

SUBCHAPTER 01D - SINGLE FAMILY MORTGAGE PURCHASE PROGRAM

SECTION .0100 - GENERAL INFORMATION

24 NCAC 01D .0101 OBJECTIVES

History Note: Authority G.S. 122A-5;
Eff. May 28, 1976;
Transferred from T15: 14 Eff. December 1, 1981;
Temporary Amendment Eff. December 30, 1981, For a Period of 120 Days to Expire on April 29, 1982;
Amended Eff. April 29, 1982;
Expired Eff. October 1, 2017 pursuant to G.S. 150B-21.3A.

24 NCAC 01D .0102 ELIGIBLE PERSONS AND FAMILIES

(a) For loans purchased with the proceeds of all bonds other than tax exempt bonds issued after January 1, 1987:

- (1) The agency hereby finds and declares that income eligible persons and families, within the meaning of the act, are deemed to be those persons and families who satisfy the following criteria: insufficient total income, when size of family is considered, to obtain on the normal housing market without subsidy, from available housing supply in a given geographical area of residence in North Carolina, housing found to be decent, safe and sanitary. The agency has carefully considered all the factors which the General Assembly has specified in the statutory definition of "persons and families of lower income." A purpose of the act is to foster the new construction and substantial rehabilitation of residential housing in the state for persons and families of lower income by assisting in the permanent financing of such housing and that the income limits used by the agency in ascertaining who are "persons and families of lower income" must reflect, among other things, the costs of such newly constructed and substantially rehabilitated housing. The General Assembly intended, by means of the act, to assist not only those persons and families eligible for federal housing assistance predicated on a lower income basis, but also those persons and families whose incomes are too high to qualify them for such federal assistance but are too low to enable them to obtain, without governmental assistance, a mortgage loan to finance the purchase of a decent, safe and sanitary home. The agency can best effectuate the purposes of the act by establishing income limits for income eligible persons and families for specific areas of the state which represent the agency's determination of the maximum income level which persons and families in such area may have in order to qualify for assistance under the act. Income eligibility is defined as a function of median income by area, construction costs, and mortgage loan underwriting criteria. Each factor is applied as follows to achieve an equitable result:
 - (A) The agency used 150 percent of median income.
 - (B) Housing construction costs were determined for a prototype of a modest house in various areas of the state. The Marshall Swift Handbook was used to establish the base construction costs. Finally, minimum lot costs in rural and urban areas were added to the construction cost determinations to produce a finished housing cost for urban areas and for rural areas.
 - (C) Mortgage lending industry underwriting standards which establish the amount of loan for which a borrower may qualify will be used by the agency. The agency assumes that the borrower would seek 100 percent financing at the FHA/VA maximum rate on a 30 year amortization and that the borrower would be restricted to using 28 percent of his gross monthly income to make the monthly mortgage payment which would include principal interest, taxes and insurance.
 - (D) Composite figures for median income and for housing cost and mortgage loan underwriting were calculated upon the following premises:
 - (i) The median income factor relates to eligibility for other housing predicated upon a lower income basis.
 - (ii) The house cost/underwriting figure establishes minimum financial eligibility in the normal housing market.

The combination of the two figures at a 50:50 ratio establishes the maximum income limits for the agency.

