SECTION 2 - PROGRAM INFORMATION

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2.1 Qualification of Participating Lenders

General

A “Participating Lender” is a lending institution that cooperates with CHFA in making funds available under its’ home mortgage program by making and/or servicing mortgage loans that CHFA has agreed to purchase.

A. Lending Capability

To be approved as a Participating Lender to originate mortgage loans, a lending institution must meet the following criteria:

1. Have in Connecticut, a brick and mortar facility with the capacity and personnel to originate and close mortgage loans, as determined by the Authority;

2. Unless it is a FDIC or FSLIC insured deposit-taking institution incorporated and existing under the laws of Connecticut, have twelve (12) months’ experience in making mortgage loans on homes located in Connecticut. In the case of those institutions that acquire an institution in Connecticut, where the acquired institution meets the experience requirement, the acquired institution shall be deemed to meet the experience requirement;

3. Maintain a minimum tangible net worth of $1,000,000 or provide a letter of credit, available and otherwise uncommitted line of credit, bond or other financial instrument acceptable to the Authority totaling such amount;

4. Be in compliance with applicable federal and state laws, regulations promulgated thereunder and any licensing requirements by agencies of government having jurisdiction;

5. Maintain quality control and management systems to evaluate and monitor the overall quality of its origination activities, and

6. Execute the standard Master Commitment Agreement for mortgage purchases.

B. <u>Servicing Capability</u>

To be approved by CHFA as a Participating Lender to service Authority loans, the institution must meet the following criteria:

1. Have the capacity and personnel to service mortgage loans, as determined by the Authority;

2. Demonstrate a proven ability to service the type of mortgages for which Authority approval is being requested;

3. Maintain a minimum tangible net worth of $1,000,000 or provide a letter of credit, available and otherwise uncommitted line of credit, bond or other financial instrument acceptable to the Authority totaling such amount;

4. Be in compliance with applicable federal and state laws, regulations promulgated thereunder and any licensing requirements by agencies of government having jurisdiction;

5. Maintain quality control and management system systems to evaluate and monitor the overall quality of its servicing activities; and

6. Execute the standard Home Mortgage Servicing Agreement and/or other contracts as determined by the Authority.

C. <u>Removal of a Participating Lender</u>

CHFA may terminate the Master Commitment Agreement for Mortgage Purchases and/or the Home Mortgage Servicing Agreement according to their terms, respectively, and remove from the list of approved Participating Lenders any lending institution that has;

1. Failed to commit, close and/or service Mortgage Loans in accordance with the Act, the Procedures of this manual, and the Master Commitment Agreement for Mortgage Purchases, and/or the Home Mortgage Servicing Agreement or;

2. Ceased to meet the criteria for becoming a Participating Lender. CHFA may terminate the Master Commitment Agreement for Mortgage Purchases and/or the Home Mortgage Servicing Agreement in accordance with the provisions thereof. Such removal shall take place thirty (30) days after written notice to such Participating Lender specifying the reason for the removal.

D. Lending Areas

Participating Lenders are not required to go beyond their normal geographic lending areas.

E. Availability of Program

Participating Lenders shall not restrict applications for Loans to any segment of the Homebuyer Mortgage Program, except that a participating lender need not accept applications for Rehabilitation Mortgage Loans (see Section 4) and need not accept applications for mortgage loans on homes located outside its normal geographic lending areas.

F. Training Session

After CHFA has approved a Participating Lender, the Participating Lender shall promptly have a training session with CHFA staff prior to originating a CHFA loan. The training session shall cover CHFA's requirements in regard to originating and closing loans, providing CHFA with the required loan documents after closing, and, where appropriate, servicing requirements. CHFA shall have the right to require a Participating Lender to have a retraining session when CHFA deems it appropriate.

