

**Request for Action
By
Board of Commissioners**

**Approval of the 2022 Mortgage Credit Certificate (MCC) Program and
Allocation of Private Activity Bond Authority**

1. Summary of Issues

This Request for Action (“RFA”) is for approval of the 2022 Mortgage Credit Certificate (“MCC”) Program and authorization to allocate up to \$25,000,000 in private activity bond authority to be issued as MCCs under Section 25 of the Internal Revenue Code (the “Code”).

2. Background

Under state and federal law, Rhode Island Housing and Mortgage Finance Corporation (“RIHousing”) has the authority to issue tax-exempt mortgage revenue bonds (“MRBs”) to be used for the purchase of primary residences by borrowers who meet the applicable Internal Revenue Service (“IRS”) requirements. Each state receives an allocation of private activity bond authority from the United States Department of the Treasury. In turn, the state allocates this bond authority to state entities that are authorized to issue tax-exempt bonds, such as the Commerce Corporation, Student Loan Authority, Airport Corporation, and RIHousing.

RIHousing funds its mortgage lending activity with proceeds from the sale of tax-exempt private activity bonds and through financing platforms with Fannie Mae, Freddie Mac, and Ginnie Mae.

This tax-exempt authority presents an opportunity for RIHousing to participate in an IRS program that provides tangible benefits to low- and moderate-income first-time homebuyers in a way that complements our current lending platforms. Staff recommends that \$25,000,000 of our 2020 tax-exempt bonding allocation be converted into MCCs to provide additional funding for our MCC Program, which was formally reestablished by the Board of Commissioners in 2013. The MCC Program has been popular with participating lenders and borrowers. RIHousing is about to exhaust the MCC authority available under previous allocations.

Under the Code, RIHousing can convert a portion of its authority to issue tax-exempt bonds into MCCs, which would then be issued to qualified homebuyers. An MCC provides housing assistance to the homebuyer in the form of a federal tax credit, the value of which is equal to a portion of the mortgage interest (between 10% and 50%, in accordance with the program guidelines) paid by a homeowner on certain qualifying loans. This tax credit is used on a dollar-for-dollar basis to offset all or a portion of the homeowner’s tax obligation on ordinary income and is available every year for the life of the loan. To claim the credit, the homeowner completes and submits an IRS form along with their federal tax return. To the extent that the mortgage interest paid is higher than the credit available under the MCC program that excess amount can be taken as an itemized deduction, further reducing the homeowner’s federal tax liability.

The following example illustrates how the MCC works. Assume that an eligible borrower paid \$10,000 in mortgage interest in a given year and was the holder of a 20% MCC. Twenty percent of the \$10,000 paid in mortgage interest, or \$2,000, can be used to offset the borrower’s income tax

liability. The \$8,000 balance of mortgage interest paid can be used as an itemized deduction. A borrower in the 28% tax bracket would save an additional \$2,240 (\$8,000 interest deduction x 28% tax rate) in taxes through this deduction. The total benefit to this borrower, using the MCC, is \$4,240. In contrast, a similarly situated borrower in the same tax bracket, without an MCC, would only realize a benefit of \$2,800 (\$10,000 interest deduction x 28% tax rate). This is a \$1,420 benefit to the borrower with an MCC.

In late 2013, the Board of Commissioners authorized the reestablishment of the MCC program, known as the FirstHomes Tax Credit, and allocated \$75,000,000 in unused private activity bond authority to be issued as MCCs to qualifying homebuyers. RIHousing began taking applications under the FirstHomes Tax Credit Program on July 1, 2014. The FirstHomes Tax Credit Program has proven to be immensely popular with homebuyers and RIHousing's participating lenders. Due to this strong demand, the Board allocated an additional \$118,910,000 to the MCC program in late 2014, \$112,280,000 in 2015, \$97,937,500 in 2016, \$171,914,326 in 2017, \$80,000,000 in 2018, \$75,000,000 in 2019 and early 2020.