- (2) The agency has, in accordance with the act, considered the effect of family size on the sufficiency of income for housing needs and determined that the income limits computed in accordance with this Section must be increased by eight hundred dollars (\$800.00) a year for the fifth family member and for each additional family member thereafter in a large lower income family in order to reflect the additional costs of providing housing for large families, and that the income limits for one person households shall be three-fourth of such limits, except when two or more persons in a non-dependent relationship are jointly purchasing a home, the income of any one person in this relationship cannot exceed the one-person household limit established by the agency, nor can the combined incomes of these persons exceed the income limits for families established by the agency.
- (3) An applicant's income will be calculated by including all income in whatever form and from whatever source derived, including the following: compensation for services, including fees, commissions and similar items; gross income derived from business; gains derived from dealings in property; interest; rents royalties; dividends; alimony and separate maintenance payments; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; income in respect of a descendant; income from an interest in an estate or trust; payments made by or on behalf of an employer by reason of death of an employee to the widow or heirs of the employee; recovery of bad debts; amounts received as reimbursement for losses; prizes and awards; amounts received or made available from individual retirement accounts, annuities and retirement bonds. In addition, the calculation of an applicant's income for this purpose will be increased by an amount equal to ten percent of the value of all the applicant's non-income producing tangible assets, excepting personal property and including real property, securities and stocks.
- (b) For loans purchased with the proceeds of tax exempt bonds issued after January 1, 1987 income eligible persons and families is defined by the agency to be those persons and families with incomes not exceeding the income requirements for mortgage revenue bonds established in Section 143(f) of the Internal Revenue Code 1986.
- (1) The sources used in calculating an applicant's income will be determined according to the rules established by the Internal Revenue Service in Revenue Ruling 86-124.
- (c) In no instance will any person or family having net assets exceeding forty thousand dollars (\$40,000) be considered eligible for assistance by the agency, except that for persons between the ages of 62 and 64, the net assets limit shall be fifty thousand dollars (\$50,000), for persons 65 years of age and over, the net assets limits shall be sixty thousand dollars (\$60,000), and for handicapped persons requiring a constant attendant the net assets limit shall be seventy five thousand dollars (\$75,000). For the purposes of this Section, "net assets" shall mean the total assets of the borrower and excluding household goods, in the Home Improvement Loan Program, the structure to be improved and its site, any debts against the borrower and excluding also, any assets of a borrower determined by the executive director to be appropriate for exclusion, including, without limitation, assets which in the determination of the executive director the borrower is dependent upon for a livelihood. Any such determination that assets are appropriate for exclusion shall be evidenced by a certificate signed by the executive director and filed with the secretary of the agency.
- (d) The agency deems that persons and families with annual incomes not in excess of the income limits established by application of the above definitions and with net assets not more than those set forth above, are persons and families which require such assistance as is made available by the act and such persons and families are hereby deemed, therefore, to be persons and families of lower income eligible to occupy residential housing financed by means of such assistance.

*History Note: Authority G.S. 122A-3; 122A-5; 122A-5.1;
Eff. May 28, 1976;
Amended Eff. July 2, 1981; January 31, 1980; March 22, 1979;
Transferred from T15: 14 Eff. December 1, 1981;
Amended Eff. March 1, 1983;
Legislative Objection Lodged Eff. March 7, 1983;
Curative Amended Eff. March 9, 1983;
Amended Eff. July 1, 1987; March 1, 1984; May 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*

24 NCAC 01D .0103 PERSONS AND FAMILIES OF MODERATE INCOME

History Note: Legislative Objection Lodged Eff. March 7, 1983;
Filed as a Temporary Amendment Eff. December 30, 1981, For a Period of 120 Days to Expire on April 29, 1982;
Authority G.S. 122A-3; 122A-4; 122A-5.1;
Eff. May 28, 1976;
Amended Eff. July 2, 1981; May 15, 1980; January 31, 1980; March 22, 1979;
Transferred from T15: 14 Eff. December 1, 1981;
Amended Eff. March 1, 1983; April 29, 1982;
Curative Amended Eff. March 9, 1983;
Amended Eff. March 1, 1984; May 1, 1983;
Repealed Eff. June 1, 1987.

24 NCAC 01D .0104 INCOME LIMITS

Based on the criteria described in Rules .0102 and .0103 of this Subchapter the agency shall from time to time as it is determined to be appropriate, specify by resolution the dollar income limits which shall be used by the agency for identifying persons and families of lower and moderate income.

History Note: Authority G.S. 122A-5;
Temporary Rule Eff. December 30, 1981, for a Period of 120 Days to Expire on April 29, 1982;
Eff. April 29, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

SECTION .0200 - REQUIREMENTS

24 NCAC 01D .0201 ELIGIBLE BORROWER

To be eligible for a mortgage loan, under the forward commitment segment of the program, each applicant must meet all of the following requirements:

- (1) be a person or family of lower income as defined in this Subchapter;
- (2) intend to use the home to be purchased for his primary personal or family residence;
- (3) have no previous mortgage loan in effect at the time of application. At closing, the applicant must not be obligated on any other mortgage loan;
- (4) have not owned a home within the preceding three years;
- (5) meet all of the requirements of Section 103A of the Internal Revenue Code of 1954, as amended.

History Note: Authority G.S. 122A-5;
Eff. May 28, 1976;
Amended Eff. July 2, 1981;
Transferred from T15: 14 Eff. December 1, 1981;
Amended Eff. February 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

24 NCAC 01D .0202 ELIGIBLE PROPERTIES

(a) In order to be the subject of a mortgage made to secure a mortgage loan under both segments of the program, a home must meet the following requirements:

- (1) be located in the State of North Carolina;
- (2) be situated on real estate held or to be held by the applicant in fee simple, unless the home is a condominium unit, in which case it must be situated on real estate held, or to be held, by the applicant in either fee simple, or in common, and managed by a homeowners' association;
- (3) a mobile home as defined by 24 NCAC 1A .0104(22) which has not been previously occupied;
- (4) meet all the requirements of Section 103A of the Internal Revenue Code of 1954, as amended.

