Take Credit Guide

JULY 2016

Latest Revision: 5/24/17
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SECTION 1: THDA

1.1. THE GUIDE

This Take Credit Guide (the “Guide”) provided by the Tennessee Housing Development Agency (“THDA”), contains information about the THDA Take Credit Mortgage Credit Certificate Program (“Take Credit Program”) and specific requirements for qualifying applicants, qualifying lenders, and submitting, closing and delivering documentation to THDA.

THDA may revise, modify or update this Guide from time to time and shall provide notice of changes by posting such changes to its web site at www.thda.org.

1.2. HOURS OF OPERATION, HOLIDAY SCHEDULE, AND STAFF DIRECTORY

The Single Family Loan Operations Division is responsible for administering the Take Credit Program. Its hours of operation are 6:30 a.m. until 4:30 p.m. Central Time, Monday through Friday. The Single Family Loan Operations Division will be closed on official State holidays which are as follows:

New Year’s Day
Martin Luther King Day
Presidents’ Day
Good Friday
Memorial Day
Independence Day
Labor Day
Columbus Day*
Veteran’s Day
Thanksgiving Day
Christmas Day**

* This holiday may be exchanged for a holiday on the Friday after Thanksgiving.
**Other holidays around Christmas may be announced later.

All correspondence should be directed to:

Single Family Loan Operations Division
Tennessee Housing Development Agency
502 Deaderick Street; Third Floor
Nashville, TN 37243

ATTN: Take Credit Program

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<tr>
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<th>Telephone</th>
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Single Family Loan Operations General Information.................. 615-815-2100
Toll-Free Voice Mail .............................................................. 1-800-228-8432
1.3. TAKE CREDIT PROGRAM

Mortgage Credit Certificates ("MCC") are federal tax credits authorized under the Internal Revenue Code of 1986, as amended (the "Code"), designed to provide housing assistance. An MCC permits a qualifying buyer purchasing a qualifying home to claim a tax credit that may reduce the buyer’s federal income tax liability, if any. The credit taken cannot be larger than the buyer’s annual federal income tax liability, after deductions, personal exemptions and certain other credits are taken into account.

Under the THDA Take Credit Program, MCCs ("Take Credit MCCs") are available for new construction single family homes financed by FHA, VA, USDA or conventional and for existing homes purchased with conventional financing. The credit rate on the Take Credit MCC is 50%, which means that the amount of the annual tax credit will equal to 50% of the buyer’s mortgage interest each year, subject to limitations described herein. A Take Credit MCC will be available to eligible buyers through a lender previously approved by THDA ("Participating Lender"), with generally the same income limits and acquisition cost limits as are in effect for THDA’s Great Choice loans. A buyer may apply for a Take Credit MCC at the time of purchasing a home and obtaining financing from a Participating Lender.

THDA’s Take Credit Program can help qualified buyers save money each year that they live in their home. Under the Take Credit Program, a qualified buyer can receive a Take Credit MCC in connection with a qualifying home loan from a Participating Lender that will allow the buyer to claim up to 50 percent of their paid mortgage interest each year as a tax credit on their federal IRS tax return. The tax credit is capped at $2,000 annually and any remaining mortgage interest not included as part of the tax credit is still eligible for the home mortgage interest deduction on their federal tax return. The amount of the credit will reduce the buyer’s home mortgage interest deduction.

In order to claim the credit, the buyer cannot use a Form 1040EZ or Form 1040A. The buyer may either itemize or take the standard deduction. If the buyer itemizes, the mortgage interest deduction must be reduced by the amount of the credit. The buyer must complete Form 8396 and attach it to Form 1040.

The Take Credit MCC is not a home loan. A Take Credit MCC cannot be issued to a buyer who is financing the purchase of their home through THDA’s Great Choice loan program or other tax-exempt bond program.

As an example of how the MCC works, suppose the buyer has a $120,000 home loan at 3% for 30 years. The interest on the loan for the first 12 months would be approximately $3,600. If the buyer has a Take Credit MCC, the buyer could claim a tax credit for 50% of the interest amount paid, or $1,800, in the first year. This credit would reduce the amount of federal income tax the buyer would otherwise owe (assuming the buyer’s tax liability after certain other credits is at least $1,800) when filing their tax return. The buyer’s deduction for home mortgage interest on Schedule A of 1040 would be $1,800 ($3,600 of home mortgage interest credit paid, minus the $1,800 credit amount). The maximum allowable tax credit per year is $2,000.

The Take Credit Program is available until the earlier of December 31, 2017, or when all Take Credit MCCs that can be allocated have been allocated. For the first year of the program, at least 20% of the MCC authority will be reserved for buyers of residences located in Targeted Areas.
SECTION 2: PARTICIPATING LENDERS

2.1. BECOMING A PARTICIPATING LENDER

The Take Credit Program is available to all lenders who:

A. Are licensed to originate residential mortgage loans in Tennessee.

B. Must be able to originate, process, underwrite, and close the first mortgage loan.

C. Are not under supervisory control of, or subject to, enforcement proceedings by federal banking regulators with respect to any violations or alleged violations of federal banking laws or regulations.

