

Guidance on How to Use the Tax Credit with FHA Loans

On May 29, 2009, US Department of Housing and Urban Development (HUD) announced a program that allows borrowers to use the first-time homebuyer tax credit for a down payment or closing costs on a FHA-insured mortgage. Since the announcement NAR has received many inquiries from our members regarding how this impacts first-time homebuyers in their state.

Currently, 10 state housing finance agencies (HFAs) offer a product buyers can use that will effectively monetize the tax credit for down payment purposes. Generally, these programs offer tax credit advances with second liens on the home being purchased. The second lien may be "soft" (silent) or require monthly payments but may not result in cash back to the borrower and may not exceed the total amount needed for the down payment, closing costs, and prepaid expenses. The 10 states offering these programs are Colorado, Delaware, Idaho, Kentucky, Missouri, New Jersey, New Mexico, Ohio, Pennsylvania, and Tennessee. Other states are developing programs so members are encouraged to regularly follow up with their respective HFA.

For all other states where such programs do not exist the tax credit may not be used to fund the 3.5 percent downpayment required for FHA loans. As always, the 3.5 percent downpayment may be a gift from a family member, employer or nonprofit, charitable organization. FHA-approved nonprofit organizations and FHA-approved lenders may monetize the tax credit for down payments in excess of 3.5 percent, closing costs and interest rate buy downs. Mortgage industry leaders have indicated that this type of product may not be