

The Homeownership Department

Smart Move Procedural Guide

Revised December, 2010

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December, 2010

Welcome to the Illinois Housing Development Authority's (IHDA) Smart Move Procedural Guide. This Guide is designed to assist you in originating IHDA Smart Move loans. Please note that the on-line loan reservation system, MITAS, is not addressed in this Guide. The Smart Move Reservation Manual can be found at www.ihda.org. Should you have questions or need clarification on anything contained in this Guide, please feel free to contact an IHDA representative:

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A Resource Page and Glossary of Terms are listed at the end of this Guide for your convenience. The procedures contained herein are subject to change, so please consult the IHDA website (www.ihda.org) on a regular basis or call an IHDA Homeownership Loan Officer. Thank you for participating in IHDA's **SMART MOVE** Program! We are very excited to offer reliable and relevant products to your clients.

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ILLINOIS HOUSING DEVELOPMENT AUTHORITY

The Illinois Housing Development Authority (IHDA) is a self-supporting state agency that finances the creation and the preservation of affordable housing throughout Illinois to increase the supply of decent and safe places for people of low or moderate means to live. IHDA accomplishes its mission through a number of federal and state funding sources. IHDA is also a bonding authority and independently sells bonds, based on its own good credit, to finance affordable housing in Illinois. The Mortgage Revenue Bond program is the primary funding source for **SMART MOVE**.

Since its creation in 1967, IHDA has allocated more than \$9.67 billion and financed more than 204,000 affordable units across the state.

THE ILLINOIS SMART MOVE PROGRAM

The Illinois Smart Move program offers safe and reliable products with affordable interest rates and down payment assistance to first-time homebuyers (see **exemption** on Page 9). Eligibility for each product is based on the borrower's credit profile, household income and the purchase price of the home. These products are available statewide.

Currently, there are three financing packages available under **THE SMART MOVE** umbrella:

1. First Mortgage includes FHA, USDA and Conventional (Signature)
2. First Mortgage plus Down Payment Assistance (DPA)

These packages may not be used with a Mortgage Credit Certificate.

Package One: FIRST MORTGAGE

The **SMART MOVE FIRST MORTGAGE** is a 30-year, fixed rate mortgage that is FHA, Conventionally or USDA insured. It has a minimum down payment requirement of 0 to 3.5 percent and offers an affordable interest rate (often below-market) to the borrower. The required down payment depends on the program used. Applicable credit underwriting guidelines apply for FHA , USDA and conventional mortgages with IHDA credit overlays listed below.

The qualifications for eligibility are:

- ✓ First-time homebuyer or exempt (see **exemption** on page 9)
- ✓ Minimum credit score of ≥ 620 , ≥ 660 Conventional (Signature)
- ✓ Maximum total debt (back end) ratio of 45 percent
- ✓ Household income and property purchase price must be within the program limits
- ✓ Property must be a single family dwelling (one or two unit property)
- ✓ Buyer must contribute 1 percent or \$1,000 of the purchase, whichever is greater
- ✓ Homeownership counseling is required
- ✓ Mortgage Insurance is required as applicable (see Page 6)

Check www.ihda.org for today's competitive interest rate and current program guidelines!

Package Two: First Mortgage + Down Payment Assistance

The **SMART MOVE FIRST MORTGAGE PLUS DOWN PAYMENT ASSISTANCE** is a package consisting of a First Mortgage (described above) plus a Down Payment Assistance Loan. There are **no additional qualifications for eligibility** for the Down Payment Assistance Loan. If the buyer(s) meets the requirements for a Smart Move First Mortgage, the buyer(s) is also eligible for the Smart Move Down Payment Assistance Loan.

The characteristics of the **SMART MOVE DOWN PAYMENT ASSISTANCE LOAN** are:

- ✓ Provides 5 percent of the purchase price, up to \$6,000, for households at or below 80% of area median income
- ✓ Provides 3 percent of the purchase price, up to \$6,000, for households over 80% of area median income
- ✓ 0 percent, 10-year forgivable loan
- ✓ The interest rate on the **SMART MOVE FIRST MORTGAGE** under this package will be slightly higher than the interest rate for only the **SMART MOVE FIRST MORTGAGE** (package one)

Check www.ihda.org for today's competitive interest rate and current program guidelines!

Conventional Signature Mortgage insurance requirements:

LTV Ratio	Coverage Required
95.01% - 97%	18%
90.01% - 95%	16%
85.01% - 90%	12%
80.01% - 85%	6%

The following are permitted Subject to availability:

- Single Premium Borrower- Financed MI, up to 97% LTV
- Split Premium (which can be paid with contribution from seller)
- Monthly Borrower- paid Premium

PRE-SCREENING LOAN APPLICANTS

Prior to completing a loan application for an IHDA loan, the borrower should be pre-screened. Eligibility for the program includes:

- a. borrower must be a first-time homebuyer or exempt (see *exemption* below)
- b. co-borrower (i.e. spouse) must be a first-time homebuyer or exempt
- c. household income must be within the program limits
- d. home must be a qualified dwelling
- e. purchase price of the home must within the program limits

EXEMPTION: If the residence to be purchased is within a **targeted** area or the borrower is a **Veteran**, neither borrower nor spouse need be first-time homebuyers! To obtain a list of targeted areas by County, please visit www.ihda.org. For borrowers choosing a home in a targeted area, different (higher) income limits and purchase price limits apply.

