

County of Contra Costa
Mortgage Credit Certificate Program Policies
(Adopted by the Board of Supervisors on ____)

Summary

The Mortgage Credit Certificate (MCC) Program, authorized by Congress in the Tax Reform Act of 1984, is an alternative to mortgage revenue bond-backed financing and provides financial assistance to "first time homebuyers"¹ for the purchase of new or existing single-family housing. In 1985, the State adopted legislation authorizing local bond issuing agencies to make MCCs available in California. Contra Costa County ("County") applies annually to the California Debt Limit Allocation Committee (CDLAC) for an allocation of mortgage revenue bond-issuing authority for single-family housing and converts that allocation into a Countywide MCC program.

The MCC operates as an Internal Revenue Service (IRS) tax credit. The MCC tax credit (20 percent of annual mortgage interest paid) reduces the federal income taxes of qualified Borrowers purchasing qualified homes, thus having the effect of subsidizing their mortgage payments. The MCC will reduce the amount of federal income taxes otherwise due to the federal government from the Borrower. Therefore, the benefit to the homeowner cannot exceed the amount of federal taxes owed for the year, after other credits and deductions have been taken into account. However, the tax credit can be carried forward three tax years or until used, whichever comes first. This allocation may be used in all cities in Contra Costa County, as well as the unincorporated County. In cooperation with all of the cities in the County, the County Department of Conservation and Development administers the program.

Definitions

The following definitions apply to the administration and operation of the County's MCC Program:

Acquisition Cost has the meaning given that term under Internal Revenue Code 143 (k)(3) and the regulations thereunder.

Affidavit means an affidavit filed in connection with the program made under oath and subject to penalties of perjury.

Applicant means any person who applies for an MCC under the Program.

Close of Escrow means the date the loan is recorded at the County Recorder's Office.

CDLAC Resolution means the Resolution attesting to the transfer of private activity bond allocation adopted by CDLAC

County means Contra Costa County Conservation and Development Department.

Date of Issue means the date on which the escrow closing occurs (i.e., the deed is recorded).

Eligible Dwelling means new or previously-owned single-family, owner occupied houses, townhouses, condominiums, mobile homes, and manufactured housing. (See definition of Manufactured Housing - Mobile Homes, below). The property must be located in Contra Costa County. Ineligible dwellings include: unattached mobile homes and trailers, unimproved land, investment or rental property and vacation homes. No more than 15 percent of an eligible dwelling (i.e., based on useable square footage) can be used for purposes other than a principal residence (i.e., office, rental, etc).

Existing Home means a dwelling unit that has been previously occupied prior to loan commitment.

Income as defined in Appendix A to the Program Manual for the Contra Costa County MCC Program.

Issue Date means the date of close of escrow (record date).

¹ A "first-time homebuyer" may not have owned a home in the previous three years.

Issuer means the Contra Costa County Department of Conservation and Development Department.

Lender (Participating Lender) means a financial institution which is licensed to do business in the State of California, has met all of the requirements established by the County to participate as a Lender in the MCC Program, and has entered into an acceptable MCC Participation Agreement with the County. A Participating Lender can be either be a funding lender, correspondent or mortgage broker. However, only a funding Lender can submit the closing MCC documents.

Loan means an extension of credit provided to an Eligible Borrower to finance the purchase of an Eligible Dwelling. The Mortgage Credit Certificate applies to such loan.

MCC Program means the Mortgage Credit Certificate Program established by the Contra Costa County Department of Conservation and Development and administered by the County pursuant to the rules and regulations included in a MCC Program Manual promulgated by the County.

Mortgage Credit Certificate Rate means that rate specified by the County in the Mortgage Credit Certificate. The rate established by the County for the MCC Program is 20 percent.

Mortgage Credit Certificate of "MCC" means a tax credit designed to reduce the federal income tax of a qualified buyer purchasing a qualified home in order that he/she will have more disposable income to apply toward his/her mortgage payments. The MCC is issued by the County pursuant to Section 25 of the Internal Revenue Code of 1986, as amended, and applicable to state and local requirements.

New Home means a dwelling unit that is proposed to be constructed, currently under construction, or existing but not previously occupied.

