



ADDITIONAL TAX BENEFIT FOR FIRST-TIME LOW TO MODERATE INCOME HOMEBUYERS: NEW YORK STATE MORTGAGE CREDIT CERTIFICATE PROGRAM

On August 10, 2009, Governor David A. Patterson announced that New York will begin offering a federal tax credit to first-time homebuyers in the form of a Mortgage Credit Certificate (MCC). With a MCC, a qualified homebuyer will be able to claim a federal income tax credit equal to 20% of the annual mortgage interest costs for the life of the loan as long as the home remains the homebuyer's principal residence. The MCC is to be offered in addition to the \$8,000 First-Time Homebuyer Credit (the "FTH Credit") enacted as part of the American Recovery and Reinvestment Act of 2009 so that qualified applicants closing on a purchase prior to November 30, 2009 (the expiration date of the FTH Credit) may receive the benefit of both tax credits. Applications for the MCC are expected to be available in early September 2009.

Origin of Mortgage Credit Certificate (MCC)

The Tax Reform Act of 1984 (the "Act") allocates federal dollars to approved State housing agencies for the development of programs designed to encourage home ownership. Under the Act, States are authorized to use these federal allocations to (1) issue single family mortgage revenue bonds to provide financing for eligible properties to persons of low and moderate income, or (2) issue and administer MCCs to qualified applicants. Several states, including Michigan, Texas, Mississippi, California, Washington, Indiana and Ohio, have elected to offer MCCs to their residents, while others, including Connecticut and New Jersey, have declined to offer the credit, opting instead to offer only traditional low-interest-rate loans. In New York, federal funds are allocated to the State of New York Mortgage Agency (SONYMA). Traditionally, like Connecticut and New Jersey, SONYMA has elected to use allocated funds to offer low interest and other residential loan products to first-time homebuyers with low or moderate incomes. However, SONYMA recently made a revocable election under Section 25 of the Internal Revenue Code of 1986 to exchange its bond authority for the authority to issue MCCs to qualified persons. With Twenty Million Dollars now allocated to MCCs, SONYMA estimates that approximately One Hundred Million Dollars in new mortgages will be leveraged under the program.

How to Apply for an MCC

Prospective homebuyers interested in receiving a MCC must apply for the credit when submitting their application for a fixed-interest rate mortgage, such as a conventional, FHA or VA loan, to a participating lending institution. "High cost home loans" as defined under New York State law will not be eligible for a MCC. SONYMA reports that a one-time MCC fee equal to \$250 for loans up to \$100,000 and \$500 for loans over \$100,000, will be due upon application, although rates may vary by lender. Lenders currently approved to originate loans under SONYMA's existing mortgage purchase programs will automatically qualify to participate in the MCC program provided they continue to be eligible under the terms of those programs. A list of current participating lenders is available online at www.nyhomes.org. Big banks like Bank of America, Wells Fargo and First Niagara, and other local and regional banks such as Fulton Savings Bank and Ulster Savings Bank, are among the list of participating lenders who have agreed to take part in the program.

Homebuyers who have obtained a mortgage commitment will still be eligible to apply for a MCC provided they have not yet closed on their loan when applications become available. Unfortunately, there is currently no retroactive provision to allow qualified buyers who have recently closed on a purchase to obtain the benefits of a MCC.

Who Qualifies for a MCC

To qualify, an applicant must:

- Be a "first-time" homebuyer of an eligible property,
- Intend to occupy the property within sixty (60) days of closing, and
- Satisfy SONYMA income and purchase price limitations.

A “first-time” buyer is defined as one who has not had an ownership interest in their primary residence for three (3) years immediately preceding the application date and does not own a vacation or investment home. Military veterans and applicants purchasing properties in federally designated Target Areas are exempt from the first-time homebuyer requirement.

Eligible properties include existing or newly constructed single family homes (including cooperatives, condominiums, PUDs and prefabricated homes permanently affixed to real property) and existing or newly constructed two, three or four family homes, except that newly constructed two family properties (including those less than five years old) must be located in a federally designated Target Area. Existing two, three or four family properties must be at least five years old as of the application date and have been held out for residential use during the past five (5) years. Moreover, to qualify for a MCC related to the purchase of a two or more family property, an applicant must intend to occupy at least one of the units.

An eligible property may not be more than five (5) acres in size. No more than 15% of an eligible property may be used for business or commercial use. Failure to occupy any eligible property within sixty (60) days may be grounds for revocation of a MCC.

SONYMA income and purchase price limitations vary by county. The income limit for most non-target areas in counties encompassing Syracuse, Rochester, Buffalo and the Mohawk Valley is \$67,900 for one to two person households and \$78,085 for households of three or more people. In the Capital region, limits increase slightly for most counties to \$74,100 for one to two person households and \$85,215 for those with three or more. Limits in the Downstate, Long Island and New York City counties increase even higher to \$92,160 and \$107,520 respectively in New York City counties and \$126,360 and \$147,420 respectively in Westchester.

Purchase price limitations follow a similar pattern. In non-target areas in counties encompassing Syracuse, Rochester, Buffalo and the Mohawk Valley, the purchase price for a one family home cannot exceed \$258,690. The limit for single family homes increases to \$273,050 in most Capital region counties and to \$637,640 in Downstate, Long Island and New York City.

Higher income and purchase price limits apply for those purchasing eligible properties in Target Areas.

Benefits of MCCs

Once an eligible purchase is complete, MCCs will reduce the federal income tax burden of qualified homebuyers by allowing them to convert 20% of the annual interest paid on their conventional mortgage loan into a dollar-for-dollar credit against their federal income tax liability for the life of the loan provided they continue to occupy the financed residence. Recipients will be able to claim the credit by filing IRS Form 8396 with their annual return. The remaining 80% of the annual mortgage interest will continue to qualify as an itemized deduction. In the event a homebuyer’s annual tax liability is less than the MCC credit in any given year, the amount of unused tax credit will be able to be carried forward for up to three (3) years.

While MCC recipients will be subject to a Federal recapture tax if they sell the financed residence within nine (9) years, SONYMA, as with its standard mortgage programs, has agreed to reimburse any MCC recipients who are required to pay a Federal recapture tax. Without SONYMA’s reimbursement, homeowners would be liable for a recapture amount (subject to certain limits) upon the sale of their home, the amount increasing during the first five years of ownership with full recapture occurring at the end of the fifth year, and decreasing ratably to zero with respect to a sale occurring in years six through nine.

If you are a homebuyer or interested in purchasing a home and would like more information on whether you will qualify for a MCC, please visit www.nyhomes.org or contact Lisa M. Weaver, Esq. at (315) 218-8304.

If you are a lender, and would like more information on how to become an MCC participating lender or how to process MCC applications, please contact Lisa M. Weaver, Esq. at (315) 218-8304.

PLEASE CONSULT YOUR TAX ADVISOR REGARDING
THE TAX INFORMATION PROVIDED ABOVE.
TAX LAWS MAY CHANGE AT ANY TIME.