If the loan officer determines that the applicant is eligible for the **SMART MOVE FIRST MORTGAGE**, the loan application is completed.

RESERVING THE LOAN

In order to reserve a **SMART MOVE FIRST MORTGAGE**, the Lender must make the reservation using the MITAS on-line loan reservation system. The potential buyer(s) must have a valid real estate contract in place prior to reserving funds.

Please note that MITAS is not addressed in this Guide. The document that addresses MITAS, the IHDA Smart Move Reservation Manual, can be found at www.ihda.org → Homeownership Programs → Lender Resources → Forms for Download → Download the 2010 IHDA Reservation Manual.

At the time the reservation is made, the **interest rate is locked for 60 days** regardless of future rate changes. The loan must be closed within 60 days. Worst case pricing applies if the loan closes after 60 days.

***There are two separate but simultaneous underwritings
that occur:***

CREDIT UNDERWRITING and TAX CODE COMPLIANCE UNDERWRITING

CREDIT UNDERWRITING

IHDA's credit overlays for a **SMART MOVE FIRST MORTGAGE** are as follows:

- Minimum credit score of 620 (subject to change - call before reservation)
- Conventional Signature requires minimum credit score of 660 (must be able to show proof of mortgage insurance)
- Maximum total debt (back end) ratio of 45 percent
- Buyer must contribute 1 percent or \$1,000 of the purchase, whichever is greater
- First time home buyer counseling is required

If the Lender has a qualified FHA Direct Endorsement underwriter on staff, the Lender performs the credit underwriting. If not, the Lender can establish a correspondent relationship with U.S. Bank Home Mortgage, the Master Servicer, and the credit underwriting will be performed by the Master Servicer for a fee. Please contact U.S. Bank Home Mortgage at 1-800-562-5165 to begin the process.

The credit underwriting, Signature, and USDA, FHA eligibility and loan purchase decisions on tax code compliant loans will be made by the underwriting entity and the Master Servicer.

Note: No loan will be purchased by U.S. Bank Home Mortgage without IHDA's approval.

TAX CODE COMPLIANCE UNDERWRITING

Tax Code Compliance Underwriting is unique to IHDA loans and is performed by IHDA Compliance Staff.

Tax Code Compliance Underwriting consists of documenting three basic determinations:

1. Is the borrower(s) **a first-time homebuyer(s) or exempt** from this requirement? (page 9)
2. Is the borrower's **total household income** within the allowable limits for the area in which they intend to reside? (page 12)
3. Is the residence a **qualified dwelling** whose **purchase price** is within the allowable limits for the area in which it is located? (page 14)

The Lender has **30 days** from the reservation date to send the Tax Code Compliance Underwriting file to IHDA. The loan submission timetable (30 days) applies even though

the rate is locked for up to 60 days. IHDA is under no obligation to honor the reservation after the 30 days has expired.

FIRST-TIME HOMEBUYERS

A first-time homebuyer is a person who has not had an ownership interest in a principal residence at any time during the three-year period prior to the date the mortgage is executed. **EXEMPTION:** If the residence to be purchased is within a **targeted** area or the borrower is a **Veteran**, this requirement is waived.

WHAT IS A TARGETED AREA?

An area of the state containing qualified census tracts (QCT) or areas of chronic economic distress, as defined by the IRS. A QCT is a census tract in which seventy percent (70%) or more of the families have an income which is eighty percent (80%) or less of the median family income, as established by HUD. For a list of targeted areas by zip code, visit www.ihda.org.

HOW TO DOCUMENT A FIRST-TIME HOMEBUYER(S)

Each borrower must provide copies of his or her **signed federal income tax returns** for the last three (3) years, including all attached schedules. Copies of W-2 forms from the most recent filed federal tax return must also be included. Please do not submit state income tax returns. We cannot use them as an alternative to federal returns, so they become “file clutter.”

DETERMINATION: Review the tax returns to see if deductions were taken for mortgage interest or real estate taxes. If deductions were taken, the borrower may not be a first-time homebuyer. It must be determined whether the interest deduction in question applied to a principal place of residence or some other property.

