

108th CONGRESS
1st Session
S. 875

To amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

IN THE SENATE OF THE UNITED STATES

April 10, 2003

Mr. KERRY (for himself, Mr. SANTORUM, Mr. SARBANES, Mr. ALLARD, Mr. DASCHLE, Mr. KENNEDY, Ms. STABENOW, and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

- (a) SHORT TITLE- This Act may be cited as the 'Community Development Homeownership Tax Credit Act'.
- (b) AMENDMENT OF 1986 CODE- Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. COMMUNITY HOMEOWNERSHIP CREDIT.

- (a) IN GENERAL- Subpart D of part IV of subchapter A of chapter 1 is amended by inserting after section 42 the following new section:

`SEC. 42A. COMMUNITY HOMEOWNERSHIP CREDIT.

- `(a) ALLOWANCE OF CREDIT- For purposes of section 38, the amount of the homeownership credit determined under this section for any taxable year in the credit period shall be an amount equal to the applicable percentage of the eligible basis of each qualified residence.
- `(b) APPLICABLE PERCENTAGE- For purposes of this section--

`(1) IN GENERAL- The term `applicable percentage' means the appropriate percentage prescribed by the Secretary for the month in which the taxpayer and the homeownership credit agency enter into an agreement with respect to such residence (which is binding on such agency, the taxpayer, and all successors in interest) as to the homeownership credit dollar amount to be allocated to such residence.

`(2) METHOD OF PRESCRIBING PERCENTAGE- The percentage prescribed by the Secretary for any month shall be the percentage which will yield over a 5-year period amounts of credit under subsection (a) which have a present value equal to 50 percent of the eligible basis of a qualified residence.

`(3) METHOD OF DISCOUNTING- The present value under paragraph (2) shall be determined--

`(A) as of the last day of the 1st year of the 5-year period referred to in paragraph (2),

`(B) by using a discount rate equal to 72 percent of the annual Federal mid-term rate applicable under section 1274(d)(1) to the month applicable under paragraph (1) and compounded annually, and

`(C) by assuming that the credit allowable under this section for any year is received on the last day of such year.

`(c) QUALIFIED RESIDENCE- For purposes of this section--

`(1) IN GENERAL- The term `qualified residence' means any residence--

`(A) which is located--

`(i) in a census tract which has a median gross income which does not exceed 80 percent of the greater of area or state-wide median gross income,

`(ii) in a rural area (as defined under section 520 of the Housing Act of 1949),

`(iii) on a reservation for a federally recognized Indian tribe, or

`(iv) in an area of chronic economic distress, and

`(B) which is purchased by a qualified buyer.

For purposes of subparagraph (A)(iv), an area is an area of chronic economic distress if it is approved for designation as such under section 143(j)(3); except that such designation shall not require the approval of the Secretary, shall be deemed to be approved by the Secretary of Housing and Urban Development if not approved or disapproved by the Secretary of Housing and Urban Development within 90 days after submission for approval for purposes of section 143(j)(3)(A)(ii), and shall cease to apply after the end of the 5th calendar year after the calendar year in which the designation is made.

`(2) RESIDENCE-

`(A) IN GENERAL- For purposes of paragraph (1), the term `residence' means--

`(i) a single-family home containing 1 to 4 housing units,

`(ii) a condominium unit, or

`(iii) stock in a cooperative housing corporation (as defined in section 216(b)).

`(B) FACTORY-BUILT HOMES INCLUDED- For purposes of clause (i), (ii), or (iii) of subparagraph (A), such term shall include any factory-built home.

`(3) TIMING OF DETERMINATION- For purposes of paragraph (1), the determination of whether a residence is a qualified residence shall be made at the time a binding commitment for an allocation of credit is awarded by the homeownership credit agency; except that the determination of whether a purchaser is a qualified buyer shall be made at the time the residence is sold.

`(4) MEDIAN GROSS INCOME- For purposes of this section, median gross income shall be determined consistent with section 143(f)(2).