G. Correspondent Lender Relationships

A Participating Lender may sponsor a "Correspondent Lender" with the prior written approval of the Authority. The Sponsoring Participating Lender will be required to meet and provide evidence of a minimum tangible net worth of $1,000,000 in order to sponsor a Correspondent Lender. To be approved as a Correspondent Lender by the Authority, the Correspondent Lender must meet the same criteria for a Participating Lender as described in subsection (A.) above, except as follows:

1. Have a minimum tangible net worth of $50,000;

2. The Correspondent Lender may be required to execute the standard Master Commitment Agreement for Mortgage Purchases and the standard Home Mortgage Servicing Agreement although a standard letter agreement between the parties will be executed by both parties;

3. The Correspondent Lender may be required to attend a training session(s) prior to originating any CHFA loans on behalf of the Sponsoring Participating Lender and any additional training session(s) as the Authority deems appropriate; and

4. Conform to guidelines as required by the Connecticut Department of Banking and/or the Authority regarding licensing of a Correspondent Lender in the State of Connecticut;

5. Veterans Administration (VA) and Federal Housing Administration (FHA) approval are not required.

An approved Correspondent Lender may originate home mortgage loans on behalf of a Sponsoring Participating Lender. However, the Sponsoring Participating Lender shall remain fully responsible to the Authority for its obligations pursuant to these procedures, the CHFA Home Mortgage Program Operating Manual, and the Master Commitment Agreement for Mortgage Purchases. Correspondent Lender Loans must be approved and submitted by the Sponsoring Participating Lender. The Authority reserves the right to limit the number of Correspondent Lenders and may rescind approval of a Correspondent Lender at any time with (prior) written notice.

2.2 Distribution of Mortgage Funds

A. Availability of Funds

CHFA will not issue separate allocations to any particular Participating Lenders. A funds reservation system which allows the borrower to apply for a CHFA Loan at the Lender of his choice will be used.

CHFA reserves the right, however, to set aside a portion of the proceeds of any issue of bonds on an uncommitted basis for any purpose of the Program. Specifically, CHFA expects to set aside certain proceeds from each issue for the purpose of making Mortgage Loans in Targeted Areas.

B. Reservation of Loan Funds

CHFA will administer the reservation program and Participating Lenders may accept Loan applications from prospective borrowers.

1. The Participating Lender will determine if the prospective mortgagor is qualified as an Eligible Borrower. Such preliminary determination shall include the Participating Lender's examination of (i) the prospective borrower's written purchase agreement concerning the property to be financed, and (ii) a copy of the borrower's most recently filed Federal Income Tax Return as an approximate indication of his income.

2. After the Participating Lender has determined an applicant's eligibility for CHFA financing, the lender will reserve mortgage funds using the CHFA On-line Reservation System.

   a. The reservation will be identified by an authorized reservation loan number, which will be assigned by the on-line reservation system. This reservation number must appear on the Loan submission to CHFA and all subsequent correspondence regarding the Loan submission.

   b. The reservation of funds prior to Loan commitment is valid for ninety (90) days unless extended by CHFA.

   c. Loan reservations must include the names of all borrowers. Substitute borrowers or the addition of or removal of a borrower to qualify for the loan may <u>NOT be permitted once the loan reservation is secured.</u>

3. The Participating Lender must notify CHFA of any cancellation of reserved funds so that the funds may be made available for others. No substitution of borrower will be permitted for reserved funds. No substitution of property will be permitted for reserved funds except as approved by CHFA in the case of a situation, outside of the control of the borrower, causing hardship. CHFA may decline to reserve funds for an applicant who has had other CHFA funds reserved.

C. Free Accessibility to Funds

Applications for Loans shall be based on eligibility and not on special relationships between a Participating Lender and particular real estate brokers or developers. A Participating Lender may not deny a Loan to an Eligible Borrower solely because the Eligible Borrower is not a depositor or customer of the Participating Lender. Neither may the Participating Lender limit the availability of CHFA financing by denying an application based on the fact that the applicant does not belong to a specified group of the public such as employees of certain organizations. Under normal circumstances, applications should be taken and processed on a "first-come, first-served" basis.

2.3 Funds Available for Targeted Areas

A. General

In accordance with Federal requirements, CHFA will make funds available for Eligible Dwellings located in Targeted Areas. CHFA will exercise due diligence in making Mortgage Loans in Targeted Areas. Participating Lenders under CHFA's direction shall assist in advising potential Eligible Borrowers of the availability of funds in Targeted Areas.