ISSUES THAT MAY AFFECT FIRST-TIME HOMEBUYER(S) STATUS

PRIOR OWNERSHIP OF A MOBILE HOME: A prior ownership interest in a mobile home will not disqualify a borrower as a first-time homebuyer if adequate documentation is provided that confirms the following facts:

1. Those components which operate only during transportation (hitch and axles) have not been removed;
2. The mobile home can be legally transported on state highways without first being disassembled into sections. The legal dimensional limits in Illinois are 14 feet 4 inches wide by 95 feet long (including the truck pulling the mobile home); and,
3. Permanent structures have not been added to the mobile home. Such items include affixed decks, room additions, etc. If a deck has been built and the mobile home is merely sitting next to the deck, that would not constitute “permanently affixed.”

Prior ownership (within three years) of a “double-wide” mobile home will disqualify a possible borrower since disassembly is required for transport.

DOCUMENTATION: The best documentation is a photograph of the axles and hitch. Include the photograph in the loan file when submitted to IHDA for approval.

INHERITED PROPERTY: An expectancy to inherit property does not constitute an ownership interest. However, if the person occupies the inherited property after acquiring a vested title interest, the person is no longer a first-time homebuyer.

NEW MORTGAGE REQUIREMENT: The borrower cannot have had a prior mortgage or other financing on the subject residence, except in the following cases:

Bridge Loans: A prior mortgage obtained for temporary financing, such as a construction or a bridge loan, is acceptable provided the mortgage has a stated term of 24 months or less.

Contract for Deed: A contract for deed or an installment sales contract is considered seller-financed; therefore a contract purchaser is an eligible borrower as long as the contract has a stated term of 24 months or less.

Lease with Option to Purchase: Seller financing is established when a rent credit is provided under a lease with option to purchase. The renter is an eligible first-time borrower as long as (a) the lease provides a right of first refusal to purchase and no portion of the rent paid has been or will be credited to the purchase price; or (b) the term of the lease does not extend beyond 24 months of the **SMART MOVE** closing date.

DIVORCE WITHIN THE LAST THREE YEARS: A borrower that has divorced within the last three years and had an ownership interest in the family home can still qualify as a first-time homebuyer IF the borrower resided in another property for the three years prior to the closing of the **SMART MOVE** loan. Please consult the Divorce Decree for ownership interest status.

MARRIED OR SEPARATED BORROWERS TAKING TITLE INDIVIDUALLY: In the eyes of the IRS (who governs this program), a person is either married or not married. There is no gray area. A married or separated person who wishes to apply for a mortgage and take title of the residence in his/her name only (not jointly with the spouse) may be eligible for a **SMART MOVE** loan, BUT they must be able to qualify for it with their spouse. Again, because they are a married unit, both the buyer and the spouse *must be screened* to ensure they are both first-time homebuyers or exempt.

Please note that this requirement only applies to tax code compliance underwriting within the Program. This is not an issue when performing the credit underwriting.

DOCUMENTATION: Review the tax returns for both the buyer and the spouse to see if deductions were taken for mortgage interest or real estate taxes. If deductions were taken, the borrower or spouse may not be first-time homebuyers. It must be determined whether the interest deduction in question applied to a principal place of residence or some other property.

LENDER EMPLOYEES OR IHDA EMPLOYEES: Employees of participating lenders and employees of IHDA are eligible for the **SMART MOVE** program. To prevent any appearance of impropriety, participation by lender employees requires prior approval by IHDA. Prior approval must be requested in writing by the lending institution.

TOTAL HOUSEHOLD INCOME

The borrower(s) and relevant parties (defined below) must have a total household income that does not exceed the applicable limit in effect at the time of loan closing.

The term “borrower” includes the borrower(s) and the co-borrower(s). The term “relevant parties” includes a spouse *even if* they are not going on the title or are waiving homestead rights. Any adult (over 18) who intends to live in the home is also considered a relevant party and their income must be included in the calculation.

CALCULATION: Total household income is the borrower’s and relevant parties’ annualized gross income. Annualized gross income is gross monthly income, at the time of application, multiplied by 12. (*Tax code requires that IHDA projects income forward for one year*). Remember – income from all household occupants over the age of 18 must be documented.

Gross monthly income is the sum of monthly gross pay plus overtime, part-time employment, bonuses, dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income, alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments. Basically, it includes ***all income from all sources***.

NOTE: If there is a substantial change in income between the time of making the reservation and closing the loan, the Lender must recalculate income to ensure the borrower(s) is still within the income limits for a **SMART MOVE FIRST MORTGAGE**.

HOW TO DOCUMENT TOTAL HOUSEHOLD INCOME

PAY STUBS: Total Household Income is best documented by providing IHDA with two recent pay stubs. A written Verification of Employment (VOE) is no longer required. In place of a written VOE, phone verification is required.

COMMISSION, BONUS OR OVERTIME: To determine how much to include for commissions, bonuses and overtime, average the income over the last year and the income from the current year to date by using federal income tax return(s) and current year-to-date pay stubs. Use the average monthly income to predict the income forward (multiply monthly average by 12).