D. Have executed a Lender Participation Agreement and paid THDA an initial $1,000 participation fee.

Lenders do not have to be approved to participate in THDA’s bond-financed Great Choice Mortgage Loan Program to be able to participate in the Take Credit Program. These are separate approvals.

Send applications to become a Participating Lender electronically to: sfask@thda.org.

Send the executed Lender Participation Agreement and required fees to:

Tennessee Housing Development Agency
Attention: Take Credit Program
502 Deaderick St., 3rd Floor
Nashville, TN 37243

THDA will develop and maintain a list of Participating Lenders and will make that list available on THDA’s website at www.thda.org. This list will be updated from time to time.

Participating Lenders are encouraged to promote and advertise the Take Credit Program. The Participating Lender is required to make various written and oral disclosures (disclaimer) regarding the Take Credit Program to its loan applicant who also wishes to apply for a Take Credit MCC. The Participating Lender shall not rely on an affidavit or other statement made under penalty of perjury if it has reason to know that the information contained within is false.

2.2. LENDER PARTICIPATION AGREEMENT

The written agreement between a Participating Lender and THDA, which must be executed before any Take Credit MCC applications will be accepted by THDA for processing (the “Lender Participation Agreement”), contains the basic contractual agreements between the Participating Lender and THDA. The Lender Participation Agreement sets forth general terms under which the Participating Lender is authorized to act on behalf of THDA. The Lender Participation Agreement also incorporates the contents of this Guide and other written instructions that may be issued by THDA to provide instruction and direction in the daily operation of the Take Credit Program.

2.3. PARTICIPATING LENDER RESPONSIBILITIES

A. Using the requirements in this Guide, a Participating Lender determines if its loan applicant (the “Applicant”) is eligible for a Take Credit MCC. The offered loan must be at commercially reasonable terms and rates and otherwise meet the requirements of this Guide.
B. Participating Lender shall inform its Applicant that it is the Applicant’s responsibility to consult with a tax advisor in determining the estimated benefits of a Take Credit MCC. Neither THDA nor the Participating Lender will determine whether or how much tax benefit may accrue to the Applicant as a result of obtaining a Take Credit MCC. Details on how a Take Credit MCC may reduce federal income tax liability are explained in the Internal Revenue Service (IRS) Publication 530 “Tax Information for First time Homeowners.”

C. Participating Lender shall submit and track its Applicant’s Take Credit MCC reservation via THDA’s Lender online tracking system.

D. Participating Lender shall have all required certifications and affidavits completed and executed and submitted, along with any other required documentation in a complete Take Credit MCC application package to THDA.

E. After THDA issues a Take Credit MCC Commitment (the “Commitment”), the Participating Lender shall close its loan through its usual process and have its Applicant execute the MCC Holder Closing Affidavit and Participating Lender Closing Certification.

F. Participating Lender shall submit the completed Take Credit MCC Program Closing Submission Package along with a $150 fee to THDA. Participating Lender may charge a fee of up to $400 to the Applicant, $150 of which must be delivered to THDA in the Take Credit closing package and the remainder may be retained by the Participating Lender.

G. Participating Lender shall submit an annual Mortgage Credit Certificate report to the Internal Revenue Service on IRS Form 8329.

H. Participating Lender shall maintain eligibility to act as a Participating Lender and shall pay an annual renewal fee of $1000 to THDA on January 1 of each year.

2.4. RECORD KEEPING AND FEDERAL REPORT FILING

A. The Participating Lender shall file an annual report using IRS Form 8329. The Participating Lender shall provide a copy of each filed Form 8329 to THDA at the time of filing.

B. For six (6) years following the closing of the Applicant’s loan, the Participating Lender must retain:

1. Name, address, TIN (social security number or tax identification number) of the Applicant who receives a Take Credit MCC (the “Holder”).

2. Name, address and TIN of THDA.

3. Date of closing of Applicant’s loan, certified indebtedness amount, and credit rate.
SECTION 3: QUALIFYING AN APPLICANT

3.1. OVERVIEW

A Participating Lender shall make the following determinations in evaluating whether their Applicant is eligible for a MCC:

A. Determine whether the property is within the applicable Acquisition Cost Limit. See Section 3.2.

B. Determine whether the Applicant’s Household Income is within the applicable Income Limits. See Section 3.3 for information about defining and calculating Household Income.

C. Determine whether the Applicant meets the Residence Requirement. See Section 3.4.

D. Determine whether the Applicant meets the First-Time Homebuyer Requirement or an exception thereto. See Section 3.5 and 3.7.

E. Determine whether the Applicant meets the New Mortgage Requirement. See Section 3.6.

F. Determine whether the Applicant is a U.S. citizen or permanent resident alien.

If all of these requirements are not met, do not submit the application file to THDA.

For purposes of this Guide, the person who receives a MCC from THDA is referred to as the “Holder”.

3.2. ACQUISITION COST LIMITS

A. Defining Acquisition Cost

To be eligible for a Take Credit MCC, the property being acquired cannot be purchased for an amount that exceeds the applicable Acquisition Cost Limit. Generally, the Acquisition Cost is the total cost of acquiring the property as a completed residential unit.

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<td>Wilson</td>
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</tr>
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</table>

* Denotes that some census tracts in the county are targeted, and in these census tracts, the first-time homebuyer requirement is waived.