Ownership means any of the following interests in residential real property or in a mobile home classified as personal property:

- ▶ fee simple interest
- ▶ joint tenancy
- ▶ tenancy in common
- ▶ interest of a tenant-shareholder in a cooperative
- ▶ life estate
- ▶ interest held in trust for the Applicant that would constitute a present ownership interest if held by the Applicant.

Ownership does not include a remainder interest, a lease with or without an option to purchase or any interest acquired on the execution of the purchase contract.

Principal Residence for purposes of prior homeownership, "principal residence" means (1) a single-family house, (2) condominium or townhouse unit, (3) stock held by a tenant-stockholder in a cooperative housing corporation [as those terms are defined in the Internal Revenue Code Section 216 (b)(1) and (2)]; (4) occupancy of a unit in a multi-family building owned by the applicant; and (5) and manufactured home (including a mobile home) as defined under federal law which is of a type customarily used at a fixed location.

Related Person means a "related person," as that term is defined under Internal Revenue Code and applicable regulations.

Single-Family and Owner-Occupied Residences for purposes of determining eligibility of a home to be purchased under this program, the term "single-family" residence means a housing unit intended and used for occupancy by one household, (i.e., and multi-family buildings are not eligible to be purchased under this program.)

Target Area means Census Tracts in which 70 percent or more of the households have an income which is 80 percent or less of the statewide median family income. At the present time, target areas in Contra Costa County

include portions of Pittsburg, Bay Point, Martinez and San Pablo. Maps are available through the County's Conservation and Development Department. Target areas are not subject to the prior home ownership restriction. Maximum purchase prices can be 110 percent of average area purchase price and household income can be 120 percent of median household income for one and two person households and 140 percent of median for households of three or more persons.

Compliance

The County operates the program in a manner consistent with the CDLAC resolution for each MCC allocation. This includes reporting requirements described below as well as participation goals such as the percentage of MCCs issued either in a Qualified Census Tract or to households earning up to 80 percent of the area median income.

Within 24 hours of converting the allocation to MCCs, the County will notify CDLAC of the conversion in the manner described in the applicable CDLAC resolution. Within 15 days of issuance of the first MCC from a new allocation, the County will submit a Report of Action Taken to CDLAC. The County will include a copy of its MCC election notice to the IRS, which is sent to the IRS concurrently with the report to CDLAC.

By March 1 of each year, the County submits its Annual Applicant Public Benefit and Ongoing Compliance Self-Certification report to CDLAC.

In addition, the County completes the IRS Form 8329 for all participating lenders and submits quarterly reports to the IRS using IRS form 8330.

Program Operation

The County pre-approves lenders for participation in the MCC Program. A list of participating lenders may be found at <http://www.co.contra-costa.ca.us/4768/Mortgage-Credit-Certificate-Program>. Homebuyers apply for a Mortgage Credit Certificate with a participating Lender/Broker at the same time he/she makes a formal application for a mortgage loan. The lender submits the application package to the County.

The County assesses a non-refundable fee in applying for an MCC. Lenders work with borrowers on a first-come, first served basis. There is no allocation of Mortgage Credit Certificates by Lender. After an application is filed, the Lender will arrange with the County to reserve an allocation for an MCC-assisted mortgage loan. This reservation (MCC Commitment) will hold the MCC while the application is being processed by the Lender and the County.

Eligibility

An MCC can only be used for new (never previously occupied) or existing (resale) single-family homes including single family detached homes, condominiums, half-plexes, duplexes, townhouses or manufactured houses (including some mobile homes) in Contra Costa County. Triplexes and four-plexes do not qualify as eligible structures.

An MCC can be used with conventional, fixed-rate or adjustable rate loans; FHA and VA loans; and privately insured loans. MCC's are not available with (tax-exempt) bond backed loans such as programs backed by the California Housing Finance Agency (CalHFA) that carry a below-market fixed interest rate.

A first time homeowner may use the tax credit provided by the MCC as long as he/she lives in home as his/her principal residence and maintains the original mortgage.