SELF-EMPLOYED BORROWERS: To determine the income of a self-employed borrower, average their income over the last two years using federal income tax returns and a year-to-date Profit and Loss Statement for the current year. The Profit and Loss Statement may need to come from a third party if requested by IHDA. Calculate the historical monthly income and use that number to predict the income forward (multiply monthly average by 12). For self-employed borrowers, the income calculation allows for the exclusion of legitimate operating expenses.

CHILD SUPPORT/ALIMONY: Child support and alimony payments must be included as household income. The documentation needed is a copy of the appropriate (and most current) court decree, which sets forth the amount of the support.

MARRIED OR SEPARATED BORROWERS TAKING TITLE INDIVIDUALLY: A married or separated person who wishes to apply for a mortgage and take title to the residence in his/her name only (not jointly with the spouse) may be eligible. This is acceptable if the Lender is able to document that the borrower would still be eligible if the spouse was also to apply and take title. Both the borrower and his/her spouse must be first-time homebuyers and have a combined household income within the applicable limit. The spouse not taking title must execute the Affidavit of Buyer, provide tax returns, and his/her two most recent pay stubs.

DETERMINING IF TOTAL HOUSEHOLD INCOME IS BELOW THE LIMIT

Once the Total Household Income has been calculated, it must be compared against an income limit contained in one of two charts.

Chart 1:

If the borrower is purchasing in a Non-Targeted Area, their income must be compared against the income found in the “**Non-Targeted** Areas Income and Purchase Price Limits” chart at www.ihda.org → Homeownership Programs → Income and Purchase Price Limits.

Chart 2:

If the borrower is purchasing in a Targeted Area, their income must be compared against the income found in the “**Targeted** Areas Income and Purchase Price Limits” chart at www.ihda.org → Homeownership Programs → Income and Purchase Price Limits.

The income **must be within** the applicable income contained in the relevant chart. If the income limits change prior to IHDA’s approval of the loan for closing, the new income limits will apply.

QUALIFIED DWELLING AND PURCHASE PRICE LIMITS

The residence being financed must be a qualified dwelling and the total purchase price must be within the applicable limit for the area in which it is located.

To be a qualified dwelling, (a) the borrower must acquire a fee simple interest in the real estate; (b) the home must become the principal place of residence of the borrower within 60 days after the closing of the **SMART MOVE** loan; and, (c) the residence must be located in Illinois and designed for residential use.

The following types of residences can be qualified dwellings:

1. Single family detached home, including a factory-made home which is permanently affixed to real property(on FHA only NOT permitted on Signature);
2. Townhome;
3. Condominium unit (pre-approval by FHA/HUD is required); (Conventional must be able to be insured if applicable)
4. Planned Unit Development (PUD);
5. Duplex unit or zero lot line home, provided a maintenance agreement is of public record;
6. Two-unit residential structure

Note: Co-op apartment units are not eligible under the Program.

ADDITIONAL STANDARDS AND REQUIREMENTS OF A QUALIFIED DWELLING:

NEW CONSTRUCTION: This must be the first time the unit will be occupied as a residence for it to qualify as new construction. A model home qualifies, provided it was never rented nor occupied as a residence prior to being sold. Likewise, conversion of an old factory into condominiums qualifies as new construction because previously it was not occupied as a residence.

PROPERTIES WITH ACREAGE: Federal regulations prohibit IHDA from financing a residence located on land in excess of that which is needed to “reasonably maintain basic livability.” This has been interpreted to mean five acres. In the case of a property that is more than five acres, consult an IHDA Homeownership Loan Officer.

PROPERTIES WITH MORE THAN ONE LIVABLE STRUCTURE: Properties containing a main structure and a “coach house” are eligible as long as the other livable structure (the coach house) has never been occupied as a residence. This may be puzzling since a two-flat is eligible under the program even if both units have previously been occupied as residences.

Why the difference in eligibility? The IRS has made the determination that units that share a wall (I.e. two-flat) are considered one dwelling. But, if the units do not share a

common wall (main house + coach house), the IRS views them as two separate dwellings. If the coach house was once used as a residence, the buyer is purchasing two separate housing units, in the eyes of the IRS. However, if you have a buyer in this situation, contact IHDA as we will consider these loans on a case-by-case basis.

APPRAISED VALUE EXCEEDS PURCHASE PRICE LIMIT: If the appraised value exceeds the purchase price limit, but the acquisition cost is below the limit AND the transaction is clearly “arms length” (not a relative), the dwelling may qualify. A statement from the buyer(s) and seller(s) indicating that no relationship exists will be required.

BORROWER ACTING AS GENERAL CONTRACTOR: This is allowed if the sub-contractors are qualified to and actually perform the work. A Sworn Contractor Affidavit detailing all the costs associated with the building of the home will be required.