B. Eligibility

Mortgage Loans for Eligible Dwellings located in Targeted Areas must comply in all respects with the requirements in Section 3 and elsewhere in this Manual for all Mortgage Loans except for the requirement in Section 3.1C that an Eligible Borrower may not have had a present ownership interest in the Borrower's principal residence in the three years preceding the application for the Mortgage Loan. Also, with exception to section 3.1B where a borrower shall not have an aggregate income in excess of the applicable limit established by CHFA unless the borrower is also applying for CHFA Downpayment Assistance (contained in appendix B).

2.4 Commitment for Mortgage Purchase

A. Obtaining a Commitment

The Participating Lender shall submit each Loan application to CHFA with completed forms and documents referred to in Section 5 of this Manual.

Each Loan submission will be underwritten and analyzed by CHFA, and if approved, a Commitment will be sent to the Participating Lender. The Commitment will be effective for a period of 90 days as designated therein. Loans will be purchased by CHFA in accordance with the Commitment and pursuant to Section 7 of this Manual.

B. Commitment to be Based on Authorized Funds Reservation

Each Loan submission requesting a Commitment must be clearly identified with the CHFA authorized reservation number previously assigned the mortgage loan amount reserved, unless otherwise permitted by CHFA.

C. Extensions and Cancellations

Requests for extension or cancellation of a Commitment must be in writing and signed by a mortgage officer or other authorized person of the Participating Lender. Telephone cancellations will not be accepted. Requests should be directed to the Single Family Homeownership Dept. of CHFA prior to expiration.

2.5 Retention and Inspection of Records

Any documents required by this Manual or by State or Federal law, not delivered to CHFA pursuant to a Commitment or purchase of a Loan, must be retained by the Participating Lender or Servicer for at least two years after the date of purchase by CHFA, or such longer period as may be required by law, and, if requested by CHFA, for a reasonable period thereafter. If during such retention time CHFA requests original or certified copies of such documents, the same must be delivered to CHFA. Where appropriate, such documents may be kept on microfilm, micro card or other similar photographic methods.

Participating Lenders must make all records and books maintained in connection with Loans available for inspection by CHFA upon request during reasonable business hours.

The absence of documentation required to be retained by this section may, at the option of CHFA, be construed to conclusively evidence a defect in such documentation under the Master Commitment Agreement for Mortgage Purchases.

2.6 The Federal Recapture Tax

Congress enacted legislation in 1988, subsequently amended in October of 1990, to recapture a portion of the "subsidized amount" from home buyers who receive qualified mortgage bond assistance after January 1, 1991. This includes all buyers who use CHFA Loans and Mortgage Credit Certificates (MCC), dispose of an interest in their residence within nine (9) years of purchase, and whose incomes substantially increase. The amount of Recapture Tax that Borrower(s) might have to pay depends on how much their incomes have increased, their family size at the time of sale, the original amount of their mortgage, the length of time they owned their home and any gain realized on disposition of the home. The recapture amount is the lesser of:

(1) 50 percent of the gain realized on disposition, or

(2) A percentage of the subsidized amount. The percentage is the product of the holding period percentage and the income percentage (both discussed below).

The Borrower(s) is responsible for calculating and paying the Recapture Tax, if any, as additional Federal tax liability for the tax year in which the interest in the home is disposed. However, Participating Lenders are required to provide homebuyers with the Authority's "Notice of Potential Recapture Tax Form 051-0597" and "Method to Compute Recapture Tax Form 052-1195":

A. **<u>No Recapture Tax is due and the Borrower(s) does not need to do the calculation if any of the following occurs:</u>**

1. The Borrower(s) disposes of his home later than nine (9) years after the mortgage loan is closed.

2. The home is disposed of as a result of the Borrower(s) death.

3. The Borrower(s) transfer the home either to his spouse or former spouse incident to divorce and no gain of loss was incurred on the transfer and included in his Federal taxable income.