Purchase price and income limitations

MCCs are available to first-time homebuyers within all cities in Contra Costa County, as well as in the unincorporated County. The purchase price and income limitations for MCC Program participants are set pursuant to Internal Revenue Code Sections 143(f) and by the US Department of Housing and Urban Development respectively. The current limits for Contra Costa County may be viewed at <http://www.co.contra-costa.ca.us/4768/Mortgage-Credit-Certificate-Program>. The

County will not underwrite the loans. Rather, all underwriting and execution of required state and federal certifications or affidavits will be performed under agency agreement by Lenders participating in the program. The County will review executed certifications and affidavits from the Lender in order to determine qualification and eligibility. Lenders process the underlying mortgages using standard procedures, with adjustments to those procedures as needed in order to satisfy MCC requirements.

BORROWER, PURCHASE PRICE AND MORTGAGE UNDERWRITING REQUIREMENTS.

A. OVERVIEW

For loans involving MCCs, the conventional underwriting standards are modified to reflect recognition of the MCC-derived mortgage interest credit in determining housing expense and indebtedness ratios. The secondary mortgage market and the mortgage insurance industry have established underwriting policy acceptable for their requirements for MCC-linked loans. These are available as policy statements from the mortgage lending industry.

The Borrower income, purchase price, and loan underwriting requirements discussed set forth herein are incorporated in the MCC program documents that are available for viewing at <http://www.co.contra-costa.ca.us/4768/Mortgage-Credit-Certificate-Program>. All applicants and program participants are required to complete and sign the appropriate MCC Program documents and attest to their validity. The Lender will be required to submit certifications on which it will state that to the best of its knowledge, no material misstatements, whether negligently or willfully made, are set forth in the program documents. The Lender must notify the County immediately if they become aware of misstatements. The County will take all lawful action to correct or modify the problem.

The Lender also should be aware and inform the Borrower that criminal penalties are provided by federal and California law if a person makes a false statement or misrepresentation so as to obtain participation in this Program.

B. BORROWER ELIGIBILITY REQUIREMENTS.

Similar to any conventional mortgage loan program, the Borrower must meet the credit and underwriting criteria established by the participating Lender providing the mortgage loan. Based on applicable federal and state regulations, in order to qualify for an MCC, a Borrower must also meet the following requirements.

1. The Borrower may not have held an ownership interest in his/her principal residence within the past three years. The Borrower applying for an MCC cannot have had a present ownership interest in a principal residence at any time during the preceding three years ending on the date the mortgage is executed (date that the deed is recorded). This requirement does not apply to acquisitions of units in Target Areas. This requirement qualifies the Borrower as a "first-time homebuyer" under the federal regulations.

Special Exception for Housing In Target Areas

The "first-time homebuyer" requirement does not apply if the home is located in a designated "Target Area."

2. The MCC applicant must occupy the acquired residential housing as a "Principal Residence." The Borrower must use the housing being purchased with the MCC-linked mortgage as a principle residence. The Lender must obtain from the Borrower, using the program affidavits, a statement of the Borrower's intent to use the residence as his/her principal residence with a reasonable time (60 days) after the MCC is issued. This affidavit further states that the MCC holder will notify the Lender and issuer of the MCC if the residence ceases to be his/her principal residence.

No more than 15 percent of the residence being purchased may be used for purposes other than the "principal residence" of the Borrower (e.g., office, rental, daycare operation, etc.).

3. In order to qualify for the MCC Program, the purchasers' must meet applicable income limits. Program limits are available for viewing at <http://www.co.contra-costa.ca.us/4768/Mortgage-Credit-Certificate-Program>.
 4. The MCC may be automatically revoked if the applicant fails to comply with program requirements. An MCC may be revoked under certain circumstances
1. Strict penalties may be imposed on any applicant making a material misstatement, misrepresentation or fraudulent act on documents submitted to obtain an MCC.

Any person making a negligent material misstatement or misrepresentation in any affidavit or certification made in connection with the application for the issuance of an MCC shall be subject to all applicable fines and penalties.

