

Borrower Name: \_\_\_\_\_

Co-Borrower Name: \_\_\_\_\_

**MAINE STATE HOUSING AUTHORITY  
HOME MORTGAGE PROGRAM  
CLOSING AFFIDAVIT**

(to be completed & signed at loan closing)

The Maine State Housing Authority (MaineHousing) uses funds from tax exempt bonds to finance Mortgage Loans. This executed affidavit is intended to satisfy the requirements of Section 143 of the Internal Revenue Code of 1986, as amended. In the case of Borrowers, Co-Borrowers and Non-Borrower title holders; statements made throughout this Affidavit in the singular include the plural.

**RESIDENCE/PROPERTY REQUIREMENTS**

The Residence which is being financed is located within the state of Maine at the following address \_\_\_\_\_

Street address	City	State	Zip
----------------	------	-------	-----

1. The Residence will be occupied and used as my (our) principal residence within sixty (60) days after the date of the Mortgage Loan closing. The Residence will not be used as an investment property (other than the rental of units in a two-to-four unit residence) or vacation home. I do not intend to transfer any interest of the property to another, subdivide the property, or move the Residence.
2. Other than the rental of units in two-to-four unit residences, I will not use more than 15% of the total area of the Residence for business.
3. The land on which the Residence is located is only what is necessary for basic livability.
4. I certify that the total cost of the Residence is within the program acquisition costs limits and that there are no other side agreements pertaining to this transaction.

**FIRST-TIME HOMEBUYER REQUIREMENT:** This section does not apply if I am an eligible non first-time homebuyer.

5. I have not had an ownership interest in a principal residence within three years from the (date of application or ) date of proposed loan closing.
6. I may have had one of the following homeownership interests and I would still qualify as a First-Time Homebuyer: a lease with or without option to purchase, a mere expectancy to inherit an interest in a principal residence, the interest acquired upon execution of a purchase contract, an interest in other than a principal residence, or an interest in an unattached mobile home on leased land or in a park.

**ELIGIBLE NON FIRST-TIME HOMEBUYER CERTIFICATION:** I am a non first- time homebuyer and am eligible under one of the following:

7. Veterans Initiative- I have owned or had an ownership interest in my principal residence within the last three years prior to the date of application or date of proposed loan closing and have never received a mortgage revenue bond loan or Mortgage Credit Certificate in any state.

AND I have either (or one of the undersigned has) been honorably discharged from the military, naval or air service and have provided copies of discharge papers (DD Form 214).

OR I am (or one of the undersigned is) on active military, naval or air service and have provided copies of a Leave and Earning Statement (LES).

## 8. Disaster Program

My home was located in an eligible Disaster area as determined by MaineHousing and was destroyed beyond repair during an approved Disaster event:

**AND**

I have provided the lender with written evidence from an independent verifying agency that the home was destroyed or damaged to such an extent that purchase of another residence is necessary.

9. The Residence is located in a Targeted Area.

## INCOME RECERTIFICATION

10. This certification is required for all loan applications in process longer than four months. If this loan did not close within four months of the date of application, I hereby certify that my yearly gross household income is now \$\_\_\_\_\_ and I certify that my gross household income is within the program income limits.

## NEW MORTGAGE REQUIREMENT

11. No part of the proceeds of the Mortgage Loan will be used directly or indirectly to repay an existing loan made in connection with the Residence, except construction loans, bridge loans or similar temporary initial financing having a term of 24 months or less.

## RECAPTURE TAX AND THE RECAPTURE TAX REIMBURSEMENT PROGRAM

12. This Mortgage Loan is being financed with the proceeds of tax-exempt bonds. Because of this, I acknowledge that I am subject to certain restrictions regarding my home. The Internal Revenue Code states that I may be affected by a federal tax known as Recapture. Recapture only applies if I sell my home within 9 years at a gain, and if my income increases above specified levels. The recapture tax will require some homeowners who dispose of their homes within nine years of loan closing to pay a portion of the profit they receive from the sale to the federal government. The maximum amount payable would be either 6.25 percent of my original mortgage amount or 50 percent of the profit resulting from the sale of my home, whichever is less.
13. **Recapture Reimbursement:** If my Mortgage Loan closed **after January 1, 2013** and my MaineHousing loan remains outstanding when I dispose of the Residence, MaineHousing will reimburse me for any recapture tax that I pay to the IRS. To be reimbursed, I must submit the MaineHousing Request for Recapture Tax Reimbursement form, a copy of my tax return including IRS Form 8828, proof the federal taxes were paid, and a copy of the Closing Disclosure pertaining to the disposition of the property to the Maine State Housing Authority.

