



Office of the City Clerk

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Legislation Text

File #: O2013-3411, **Version:** 1

OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

May 8, 2013

TO THE HONORABLE, THE CITY COUNCIL OF THE CITY
OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Housing and Economic Development, I transmit herewith an ordinance authorizing continuation of the "TaxSmart" Mortgage Credit Certificate Program.

Your favorable consideration of this ordinance will be appreciated.

Mayor

Very truly yours,

ORDINANCE

WHEREAS, there exists within the borders of the City of Chicago (the "City") a recognized need for decent, safe, sanitary and well structured and maintained housing which persons of moderate income can afford; and

WHEREAS, the United States government has authorized the several states and their political subdivisions to issue mortgage credit certificates (the "Certificates") pursuant to Section 25 of the Internal Revenue Code of 1986, as amended (the "Code"), which entitle qualifying individuals to a credit against their individual federal income tax, in lieu of qualified mortgage bonds as defined in Section 143(a) of the Code ("Qualified Mortgage Bonds"); and

WHEREAS, the City is a home rule unit under the provisions of Section 6 of Article VII of the 1970 Constitution of the State of Illinois, and constitutes a constitutional home rule city within the meaning of Section 146(d)(3)(C) of the Code; and in furtherance of its home rule powers, the City hereby finds and determines that it is necessary and desirable and will provide for and promote the public health, safety and welfare of the citizens of the City to establish and implement a 2013 qualified mortgage credit certificate program and to issue Certificates in connection therewith (the "2013 Certificates"); and

WHEREAS, to provide for the issuance of the 2013 Certificates it is necessary for the City to authorize the issuance of one or more mortgage credit certificate elections of the City as more particularly described in Section 6 hereof (each, a "2013 Election") and to authorize the publication of a public notice relative to the issuance of the 2013 Certificates; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Recitals. The above recitals are incorporated herein and made a part hereof by reference.

SECTION 2. Declaration of Public Purpose. It is hereby determined that the purpose of this ordinance is to take steps designed to reduce the cost of financing for the acquisition, rehabilitation or improvement of principal residence housing located in the City, and to provide decent, safe and sanitary housing for qualifying persons of moderate income. It is further hereby determined that such principal residence ownership, rehabilitation and improvement will provide for and promote the public health, safety, morals and welfare; maintain and foster the increase of industrial and commercial activity and economic development; and preserve and increase the ad valorem tax base of the City and its environs. The foregoing are hereby declared and determined to be public purposes and functions pertaining to the government and affairs of the City.

SECTION 3. Establishment of 2013 Qualified Mortgage Certificate Program.

a) There is hereby established and implemented a qualified mortgage credit certificate program under Section 25 of the Code to be known as the City of Chicago Single-Family Mortgage Credit Certificate Program, Series 2013 (the "2013 Program") for the purpose of issuing 2013 Certificates. The 2013 Certificates shall be issued to taxpayers qualified to receive Certificates ("2013 Borrowers") pursuant to Section 25 of the Code and the Treasury Regulations promulgated thereunder (the "Program Regulations") in connection with the acquisition, rehabilitation or improvement of each 2013 Borrower's principal residence housing within the incorporated area of the City (the "Program Area").

b) The 2013 Certificates shall carry (1) a Certificate Credit Rate (as defined in the Program Regulations) which Certificate Credit Rate shall be not less than 10 percent nor more than 50 percent and (2)

a Certified Indebtedness Amount (as defined in Section 25(b) of the Code) specified in each 2013 Certificate. The Commissioner of Housing and Economic Development (the "Commissioner") shall establish the actual Certificate Credit Rate from time to time, provided that the Certificate Credit Rate shall not be less than 10 percent nor greater than 50 percent.

c) With respect to the 2013 Program, the City hereby elects not to issue Qualified Mortgage Bonds in an aggregate principal amount not to exceed \$79,722,022.80 that are otherwise authorized to be issued by the City during calendar year 2013, pursuant to Sections 103, 143(a) and 146 of the Code and the Treasury Regulations promulgated thereunder (the "Unissued Bonds"). The amount of Unissued Bonds shall be specified in one or more 2013 Elections.

d) There is hereby allocated to the Unissued Bonds an amount of the City's unused volume cap (as described in Section 146 of the Code) for the calendar year 2013 not exceeding Seventy Nine Million Seven Hundred Twenty-Two Thousand Twenty Two and 80/100 Dollars (\$79,722,022.80) and as shall be specified in the 2013 Election(s) (the "Unused Cap").

e) The Commissioner is directed to file timely, or to cause the timely filing of, all reports as are or may be required by Section 25 of the Code and the Program Regulations in connection with the 2013 Program.

f) The 2013 Certificates authorized herein shall be provided in the manner, amounts and time frames as are required by the Program Regulations in connection with owner-financed residences within the Program Area.

SECTION 4. Aggregate Limit of Certificates. The Total Proceeds (as defined in the Program Regulations) of the 2013 Certificates shall not exceed 25 percent of the principal amount of Unissued Bonds specified in the 2013 Elections. Total Proceeds shall be determined as provided in the Program Regulations.

SECTION 5. Certificates. For the purpose of lowering borrowing costs for 2013 Borrowers, there is hereby authorized to be issued, executed and delivered pursuant to this ordinance, 2013 Certificates, the Total Proceeds of which shall be limited as provided in Section 4 hereof. The 2013 Certificates shall be designated "City of Chicago, Single-Family Mortgage Credit Certificates, Series 2013." The 2013 Certificates shall be executed by the manual or facsimile signature of the Mayor and the City Clerk of the City, and the seal of the City or a

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facsimile thereof shall be affixed thereto or printed thereon. The 2013 Certificates shall be countersigned by the manual signature of the Commissioner or his designee in writing.