C. PURCHASE PRICE REQUIREMENTS

The Borrower must comply with program purchase price limits in order to qualify. The limits vary between new (never previously occupied) housing units, existing (resale) housing units, and homes in designated target areas. See program limits available for viewing at <http://www.co.contra-costa.ca.us/4768/Mortgage-Credit-Certificate-Program>

D. MORTGAGE REQUIREMENTS

1. New Mortgage Requirements. A Mortgage Credit Certificate cannot be issued in conjunction with the acquisition or replacement of an existing mortgage or land contract.
2. Prohibited Mortgages.
 - a. First mortgages only. If a Borrower takes out a first and second mortgage, the MCC tax credit applies only to the first mortgage.
 - b. A Mortgage Credit Certificate shall not be used in direct or indirect connection with a qualified mortgage bond or a qualified veteran's mortgage bond.
3. No Interest Paid to Related Persons. No interest on the mortgage (or certified indebtedness) amount may be paid to a person who is a "related person", as that term is defined under the Internal Revenue Code and applicable regulations. The Lender must obtain from the Borrower, using the program affidavits, a statement to the effect that no related person has or is expected to have, and interest as a creditor in the certified indebtedness amount.

MCC COMMITMENTS

A. RESUBMISSION OF MORTGAGE CREDIT CERTIFICATE APPLICATIONS RETURNED OR REJECTED.

If an MCC application as represented by the submitted MCC Program documents and exhibits has been returned or denied by the County, any resubmission, if appropriate, must include all information which the County has determined necessary for reconsideration. An MCC application that is being submitted a second time will be reviewed in depth, and a final disposition made.

B. COMMITMENT FOR MORTGAGE CREDIT CERTIFICATE

1. Issuance

The County will review each MCC submission package for acceptability and completeness. Acceptable loan packages will be kept on file at the County, and an MCC Commitment will be issued to the Lender

with an expiration period of one hundred twenty (120) days after the Lender has verified income with signed Application Affidavit.

2. Extensions

With regard to any MCC Commitment which is currently outstanding and which will not close prior to the expiration date, an extension may be requested prior to the expiration date, provided that income status is re-verified.

3. Cancellations

The Lender will immediately notify the County in writing of commitments to be canceled by submitting written notification and returning the original MCC commitment. A reason for the cancellation should be included.

C. CHANGES PRIOR TO CLOSING

1. Changes in the Applicant's financial or marital status after issuance of commitment and prior to closing.

a. Changes in current income. The eligibility of the applicant for a loan is based upon the applicant's (and co-mortgagor's) current income (provided the loan closes 120 days after income verification by the Lender), and the MCC Program will issue its Commitment based on facts as they are determined as of the date the Commitment is issued. Subject to the foregoing, changes in the applicant's financial status occurring after the MCC Commitment whether or not foreseen or predictable at the time of the issuance of the Commitment, and changes in the working status of a spouse will not affect the validity of an MCC Commitment.

b. Changes in marital status. If the applicant experiences a change in marital status after issuance of the Commitment and prior to loan closing, a new spouse must satisfy the prior homeownership requirements contained in the Application Affidavit, and the Lender must notify the MCC Program.

2. Changes in Homeownership Status, Acquisition Cost and Amount of Mortgage Loan after Issuance of Commitment and Prior to Closing.

a. If the Borrower(s) acquires a present ownership interest in a principal residence prior to loan closing, the commitment shall be revoked if the residence is located in a non-target area; or

b. If the total acquisition cost of the residence purchased in connection with the MCC increases so as to exceed the acquisition cost limitations set forth herein, the Commitment shall be revoked; or,

c. If the amount of the loan increases, thereby causing an increase in the credit amount, the Commitment will be revoked if that increase in credit amount serves to increase the aggregate credit amount of all MCCs issued by the County above the aggregate credit limit imposed by law.

3. Other Changes in Circumstances after Issuance of MCC Commitment and Prior to Closing

The MCC Commitment is issued in reliance upon the Closing Affidavit (Borrower), Seller's Affidavit and the Lender's Closing Certificate that the requirements necessary for issuance of a qualified MCC has been met. The Lender must immediately notify the County in writing of any change in the circumstances upon which the Commitment was issued occur so that the MCC to be issued will not meet the requirements of a qualified MCC, the Commitment will be revoked.