(b) For an agency assisted mortgage loan under the forward commitment segment of this program, the home must meet the following requirements in addition to those located in (a) of this Rule:

- (1) have a sales price not exceeding amounts determined by the agency, including the lot and all improvements thereon;
 - (2) in the event the mortgage loan is to finance the purchase of a newly constructed home, be constructed in accordance with all applicable building codes and standards and be warranted by the builder as to all materials, workmanship, and mechanicals for a minimum period of one year;
 - (3) be appraised by an appraiser satisfactory to the agency.
- (c) Special Rules for Mobile Homes. In order to be the subject of a mortgage made pursuant to this Subchapter, a mobile home must:
- (1) be the subject of an appraisal indicating the manufacturer, model, and serial number of the mobile home; and
 - (2) have an appraised value, including the mobile home unit and improvements only, which exceeds 50 percent of the total appraised value of the mobile home, improvements, and the real estate on which the mobile home is permanently affixed.

History Note: Authority G.S. 122A-5;
 Eff. May 28, 1976;
 Amended Eff. July 2, 1981; January 31, 1980; March 22, 1979;
 Transferred from T15: 14 Eff. December 1, 1981;
 Temporary Amendment Eff. May 26, 1983, for a Period of 120 days to Expire on September 23, 1983;
 Amended Eff. March 1, 1984; August 1, 1983;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

24 NCAC 01D .0203 FORM OF MORTGAGES TO BE PURCHASED BY THE AGENCY

The mortgage to be purchased by the agency under the forward commitment segment of the program shall be executed on a form approved by the agency. It shall be a first lien on the property, be consistent with North Carolina law, and conform with the standards prescribed by the agency in its mortgage purchase agreements and other forms.

History Note: Authority G.S. 122A-5;
 Eff. May 28, 1976;
 Transferred from T15: 14 Eff. December 1, 1981;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

24 NCAC 01D .0204 COMPLIANCE WITH TAX ACT

Mortgages to be purchased by the agency shall in all respects comply with Section 103A of the Internal Revenue Code of 1954, as amended.

History Note: Authority G.S. 122A-5;
 Eff. May 28, 1976;
 Amended Eff. July 1, 1981; January 31, 1980; March 22, 1979;
 Transferred from T15: 14 Eff. December 1, 1981;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

SECTION .0300 - CONTRACTS AND FORMS

- 24 NCAC 01D .0301 ELIGIBLE LENDER CONTRACT FORMS**
- 24 NCAC 01D .0302 REINVESTMENT MORTGAGE INTEREST RATE**
- 24 NCAC 01D .0303 SERVICING AGREEMENT**
- 24 NCAC 01D .0304 ADDITIONAL DOCUMENTATION**

History Note: Authority G.S. 122A-5;
 Eff. May 28, 1976;
 Amended Eff. March 22, 1979;

*Transferred from T15: 14 Eff. December 1, 1981;
Expired Eff. October 1, 2017 pursuant to G.S. 150B-21.3A.*

24 NCAC 01D .0305 FORMS TO ACCOMPANY MORTGAGE LOANS APPROVED BY THE AGENCY

(a) Mortgage Loan Documentation. The mortgage loan note and Deed of Trust shall be executed on forms approved by the agency and the mortgage loan shall state that the mortgage loan is being made by the lender pursuant to the agency's single family mortgage purchase program. FHLMC or FNMA loan package forms (other than note and Deed of Trust) are acceptable for agency use; they are to be conformed, where necessary as to names of parties.

(b) At or prior to the delivery to the agency of mortgage loans purchased by the agency, the lender shall forward to the agency:

- (1) mortgage loan note;
- (2) deed of trust;
- (3) title insurance policy;
- (4) mortgagor's certification as to lower income status;
- (5) evidence of mortgage insurance consisting of:
 - (A) Mortgage insurance certificate issued by qualified insurer, or
 - (B) FHA mortgage insurance certificate showing FHA number for loan and applicable section of National Housing Act, or
 - (C) VA guaranty certificate showing endorsement date;
- (6) deed of assignment of deed of trust;
- (7) mortgage loan origination documentation including:
 - (A) mortgage loan application,
 - (B) verification of mortgagor's employment,
 - (C) verifications of mortgagor's deposits,
 - (D) credit report,
 - (E) appraisal report;
- (8) a photograph of the house;
- (9) such other documentation as shall be requested by the executive director.