TOTAL PURCHASE PRICE

In order to qualify, the residence must have a total purchase price no greater than the allowable limit at the time of application. The price includes *ALL* amounts paid, either in cash or in kind, to the seller as consideration for the residence.

Purchase price can include the following:

- The cost of completing an *incomplete or unfinished residence*. Incomplete or unfinished means that occupancy is not permitted under the law, or that the residence lacks fixtures or architectural appointments needed to provide adequate living space for the members who intend to occupy the residence.
- If the borrower intends to have a home built on *land already owned*, the cost of the land must be included in the total purchase price if the land was acquired within two (2) years prior to the commencement of construction. The cost of the land is determined based on the following:
 - The value of the land can be substantiated by the sales contract or the closing statement.
 - If the borrower acquired the land through inheritance, the value must be established by an appraisal and the acquisition date is the date of death.
 - If the borrower acquired the land through some form of seller financing, the acquisition date is the date of the seller finance agreement.

DOCUMENTATION: If the land was purchased within the two year window, include a certified copy of the deed from the Recorder’s Office and submit it to IHDA when you submit the file.

If the land was purchased more than two years ago, the cost of the land cannot be counted toward the total purchase price.

Total purchase price does not include:

- usual and reasonable settlement and financing costs;

- the unpaid value of services (“sweat equity) performed by the borrower or members of his or her family in completing the residence;
- items of personal property which are not fixtures and/or are not permanently affixed to the property; and,
- the cost of minor repairs performed after closing and paid for by the borrower.

Ultimately, the total purchase price must be equal to the amount shown on the Sales Contract and reflected on the Buyer and Seller Affidavits.

DETERMINING IF THE TOTAL PURCHASE PRICE IS BELOW THE LIMIT

Once the borrower’s Total Purchase Price has been calculated, it must be compared against a purchase price limit contained in one of two charts.

Chart 1:

If the borrower is purchasing in a Non-Targeted Area, the total purchase price must be compared against the purchase price limit found in the “**Non-Targeted** Areas Income and Purchase Price Limits” chart at www.ihda.org → Homeownership Programs→ Income and Purchase Price Limits.

Chart 2:

If the borrower is purchasing in a Targeted Area, the total purchase price must be compared against the purchase price limit found in the “**Targeted** Areas Income and Purchase Price Limits” chart at www.ihda.org → Homeownership Programs→ Income and Purchase Price Limits.

The total purchase price **must be within** the applicable purchase price limit contained in the chart. If the purchase price limits change prior to IHDA’s prior approval to close of the loan, then the new purchase price limits apply.

ASSUMPTIONS

The **SMART MOVE FIRST MORTGAGE** is assumable as long as the new buyers are eligible and the property and sales terms are compliant with the program. A Tax Code Compliance Underwrite (by IHDA) will be required. Please contact IHDA for instructions.

FEDERAL RECAPTURE TAX

The Federal Recapture Tax is designed to help the IRS recapture profits gained when a homeowner, who gets their mortgage from the Federal Mortgage Revenue Bond program, sells or transfers ownership of their home within the first nine (9) years of ownership.

The **SMART MOVE** Program uses the proceeds of tax-exempt Mortgage Revenue Bonds to provide first-time homebuyers the benefit of a lower interest rate. The payment of recapture tax occurs at the time the property is sold, only if all three of the following

conditions apply:

1. The home is sold or disposed of within nine (9) years of being purchased, for reasons other than death; *and*
2. There is a capital gain on the sale of the home; *and*
3. The household income for the year in which the home is sold exceeds federal recapture tax limits.

In the event that recapture tax is due, the maximum recapture tax is either 50 percent of the gain on sale or 6.25 percent of the original loan amount, whichever is less.

IHDA'S RECAPTURE REIMBURSEMENT POLICY

Should a borrower find themselves in the position of having to pay the tax, ***IHDA will reimburse the borrower in full!*** The borrower will need to provide documentation showing that the recapture tax was paid. A copy of the IRS tax transcripts for the year in which the borrower paid the recapture tax would be sufficient documentation.

Please note: The IHDA Recapture Reimbursement Policy does not apply to borrowers utilizing a Mortgage Credit Certificate (MCC).

LENDER REQUIREMENTS

The Notice to Homebuyers (available at www.ihda.org) must be provided to and signed by the potential borrowers at the time of application. Two additional notices will be provided to the borrower: one is incorporated into the Affidavit of Buyer and the other will be sent to the borrower from IHDA's office within 90 days of closing.

WHAT ARE THE FEDERAL ADJUSTED QUALIFYING INCOME LIMITS FOR CALCULATING RECAPTURE TAX?

The limits are set by statute each year and annually adjusted 5 percent after loan closing. The Adjusted Qualifying Income Limits can be found in the following charts: "IHDA Recapture Worksheet #1" (for non-targeted areas) and "IHDA Recapture Worksheet #1A" (for targeted areas). They can be found at www.ihda.org → Forms and Downloads → Check the box for Lender/Servicer Forms → Download the worksheets.