4. The home was disposed of at a loss.

5. The Borrower(s) modified adjusted gross income for the year in which the home is sold does not exceed the Threshold Income, adjusted for family size, for such year. Modified Adjusted Gross Income is calculated as follows:

Adjusted Gross Income from IRS 1040	$___________
Tax exempt income earned for the year	+___________
Gain on sale of the home	- ___________
Modified Adjusted Gross Income =	$___________

B. **<u>There are several steps required to calculate the actual recapture amount owed. The following outlines the steps involved in the calculation:</u>**

1. **<u>Threshold Income (Adjusted Qualifying Income)</u>**

   The first year Threshold Income is 5% greater than the maximum allowable Federal income limit for the area in which the residence is located at the time the borrower was qualified. Each year of the nine (9) year holding period the Threshold Income is increased by 5% from the previous year's Threshold Income. The Threshold Income for each of the nine (9) years is provided to the Borrower(s) in the "Notice to Mortgagor(s) of Maximum Recapture Tax and of Method to Compute Recapture Tax on Sale of Home" letter which will be issued by CHFA at the time of issuance of the Commitment.

2. **<u>Holding Period Percentage</u>**

The percentage is based on the month in which the disposition occurs after the loan closing date pursuant to the following table:

<u>Disposition Within Month of Closing</u>

1-12	-	20%
13-24	-	40%
25-36	-	60%
37-48	-	80%
49-60	-	100%
61-72	-	80%
73-84	-	60%
85-96	-	40%
97-108	-	20%

3. **<u>Maximum Recapture Amount</u>**

The Federally subsidized amount which is 6.25% multiplied times the highest principal amount of the mortgage loan, multiplied times the Holding Period Percentage.

4. **<u>Income Percentage</u>**

The modified adjusted gross income of the Borrower(s) for the taxable year in which the disposition occurs <u>minus</u> the Threshold Income <u>divided</u> by $5,000.

5. **<u>Adjusted Recapture Amount</u>**

The Maximum Recapture amount <u>multiplied</u> times the Income Percentage.

6. **<u>Recapture Amount</u>**

Equals the lesser of the Adjusted Recapture Amount or 50 percent of the gain realized on the disposition.

C. <u>Limitations and Special Rules on Recapture Tax</u>

1. If you give away your home (other than to your spouse or ex-spouse incident to divorce), you must determine your actual Recapture Tax as if you had sold your home for its fair market value.

2. If your home is destroyed by fire, storm, flood, or other casualty, there generally is no Recapture Tax if, within two (2) years, you purchase additional property for use as your principal Residence on the site of the home financed with your original subsidized mortgage Loan.

3. In general, except as provided in future regulations, if two or more persons own a home and are jointly liable for the subsidized mortgage Loan, the actual Recapture Tax is determined separately for each person based on their interests in the home.

4. Refinancing of the Loan does not result in a Recapture Tax. If the home is disposed of subsequent to the refinancing, but prior to the original nine (9) year holding period, Recapture Tax may be due.

5. <u>CHFA Reimbursement for Recapture Tax Payment</u>
   Borrower(s) that are required to make a recapture tax payment may be eligible to receive reimbursement from CHFA.

To request reimbursement from CHFA borrower(s) must submit a written request to CHFA no later than December 31st of the year that the federal recaptures tax is owed and paid. For example: if the subject property is sold in 2013 and the tax return is filed in 2014, the request for reimbursement must be filed no later than December 31, 2014.

D. Filing the CHFA Reimbursement Request

To request Recapture Tax Reimbursement borrower(s) must submit a written request to CHFA along with the following documentation:

1. A copy of the TRID – Closing Disclosure (Formerly HUD- 1 Settlement Statement) - proof of sale of the property or, in the instance where the home is disposed of by a method other than sale, documentation evidencing the transfer of title and the Recapture Tax assessment;

2. A copy of the signed, filed Federal Tax Return, along with all schedules including IRS Form 8828, for the year in which the Recapture Tax was assessed and paid; and

3. An original signed IRS Form 4506-T completed by each person listed as a borrower under the mortgage loan documents, authorizing CHFA to obtain a copy of each such borrower’s Federal Tax Return.

4. Evidence of payment of the Recapture Tax.

5. Recapture Tax Reimbursement Request (CHFA Form 049-0313)

6. Mail the complete Recapture Tax request package to:

Connecticut Housing Finance Authority (CHFA)
Residential Mortgage Programs – Recapture Tax Reimbursement
999 West Street
Rocky Hill, CT 06067

Note: CHFA may require additional information and/or documentation in order to approve a request for reimbursement and such approval shall be granted at the sole discretion of CHFA, subject to funding constraints and applicable statutory and procedural requirements.