The form of the 2013 Certificates shall be that prescribed by the Internal Revenue Service. If no form is prescribed or if such form is not readily available, the 2013 Certificates shall be issued in the form prepared by the City. The 2013 Certificates shall contain the information required by the Program Regulations and such other information as the Commissioner may deem necessary.

SECTION 6. Mortgage Credit Certificate Election. The 2013 Elections, each in substantially the form used in prior mortgage credit certificate programs administered by the City, are hereby approved in all respects. One or more 2013 Elections may be issued as shall be determined by the Commissioner in accordance with the best interests of the City and with the requirements of Section 25 of the Code and the Program Regulations. The cumulative principal amount of Unissued Bonds shall be \$79,722,022.80 or such lesser amount as will be set forth in the initial and subsequent 2013 Elections as executed by the Mayor, his

execution thereof to constitute conclusive evidence of this City Council's approval of such (cumulative) lesser amount. The Mayor is hereby authorized to execute, deliver and file the 2013 Elections on behalf of the City in substantially the form used in prior mortgage credit certificate programs administered by the City, with such changes therein as shall be approved by the Mayor, his execution thereof to constitute conclusive evidence of the approval of such changes.

SECTION 7. Public Notice. The Commissioner is hereby authorized to publish a public notice with respect to the 2013 Program in a newspaper of general circulation in the City in conformity with the provisions of Section 25 of the Code and the Program Regulations. The public notice shall be in a form approved by the Commissioner and the Corporation Counsel and may be published prior to filing the Election.

SECTION 8. Program Restrictions. Except as permitted by the Program Regulations: (i) no 2013 Certificates shall be issued with regard to any residence financed in whole or in part through the proceeds of Qualified Mortgage Bonds or Qualified Veterans' Mortgage Bonds (as defined in Section 143(b) of the Code), (ii) the 2013 Program shall not be limited to indebtedness incurred from particular lenders, (iii) 2013 Certificates shall not be transferable, and (iv) no block of 2013 Certificates may be allocated for use in connection with a particular development unless the developer shall certify that the price of each residence is no higher than it would be without the use of the 2013 Certificate.

SECTION 9. Administration of Program. The City, acting through the Commissioner, shall administer the 2013 Program. Subject to the approval of the Corporation Counsel, the Commissioner is authorized to execute Lender Participation Agreements ("Lender Participation Agreements") in substantially the form used in prior mortgage credit certificate programs administered by the City, and other agreements, certificates and documents as may be required for the 2013 Program and the 2013 Certificates to comply with Section 25 of the Code and the Program Regulations. The Commissioner may permit each Lender identified in the respective Lender Participation Agreement to charge and collect from an applicant a fee (the "Program Fee") of not less than \$225 and not more than \$375 in connection with each 2013 Certificate. Of the Program Fee, up to \$150 may be retained by the Lender (or, at the option of such Lender, such amount may be waived) and \$225 shall be remitted to the City by the Lender upon

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the issuance of the 2013 Certificate. The Program Fee shall be in addition to reasonable and customary fees which may be charged by a Lender in connection with a mortgage loan. All Program Fees received by the City are hereby appropriated to pay the costs of implementing and administering the 2013 Program including, but not limited to, the costs of training participating lenders, purchasing equipment, printing materials, marketing and other customer service activities. The Commissioner is authorized to charge each 2013 Borrower up to \$100 to replace or reissue a 2013 Certificate for any cause including, without limitation, due to being lost or misplaced, being damaged, a refinance of the existing mortgage or any other reason allowed by the Code or the Program Regulations.

SECTION 10. Approval of Further Actions. From and after the execution and delivery of the documents hereby approved, the proper officials, agents and employees of the City (including, without limitation, the Mayor, the City Clerk, the Commissioner, the Chief Financial Officer of the City and the City Comptroller) are hereby authorized and empowered to do all such acts and things and to execute and file all such documents as may be necessary to carry out and comply with the provisions of said documents as executed, and to further the purposes and intent of this ordinance, including the preambles hereto. All acts and doings of the officials which are in conformity with the purposes and intent of this ordinance and in furtherance of the issuance of the 2013 Certificates and the establishment of the 2013 Program are hereby in all respects approved and confirmed.

SECTION 11. Ordinances and Resolutions. To the extent that any ordinance, resolution, rule, order or provisions of the Municipal Code of Chicago (the "Municipal Code"), or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. No provision of the Municipal Code or violation of any provision of the Municipal Code shall be deemed to impair the validity of this ordinance or the instruments, documents or agreements authorized hereby; provided further that the foregoing shall not be deemed to affect the availability of any other remedy or penalty for any violation of any provision of the Municipal Code. The documents, instruments and agreement authorized hereunder shall not be deemed to be "city contracts" for purposes of Section 11-4-1600(e) of the Municipal Code. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance. The applicable restrictions with respect to maximum income of 2013 Borrowers and maximum acquisition cost of principal residence housing of 2013 Borrowers imposed by the Code and the Program Regulations shall control, notwithstanding any other restrictions with respect to such maximum income and maximum acquisition cost imposed by other local law.

SECTION 12. Effective Date. This ordinance shall be effective upon its passage and approval.