In light of the continued demand for the product, staff recommends approval of the allocation of up to \$25,000,000 of 2020 volume cap be allocated to the MCC program to extend RIHousing's ability to issue MCCs to eligible borrowers. RIHousing is subject to a 90-day public notice requirement before it can begin issuing newly allocated private activity bond authority as MCCs, so it is important that the corporation start the conversion process as soon as possible in order to ensure the availability of additional MCC authority before prior funds are fully committed to avoid any program interruption. In utilizing this volume cap, RIHousing is able to make the ownership of new and existing homes more affordable for individuals and families of low- and moderate-income.

2. Recommendation

Staff recommends the adoption of the attached resolution approving the 2022 MCC Program and authorizing the allocation of up to \$25,000,000 of unused private activity bond authority for the issuance of MCCs to qualified homebuyers.

3. Attachments

- A. Resolution
- B. Proposed 2022 MCC Program Parameters

ATTACHMENT A

Resolution of the Board of Commissioners Of Rhode Island Housing and Mortgage Finance Corporation

WHEREAS, Rhode Island Housing and Mortgage Finance Corporation (“RIHousing”) is a duly organized and existing body politic and corporate, not a state agency, but an independent instrumentality exercising essential public functions under the constitution and laws of the State of Rhode Island (the “State”); and

WHEREAS, RIHousing is authorized by Chapter 55 of Title 42 of the Rhode Island General Laws, as amended (the “Act”), to issue and sell its revenue bonds and to use the proceeds thereof for the purpose of financing mortgage loans to low- and moderate-income persons in the State, to purchase or, under certain circumstances, to improve and rehabilitate owner-occupied residences and to secure payment of such revenue bonds as therein provided, all in accordance with the provisions of the Act; and

WHEREAS, RIHousing is an authorized issuer of “qualified mortgage bonds” described in Section 143 of the Internal Revenue Code of 1986, as amended (the “Code”) and receives volume cap under Section 146 of the Code to issue such qualified mortgage bonds and other private activity bonds; and

WHEREAS, Section 25 of the Code and the regulations promulgated thereunder permit RIHousing to exchange its authority to issue qualified mortgage bonds and other private activity bonds for which it has volume cap in order to issue mortgage credits certificates (“MCCs”) under a qualified mortgage credit certificate program; and

WHEREAS, an MCC provides housing assistance in the form of a nonrefundable, federal tax credit, the value of which is equal to a portion of the mortgage interest paid by a homeowner on certain qualifying loans; and

WHEREAS, the holder of an MCC may apply this tax credit against his or her federal income taxes in each year the MCC is effective; and

WHEREAS, RIHousing desires to provide the widest range of alternatives to low- and moderate-income borrowers to enable them to finance the acquisition, construction, improvement and/or rehabilitation of single-family residences within the State; and

WHEREAS, RIHousing currently administers a mortgage loan program funded in part through the issuance of qualified mortgage bonds (the “Bond Program”) and in part through other financing vehicles, (collectively with the Bond Program the “Loan Program”); to provide lower interest rate loans to low- and moderate-income persons who qualify for such program; and

WHEREAS, to complement the Loan Program, in 2013, RIHousing reestablished the MCC program and began issuing MCCs to qualified homebuyers; and

WHEREAS, in connection with the MCC program, RIHousing desires to elect not to issue up to \$25,000,000 of private activity bonds that it could otherwise issue (including from any unused carryforward from prior calendar years); and

WHEREAS, pursuant to Section 146 of the Code, RIHousing has previously directed its Executive Director to file with the Internal Revenue Service (the “IRS”) Form 8328 or such other applicable form to carry forward unused private activity bond volume cap allocated to RIHousing for the calendar year 2020; and

WHEREAS, RIHousing previously directed that the carryforward volume cap be used to issue qualified mortgage bonds in connection with its Bond Program, and now desires to use a portion of such carryforward volume cap in connection with its MCC program and the issuance of MCCs.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF RIHOUSING, AS FOLLOWS:

Section 1. RIHousing finds and determines that it is necessary to exchange its authority to issue up to \$25,000,000 of private activity bonds for the authority to issue MCCs. RIHousing directs the Executive Director to make one or more elections, pursuant to Section 25 of the Code, not to issue up to an aggregate of \$25,000,000 of private activity bonds (the “nonissued bond amount”) that RIHousing is authorized and has volume cap available to issue (including any unused carryforward). The nonissued bond amount shall be allocated to the MCC program, which was previously established by the Executive Director and now extended under this Resolution. To effectuate the foregoing, the Executive Director is directed to file notice of such election or elections with the Internal Revenue Service, as required by the Code and the regulations.

