An Explanation of FHA Mortgagee Letter on Tax Credit Monetization

On Friday, May 29, HUD issued Mortgagee Letter 2009-15, which outlines the requirements that must be met in order to monetize the first-time homebuyer tax credit.

The tax credit can be monetized in two ways:

- Government agencies and instrumentalities of government are allowed to make tax credit advances secured by second liens.
- FHA-approved mortgagees (lenders) and FHA-approved nonprofit organizations, as well as government agencies may purchase the anticipated tax credit from a homebuyer.

<u>Secondary Financing</u>

Government agencies and instrumentalities of government can advance the anticipated tax credit and secure the repayment by a second lien on the home that is being purchased as long as the advance and the FHA-insured first mortgage do not result in cash back to the borrower. The second lien may not exceed the sum of the downpayment, closing costs, and prepaid expenses such as escrows for taxes, insurance, and community association assessments.

Payments to repay the advance do not have to be counted in the homebuyer's qualifying ratios as long as the payment is deferred *at least* 36 months from closing. Otherwise, these payments would be included in the ratios.

<u>Tax Credit Purchases</u>

As an alternative, FHA will allow FHA-approved mortgagees, FHA-approved nonprofits, government agencies and instrumentalities of government to buy the anticipated tax credit as long as the fees for doing so are limited to no more than 2.5 percent of the anticipated credit, which would cap these fees to no more than $200.00 for an $8,000.00 tax credit.

The FHA's required 3.5 percent minimum down payment must come from the homebuyer's own funds and <u>cannot</u> include the proceeds of the sale of the anticipated tax credit or any other funds provided by the mortgagee, seller or any other party of interest to the transaction.

An advance against the tax credit could be used to pay closing costs and other expenses as long as the funds aren't used to meet the 3.5 percent down payment. Closing costs and payments for prepaid expenses, such escrows, can be significant, which means that monetization will be a valuable tool for first-time homebuyers.