EXAMPLE:

Maria is a junior advertising executive at a local PR firm. Her gross annual income is \$52,000. She is a single mother of one daughter. She is purchasing a home in a non-targeted area in the City of Chicago.

At the time of purchase, Maria's income cannot exceed \$74,900 (limit provided in the chart titled "Non-Targeted Areas Income and Purchase Price Limits") in order to be eligible for the Home Start program. Maria's income of \$52,000 is well within the limit.

In order for Maria to have to pay recapture tax, her income would (a) have to grow to \$74,900 and (b) continue to grow an additional 5+ percent each year. In the example, if Maria sells her home in year six and realizes a capital gain on the sale, her income would

have to be over \$95,593 in order to trigger the recapture tax. An income of \$95,593 represents a 85% increase over her starting income of \$52,000.

	<u>Year 1</u>	<u>Year 6</u>
Maximum	\$74,900	\$95,593
Maria's income	\$56,000	85% increase!

However, if this occurs, ***IHDA will reimburse Maria for the entire tax paid!!!***

HOW IS THE TAX ASSESSED?

The tax assumes that the amount of subsidy realized by the borrower is equal to 1.25 percent per year. The rate of tax is multiplied by the original loan amount to determine the amount of tax to be paid. The maximum recapture amount increases during the first five years of ownership to its maximum (6.25 percent) in the fifth year. The amount then decreases 20 percent per year through the ninth year. If the sale occurs after the ninth year, there is no recapture tax.

WHAT DETERMINES HOW MUCH THE ACTUAL RECAPTURE TAX WILL BE?

1. The date of the sale or transfer;
2. The borrower's income in relation to the "Adjusted Qualifying Income" in the year of sale or transfer; and,
3. The gain from sale or transfer.

WHAT IF THE LOAN IS REFINANCED?

No recapture tax is due at the time of refinancing. If, after refinancing, the owner sells or transfers the property within the initial nine-year period, he/she may owe a recapture tax. In these situations, it is best for the client to seek the advice of a tax attorney.

WHAT HAPPENS IF THE LOAN IS ASSUMED?

If the sale or transfer occurs within the first nine years of ownership, the original borrower pays the recapture tax, if applicable, and a new nine-year period begins for the purpose of applying a new recapture tax to the assuming purchaser.

IS RECAPTURE DUE IF THE BORROWER DIES WITHIN THE NINE-YEAR PERIOD?

No. A death transfer is not a sale or transfer for the purposes of recapture.

IN THE CASE OF DIVORCE, WHO IS RESPONSIBLE FOR THE RECAPTURE TAX?

A divorce settlement is not a sale or transfer for the purposes of recapture. Whoever receives the home in the divorce settlement pays any recapture tax due as a result of a subsequent sale or transfer if within the nine-year period.

TAX CODE COMPLIANCE APPROVAL PROCESS

The Tax Code Compliance file must be sent to the Authority ***within 30 days*** of the loan reservation date. Submit the following documents in the order listed below. These documents can be found at www.ihda.org. Be sure to keep copies for your institution.

Document Order:

1. Fully completed Checklist for Approval
2. Prior Approval Voucher (Form MP-12)
3. Copy of loan reservation confirmation
4. Copy of Affidavit of Buyer (Form MP-6A)
5. Copy of Affidavit of Seller (Form MP-6B or MP-6B-HUD, if selling a HUD-owned property)
6. Pre-purchase homebuyer counseling certificate
7. Copy of executed (*signed and dated*) residential loan application
8. AUS (DU/LP) Findings with applicable transmittal form (1008 or 92900LT)
9. Copy of credit report
10. Copy of three most recent bank statements or a copy of Verification of Deposit with bank statement
11. Verification of income from all sources
12. Copies of complete, signed Federal income tax returns for the previous three years for each borrower and relevant party. W2's are required for the most recent tax year filed.
13. Copy of appraisal
14. Copy of signed Standard Residential Purchase Contract with all addendums
15. Original signed Recapture Notice to Homebuyers (explanation on next page)
16. Copy of initial Good Faith Estimate (GFE) and Truth in Lending (TIL)
17. Miscellaneous documents such as divorce decrees, child support agreements, mobile home photos, etc.

The Tax Code Compliance file should be sent to the following address:

Homeownership Programs
Illinois Housing Development Authority
401 North Michigan Avenue, Suite 700
Chicago, Illinois 60611

Document! Document! Document! Document! Document! Document!

WHAT HAPPENS NEXT?