*History Note: Authority G.S. 122A-5;
Eff. May 28, 1976;
Amended Eff. March 22, 1979;
Transferred from T15: 14 Eff. December 1, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*

SECTION .0400 - ALLOCATION OF FUNDS AVAILABLE FOR LENDER COMMITMENT

24 NCAC 01D .0401 ALLOCATION OF FUNDS

*History Note: Authority G.S. 122A-5;
Eff. May 28, 1976;
Transferred from T15: 14 Eff. December 1, 1981;
Expired Eff. October 1, 2017 pursuant to G.S. 150B-21.3A.*

24 NCAC 01D .0402 FAIR OPPORTUNITY TO PARTICIPATE

The agency, recognizing that the need for assistance to home buyers (as contemplated by the act) is very great and further recognizing that the agency funds available to meet that need are small in comparison to that need, will use its best efforts to spread its available funds throughout the state in an equitable manner designed to insure that all areas of the state have a fair opportunity to participate in the program.

*History Note: Authority G.S. 122A-5;
Eff. May 28, 1976;
Transferred from T15: 14 Eff. December 1, 1981;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

SECTION .0500 - HOMEOWNERSHIP ASSISTANCE FUND AND PROGRAM

24 NCAC 01D .0501 CREATION OF FUND

*History Note: Authority G.S. 122A-5.7;
Temporary Rule Eff. May 15, 1984, for a Period of 120 Days, to Expire on September 12, 1984;
Eff. August 1, 1984;
Amended Eff. December 1, 1989; June 1, 1987;
Expired Eff. October 1, 2017 pursuant to G.S. 150B-21.3A.*

24 NCAC 01D .0502 ELIGIBILITY

- (a) The fund will be available to assist income eligible households as defined in Rule .0102 of this Subchapter, who would be unable to receive subsidized loans from the agency.
- (b) The fund may also provide mortgage assistance to eligible households through organizations that aid in the production of housing that is affordable to income eligible households described in Paragraph (a) of this Rule. This alternative permits participating organizations to provide mortgage loans to eligible households using the proceeds of the fund received from the agency.
- (c) The agency may, from time to time, designate specific counties within the state to receive portions of the proceeds from the fund for the purpose of assisting eligible households.

*History Note: Authority G.S. 122A-5.7;
Temporary Rule Eff. May 15, 1984, for a Period of 120 Days, to Expire on September 12, 1984;
Eff. August 1, 1984;
Amended Eff. December 1, 1989; June 1, 1987; January 1, 1986;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*

24 NCAC 01D .0503 FUND OPERATION AND ADMINISTRATION

- (a) The agency will establish a separate Homeownership Assistance Fund consisting of appropriations, agency revenues or other funds allocated to the fund.
- (b) The agency will not expend any of the state appropriated corpus of the fund but will invest the state appropriated corpus of the fund and will provide mortgage assistance from the proceeds of the invested corpus. Any other amounts allocated to the fund may be fully expended, both corpus and interest, or may be withdrawn from the fund by the agency for other eligible activities.
- (c) The agency will select applicants for participation in the Homeownership Assistance Program. Eligible participants will receive a mortgage loan from the agency or a participating organization from the proceeds of the fund. As determined by the agency, this loan may be used to provide additional security for eligible loans, to subsidize down payments and monthly housing payments (including first mortgage principal and interest, mortgage insurance, homeowner's insurance and taxes), and to provide any other type of mortgage assistance to participants that the agency deems necessary. The amount of this loan will be determined by the agency, in its discretion, considering such factors as the income of the households to be served.
- (d) The agency shall promulgate such forms, contracts, and other documents including but not limited to: deeds of trust, promissory notes, mortgage purchase agreements, and loan agreements as may be necessary to operate the Homeownership Assistance Program financed from proceeds of the fund.

*History Note: Authority G.S. 122A-5.7;
Temporary Rule Eff. May 15, 1984, for a Period of 120 Days, to Expire on September 12, 1984;
Eff. August 1, 1984;
Amended Eff. December 1, 1989; June 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.*

SECTION .0600 - MORTGAGE CREDIT CERTIFICATE PROGRAM

24 NCAC 01D .0601 PURPOSE

History Note: Authority G.S. 122A-5; 122A-5.1; 122A-5.4; 122A-5.6; Sec. 25, IRC; 26 CFR 1.25;
Temporary Adoption Eff. September 22, 1987 for a Period of 120 Days to Expire on January 20,
1988;
Eff. January 1, 1988;
Expired Eff. October 1, 2017 pursuant to G.S. 150B-21.3A.