T Denotes a targeted county. The first-time homebuyer requirement is waived.
3.3. HOUSEHOLD INCOME LIMITS

A. Defining Household

1. Household Includes

A household, for purposes of determining eligibility for the Take Credit Program, includes all persons 18 years of age or older and all minors who will live in the property to be utilizing the Take Credit MCC and any spouse who is absent or separated, regardless of whether they intend to occupy the property.

2. Accuracy of Household Composition

Although not a critical issue in financing, the accuracy of household composition must be determined for purposes of establishing total Household Income. If the Participating Lender becomes aware, at or prior to closing, that the household composition may differ from the composition first proposed, documentation must be corrected and submitted to THDA. Examples include the contemplated marriage of an Applicant, or the existence of a fiancé, relative or friend who intends to occupy the property.

If the Participating Lender becomes aware that a relative, a friend or fiancé intends to occupy the property, obtain supporting evidence of income for each such person.

3. Separated Applicant

A separated Applicant must be treated as married, and the Applicant, together with the Applicant's separated spouse, must meet all THDA program requirements. A separation agreement is not sufficient to waive this requirement. A separated spouse who will not occupy or take title to the property must furnish, at a minimum, a current pay stub with verification of hire date and their previous year’s Federal Income Tax Return, so that an accurate determination of Household Income can be made. Depending on the length of separation, up to three years’ federal income tax returns could be required.

4. Expected Childbirth

Do not include an unborn child for purposes of determining the number of persons in the household.

B. Defining Household Income

The Applicant cannot have, at the time of application or at closing, a Household Income greater than the applicable Household Income Limit. Generally, Household Income includes all income of all occupants of the property, and all heads-of-household or spouses who do not live in the property, except as noted in “Exclusions From Household Income” below.

Household Income is the total annual gross income, earned and unearned, from all sources, before taxes or other deductions, received by the Applicant, all other persons 18 years of age and older who will live in the property and not a full time student (12 hours per semester), separated or absent spouses, and all unearned income of all members of a household, including minors.

Determining Household Income, as described in this Section 3.3, is essential for determining eligibility for the Take Credit MCC program. This determination of Household Income is an initial step that is separate and different from subsequent credit underwriting for compliance with the Participating Lender.
C. Household Income Inclusions

Calculate Household Income for all members of the household and include all full-time, part-time or temporary:

1. Wages, whether salary or hourly;
2. Overtime earnings, fees, tips and other compensation for personal services;
3. Bonuses, commissions, vacation pay, shift differential and holiday pay;
4. Social Security payments;
5. Interest, dividends and other net income of any kind from real or personal property; (any withdrawal of cash or assets from an investment will be included as income, except to the extent the withdrawal is reimbursement of cash or assets invested by a household member); also, the greater of actual earnings or imputed earnings from liquid assets in excess of $5,000.
6. Periodic determinable allowances such as alimony, child support and other recurring payments or gifts from persons who will not reside in the property;
7. Periodic payments from annuities, insurance policies, pensions, retirement funds, royalties, sick pay, trust income, disability, death benefits or other type of periodic payments, including lump sum payments for the delayed start of a periodic payment, except Social Security and Supplemental Security Income (SSI);
8. Armed Forces pay, including regular pay, special pay and allowances (excluding special pay for exposure to hostile fire). Armed forces pay for a head-of-household or spouse is always included, whether they are living in the household or not;
9. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except lump sum payments as noted in “Exclusions From Household Income”);
10. Welfare assistance;
11. Relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970;
12. Benefit and other non-earned income, including amounts paid directly to or on behalf of minors and full-time students;
13. Any other source of income, except as noted in “Exclusions From Household Income”.
14. Annual net income from rental (net rental income is calculated at 75% of gross rent).
15. Total annual net income from operating a business or profession, including expenditures for business expansion or capital indebtedness, and withdrawal of cash or assets except to the extent the withdrawal is for reimbursement of cash or assets invested in the operation by a household member; an allowance for deduction of straight line depreciation of assets used in the operation is allowed.
D. Household Income Exclusions

When calculating Household Income do not include:

1. Earned income from employment of children and foster children under age 18; however, benefits and other non-earned income paid directly to or on behalf of minors and full-time students is counted as Household Income;

2. Payments received for care of foster children or foster adults;

3. Adoption assistance payments;

4. Amounts that are specifically for, or in reimbursement of, the cost of medical expenses for a household member;

5. Income of a live-in aide;

6. Student financial assistance (educational grants, scholarships, educational entitlements, work-study programs and financial aid packages) paid directly to the student or to the educational institution;

7. Earned income of full-time students 18 years old or older who can be claimed as a dependent by a household member; (earned income of a head-of-household or spouse who is a full-time student must be included in Household Income);

8. Armed Forces special pay for exposure to hostile fire;

9. Earned Income Tax Credits;

10. Amounts received that are incident to a training program funded by HUD, including compensation that is a component of a state or local employment training program with clearly defined goals and objectives, the duration of which is for a limited period, determined in advance;

11. Amounts received by a disabled person that are disregarded for a limited time for purposes of Supplemental Security Income (SSI) eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

