

# First-Time Home Buyer Tax Credit Loan Program The “Prefund” Program

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- 1. PROGRAM DESCRIPTION:** The First-Time Home Buyers Tax Credit Loan (“TCLP”) Program provides a loan to pay downpayment and/or closing costs to Agency Home Buyer Program first-time home buyers who meet all of the requirements of the Home Buyer Program and who are eligible for the credit as permitted by the federal law establishing the credit and the guidance provided by the IRS in the General Instructions that accompany IRS Form 5405 and who close on a home purchase between the start of the TCLP program and December 1, 2009. The loan will not exceed \$5,000 (\$4,000 in the case of married filing separately) and will be secured by a second mortgage. The borrower will pledge to apply the refunds received from the first-time home buyer tax credit toward the repayment of the TCLP loan.
- 2. ELIGIBLE APPLICANTS:** TCLP loans are only available to Agency Home Buyer Program first mortgage borrowers who also qualify for the first-time home buyers tax credit. It should be noted that the income limits and certain eligibility restrictions for the first-time credit differ from the Home Buyer Program eligibility criteria (refer to IRS 5405 General Instructions attached for details). Borrowers affirm, at the time that the TCLP loan is made, that they have a reasonable expectation that they will receive a First-Time Home Buyer Tax Credit refund at least equal to the amount necessary to repay the TCLP loan.
- 3. INCOME ELIGIBILITY:** Borrowers must not exceed the lower of the Home Buyer Program income limits or the tax credit income limits (which are different than the Home Buyer Program limits).



4. **ELIGIBLE PROPERTIES:** Home Buyer Program Eligible Property definitions are applicable (refer to Home Buyer Program Fact Sheet or Term Sheet for details). Note that the Home Buyer Program cannot be used for certain types of residences for which the credit can be claimed, such as houseboats and housetrailers.
5. **GENERAL ELIGIBILITY REQUIREMENTS:** Individuals only. Corporations are not permitted to act as borrowers. Borrowers purchasing properties located in the Statewide Areas or in Urban Target Areas must be first-time home buyers. At the time of loan closing, no other residential properties may be owned.
6. **OCCUPANCY:** Property must be occupied as the borrowers' primary residence within 60 days of closing. Borrower must maintain occupancy for the life of the loan.
7. **INCOME GUIDELINES:** Borrowers must not exceed the lower of the Home Buyer Program income limits or the tax credit income limits (which are different than the Home Buyer Program limits and which are set forth in the General Instructions that accompany IRS Form 5405). Borrowers must affirm, at the time that the TCLP loan is made, that they have a reasonable expectation that they will receive a tax refund at least equal to the amount necessary to repay the TCLP loan.
8. **MAXIMUM LOAN AMOUNT:** The TCLP loan shall be in the amount of the lesser of 10% of the purchase price of the home or \$5,000,- or such lesser amount as determined by the Agency or as may be requested by the borrower. The borrower will not be permitted to receive cash back at closing. Married taxpayers filing separately receive a \$4,000 tax credit and therefore will be eligible to receive the lesser of 10% of the purchase price or \$4,000. However, the Borrower may only request a loan in an amount up to the amount that they can reasonably be expect to receive in tax credit cash from the IRS.



**9. TERMS, INTEREST RATE AND REPAYMENT:** The Loans shall be memorialized by a promissory note at 0% interest rate and secured by a second mortgage lien that shall be due on June 30, 2010. Exceptions to the due date can be made if the borrower's tax refund is not received or realized (i.e., borrower has been given a credit but no or limited refund because the tax obligation has exceeded the tax credit refund amount) by that date. Requests for an exception must be presented by the borrower to the Agency in writing by June 30, 2010 and will only be granted if the borrower is filing late as permitted by the IRS, or if the borrower did not receive or realize a tax credit refund in the amount of the principal balance of the Promissory Note. Requests for extensions must include a copy of the borrower's IRS Form 4868 (Application for Automatic Extension of Time to File U. S. Individual Income Tax Return) and are subject to approval by the Agency. If the borrower receives a tax credit refund that is less than the full amount of the TCLP loan repayment obligation, that partial amount shall be repaid and the TCLP note will be partially reduced accordingly.

The TCLP loan note rate will be 0% until the due date, after that if the TCLP loan has not been repaid simple interest will accrue at the annual interest rate equal to the amount of the first mortgage note rate starting on July 1, 2010 until such time as the loan is repaid in full. In the event that Borrower files an amended 2008 tax return the note rate will be 0%, however, if not repaid by December 31, 2009 the the interest rate will thereafter be the same as the first mortgage note rate.

The TCLP loan shall require no monthly payments. The full principal amount together with any any accrued interest shall be due and payable upon the sale or upon the transfer or upon the cash-out refinance of the property or if the applicant ceases to occupy the property as his/her primary residence, whichever occurs first.

**10. SUBORDINATIONS NOT PERMITTED:** TCLP loans will not be subordinated to other financings, other than the Agency Homebuyer first mortgage. However, the TCLP loan will not preclude the borrower from receiving other downpayment assistance, including a loan from the Agency's Smart Start program.



- 11. IRS DIRECTED REFUND:** The Agency may require as a condition of the loan that the Borrower consent to its requirement that the IRS direct any refund up to the amount of the TCLP directly to the Agency's account.
- 12. LOAN IS ENFORCEABLE REGARDLESS OF IRS ELIGIBILITY DETERMINATION; TAX LAW DISCLAIMER:** The Agency cannot provide tax advice and makes no representations as to the eligibility of any borrower for the first-time homebuyer tax credit. The TCLP loan is not conditioned on the eligibility of the borrower to receive the tax credit or on the availability of a refund from the IRS and shall remain in full force and effect in the event that the borrower is or becomes ineligible to receive the tax credit or if the amount of the tax credit refund is inadequate to repay the TCLP loan.