The Tax Code Compliance file will be reviewed by IHDA within 72 hours after receipt. One of the following three determinations will be assigned to the file:

1. Approved – A transmittal letter will be sent to the Lender detailing any conditions to the approval. All conditions must be satisfied before the loan will be approved. When a loan is approved, IHDA notifies the Master Servicer (U.S. Bank Home Mortgage).
2. Pending – A transmittal letter will be sent to the Lender detailing the changes that must be made and identifying additional documentation that is needed.
3. Rejected – The entire loan file, including a written explanation as to why the loan is not compliant, will be sent to the Lender.

You can check the status of any IHDA loan by accessing the MITAS system.

The credit, collateral, FHA eligibility, closing and loan purchase decisions on tax code complaint loans are made by the underwriting entity and the Master Servicer.

LOAN CLOSING

If the file is compliant, IHDA will notify both the Lender and U.S. Bank Home Mortgage. Please Note: IHDA's Tax Code Compliance Underwriting approval is required before U.S. Bank Home Mortgage will purchase the loan. The **SMART MOVE FIRST MORTGAGE** loan closes in the Lender's name. If the borrower is adding on either the DPA loan or TCAL, that loan will close in IHDA's name.

SMART MOVE POST CLOSING REQUIREMENTS

After the loan closes, the Lender must deliver the following documents to IHDA, in the order listed below. These items are required within ten (10) business days after closing:

Document Order:

1. Cover Sheet (Form MP-14)
2. Closing Checklist
3. Original Affidavit of Buyer, re-affirmed at closing
4. Original Affidavit of Seller, re-affirmed at closing
5. Certified copy of the Note(s)
6. Certified copy of the Mortgage(s) with ALL riders (including the IHDA rider)
7. Copy of signed RESPA (HUD Forms 1A and 1B) and signed Truth-in-Lending disclosure forms as required by law
8. Copy of title commitment
9. Copy of **signed** final application with appropriate signed transmittal form with final automated underwriting findings to indicate \leq 45 percent total debt ratio
10. Additional conditions as applicable

Please note that U.S. Bank Home Mortgage requires a separate closing package in order to purchase the loan. Please contact the U.S. Bank Client Support Center at 1-800-562-5165 for information on their closing package.

The Post Close file should be sent to the following address:

Homeownership Programs
Illinois Housing Development Authority
401 North Michigan Avenue, Suite 700
Chicago, Illinois 60611

Document! Document! Document! Document! Document! Document!

FEES ASSOCIATED WITH THE HOME START FIRST MORTGAGE

- Lender will receive 1.75 percent of the mortgage amount as a service release fee (FHA, USDA), Conventional is 1.5 Percent.
- Lender can charge a 0.5 percent origination fee to borrower
- Lenders can charge up to an additional \$1,200 in allowable fees
- Fees paid to third parties such as courier fees and title company fees are allowed and are not included in the \$1,200 in allowable fees

RESOURCES

CURRENT SMART MOVE RATES: Visit www.ihda.org

HOW TO BECOME AN IHDA SMART MOVE LENDER: Call IHDA at 1-877-456-2656 to begin the process.

IHDA FHA ADDENDUM: Call IHDA at 1-877-456-2656 to begin the process.

INCOME & PURCHASE PRICE LIMITS: www.ihda.org → Homeownership Programs → Income & Purchase Price Limits → Download the schedule.

HOME START RESERVATION MANUAL (MITAS GUIDE): www.ihda.org → Homeownership Programs → Lender Resources → Forms for Download → Download the 2010 Home Start Reservation Manual.

U.S. BANK HOME MORTGAGE AGREEMENT FOR UNDERWRITING: Please contact U.S. Bank Home Mortgage at 1-800-562-5165.

GUIDE ON HOW TO SELL LOANS TO U.S. BANK HOME MORTGAGE: Please contact U.S. Bank at 1-800-562-5165.

TARGETED AREAS: www.ihda.org → Forms and Downloads → Check the box for Targeted Areas → Download the appropriate area.

GLOSSARY OF TERMS

AFFIDAVIT OF BUYER: A legally binding document, to be completed by the buyer(s) of a residential housing unit, that affirms the terms of the deal and that is sworn to before an officer who is authorized to administer an oath or affirmation (IHDA Form MP-6A).

AFFIDAVIT OF SELLER: A legally binding document, to be completed by the seller(s) of a residential housing unit, that affirms the terms of the deal and that is sworn to before an officer who is authorized to administer an oath or affirmation (IHDA Form MP-6B or MP-6B-HUD if selling a HUD owned property).

CONDOMINIUM: A multi-unit housing development in which the ownership of the units includes the ownership in fee of a specified residential unit together with an undivided pro rata interest in ancillary real estate and any improvements thereon.

ELIGIBLE BORROWER:

- a. borrower must be a *first-time buyer or Veteran (see exception under First-time homebuyer)*
- b. co-borrower (i.e., spouse) must be a *first-time buyer or Veteran(see exception under First-time homebuyer)*
- c. *household income* must be below the maximum for the program
- d. home must be a *qualified residence*
- e. *purchase price* of the home must be below the maximum for the program

FEDERAL INCOME TAX RETURNS: IRS Form 1040, 1040A or 1040EZ, and all applicable schedules.