12. Amounts received by an Applicant in a publicly assisted program which are specifically for or in reimbursement of out-of-pocket expenses (such as special equipment, special clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program, such as the Community Work Experience Program, or the Employment Search Program; this exemption also includes volunteer fire-fighters;

13. Temporary, sporadic or nonrecurring income, including gifts;

14. The value of Food Stamps;

15. Lump sum additions to assets, such as inheritance, insurance payments (including health and accident insurance and worker's compensation payments), capital gains, settlement for personal or property loss, and deferred periodic payments received in a lump sum from Supplemental Security Income (SSI) and Social Security benefits;

16. Repatriation payments made by foreign governments pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era (initial determination or reexamination must have been made on or after April 13, 1993).
3.4. RESIDENCE REQUIREMENT

The Applicant(s) must occupy the property as their permanent, principal residence within 60 days after the loan is closed. The Take Credit MCC is only available for as long as the Applicant(s) use the property as their permanent, principal residence.

3.5. FIRST-TIME HOMEBUYER REQUIREMENT

Applicant(s) who have had an ownership interest in their principal residence within the three years (a full 36 calendar months) prior to the date of application are not eligible for the Take Credit MCC program. When an applicant is married, both spouses must meet the first-time homebuyer requirement. The three year requirement does not apply if the property to be acquired is located within a Targeted Area (See Section 3.7) or under certain circumstances if the applicant is a veteran (See Section 3.5.c).

A. Permitted Ownership Interests

An Applicant may have the following ownership interests in their principal residence within the last three years and be eligible for the Take Credit Program:

1. An ordinary lease, with or without an option to buy;
2. The interest of a buyer under a standard residential purchase contract;
3. A mere expectancy to inherit property at a later date;
4. A remainder interest;
5. A manufactured home without ownership of the land on which it is located;
6. A manufactured home and land on which it was located, if the manufactured home was not titled and assessed as real property;
7. Any of the prohibited ownership interests if the property is in a Targeted Area;
8. Any other interest that is not a prohibited interest, as determined by THDA.

An Applicant may also have the following ownership interests within the last three years and be eligible for the Take Credit Program:

1. An ownership interest in a vacation home or rental property;
2. A financial interest in a residence in which the Applicant has not resided or designated as a principal residence at any time within the last three years;

B. Prohibited Ownership Interests

See Section 3.7 to determine whether the property is in a Targeted Area. If the property is in a Targeted Area, this requirement does not apply.

Applicants who have had any of the following ownership interests in their principal residence within the three years (a full 36 calendar months) before the date of the Take Credit MCC application are not eligible for a MCC to acquire property located within a non-Targeted Area:

1. A fee simple interest;
2. A joint tenancy;
3. A tenancy in common;
4. A tenancy by the entirety;
5. The interest of a tenant-shareholder in a cooperative;
6. A life estate;
7. A land contract;
8. Ownership of a manufactured home and the land on which it was located, if the manufactured home was titled and assessed as real property;
9. An interest in an Applicant's principal residence created by the existence of an inheritance, whether title is vested in the Applicant or not;
10. Any of the above interests held in a trust (whether or not created by the Applicant) that would constitute an ownership interest if held directly by the Applicant.
11. Interest arising because, within the last three years, the Applicant's name was included on a deed to a residence which the Applicant occupied as their principal residence.
12. Interest arising because, within the last three years, the Applicant was married to a person who had one of the prohibited ownership interests in a residence which Applicant occupied as their principal residence.
13. Any other interest that constitutes an ownership interest, as determined by THDA.

C. Veteran Exemption

Veterans and their spouses do not have to meet the three year requirement (i.e. be a first-time homebuyer) under certain circumstances to be eligible for the Take Credit MCC Program. “Veterans” as defined in 38 U.S.C. Section 101, so long as the Veteran did not previously receive a bond finance mortgage under this exception and, generally, includes anyone who has served in the military and has been discharged or released under conditions other than dishonorable, including a Veteran who has re-enlisted.

3.6. NEW MORTGAGE REQUIREMENT

A Take Credit MCC is not available in connection with a refinance of an existing loan. A Take Credit MCC may be issued on a temporary construction or bridge loan if acceptable documentation is provided to THDA that such a loan has a non-renewable term of twenty-four (24) months or less, documented with a copy of the construction or bridge loan note and recorded Deed of Trust.

3.7. TARGETED AREAS

Applicant(s) purchasing a residence in a Targeted Area are exempted from the first-time homebuyer requirement. A Targeted Area is a qualified census tract or an area of chronic economic distress as designated by the IRS. A Targeted Area may be an entire county or may be a particular census tract within a county.

For the first year of the Take Home Program, THDA will set aside 20% of the Program allocation of MCC authority for eligible buyers purchasing eligible residences located in Targeted Areas. This amount will be set aside for one year from the date THDA first accepts applications for MCCs under the Take Home Program.

Documentation in each application file submitted to THDA must correctly identify whether the property is or is not located within a Targeted Area based on Census Tract.
A. Census Tracts

The US Census Bureau divides the United States into many small geographic areas, and identifies each with a unique series of numerals separated by decimals. These numbers indicate the property's state, county, tract, and sub-tract. An example of a complete Census Bureau identification number and an explanation of its elements follow:

Example: 47.157.0078.10

“47” - the US Census Bureau identification number for Tennessee. THDA does not require this number to be indicated on the appraisal report.

