

Affordable Housing Corporation of Lake County
Opening Doors. Creating Opportunities.

847/263-7478

3701 W. Grand Avenue, Gurnee, IL 60031

www.ahclc.org

Lender Certifications

By executing the signature page of the 2008 Lender Participation Agreement for Homebuyer Programs, all participating lenders are certifying the below.

Representations, Warranties and Acknowledgements

Lender hereby represents and warrants and acknowledges the following:

- (1) Lender is licensed by the State of Illinois to solicit and place mortgages in the private mortgage market.
- (2) Lender has the status of a “recognized seller” within the meaning of that term to FNMA, or is a portfolio Lender.
- (3) Lender is duly organized, validly existing, and in good standing under the laws governing its creation and existence and is qualified to do business under the laws of the State of Illinois.
- (4) During the term of this Agreement, Lender will remain an entity subject to supervision and examination by state or federal authorities, as applicable, will not make a change in character of its business which would materially and adversely affect its performance hereunder, will remain in good standing and qualified to do business under the laws of the United States of America, the state of its organization and the State of Illinois.
- (5) In the event Lender dissolves, voluntarily consolidates or merges with any other entity any surviving or resulting entity shall assume in writing all of the obligations of Lender under this Agreement within then (10) days of such dissolution, consolidation or merger. In the case of a sale, Lender shall be releases from all liability hereunder upon the written assignment to and assumption of all of Lender’s obligations and duties under this Agreement by purchasing entity.
- (6) Lender is not in default under any order or decree of any court or any order, regulation or demand of any federal, state, municipal, or governmental agency, which default might have consequences that would materially and adversely affect its performance hereunder.
- (7) The AHC shall have the right to cease making Second Mortgage Loans and providing Gift Funds if, at any time, it determines that Lender is in violation of the terms of this Agreement.

Representations, Warranties and Covenants of Lender with Respect to First Mortgage Loans

Lender hereby represents and warrants that the following are true for each First Mortgage Loan

originated in conjunction with AHC Homebuyers Programs as of the date of loan origination:

- (1) The First Mortgage will (a) be secured by a mortgage on a home consisting of a single family owner-occupied dwelling unit or other residential unit approved under the current program guidelines, and (b) be fully documented in accordance with government mortgage financial program requirements for financing (such as those administered by FNMA and FHA).
- (2) The origination of the First Mortgage Loan by Lender will conform to the requirements of the Real Estate Settlement Procedures Act, the Federal Truth-in-Lending Act and the Consumer Credit Protection Act and all other applicable state or federal laws or regulations.
- (3) The origination of the First Mortgage Loan as contemplated herein will not violate any applicable laws or governmental regulations pursuant to which the activities of Lender are regulated or supervised.

Certifications for Mortgage Bankers

It is AHC's policy that financial institutions and mortgage banker/brokers are eligible to become participating lenders. Those groups that are strictly mortgage brokers are not eligible to participate. Mortgage bankers/brokers must certify that all mortgages originated in conjunction with AHC's Homebuyer Programs will be funded using the Banker's own funds; such loans may not be brokered. Specifically, mortgage bankers must certify:

- (1) All FHA and conforming conventional loans will be funded in the Lender's own name.
- (2) All loans will be funded with or through an independent warehouse line held/opened/under a credit agreement in the Lender's own name.
- (3) All transactions are secondary market transactions under HUD RESPA requirements.
- (4) The Lender has guaranteed its own line of credit.

Survival of Representations and Warranties

All representations and warranties set forth in this Agreement shall survive the making of First Mortgage Loans and any Subordinate Mortgage Loans, and the provisions of services regarding these Loans and shall inure to the benefit of the AHC and its transferees or assigns.

Defaults

Lender shall be deemed to be in default of this Agreement upon the occurrence of any of the following events.

- (1) Any material misrepresentation or breach of warranty by Lender in the making or performance of the Agreement, or Lender's failure to fully perform any covenant or condition of this Agreement; provided however, that AHC may waive its right to declare Lender in breach if Lender remedies such misrepresentation, breach or failure within thirty (30) days after receipt of written notice of the same from the AHC. AHC may, at its option, agree in writing to an extension of such time prior to its expiration, which agreement will not be unreasonably withheld if action to cure Lender's breach or failure is initiated by Lender within thirty (30) days of the notice and such action is diligently being pursued by Lender.

