



Legislative Wrap-Up 2009: Florida Homebuyer Opportunity Program Federal Tax Credit for Homebuyers

The federal stimulus legislation (ARRA) created a tax credit for persons who purchase a home before December 1, 2009. The value of the credit is the lesser of \$8,000 or 10% of the purchase price of the home. The credit can be claimed on either 2008 or 2009 taxes (amended return for 2008).

Unlike many tax credits, the value is the full \$8,000. If the credit takes the homebuyers tax liability below \$0, they receive a refund. Because many first-time homebuyers have withholding taxes that equal or exceed their actual tax liability, they are likely to receive a refund check in the \$6,000 to \$8,000 range.

The problem is that getting a tax credit at some later point in time does not help the homebuyer purchase the home. They need assistance with downpayment and/or closing costs—particularly first-time buyers. The value of the tax credit is maximized when it is capitalized as downpayment assistance.

Several states and local jurisdictions are working to capitalize the tax credit—including the State of Florida. If one looks at this from a risk perspective, the prospects of repayment in a timely manner are much higher than a typical HFA DPA loan (which is usually due when the property is sold or refinanced). For most recipients of the tax credit, repayment is possible within one year. The tax credit DPA would be secured by the same level of mortgage/note that secure other HFA DPA loans. Most SHIP DPA loans are secured by notes and mortgages, and have a 0% interest rate, due on sale or refinancing.

Florida Homebuyer Opportunity Program

The Florida legislature appropriated \$30,110,000 to capitalize the tax credit. The funds will be distributed to SHIP jurisdictions for use according to a local strategy to be adopted by each local government (meaning the exact structure will not be the same in every city or county). The state is requiring each locality to adopt a SHIP strategy to implement the program.

The following exceptions to SHIP guidelines apply:

- (a)** The maximum income limit shall be an adjusted gross income of \$75,000 for single taxpayer households or \$150,000 for joint-filing taxpayer households, which is equal to that permitted by the American Recovery and Reinvestment Act of 2009;
- (b)** There is no requirement to reserve 30 percent of the funds for awards to very-low-income persons or 30 percent of the funds for awards to low-income persons;
- (c)** There is no requirement to expend 75 percent of funds for construction, rehabilitation, or emergency repair; and
- (d)** The principal balance of the loans provided may not exceed 10 percent of the purchase price or \$8,000, whichever is less.

The Florida legislation states that the homebuyer is expected to use their federal income tax refund to fully repay the loan. If the county or city receives repayment from the homebuyer within 18 months after the closing date of the loan, the county or eligible municipality is required to waive all interest charges. A homebuyer who fails to fully repay the loan within the earlier of 18 months or 10 days after the receipt of their federal income tax refund, shall be subject to repayment terms provided in the local housing assistance plan, including penalties for not using his or her refund for repayment. Penalties may not exceed 10 percent of the loan amount and shall be included in the loan agreement with the homebuyer.

In order to maximize the effect of the funding, the counties and cities are encouraged by the legislation “to work with private lenders to provide additional funds to support the Initiative”. However, in all instances, the counties and eligible municipalities shall make and hold the subordinate loan. HNN

Note: As this issue was going to press HUD released an updated Mortgagee Letter on using the first time buyer tax credit. For more information go to the Coalition's SHIP Blog at <http://flhousing.blogspot.com/>.