“157” - the US Census Bureau identification number for Shelby County. THDA does not require the Census Bureau county code number to be entered on the appraisal report.

“0078” - the US Census Bureau identification number for one of the census tracts within Shelby County. The correct census tract number must be indicated on the Appraisal for property located in those counties.

“10” - the US Census Bureau sub-tract number within tract 0078.
B. Current Targeted Areas

1. Counties

<table>
<thead>
<tr>
<th>County</th>
<th>Bledsoe</th>
<th>Crockett</th>
<th>Grainger</th>
<th>Henderson</th>
<th>Lawrence</th>
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2. Census Tracts

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3.8. PENALTIES FOR MISSTATEMENTS

If the Applicant makes a material misstatement in any Affidavit or certification made in connection with application for or the issuance of a Take Credit MCC, the Applicant shall pay to THDA or its agent a civil penalty fee of $1,000 for each MCC with respect to which a misstatement was made. If any Applicant makes a material misstatement in any Affidavit or certification made in connection with application for or issuance of a Take Credit MCC and such misstatement is due to fraud, the Applicant shall pay to THDA or its agent a civil penalty fee of $10,000 for each Take Credit MCC with respect to which the fraudulent misstatement was made. The above-described civil penalties shall be imposed in addition to any criminal penalty.
SECTION 4: OTHER PROGRAM REQUIREMENTS

4.1. ELIGIBLE APPLICANTS

A. Applicant must meet the credit and underwriting criteria established by the Participating Lender.

B. Applicant must satisfy the requirements of Section 3 hereof.

1. Qualifying Spouse

When a Take Credit initial application is made by two people, both are considered co-applicants for THDA eligibility purposes. Both must sign the MCC Holder Initial Affidavit and the income of both persons must be included in calculating Household Income as described in Section 3.3.

2. Non-Qualifying Spouse

a. Cannot have had an ownership interest in their principal residence in the past three years unless present property being purchased is in a Targeted Area or Applicant is a Veteran.

b. Items required as documentation on the non-qualifying spouse:
   I. Income verified and a current pay stub.
   II. Signature on an original MCC Holder Initial Affidavit (can be on the same Affidavit as borrower or on a separate Affidavit).
   III. Copy of the most recent tax year Federal Income Tax Return and W-2’s.

4.2. PROPERTY ELIGIBILITY

A. Eligible Property

To be eligible, the property to be acquired by the Applicant must meet all of the following requirements:

1. Be one of the following:
   a. A detached or semi-detached house; or
   b. A row-house, townhouse, condominium or part of a planned unit development. For a property located in a condominium development, including developments less than 100% complete, the condominium development must have approval by either FHA, VA, USDA/RD, FHLMC or FNMA; or
   c. A one, two, three, or four-family residence, one unit of which must be occupied by Applicant as their principal residence.

2. Be acquired with the following types of loans:
   (1) Conventional financing only for acquisition of an existing property.
   (2) FHA, VA, USDA or Conventional financing for new or proposed property.
3. Any property consisting of more than one unit as described above, or that contains a separate living unit detached from the Borrower’s principal residence, will not be eligible for THDA funding.

4. Not to be used in a trade or business or as an investment property, vacation home or seasonal home. Occasionally individuals claim a business deduction on their Federal Income Tax Returns. In most cases this is a small portion of the home used as an office and the tax return must show the percentage of square footage used for the business deduction. As long as the square footage used for a business deduction is 15% or less, it is acceptable to THDA. For instance, the home cannot be used as a day care center, beauty salon or other similar businesses.

5. Acceptable Amount of Land

Property purchased in connection with the Take Credit MCC Program can include one subdivision lot of up to five acres in size, as shown on a recorded subdivision plat, without express THDA approval. More than one recorded subdivision lot may be acceptable at THDA’s discretion, if the lots are located in an older subdivision containing narrow “shotgun” lots, and if one lot does not contain the minimum size required under local regulation to permit construction of a residence. Lots of any size not shown on a recorded subdivision plat require express approval by THDA, at THDA’s sole discretion.

Land relating to a residence shall be considered as part of the residence only if such land reasonably maintains the basic livability of the residence and does not provide a source of income to the mortgagor.

B. Appraisals

All application files submitted to THDA must include a Uniform Residential Appraisal Report (URAR), completed by an appraiser who is licensed by the State of Tennessee, and who has no financial interest in the transaction.

4.3. ELIGIBLE LOANS

A. Types Of Loans

1. New or Proposed Construction-FHA, VA, USDA or Conventional Financing.

2. Existing homes- Conventional Financing.

B. Loan Payment Terms

1. Fixed interest rate only. Adjustable interest rate and interest only loans are not eligible.

2. Loans with interest rate interest rate 100 basis points or more above the current Freddie Mac Primary Mortgage Market Survey (PMMS) are not eligible.

3. First mortgage loans must be fully amortized, with level payments, and must be for a term of 30 years.
C. Certain Loans Prohibited

1. A Take Credit MCC cannot be issued in conjunction with a THDA Great Choice loan (or other loan financed with the proceeds of tax-exempt bonds), an adjustable or interest only home loan or a loan with a co-signer.