24 NCAC 01D .0602 ELIGIBILITY

To receive an MCC the following requirements must be met:

- (1) The purchaser must be a North Carolina resident and within 30 days of closing must occupy the home purchased as a principal residence.
- (2) The purchaser must be a first-time home buyer and cannot have had an ownership interest in a principal residence during the three-year period preceding the execution of the MCC, except in certain targeted areas where the requirement will not apply.
- (3) The purchaser must buy a home located in North Carolina which has an acquisition cost not exceeding 90 percent of the average area purchase price published by the Department of Treasury, except in certain targeted areas where 110 percent of the average area purchase price may be allowed.
- (4) The purchaser must not have family income exceeding 115 percent of the applicable median family income published by the Department of Housing and Urban Development, except in certain targeted areas where 140 percent of the median family income may be allowed.
- (5) The purchaser must secure new financing and must receive an MCC commitment prior to mortgage closing; the purchaser cannot finance the home with the proceeds of a qualified mortgage bond or qualified veterans' mortgage bond.

These requirements are described in greater detail in the MCC Program Operating Manual.

History Note: Authority G.S. 122A-5; 122A-5.1; 122A-5.4; 122A-5.6; Sec. 25, IRC; 26 CFR 1.25;
Temporary Adoption Eff. September 22, 1987 for a Period of 120 Days to Expire on January 20,
1988;
Eff. January 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September
23, 2017.

24 NCAC 01D .0603 PROCEDURES

(a) The agency will have overall administrative responsibility for the MCC program in North Carolina and will delegate part of its administrative role to participating lenders through a Lender Participation Agreement. Lender responsibilities will include:

- (1) Program promotion;
- (2) Loan origination and MCC application origination;
- (3) Loan underwriting;
- (4) Submission of the completed MCC application to the agency;
- (5) Loan closing; and
- (6) Record keeping and report filing.

These requirements are described in greater detail in the Lender Participation Agreement and the MCC Program Operating Manual.

(b) Eligible home buyers will apply for Mortgage Credit Certificates in conjunction with a standard loan application with a participating lender. MCC processing will generally coincide with the lender's regular credit under-writing procedures. In addition, the borrower must certify that required state and federal regulations will be met. These requirements, which are described in greater detail in Section 143 of the Internal Revenue Code and the MCC Program Operating Manual, relate to:

- (1) Residency requirements;
- (2) First-time home ownership;
- (3) Purchase price limits;
- (4) Borrower income limits;

- (5) Loans in targeted areas; and
 - (6) Certain loan financing requirements.
- (c) The MCC will be revoked if:
- (1) The residence for which the MCC was used ceases to be the MCC certificate holder's principal residence; or
 - (2) The borrower does not meet the requirements for a qualified MCC; or
 - (3) On the discovery of any material misstatement.
- (d) The following reporting requirements will be met:
- (1) The agency will make quarterly reports to the Internal Revenue Service (IRS) as well as an annual report on forms provided by the IRS. These reports will provide information concerning the annual volume of MCCs issued and concerning program beneficiaries.
 - (2) Lenders will file an annual report to the IRS on forms provided by the IRS for each MCC - assisted mortgage.

History Note: Authority G.S. 122A-5; 122A-5.1; 122A-5.4; 122A-5.6; Sec. 25, IRC; 26 CFR 1.25; Temporary Adoption Eff. September 22, 1987 for a Period of 120 Days to Expire on January 20, 1988; Eff. January 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.

24 NCAC 01D .0604 MCC COMMITMENT

To reserve an MCC for a borrower and secure a commitment from the agency, the following procedure will be followed:

- (1) The lender will reserve an MCC by calling the agency;
- (2) An MCC submission package, which is described in the MCC Program Operating Manual, will be delivered to the agency for an MCC commitment;
- (3) The agency will process the package on a first-come, first-served basis. An exception to this policy will be made only for emergency cases in which the agency received a written request for priority processing from the lender;
- (4) The agency will review the MCC package for acceptability and completeness and, if it approves the package, the agency will issue an MCC commitment that will be valid for a specified period of time;
- (5) MCC commitments are issued based upon the lender's certification that all necessary requirements have been met. The lender must notify the agency of any changes affecting the conditions under which the commitment was issued.

History Note: Authority G.S. 122A-5; 122A-5.1; 122A-5.4; 122A-5.6; Sec. 25, IRC; 26 CFR 1.25; Temporary Adoption Eff. September 22, 1987, for a Period of 120 Days to Expire on January 20, 1988; Eff. January 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 23, 2017.