`(d) ELIGIBLE BASIS- For purposes of this section-

`(1) NEW QUALIFIED RESIDENCES-

`(A) IN GENERAL- The eligible basis of a new qualified residence is--

- `(i) in the case of a qualified residence which is sold in a transaction which meets the requirements of subparagraph (B), its adjusted basis (excluding land) immediately before such sale, and
- `(ii) zero in any other case.

`(B) REQUIREMENTS- A sale of a qualified residence meets the requirements of this subparagraph if--

- `(i) the buyer acquires the qualified residence by purchase (as defined in section 179(d)(2)),
- `(ii) the buyer of the qualified residence is not a related person with respect to the seller, and
- `(iii) in the case of a seller who materially participates in the development of the residence, the buyer's debt financing is originated by a third party who is not a related person with respect to the seller.

`(2) EXISTING QUALIFIED RESIDENCES-

`(A) IN GENERAL- The eligible basis of an existing qualified residence is--

- `(i) in the case of a qualified residence which is sold in a transaction which meets the requirements of subparagraph (B), its adjusted basis (excluding land) immediately before such sale, and
- `(ii) zero in any other case.

`(B) REQUIREMENTS- A sale of a qualified residence meets the requirements of this subparagraph if--

- `(i) the buyer acquires the qualified residence by purchase (as defined in section 179(d)(2)),
- `(ii) the qualified residence has undergone substantial rehabilitation in connection with the sale described in clause (i),
- `(iii) the buyer of the qualified residence is not a related person with respect to the seller, and
- `(iv) in the case of a seller who materially participates in the development of the residence, the buyer's debt financing is originated by a third party who is not a related person with respect to the seller.

`(C) SUBSTANTIAL REHABILITATION-

`(i) IN GENERAL- For purposes of subparagraph (B), substantial rehabilitation means rehabilitation expenditures paid or incurred with respect to a qualified residence that are at least \$25,000.

`(ii) INFLATION ADJUSTMENT- In the case of a calendar year after 2003, the dollar amount contained in clause (i) shall be increased by an amount equal to--

`(I) such dollar amount, multiplied by

`(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting `calendar year 2002' for `calendar year 1992' in subparagraph (B) thereof.

Any increase under this clause (ii) which is not a multiple of \$1,000 shall be rounded to the next lowest multiple of \$1,000.

`(D) LIMITATION OF ACQUISITION BASIS- The eligible basis of an existing qualified residence may not exceed 150 percent of the qualified rehabilitation expenditures.

`(3) EFFECT OF SUBSEQUENT SALE, ETC- A subsequent sale, assignment, rental, or refinancing of the qualified residence by the buyer or the subsequent sale, assignment, or pooling of the buyer's financing by the originator shall not be considered in determining whether or not the prior sales transaction satisfied the requirements of subparagraph (B) of paragraph (1) or (2).

`(4) SPECIAL RULES RELATING TO DETERMINATION OF ADJUSTED BASIS- For purposes of this subsection--

`(A) IN GENERAL- Except as provided in subparagraph (B), the adjusted basis of any qualified residence--

`(i) shall not include so much of the basis of such qualified residence as is determined by reference to the basis of other property held at any time by the person acquiring the residence, and

`(ii) shall be determined without regard to the adjusted basis of any property which is not part of such qualified residence.

`(B) BASIS OF PROPERTY IN COMMON AREAS, ETC., INCLUDED- The adjusted basis of any qualified residence shall be determined by taking into account (on a pro rata basis) the adjusted basis of property (other than land)

used in common areas or provided as comparable amenities to all residences within a project.

`(5) SPECIAL RULES FOR DETERMINING ELIGIBLE BASIS-

`(A) RELATED PERSON, ETC- For purposes of this section, a person (in this clause referred to as the `related person') is related to any person if the related person bears a relationship to such person specified in section 267(b) or 707(b)(1), or the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52). For purposes of the preceding

sentence, in applying section 267(b) or 707(b)(1), '10 percent' shall be substituted for '50 percent'.

(B) NONRESIDENTIAL SPACE EXCLUDED- No portion of the eligible basis of a qualified residence shall include costs attributable to nonresidential space.

