



8584 Katy Freeway, Suite 420

Houston, TX 77024

Phone: 713-871-0005

Fax: 713-871-1358

Partners

Thomas E. Black, Jr.¹

Gregory S. Graham²

Shawn P. Black³

Regina M. Uhl⁴ ‡

Senior Lawyers

David F. Dulock

Diane M. Gleason

Associates

Peter B. Idziak³

Daniel S. Engle³

Nick Stevens

Sydney Davis

Margaret Noles

Dora Herran

Of Counsel

David M. Tritter

Calvin C. Mann, Jr.

Retired Partner(s)

Calvin C. Mann, Jr.

¹ Also Licensed in Iowa, New York, and Washington

² Also Licensed in Georgia

³ Also Licensed in New York

⁴ Also Licensed in Kentucky and Illinois

‡ Board Certified- Residential Real Estate Law- Texas Board of Legal Specialization

January 2, 2019

To: Clients and Friends

From: David F. Dulock

Subject: Mortgage Credit Certificate Program Notice by TDHCA

In the December 21, 2018, issue of the *Texas Register* (Vol. 51, No. 43) the Texas Department of Housing and Community Affairs published the following Notice regarding its latest Mortgage Credit Certificate Program to assist eligible very low, low, and moderate income first-time homebuyers with the purchase of a residence located within the State of Texas.

Notice to Public and to All Interested Mortgage Lenders

The Texas Department of Housing and Community Affairs (the Department) intends to implement a Mortgage Credit Certificate Program (the Program) to assist eligible very low, low, and moderate income first-time homebuyers with the purchase of a residence located within the State of Texas.

Under the Program, a first-time homebuyer who satisfies the eligibility requirements described herein may receive a federal income tax credit in an amount equal to the product of the certificate credit rate established under the Program and the interest paid or accrued by the homeowner during the taxable year on the remaining principal of the certified indebtedness amount incurred by the homeowner to acquire the principal residence of the homeowner; provided that such credit allowed in any taxable year does not exceed \$2,000. In order to qualify to receive a mortgage credit certificate, the homebuyer must qualify for a conventional, FHA, VA, USDA or other home mortgage loan from a lending institution and must meet the other requirements of the Program.

The mortgage credit certificates will be issued to qualified mortgagors on a first-come, first-served basis by the Department, which will review applications from lending institutions and prospective mortgagors to determine compliance with the requirements of the Program and determine that mortgage credit certificates remain available under the Program. No mortgage credit certificates will be issued prior to ninety (90) days from the date of publication of this notice or after the date that all of the credit certificate amount has been allocated to homebuyers, and in no event will mortgage credit certificates be issued later than the date permitted by federal tax law.

In order to satisfy the eligibility requirements for a mortgage credit certificate under the Program: (a) the prospective residence must be a single-family residence located within the State of Texas that can be reasonably expected to become the principal residence of the mortgagor within a reasonable period of time after the financing is provided; (b) the prospective homebuyer's current income must not exceed, (1) for families of three or more persons, 115% (140% in certain targeted areas or in certain cases permitted under applicable provisions of the Internal Revenue Code of 1986, as

(2 pages)

amended (the Code)) of the area median income; and (2) for individuals and families of two persons, 100% (120% in certain targeted areas or in certain cases permitted under applicable provisions of the Code) of the area median income; (c) the prospective homebuyer must not have owned a home as a principal residence during the past three years (except in the case of certain targeted area residences or in certain cases permitted under applicable provisions of the Code); (d) the acquisition cost of the residence must not exceed 90% (110%, in the case of certain targeted area residences or in certain cases permitted under applicable provisions of the Code) of the average area purchase price applicable to the residence; and (e) no part of the proceeds of the qualified indebtedness may be used to acquire or replace an existing mortgage (except in certain cases permitted under applicable provisions of the Code). To obtain additional information on the Program, including the boundaries of current targeted areas, as well as the current income and purchase price limits (which are subject to revision and adjustment from time to time by the Department pursuant to changes in applicable federal law and Department policy), please contact Sue Nance at the Texas Department of Housing and Community Affairs, 221 East 11th Street, Austin, Texas 78701-2410; telephone (512) 475-3356.

The Department intends to maintain a list of single family mortgage lenders that will participate in the Program by making loans to qualified holders of these mortgage credit certificates. Any lender interested in appearing on this list or in obtaining additional information regarding the Program should contact Sue Nance at the Texas Department of Housing and Community Affairs, 221 East 11th Street, Austin, Texas 78701-2410; (512) 475-3356. The Department may schedule a meeting with lenders to discuss in greater detail the requirements of the Program.

This Memorandum is provided as general information in regard to the subject matter covered, but no representations or warranty of the accuracy or reliability of the content of this information are made or implied. Opinions expressed in this memorandum are those of the author alone. In publishing this information, neither the author nor the law firm of Black, Mann & Graham L.L.P. is engaged in rendering legal services. While this information concerns legal and regulatory matters, it is not legal advice and its use creates no attorney-client relationship or any other basis for reliance on the information. Readers should not place reliance on this information alone, but should seek independent legal advice regarding the law applicable to matters of interest or concern to them. The law firm of Black, Mann & Graham L.L.P. expressly disclaims any obligation to keep the content of this information current or free of errors.