I understand that I am responsible for calculating, filing and paying any recapture tax that may be due the IRS. I am also responsible for initiating and fully complying with Maine State Housing Authority's Request for Recapture Tax Reimbursement procedures when seeking reimbursement.

## GENERAL

14. **Power of Attorney.** A Power of Attorney is prohibited from signing as the Borrower, Co-Borrower or Title Holder, unless the Borrower, Co-Borrower or Title Holder is mentally incapacitated, physically incapacitated, or on active military duty and unavailable due to military assignment.

**MORTGAGOR CERTIFICATION: The undersigned acknowledges that I have read and understood the above affidavit and I have received a copy of "Appendix A" including the recapture tax charts. I acknowledge that I will not receive any additional information regarding the recapture tax and**

that I should retain the copy of "Appendix A" with my records. Being duly sworn, I, as Borrower, Co-borrower or Title Holder in connection with the property indicated herein, depose and say that I have reviewed all of the foregoing representations and warranties previously made by me and do hereby reaffirm them.

Date: \_\_\_\_\_

Borrower: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

Co-Borrower/Title Holder: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

State of Maine

County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ (date)

by \_\_\_\_\_ (name of person(s) acknowledged).

(Seal)

Signature \_\_\_\_\_  
Printed Name \_\_\_\_\_

Notary Public/Attorney-at-Law  
Commission Expires: \_\_\_\_\_

## APPENDIX A

**NOTICE OF MAXIMUM RECAPTURE TAX AND METHOD TO COMPUTE RECAPTURE TAX ON SALE OF HOME.** When I sell my home I **may** have to pay a recapture tax as calculated below. The tax may also apply if I dispose of my home in some other way. Any references in this notice to the "sale" of my home also include other ways of disposing of my home. For instance, I may owe the recapture tax if I give my home to a relative. In the following situations, no recapture tax is due and I do not need to do the calculations:

- (a) My gross household income for the taxable year, as shown in my federal income tax return, falls within the qualified income range of the region in which my home is located for the year in which I sell my home. The qualified income ranges are listed on page 9 of the Borrower Affidavit and must be the version provided at closing.
- (b) I dispose of my home later than nine years after I close my loan;
- (c) I dispose of my home at a loss;
- (d) My home is disposed of as a result of my death; or
- (e) I transfer my home either to my spouse or to my former spouse incident to divorce and I have no gain or loss included in my income under Section 1041 of the Internal Revenue Code.

**MAXIMUM RECAPTURE TAX;** The maximum recapture tax that I may be required to pay as an addition to my federal income tax is 6.25% of the highest principal amount of my mortgage loan and is my federally subsidized amount with respect to the loan.

**ACTUAL RECAPTURE TAX;** The actual recapture tax, if any, can only be determined when I sell my home, and is the lesser of (1) 50% of my gain on the sale of my home, regardless of whether I have to include that gain in my income for federal income tax purposes, or (2) my RECAPTURE AMOUNT determined by multiplying the following three numbers:

- (a) The maximum recapture tax (6.25% of the highest principal amount).
- (b) The HOLDING PERIOD PERCENTAGE, as listed in Column 1 in the Chart attached to this notice; and
- (c) The INCOME PERCENTAGE, is calculated by subtracting the applicable ADJUSTED QUALIFYING INCOME in the taxable year in which I sell my home (as listed in Column 2 in the appropriate Table for the Region where my home is located) from my MODIFIED ADJUSTED GROSS INCOME in the taxable year in which I sell my home.

