

Housing and Economic Reform Act (HERA)

Selected Tax and Miscellaneous Provisions

FREQUENTLY ASKED QUESTIONS

Division B: Foreclosure Prevention

Title II Service Members

Q1. Does the law provide new protections against foreclosure for active duty personnel?

A. Yes; HERA extends the stay on legal actions such as foreclosure or eviction from 90 days to nine months after termination of the service member's active duty. HERA also extends the six percent mortgage rate cap from the period of active duty to the period of active duty plus 12 months.

Q2. How else does HERA intend to prevent delinquencies and foreclosures for active duty personnel?

A. The Department of Defense will establish a counseling program for returning service members as a means to prevent foreclosure and other legal action.

Title III Abandoned Properties

Q1. Does the law provide any assistance for dealing with properties that have already been abandoned or foreclosed?

A. Yes, HERA requires HUD to establish a funding formula for the redevelopment of abandoned and foreclosed upon homes and residential properties. Emergency assistance to the States and local governments under HERA section 2301 will be treated as community development block grants under title I of the Housing and Community Development Act of 1974.

Q3. How much money will be allocated to the states for abandoned property?

A. HUD is to make funds not otherwise appropriated for FY2008, roughly \$4 billion, available as assistance to states and local governments within 30 days of establishing the funding formula.

Q4. How will the amount of money to each state be determined?

A. The funding formula shall ensure that any amounts appropriated or otherwise made available are allocated to States and units of general local government with the greatest need, as such need is determined in the discretion of HUD based on: (1) the number and percentage of home foreclosures in each State or unit of general local government; (2) the number and percentage of homes financed by a subprime mortgage related loan in each State or unit of general local government; and (3) the number and percentage of homes in default or delinquency in each State or unit of general local government. (See §2301.)

Title IV Counseling

Q1. Does HERA provide any resources for housing or credit counseling?

A. Yes, HERA appropriates \$100 million to the Neighborhood Reinvestment Corporation to provide counseling assistance for homeowners in financial distress. The authorization of these funds expires on 12/31/2008.

Q2. What types of counseling assistance will be funded by the new law?

- A. The law instructs the Neighborhood Reinvestment Corporation to give priority to organizations operating toll-free hotlines that provide foreclosure prevention assistance, negotiate workout solutions, or serve as a consumer referral resource.

Title VI Veterans

Q1. Are there any provisions specifically for disabled veterans?

- A. Yes, there are a few provisions in HERA that have implications for disabled veterans. First, HUD is to establish a residential home cost-of-construction index for specially adapted housing for disabled veterans. Secondly, the Department of Veteran Affairs is to report to the Veteran Affairs committees in Congress providing an assessment of the adequacy of all authorities available to HUD to assist disabled individuals. Veterans Affairs is also to report to Congress on the advisability of providing assistance to veterans who reside with family members on a permanent basis.

Division C: Tax Provisions

Q1. What is the First Time Homebuyer Tax Credit? How does one pay it back?

- A. The First Time Homebuyer Tax Credit is a “loan” from the IRS to first time homebuyers who close on the purchase of a home after April 9, 2008 and through July 1, 2009. Homebuyers can buy a house and claim on their 2008 or 2009 tax return a tax credit of 10 percent of the purchase price of the house, but the total credit cannot exceed \$7,500 for one qualified house purchase. If a household files their taxes as “married filing separately”, then the credit of \$7,500 is claimed as a \$3,750 credit on each of the two returns.

The loan is “interest free” repayable in annual installments over a 15 year period (e.g. \$7,500 credit would be repayable in 15 equal annual installments of \$500 commencing with the second tax year after purchase). Since this is a credit, the homebuyer would deduct the credit from taxes owed. For example, if a married couple filing jointly owed \$5,000 when they calculated their 2008 tax and were eligible for the full \$7,500 credit, they would receive a tax refund of \$2,500 (\$7,500 tax credit less tax owed). New homebuyers anticipating the credit can adjust the current payroll tax withholding rate with their employer to realize the benefits of the credit sooner.

Q2. Who is considered a “First Time Homebuyer?” What about married homebuyers?

- A. A first time homebuyer is a buyer who has not owned a principal residence during the three-year period prior to purchase. For married couples, the homeownership history for both the home buyer and his/her spouse are tested. For example, if the homeowner has not owned a home used as principal residence during the three years prior to purchase but his/her spouse has owned a home, neither the homeowner nor the spouse qualify for the credit. Ownership of a vacation or investment property that a taxpayer has not used as principal residence would not disqualify the taxpayer from taking the tax credit. Things that could disqualify a homebuyer from taking the tax credit also include participation in the District of Columbia’s first time homebuyer program or financing the home through a mortgage revenue bond program.

Also, if a new homeowner’s adjusted gross income exceeds \$150,000 for joint filers (\$75,000 for single filers), the credit begins to phase out. The credit phases out in total for taxpayers with adjusted gross income of \$95,000 for single and at \$170,000 for married taxpayers filing jointly.

Q3. What happens if the residence is sold before the First Time Homebuyer tax credit is paid back to the IRS?

- A. If the residence is sold prior to loan repayment and the taxpayer has no gain on sale, the taxpayer is not expected to pay the loan back from the proceeds. If the taxpayer does realize a gain on sale, the loan would be repaid up to the lesser of the loan balance or the net proceeds from sale of the house.

Q4. Do new homeowners receive their tax credit in the form of a check or when they file their taxes?

- A. New homeowners receive their tax credit when they file their 2008 or 2009 tax returns. If a new homeowner wants to realize the credit sooner, they can reduce the amount of withholding taxes from their pay.

Q5. What are the conditions under which the amount of the tax credit is reduced or phased out?

- A. The price of the home may determine the amount of the tax credit, as the tax credit is 10% of the price of the home, not to exceed \$7,500. For example, if a new homeowner purchased a home for \$65,000, their tax credit would be \$6,500. Alternatively, if a new homeowner purchased a home for \$100,000, their tax credit would be \$7,500.

Q6. Are there any changes in the tax law that prevents further foreclosure?

- A. Yes. HERA provides for a temporary increase in tax exempt housing bonds for each state. The qualified mortgage bond increase may be used to re-finance a mortgage on a residence which was originally financed by the mortgagor through a qualified subprime loan made after December 31, 2001 and before January 1, 2008.

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