2. No interest on the loan can be paid to a person who is a “related person” to the MCC holder, as the term is defined in Section 25(e)(6) of the Code and Regulations. The Participating Lender must obtain from the Applicant a statement that a “related person” does not have, and is not expected to have, an interest as a creditor in the loan.

D. Loan Assumptions

A loan assumption associated with a Take Home MCC will be treated as a new MCC application, and the procedure required by this Program Guide must be repeated for the new Applicant. Transfer of the Take Credit MCC is dependent upon the ability of the transferee to qualify under the Take Credit Program requirements in effect at the time of the transfer. THDA gives no assurance it will approve such a transfer.

4.4. FEDERAL RECAPTURE

Take Credit MCCs are subject to the federal recapture tax. The recapture tax is designed to recapture a portion of the subsidy associated with MCCs. Recapture tax liability must be determined at the time the property is sold, if the sale occurs within nine years from the closing of the loan. Refinancing a loan does not eliminate the possibility of recapture, but does not trigger recapture tax liability. If, however, the property is sold after the date of refinancing but before the ninth anniversary of the loan closing related to the original issuance of the MCC, recapture tax liability must be determined at the time of sale. Participating Lenders notify the Applicant about recapture tax at the time a Take Credit MCC application is made by securing their signature on the Notice of Recapture to Eligible MCC Holders.

Whether the recapture tax results in an actual payment to the federal government depends on a number of factors, including changes in family income, gain on the sale of the property, the number of years the loan is outstanding, and the original loan amount. The exact amount to be paid, if any, cannot be determined until the property is sold.

For further information regarding the federal recapture tax, advise Applicants to contact their tax professional. Written information is available by ordering IRS Form 8828 “Recapture of Federal Mortgage Subsidy” and its accompanying instructions from any IRS office or through the IRS website at www.irs.gov.

THDA will not reimburse any Holder for the payment of any recapture tax.
SECTION 5: PROCESSING/ COMPLIANCE PROCEDURES
AND PROGRAM ADMINISTRATION

5.1. OVERVIEW

THDA’s Take Credit MCC processing procedures are designed to coincide with the regular, ongoing loan processing, credit and underwriting procedures that are in place for each Participating Lender. Each Participating Lender is responsible for following all of its customary processes and procedures in connection with a loan that may be eligible for a MCC. The order of the steps may vary based on each Participating Lender’s internal processes and procedures, however, all steps must be completed for an MCC to be validly issued.

All of the following must be met:

1. The Participating Lender must reserve/register applications using THDA’s on-line system. A Take Credit MCC Reservation has an expiration of 90 days.
2. The Participating Lender performs its customary processing/underwriting procedures for its loan that meets the requirements in this Guide.
3. The Participating Lender determines whether the Take Credit Program requirements specified in this Guide have been met.
4. The Participating Lender submits a complete Take Credit initial application package to THDA via the on-line system.
5. THDA reviews the Take Credit initial application package for completeness and determines if all necessary certification and affidavits are present and properly executed.
6. If THDA determines the Take Credit initial application submission is acceptable, THDA will issue a Commitment. The Commitment will expire 60 days from the date of issuance.

A. Homebuyer Education

Applicants are required to obtain pre-purchase on-line homebuyer education. THDA’s preferred provider is e-Home America.

B. Age of Credit Documents

All credit documents must be current when submitted to THDA. All updates and requests for extension of the Commitment must be submitted with updated documents for THDA approval prior to the Commitment expiration date.
5.2 VERIFICATIONS

A. Employment Verifications

Full documentation is required for THDA. All current full-time and part-time employment or self-employment covering a period of at least the last two years must be verified in writing. Telephone verification is acceptable on previous employment. For current employment not verified with a standard VOE form, answers to all questions contained on the standard VOE must be provided by the employer on employer letterhead. Verifications must indicate bonuses, next pay increase, overtime and scheduled number of work hours if paid by the hour. In addition, a copy of each Applicant’s most recent pay stub is required (no more than 30 days old). This income verification and documentation is also required for a non-qualifying spouse and any other occupant of the property 18 years of age or older.

B. Sole-Proprietorship Verifications

1040’s with Schedule C for a minimum of two tax years, and 24 months in business.

C. Partnership Verifications

Year-to-date P&L, Plus 1065’s with Schedule K-1 and Schedule E, part II; Partnership returns with all schedules. Minimum two tax returns and 24 months in business.

D. Limited Partnership Verifications

1065, Schedule K-1 and Schedule E, part II; Partnership Return with schedules. Minimum two tax returns and 24 months in business.

E. Subchapter S Corporation Verifications


F. Corporation Verifications

Provide if Applicant owns or controls 25% or more of the stock. Corporation Return, Form 1120 and Schedule L (if applicable); W-2 for Applicant. Minimum two tax returns and 24 months in business.

G. Veteran Status

Veterans applying for the exemption to the three year requirement must provide a copy of VA Form DD-214 or VA Form DD-4 (Enlistment/Re-enlistment Document)

H. Child Support and Alimony Obligations

Include a copy of the final order, signed by the court. Payments must be current.

