expansion of the tax credit has no effect on FHOP as it applies to those who are over-income for the FHOP and not first time homebuyers.

Following are changes in the law that apply to the FHOP program:

- The credit now terminates on April 30, 2010. Purchasers with binding contracts on April 30, 2010 will have until June 30, 2010 to close on the transaction. Cities and Counties that received Florida Homebuyer Opportunity Funds (FHOP) now have until June 30, 2010 to expend FHOP funds.
- The property being sold cannot be purchased from a dependent of the seller.
- Purchasers must attach documentation of the purchase to their tax return.

One of the challenges that a number of SHIP administrators have found in the FHOP program is confusion by a some lenders and mortgage brokers in regard to whether the homebuyer tax

credit money can be counted toward the borrower's 3.5% down payment required by FHA loans. This is because FHA Mortgagee letter 2009-15 provides tax credit guidance, and in one section of that letter, it appears to prohibit the use of homebuyer tax credits for the 3.5% down payment.

The Florida Housing Coalition has received clarification from HUD staff regarding the use of the federal first-time homebuyer tax credit toward the 3.5% FHA down payment requirement. When we inquired about the \$8,000 tax credit, HUD staff cited the section of the Mortgagee letter that applies to eligible government entities and instrumentalities of government providing "Secondary Financing". HUD-4155.1 C3 and C5 allows for gifts from eligible government entities and instrumentalities of government to be used toward the 3.5% required down payment as well as closing and pre-paid expenses in the form of advances as second liens.

HUD staff will not comment directly on the tax credit because this is a program of the IRS, but does not refer to the section on "Purchase of the Tax Credit" that appears to prohibit counting the \$8,000 credit toward the homebuyer's 3.5% of the down payment. This portion of the Mortgagee letter only applies to "FHA-approved mortgagees and FHA-approved nonprofit organizations as well as Federal, state and local governmental agencies and instrumentalities" who buy the anticipated tax credit. If the credit is purchased by one of these entities, the required 3.5% minimum down payment must come from the buyer. This is not what is happening with the \$8,000 credit.

Hopefully, this clarification, along with the extension of the credit will enable SHIP communities to overcome a couple of the obstacles that have kept this program from assisting more families to get into homeownership. **HNN**

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For questions regarding the  
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