(C) LIMITATION- The eligible basis of any residence may not exceed the mortgage limit for Federal Housing Administration insured mortgages for single family homes in the area in which such residence is located.

(e) DEFINITION AND SPECIAL RULES RELATING TO CREDIT PERIOD-

(1) CREDIT PERIOD DEFINED- For purposes of this section, the term 'credit period' means, with respect to any qualified residence, the period of 5 taxable years beginning with the taxable year in which the sale of the qualified residence occurs satisfying the requirements of subsection (d)(1)(B) or (d)(2)(B).

(2) SPECIAL RULE FOR 1ST YEAR OF CREDIT PERIOD-

(A) IN GENERAL- The credit allowable under subsection (a) with respect to any qualified residence for the 1st taxable year of the credit period shall be determined by multiplying the eligible basis under subsection (d) by the fraction--

(i) the numerator of which is the sum of the number of remaining whole months in such 1st taxable year after the sale of the qualified residence, and

(ii) the denominator of which is 12.

(B) DISALLOWED 1ST YEAR CREDIT ALLOWED IN 6TH YEAR- Any reduction by reason of subparagraph (A) in the credit allowable (without regard to subparagraph (A)) for the 1st taxable year of the credit period shall be allowable under subsection (a) for the 1st taxable year following the credit period.

(f) LIMITATION ON AGGREGATE CREDIT ALLOWABLE WITH RESPECT TO QUALIFIED RESIDENCES LOCATED IN A STATE-

(1) CREDIT MAY NOT EXCEED CREDIT DOLLAR AMOUNT ALLOCATED TO QUALIFIED RESIDENCE-

(A) IN GENERAL- The amount of the credit determined under this section for any taxable year with respect to any qualified residence shall not exceed the homeownership credit dollar amount allocated to such qualified residence under this subsection.

(B) TIME FOR MAKING ALLOCATION-

(i) An allocation shall be taken into account under subparagraph (A) only if it is made not later than the close of the calendar year in which the qualified residence is sold.

(ii) A homeownership credit agency may allocate available homeownership credit dollar amounts to a qualified residence prior to the year of sale of such qualified residence if--

(I) the taxpayer owns fee title or a leasehold interest of not less than 50 years in the site of the qualified residence as of the later of the date which is 6 months after the date that the

allocation was made or the close of the calendar year in which the allocation is made, and

`(II) such qualified residence is completed not later than the close of the second calendar year following the calendar year in which the allocation was made.

`(C) VESTED RIGHT TO CREDIT DOLLAR AMOUNT- Once a homeownership credit allocation is received by a taxpayer, the right to such credit is vested in such taxpayer and is not subject to recapture, except as provided in paragraph (5)(B).

`(2) HOMEOWNERSHIP CREDIT DOLLAR AMOUNT FOR AGENCIES-

`(A) IN GENERAL- The aggregate homeownership credit dollar amount which a homeownership credit agency may allocate for any calendar year is the portion of the State homeownership credit ceiling allocated under this paragraph for such calendar year to such agency.

`(B) STATE CEILING INITIALLY ALLOCATED TO STATE HOMEOWNERSHIP CREDIT AGENCIES- Except as provided in subparagraphs (D) and (E), the State homeownership credit ceiling for each calendar year shall be allocated to the homeownership credit agency of such State. If there is more than 1 homeownership credit agency of a State, all such agencies shall be treated as a single agency.

`(C) STATE HOMEOWNERSHIP CREDIT CEILING- The State homeownership credit ceiling applicable to any State for any calendar year shall be an amount equal to the sum of-

`(i) the unused State homeownership credit ceiling (if any) of such State for the preceding calendar year,

`(ii) the greater of-

`(I) \$1.75 multiplied by the State population, or

`(II) \$2,000,000,

`(iii) the amount of State homeownership credit ceiling returned in the calendar year, plus

`(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (i), the unused State homeownership credit ceiling for any calendar year is the excess (if any) of the sum of the amounts described in clauses (ii) through (iv) over the aggregate homeownership credit dollar amount allocated for such year. For purposes of clause (iii), the amount of State homeownership credit ceiling returned in the calendar year equals the homeownership credit dollar amount previously allocated within the State to any qualified residence with respect to which an allocation is canceled by mutual consent of the homeownership credit agency and the allocation recipient.