Section 2. RIHousing approves and authorizes the 2022 MCC Program (the “MCC Program”) for issuing MCCs, pursuant to one or more elections, to qualified homebuyers who incur mortgage loans for eligible purposes. The parameters and purposes of the MCC Program are attached hereto as Attachment B. Such parameters are hereby approved in substance, with such changes and modifications as the Executive Director, the staff and legal counsel to RIHousing deem necessary and advisable and are incorporated by reference as part of this Resolution.

Section 3. With respect to the MCC Program, the Executive Director may establish one or more credit rates for the mortgage loans described therein, determine the program expiration date, select the types of mortgage loans for which MCCs may be issued, approve the terms and conditions on which participating lenders make loans that are eligible for MCC financing, and make other determinations as appropriate, all in accordance with the terms and provisions of Section 25 of the Code and the regulations thereunder and this Resolution. The Executive Director and the staff are hereby directed to further define the MCC Program parameters as necessary to maximize the availability of lower cost financing to low- and moderate-income persons under the MCC Program.

Section 4. The Executive Director shall develop or update forms of the MCC Program guide and related items as she determines are necessary, appropriate, and advisable to carry out the MCC Program.

Section 5. The Executive Director shall give notice to the public of establishment of each MCC Program as required by Section 25 of the Code and the regulations thereunder prior to the issuance of any MCCs under the MCC Program.

Section 6. RIHousing ratifies and approves the use of private activity bond volume cap allocated to RIHousing and previously carried forward for the calendar year 2020 in connection with the issuance of MCCs.

Section 7. The Executive Director, Deputy Executive Director, Chief Financial Officer, and Director of Homeownership, each acting singly, be and hereby are authorized and empowered to take any and all actions necessary, appropriate, and advisable to carry out this resolution.

Section 8. This resolution shall be in full force and effect immediately upon its passage and approval.

ATTACHMENT B

RHODE ISLAND HOUSING AND MORTGAGE FINANCE CORPORATION

MORTGAGE CREDIT CERTIFICATE 2022 PROGRAM PARAMETERS

The mortgage credit certificate (“MCC”) program is established pursuant to Section 25 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder to complement Rhode Island Housing and Mortgage Finance Corporation’s (“RIHousing”) single-family bond program (the “Bond Program”) and its other lending programs. The following is an outline of the general parameters of the MCC program.

1. The MCC program will follow the same general parameters applicable to the types of borrowers and type of properties that qualify for financing through the Bond Program. Likewise, the same type of certifications will be required of the recipient of the MCC.

2. MCCs shall be issued in connection with mortgage loans for the acquisition, construction, improvement and/or rehabilitation of single-family residences within the State of Rhode Island.

3. MCCs will be issued under the MCC program to be established by the Executive Director. The MCC program will have the certificate credit rates, eligible loans and other terms and conditions determined by the Executive Director, all in accordance with Section 25 and the regulations.

4. The MCC program will be conducted through the end of the second calendar year following the calendar year in which RIHousing elects not to issue an amount of private activity bonds, or such shorter period selected by the Executive Director, unless a longer period is permitted by the federal tax laws.

5. MCCs shall not be required to be issued in conjunction with the debt of any particular lender.

6. MCCs shall be transferable, to the extent permitted by regulations of the Secretary of the United States Department of the Treasury and as approved by RIHousing.

7. MCCs to be used for or with respect to any particular developers or developments shall require the prior approval of the Board of Commissioners of RIHousing.

8. The mortgage credit rate on the MCCs shall not be less than 10% nor more than 50%. The Executive Director may establish separate mortgage credit rates for each loan type within a particular program.

9. The Executive Director of RIHousing shall notify the Secretary of the United States Department of the Treasury of any mortgage credit certificate revocation.

10. RIHousing may charge a processing fee, as established by the Executive Director, to each recipient of an MCC to defray the costs of administering the MCC Program.

11. MCCs may be reissued in connection with certain mortgage loan refinancings at the discretion of the Executive Director.