- (2) Entry of a decree or order for dissolution, winding up or receivership of Lender's assets by a court of competent jurisdiction in any insolvency or reorganization proceeding, or any similar proceeding relating to Lender or to all or substantially all of Lender's property; provided, however, that AHC shall not declare a breach of this Agreement under this subsection unless such decree or order has remained in force, undischarged or unstayed for a period of ninety (90) days after its issuance.
- (3) Consent by Lender to the appointment of a conservator, receiver or liquidator in any insolvency or reorganization proceeding, or any similar, readjustment of debt, marshalling of assets and liabilities or similar proceedings of or relating to Lender or of or relating to all or substantially all of its property.
- (4) A written admission by Lender of its inability to pay debts generally as they become due, or the filing of any petition for dissolution or reorganization pursuant to any state or federal statute, or the making of a voluntary assignment of assets for the benefit of its creditors or voluntarily suspending payment of its obligation.
- (5) The termination by FNMA or FHA of Lender recognized status.

Remedies

- (1) In the event of Lender's default hereunder (which default remains uncured after notice as provided above), the AHC may pursue the following remedies:
- (2) Upon written notice to Lender, terminate this Agreement and all Lender's rights to participate in AHC's Homebuyers Programs provided, however, that the termination of Lender's rights under this Agreement shall not release Lender from any responsibility or liability on the part of Lender that arises prior to such termination, unless the AHC expressly releases Lender, in writing, from such responsibility or liability.
- (3) The AHC may take any other action at law or in equity, which may appear necessary or desirable to enforce any obligation, agreement or covenant under this Agreement.
- (4) The remedies listed above shall be cumulative and in addition to any other remedies given under this Agreement or under law or in equity. The election of any given remedy shall not preclude resort to any other remedy that may then be available to the AHC.

Miscellaneous Provisions

- (1) Notices. Notices, requests, demands, payments or other communications hereunder should be in writing and shall be deemed to be duly given if delivered in person or, if mailed, by United States certified or registered mail, with return receipt requested. Notices between Lender and AHC shall be issued to the person and address as listed on the Signature Pages.
- (2) Amendments. This Agreement may be amended or modified only by a written instrument executed by both Parties.
- (3) Assignments. Except as specifically provided for herein, neither Lender nor the AHC shall assign or delegate any of its rights, privileges, duties or obligations arising under this Agreement to any other person without the prior written consent of the other party to this Agreement.

- (4) Waiver. No waiver of any term or provision of this Agreement shall be effective unless made in writing and signed by the parties against which it is being enforced. Waiver of any specific provision of this Agreement shall not be deemed or construed to constitute a waiver of any other term or provision of this Agreement.
- (5) Indemnification & Hold Harmless. The Lender shall indemnify the AHC against, hold the AHC harmless from, and defend the AHC against all claims, suits, actions, liabilities, costs and expenses (including attorney's fees), of every kind and description, that may arise out of the performance of (or Lender's failure to perform or comply with) any obligation or provision of this Agreement, provided that this shall not apply to claims, suits, action, liabilities, costs and expenses arising out of the AHC's own negligence or willful misconduct. The provisions of this paragraph shall inure to the benefit of and extend to the AHC's officers, agents, employees, attorneys, directors and their respective successors and assigns.
- (6) Severability. If any provisions of this Agreement shall be deemed prohibited or invalid under applicable law, the invalid provisions shall be severed from this Agreement, and the remainder of this Agreement shall remain in full force and effect.
- (7) Governing Law. This Agreement shall be interpreted and governed by the laws of the State of Illinois and applicable provisions of federal law.
- (8) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
- (9) Integration. The Parties acknowledge that they have read the provisions of this Agreement, understand the contents thereof, and state that the entire understanding of Lender and the AHC is embodied in this Agreement and that all inducements, representations, covenants and warranties agreed to by Lender and the AHC have been included in this Agreement.