My MODIFIED ADJUSTED GROSS INCOME means my adjusted gross income shown in my federal income tax return for the taxable year in which I sell my home, with the following two adjustments: (a) my adjusted gross income must be INCREASED by the amount of any interest that I receive or accrue in the taxable year from tax-exempt bonds that is excluded from my gross income (under section 103 of the Internal Revenue Code); and (b) my adjusted gross income must be DECREASED by the amount of any gain included in my gross income by reason of the sale of my home.

If the amount calculated is zero or less, I owe no recapture tax and do not need to make any more calculations. If it is \$5,000 or more, my income percentage is 100%. If it is greater than zero but less than \$5,000, it must be divided by \$5,000. This fraction, expressed as a Percentage, represents my income percentage. For example, if the fraction is \$1,000/\$5,000, my income percentage is 20%.

## **LIMITATIONS AND SPECIAL RULES ON RECAPTURE TAX.**

- (a) If I give away my home (other than to my spouse or ex-spouse incident to divorce), I must determine my actual recapture tax as if I had sold my home for its fair market value.
- (b) If my home is destroyed by fire, storm, flood, or other casualty, there generally is no recapture tax if, within two years, I purchase additional property for use as my principal residence on the site of the home financed with my original subsidized mortgage loan.
- (c) In general, except as provided in future regulations, if two or more persons own a home and are jointly liable for the subsidized mortgage loan, the actual recapture tax is determined separately for them based on their interests in the home.
- (d) If I repay my loan in full during the nine year recapture period and I sell my home during this period, my holding period percentage may be reduced under the special rule in section 143(m)(4)(C)(ii) of the Internal Revenue Code.
- (e) Other special rules may apply in particular circumstances. I may wish to consult with a tax advisor or the local office of the Internal Revenue Service when I sell or otherwise dispose of my home to determine the amount, if any, of my actual recapture tax. See Section 143(m) of the Internal Revenue Code generally.

IRS FORM 8828; I understand that the Internal Revenue Service (IRS) has created Form 8828 for purposes of calculating the recapture tax. This form will be updated each tax year and must be filed with my tax return for the year in which I sell or otherwise dispose of my home (if the nine year recapture period has not yet expired) regardless of whether any tax is actually due. Copies of Form 8828 and instructions can be obtained through my local IRS office.

## **INFORMATION CONCERNING ATTACHED CHART**

**THE HOLDING PERIOD PERCENTAGE AND ADJUSTED QUALIFYING INCOME CHART FOR REGIONS OF THE STATE ARE ATTACHED.**

**USE ONLY THE SECTION WHICH COVERS THE REGION WHERE YOUR HOME IS LOCATED. THE INDIVIDUAL TOWNS AND CITIES OR ENTIRE COUNTIES COVERED BY THE REGION ARE LISTED AT THE BOTTOM OF THE CHART.**

**NOT EVERY TOWN, CITY, AND COUNTY HAS ITS OWN REGION. IF YOU DO NOT FIND YOUR CITY OR TOWN LISTED, EITHER INDIVIDUALLY OR BY REFERENCE TO THE ENTIRE COUNTY, YOUR CORRECT REGION IS THE LAST REGION. THIS IS THE CATCH-ALL REGION FOR ALL CITIES AND TOWNS IN THE STATE WHICH ARE NOT OTHERWISE LISTED.**

Sale Date of Home/ Holding Period %	Region I		Region II		Region III	
	Qualified Income %		Qualified Income %		Qualified Income %	
	2 or less	3+	2 or less	3+	2 or less	3+
0 - 11months / 20%	\$90,100	\$103,600	\$91,400	\$105,100	\$70,200	\$80,700
12 - 23 months / 40%	\$94,605	\$108,780	\$95,970	\$110,355	\$73,710	\$84,735
24 - 35 months / 60%	\$99,335	\$114,219	\$100,768	\$115,872	\$77,395	\$88,971
36 - 47 months / 80%	\$104,301	\$119,929	\$105,806	\$121,665	\$81,264	\$93,419
48 - 59 months /100%	\$109,516	\$125,925	\$111,096	\$127,748	\$85,327	\$98,089
60 - 71 months / 80%	\$114,991	\$132,221	\$116,650	\$134,135	\$89,593	\$102,993
72 - 83 months / 60%	\$120,740	\$138,832	\$122,482	\$140,841	\$94,072	\$108,142
84 - 95 months / 40%	\$126,777	\$145,773	\$128,606	\$147,883	\$98,775	\$113,549
96-107 months / 20%	\$133,115	\$153,061	\$135,036	\$155,277	\$103,713	\$119,226