`(D) UNUSED HOMEOWNERSHIP CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES-

`(i) IN GENERAL- The unused homeownership credit carryover of a State for any calendar year shall be assigned to the Secretary

for allocation among qualified States for the succeeding calendar year.

`(ii) UNUSED HOMEOWNERSHIP CREDIT CARRYOVER- For purposes of this subparagraph, the unused homeownership credit carryover of a State for any calendar year is the excess (if any) of--

`(I) the unused State homeownership credit ceiling for the year preceding such year, over

`(II) the aggregate homeownership credit dollar amount allocated for such year.

`(iii) FORMULA FOR ALLOCATION OF UNUSED HOMEOWNERSHIP CREDIT CARRYOVERS AMONG QUALIFIED STATES- The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused homeownership credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year.

`(iv) QUALIFIED STATE- For purposes of this subparagraph, the term `qualified State' means, with respect to a calendar year, any State--

`(I) which allocated its entire State homeownership credit ceiling for the preceding calendar year, and

`(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii).

`(E) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION- Rules similar to the rules of section 146(e) (other than paragraph (2)(B) thereof) shall apply for purposes of this paragraph.

`(F) POPULATION- For purposes of this paragraph, population shall be determined in accordance with section 146(j).

`(G) COST-OF-LIVING ADJUSTMENT-

`(i) IN GENERAL- In the case of a calendar year after 2003, the \$2,000,000 and \$1.75 amounts in subparagraph (C) shall each be increased by an amount equal to--

`(I) such dollar amount, multiplied by

`(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting `calendar year 2002' for `calendar year 1992' in subparagraph (B) thereof.

`(ii) ROUNDING-

`(I) In the case of the \$2,000,000 amount, any increase under clause (i) which is not a multiple of \$5,000 shall be rounded to the next lowest multiple of \$5,000.

`(II) In the case of the \$1.75 amount, any increase under clause (i) which is not a multiple of 5 cents shall be rounded to the next lowest multiple of 5 cents.

“(3) PORTION OF STATE CEILING SET-ASIDE FOR CERTAIN PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS-

“(A) IN GENERAL- Not more than 90 percent of the State homeownership credit ceiling for any State for any calendar year shall be allocated to projects other than qualified nonprofit housing projects described in subparagraph (B).

“(B) PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS- For purposes of subparagraph (A), a qualified nonprofit housing project is described in this subparagraph if a qualified nonprofit organization is to own an interest in the project (directly or through a partnership) and materially participate (within the meaning of section 469(h)) in the development and operation of the project throughout the credit period.

“(C) QUALIFIED NONPROFIT ORGANIZATION- For purposes of this paragraph, the

term ‘qualified nonprofit organization’ means any organization if--

“(i) such organization is described in paragraph (3) or (4) of section 501(c) and is exempt from tax under section 501(a),

“(ii) such organization is determined by the State homeownership credit agency not to be affiliated with or controlled by a for-profit organization, and

“(iii) 1 of the exempt purposes of such organization includes the fostering of low-income housing.

“(D) TREATMENT OF CERTAIN SUBSIDIARIES-

“(i) IN GENERAL- For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the ownership and material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

“(ii) QUALIFIED CORPORATION- For purposes of clause (i), the term ‘qualified corporation’ means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence.

“(E) STATE MAY NOT OVERRIDE SET-ASIDE- Nothing in subparagraph (E) of paragraph (2) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

“(4) LIMITATION ON ALLOCATIONS TO AREAS OF CHRONIC ECONOMIC DISTRESS- No more than 50 percent of a homeownership credit agency's portion of the State homeownership credit ceiling for a calendar year may be allocated to residences located in areas that--

“(A) are designated as areas of chronic economic distress in accordance with paragraph (1) of subsection (c), and

`(B) do not meet the requirements of clause (i), (ii), or (iii) of subsection (c)(1)(A).