I. Federal or State Tax Liens, Tax Arrearages

All tax liens or arrearages must be paid in full. Include an acceptable explanation from the Applicant.
SECTION 6: SUBMITTING TAKE CREDIT MCC APPLICATIONS

6.1. OVERVIEW

Participating Lenders must present accurate and complete information with each Take Credit application file. Information withheld or misrepresented may void a Commitment or if discovered subsequent to issuance of a Take Credit MCC, could result in revocation of the Take Credit MCC. Should the Participating Lender become aware prior to closing that either the household composition first proposed, and/or the household income first proposed has changed or will change prior to closing, THDA must be notified immediately and updated documentation must be submitted.

Participating Lenders will complete the Reservation form (MCC-1070) and submit when the MCC application is registered/reserved. Reservations have an expiration of 90 days. During the reservation period, Participating Lenders shall submit complete Take Credit initial application.

The Take Credit initial application file as submitted to THDA must have all documentation being submitted in the order shown on the MCC Submission Checklist (MCC-1080).

6.2. REQUIRED DOCUMENTS FOR TAKE CREDIT INITIAL APPLICATION

A. MCC Submission Checklist (MCC-1080)

Include this form with each Take Credit initial application file submitted to THDA.

B. MCC Holder Initial Affidavit (MCC-1040)

The executed and notarized Holder Initial Affidavit must be included. The Holder Initial Affidavit must be signed by each Applicant. Married Applicants must both sign the Holder Initial Affidavit and meet first-time homebuyer eligibility requirements, even if a non-qualifying Applicant or spouse is involved.

C. Builder/Seller Affidavit (MCC-1030)

The seller of the property must execute a Builder/Seller Affidavit and the executed Builder/Seller Affidavit must be included in each Take Credit initial application submitted to THDA.

D. Tax Returns

Copies of signed and dated Federal Income Tax Returns, including W-2’s, for the most recent tax year for the Applicant(s) and/or any non-qualifying spouse must be included in the Take Credit initial application file. A Federal Income Tax Return also must be included in the Take Credit initial application file for any household member 18 years or older who is required to file a Federal Income Tax Return.

If an Applicant or other household member 18 years of age or older cannot provide a copy of their most recent Federal Income Tax Return, they must obtain an IRS Tax Transcript or IRS Letter 1722, which is available from the IRS office where the tax return was filed. The Tax Transcript must be signed and dated by the tax payer. Transcripts may be ordered by using IRS Form 4506. If an Applicant or household member was not required to file a Federal Income Tax Return, provide a signed and dated statement specifying why they were not required to file.

THDA, at its sole discretion, may require the most recent three years Federal Income Tax Returns if there is any indication in the Take Credit initial application of prior homeownership.
E. Notice of Recapture to Eligible MCC Holders (MCC-1060)

This THDA disclosure is required for all Take Credit initial applications and must be signed by the Applicant(s) at the time of application. Furnish the Applicant(s) a copy of the signed original.

F. Transmittal Summary (Conventional and USDA/RD)

Include a Transmittal Summary with each conventional and USDA/RD application. This form is considered as the Participating Lender’s underwriting approval and must be signed and dated by the Participating Lender.

G. Loan Application (1003)

Include the initial 1003, signed and dated by the Applicant(s) and the loan officer and final 1003. Three years of residency must be stated on the 1003.

H. Credit Report

Credit report must be included in the application. Credit underwriting is according to the Participating Lender’s guidelines; credit report is used to verify first time homeownership eligibility and federal tax lien requirements.

I. Final Divorce Decree/Marital Dissolution; Court Ordered Child Support; SSI or Other Assistance

Include copies of any or all of these documents, as applicable.

J. Verification of Employment; Most Recent Pay Stub; Form Evidencing Telephone Verification of Prior Employment; Self-Employment

See Sections 5.2.

K. Documentation for Veteran Exemption

VA Form DD-214 if applicant is a discharged or released veteran. VA Form DD-4 if applicant has re-enlisted, but was eligible for a discharge or release at the time of re-enlistment.

L. Sales Contract

Include a copy of the purchase agreement (fully executed by Seller and Applicant) in the application file. Any changes to the purchase agreement must be initialed by Seller and Applicant.

M. Appraisal

Uniform Residential Appraisal Report (FMNA 1004) in the application file. The Uniform Residential Appraisal Report must reflect inspections of both the interior and exterior of the dwelling.
6.3. TAKE CREDIT INITIAL APPLICATION DECISIONS

A. THDA Determination

THDA reviews each Take Credit initial application file with the following results:

1. THDA may approve a Take Credit initial application file without conditions.
2. THDA may request additional documentation from the Participating Lender.
3. THDA may reject a Take Credit initial application that fails to meet the requirements of this Guide.

B. Rejections

Any Take Credit initial application file rejected by THDA is reviewed by management before the Participating Lender is notified.

C. Re-Submissions

Re-submitted Take Credit initial application files are processed by THDA in the same manner as new Take Credit initial application files. THDA reserves the right to question a re-submitted application file that reveals significant discrepancies when compared to the application file that was initially submitted.

6.4. COMMITMENTS

A. Application Approval

A Take Credit initial application file is not approved until a written Commitment is issued by THDA.

B. Commitment Term

All Commitments are issued for a period of 60 days.