\*Region I - Portland HMFA - Cumberland County: Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham and Yarmouth.  
 York County: Buxton, Hollis, Limington, Old Orchard Beach

\*Region II - York-Kittery-So. Berwick HMFA: Berwick, Eliot, Kittery, South Berwick, York

\*Region III - Bangor HMFA: Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie

Sale Date of Home/ Holding Period %	Region IV		Region V		Region VI	
	Qualified Income %		Qualified Income %		Qualified Income %	
	2 or less	3+	2 or less	3+	2 or less	3+
0 - 11months / 20%	\$71,300	\$81,900	\$70,800	\$81,400	\$72,200	\$83,000
12 - 23 months / 40%	\$74,865	\$85,995	\$74,340	\$85,470	\$75,810	\$87,150
24 - 35 months / 60%	\$78,608	\$90,294	\$78,057	\$89,743	\$79,600	\$91,507
36 - 47 months / 80%	\$82,538	\$94,808	\$81,959	\$94,230	\$83,580	\$96,082
48 - 59 months /100%	\$86,664	\$99,548	\$86,056	\$98,941	\$87,759	\$100,886
60 - 71 months / 80%	\$90,997	\$104,525	\$90,358	\$103,888	\$92,146	\$105,930
72 - 83 months / 60%	\$95,546	\$109,751	\$94,875	\$109,082	\$96,753	\$111,226
84 - 95 months / 40%	\$100,323	\$115,238	\$99,618	\$114,536	\$101,590	\$116,787
96-107 months / 20%	\$105,339	\$120,999	\$104,598	\$120,262	\$106,669	\$122,626

\*Region IV - Cumberland County Non HMFAtowns and cities

\*Region V - Sagadahoc County: All towns and Cities

\*Region VI - York County Non-HMFA: All Towns and Cities

Sale Date of Home/ Holding Period %	Region VII		Region VIII		Region IX	
	Qualified Income %		Qualified Income %		Qualified Income %	
	2 or less	3+	2 or less	3+	2 or less	3+
0 - 11months / 20%	\$68,100	\$78,300	\$81,700	\$95,300	\$108,100	\$126,100
12 - 23 months / 40%	\$71,505	\$82,215	\$85,785	\$100,065	\$113,505	\$132,405
24 - 35 months / 60%	\$75,080	\$86,325	\$90,074	\$105,068	\$119,180	\$139,025
36 - 47 months / 80%	\$78,834	\$90,641	\$94,577	\$110,321	\$125,139	\$145,976
48 - 59 months /100%	\$82,775	\$95,173	\$99,305	\$115,837	\$131,395	\$153,274
60 - 71 months / 80%	\$86,913	\$99,931	\$104,270	\$121,628	\$137,964	\$160,937
72 - 83 months / 60%	\$91,258	\$104,927	\$109,483	\$127,709	\$144,862	\$168,983
84 - 95 months / 40%	\$95,820	\$110,173	\$114,957	\$134,094	\$152,105	\$177,432
96-107 months / 20%	\$100,611	\$115,681	\$120,704	\$140,798	\$159,710	\$186,303

\*Region VII - All other towns and cities in the state including Penobscot County Non HMFAtowns and cities

\*Region VIII - Target Areas in Androscoggin County: Qualified Census Tracts 0101.00 0201.00 0204.00; Penobscot County: 9400.00;

Kennebec County: 0241.02

\*Region IX Target Areas in Cumberland County: Qualified Census Tracts 0005.00 0006.00

The above chart will be used to determine if recapture tax is due in the event I sell my home financed by Maine State Housing Authority within 9 years from the date of closing.

I acknowledge that I will not receive any additional information regarding recapture tax and that I should retain with my records this recapture tax chart and the Borrower Affidavit for nine years after I close on my Maine State Housing Authority loan.

Borrower: \_\_\_\_\_ Co-Borrower/Title Holder: \_\_\_\_\_