FEDERAL RECAPTURE TAX: The Federal Recapture Tax is designed to help the IRS and the U.S. Federal Government recapture profits gained when a homeowner who gets their mortgage from the Federal Mortgage Revenue Bond program and sells or transfers ownership of their home. These loans are typically below market interest rate loans gotten through participating lenders in conjunction with their respective state's housing agency.

FIRST-TIME HOMEBUYER: A first-time home buyer is a person who has not had an ownership interest in a principal residence at any time during the three-year period prior to the date the mortgage is executed. **EXCEPTION:** If the residence to be purchased is within a targeted area or the borrower is a Veteran, this requirement is waived.

HOUSEHOLD INCOME: Total household income is the borrower's and relevant parties' annualized gross income. Annualized gross income is gross monthly income, at the time of application, multiplied by 12. (*Tax code requires that we project income forward for one year*).

Gross monthly income is the sum of monthly gross pay plus overtime, part-time employment, bonuses, dividends, interest, royalties, pensions, Veterans Administration compensation, net rental income, alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments. Basically, it includes ***all income from all sources***.

INTEREST RATE: The percentage of a sum of money charged for its use. For the **SMART MOVE** program, the interest rates are set by IHDA.

LENDER: The bank, savings and loan association, credit union or mortgage banker signatory to the master agreement.

LOAN APPLICATION: The Uniform Residential Loan Application (Fannie Mae Form 1003 with FHA/HUD addendum 92900A) used by IHDA for the **SMART MOVE PROGRAM**.

LOAN CLOSING: The act of transferring ownership of a property from seller to buyer in accordance with a sales contract. At the loan closing, several documents will be executed, including the Mortgage (and riders), Note and Affidavits.

LOAN OFFICER: The individual at the Lender who is responsible for the loan origination.

LOAN-TO-VALUE RATIO (LTV): The portion of the amount borrowed compared to the cost or value of the property purchased – that is, mortgage debt divided by the value of the property (the appraised value or purchase price, whichever is less).
Example: \$ 90,000 loan amount; \$ 100,000 value of residence = 90% LTV

MASTER SERVICER: The entity that collects mortgage loans payments, manages escrow accounts and makes escrow disbursements, and deals with the mortgagor on a regular basis.

MITAS: IHDA's Homeownership on-line reservation system.

MORTGAGE: A written instrument that creates a lien upon real estate as security for the payment of a specified debt. The mortgage is the collateral that the buyer pledges to the Lender.

MORTGAGEE: The party who holds a lien on the property as security for a debt (i.e., Master Servicer).

MORTGAGOR: The owner of real estate financed with a mortgage which pledges the property as security for the loan (i.e., borrower).

NEW CONSTRUCTION: A residential housing unit which has not previously been occupied as a residence.

NOTE: A written instrument that acknowledges a debt and promises to pay.

PURCHASE PRICE: In order to qualify, the residence must have a total purchase price no greater than the allowable limit in effect at the time of application. The price includes *ALL* amounts paid, either in cash or in kind, to the seller as consideration for the residence.

PREPAYMENT: To retire all or a portion of the principal balance before it is due under the mortgage contract.

PROPERTY VALUE: The lesser of the acquisition cost or the appraised value of the qualified dwelling at the time of origination of the mortgage loan secured by a mortgage on such qualified dwelling.

QUALIFIED DWELLING: To be a qualified dwelling, the borrower must acquire a fee simple interest in the real estate. The home must become the principal place of residence of the borrower within 60 days after the closing of the **SMART MOVE** loan. The residence must be located in Illinois and designed for residential use.

RELEVANT PARTIES: The term "relevant parties" includes a spouse *even if* they are not going on title or are waiving homestead rights. Any adult (over 18) who intends to live in the home is also considered a relevant party and their income must be included in the total household income calculation.

TARGETED AREA: An area of the state containing qualified census tracts (QCT) or areas of chronic economic distress, as defined by the Internal Revenue Code. A QCT is a census tract in which seventy percent (70%) or more of the families have an income which is eighty percent (80%) or less of the median family income, as established by HUD. If the residence to be purchased is within a **targeted area**, neither borrower nor co-borrower need be first-time homebuyers. To obtain a list of targeted areas by County, please visit www.ihda.org. In addition, for borrowers choosing a home in a targeted area, different (higher) income limits and purchase price limits apply.

RESERVATION: The process of registering a loan on-line with IHDA to ensure that funds are available for the purchase of the loan from the lender.

VETERAN: The person(s) must have received an honorable discharge from active duty in the United States Military and/or Military Reserves or must have been discharged due to disability incurred while on active duty.