C. Update of Application or Commitment

The Take Credit initial application file and the Commitment must be updated in the following situations:

1. After the Commitment is issued, if the Participating Lender becomes aware of significant changes in the Applicant’s household composition, income or credit, updated documentation must be submitted to THDA for review and approval.
2. When an extension of the Commitment is requested. All requests for an extension of a Commitment must be accompanied with updated income documents. A 60-day extension will be given upon the Participating Lender’s request and upon payment to THDA of an additional $100 fee.
D. Loan Amount or Program Type Changes

If the loan amount and/or the loan program changes, Participating Lender shall immediately contact THDA and submit necessary documents reflecting the changes. THDA will issue a revised Commitment only if all Take Credit Program requirements are met.

E. Commitment Delivery

THDA will deliver Commitments to Participating Lenders by email based on documentation provided on the MCC Submission Checklist.

F. Cancellation

Participating Lender should notify THDA of any cancellations of Commitments.

G. Invalid Commitments

A Commitment is no longer valid upon the occurrence of any one of the following:

1. The property described in the closing documents differs from the property indicated in the Commitment and/or on original URAR;

2. The loan closes as a loan type that is different from the loan type indicated on the Commitment;

3. The loan closes in an amount that is different than the amount indicated on the Commitment;

4. The interest rate or loan term differs from the Commitment;

5. The loan closes prior to the date of Commitment;

6. The loan closes after the Commitment expiration date without Commitment extension granted by THDA;

7. The closed loan does not otherwise conform to the requirements contained in this Guide.

A Participating Lender shall not close a loan with an invalid or expired Commitment. An Applicant is not eligible for a Take Credit MCC if their loan is closed with an invalid or expired Commitment regardless of when the invalidity or expiration is discovered.

6.5. MORTGAGE LOAN CLOSING AND SUBMISSION OF TAKE CREDIT CLOSING PACKAGE

A. Mortgage Loan Closing

1. The Participating Lender shall confirm that the Commitment has not expired prior to closing its loan with Applicant and before submission of the Take Credit closing package to THDA.

2. The Participating Lender shall close its loan with Applicant in its customary procedures with the Applicant executing the MCC Holder Closing Affidavit.
B. Submission of Take Credit Closing Package

1. Participating Lender shall submit a complete Take Credit closing package to THDA immediately after its mortgage loan closing, together with the $150 fee payable to THDA.

2. The Take Credit closing package shall include all items specified in 6.5 C below.

C. Required Documents for a Complete Take Credit Closing Package

1. MCC Submission Checklist
   A completed MCC Submission Checklist must be used as the cover sheet for submission to THDA.

2. MCC Holder Closing Affidavit

3. Participating Lender Closing Certification

4. Closing Disclosure

5. Certificate of Occupancy (copy) or final inspection, if applicable

6. Copy of Note

7. $150 MCC Fee
   Fee is payable to THDA and sent to:
   Tennessee Housing Development Agency
   Attention: Take Credit Program
   502 Deaderick St., 3rd Floor
   Nashville, TN 37243

D. THDA Review

THDA reviews the Take Credit closing package for completeness, for compliance with the MCC Commitment, and to ensure the loan from Participating lender to Applicant was closed.

6.6. ISSUING TAKE CREDIT MCC

Once all conditions have been met to THDA’s sole satisfaction, THDA will mail the original Take Credit MCC to the Holder.

6.7. REFINANCING AND REISSUANCE

Under certain circumstances, THDA may reissue a Take Credit MCC in connection with the refinancing of the mortgage loan to which the original Take Home MCC relates. THDA will determine, in its sole discretion, whether to reissue a Take Credit MCC.

To be eligible for THDA to reissue a Take Credit MCC when a refinancing occurs, a Holder must meet the following conditions:

1. A Take Credit MCC can only be re-issued to the same Holder with respect to the same property.

2. A re-issued Take Credit MCC shall entirely replace the existing Take Credit MCC.
3. The certified indebtedness on the re-issued Take Credit MCC cannot exceed the outstanding balance on existing Take Credit MCC.

4. The Take Credit MCC credit rate shall remain the same.

5. A re-issued Take Credit MCC cannot result in a larger credit amount than otherwise was allowed under the existing Take Credit MCC for any tax year.

6. Holder must request a reissuance from THDA before closing the new loan.

7. Holder shall provide the following documents to THDA in connection with a reissuance of a Take Credit MCC:
   a. Copy of the Original Take Credit MCC and/or Re-issued Take Credit MCC
   b. Copy of Original Note
   c. Copy of New Note
   d. Copy of Closing Disclosure for new loan
   e. Copy of Federal Tax Return with schedules for most recent year filed
   f. Contact information for the Holder.

6.8. REVOCATION OF TAKE CREDIT MCC

1. A Take Credit MCC is no longer valid when the property for which the Take Credit MCC was used ceases to be the principal residence of the Take Credit MCC Holder(s).

2. A Take Credit MCC is no longer valid, upon the discovery of any material misstatement whether negligent or fraudulent, in connection with obtaining the Take Credit MCC.

3. A Take Credit MCC is no longer valid if the Holder refinances the loan to which the Take Credit MCC relates and THDA does not reissue the MCC in connection with the refinancing.

4. A Take Credit MCC is no longer valid when the loan to which the Take Credit MCC relates is paid in full.