`(5) SPECIAL RULES-

`(A) RESIDENCE MUST BE LOCATED WITHIN JURISDICTION OF CREDIT AGENCY- A homeownership credit agency may allocate its aggregate homeownership credit dollar amount only to qualified residences located in the jurisdiction of the governmental unit of which such agency is a part.

`(B) AGENCY ALLOCATIONS IN EXCESS OF LIMIT- If the aggregate homeownership credit dollar amounts allocated by a homeownership credit agency for any calendar year exceed the portion of the State homeownership credit ceiling allocated to such agency for such calendar year, the homeownership credit dollar amounts so allocated shall be reduced (to the extent of such excess) for residences in the reverse of the order in which the allocations of such amounts were made.

`(g) DEFINITIONS AND SPECIAL RULES- For purposes of this section--

`(1) COMPLETED- The term `completed' means the point in time where a qualified residence is first placed in a condition or state of readiness and availability for occupancy.

`(2) PROJECT- The term `project' means 1 or more residences together with functionally related and subordinate facilities developed and made available to inhabitants of such residences, including recreational facilities and parking areas. To constitute a project, each residence must--

`(A) be developed by the same taxpayer pursuant to common planning and feasibility studies,

`(B) be financed through a common plan of construction financing, and

`(C) have common ownership prior to sale.

For purposes of this paragraph, it is not necessary that all residences within a project be contiguous or that all residences consist only of either new residences or existing residences and it is not necessary that each residence within a project be a qualified residence.

`(3) QUALIFIED BUYER-

`(A) IN GENERAL- The term `qualified buyer' means a buyer if at the time of the acquisition of the qualified residence, the buyer--

`(i) is 1 or more individuals whose income does not exceed 80 percent of the area median gross income (70 percent for families of less than 3 members), and

`(ii) intends to occupy the residence as the buyer's principal residence (within the meaning of section 121).

`(B) SPECIAL RULES IN QUALIFIED CENSUS TRACTS- With respect to residences located in qualified census tracts (as defined in section 42), subparagraph (A) shall be applied by substituting `100 percent' for `80 percent' and `90 percent' for `70 percent'.

`(C) DETERMINATION OF INCOME- For purposes of this paragraph, a buyer's income shall be determined in accordance with section 143(f)(4), except that subparagraph (B) of such section shall be applied substituting

`the national median gross income' for `the statewide median gross income for the State in which such residence is located'.

`(4) NEW QUALIFIED RESIDENCE- The term `new qualified residence' means a qualified residence the original ownership of which begins with the taxpayer.

`(5) EXISTING QUALIFIED RESIDENCE- The term `existing qualified residence' means any qualified residence which is not a new qualified residence.

`(6) HOMEOWNERSHIP CREDIT AGENCY- The term `homeownership credit agency' means any agency authorized to carry out this section.

`(7) POSSESSIONS TREATED AS STATES- The term `State' includes the District of Columbia and a possession of the United States.

`(8) APPLICATION TO ESTATES AND TRUSTS- In the case of an estate or trust, the amount of the credit determined under subsection (a) shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

`(h) REDUCTION IN TAX BENEFITS-

`(1) RECAPTURE OF CREDIT- If within the 5-year period beginning on the date of the original purchase of a qualified residence, the residence is sold, the qualified buyer--

`(A) shall deduct and withhold an amount equal to the recapture amount from the amount realized on such sale, and

`(B) shall transfer such amount to the homeownership credit agency which allocated the homeownership credit dollar amount to such residence.

`(2) RECAPTURE AMOUNT- For purposes of paragraph (1), the recapture amount is the amount equal to--

`(A) 100 percent of the gain from the sale referred to in paragraph (1) in the 1st or 2nd year,

`(B) 80 percent of the gain from such sale in the 3rd year,

`(C) 70 percent of the gain from such sale in the 4th year, or

`(D) 60 percent of the gain from such sale in the 5th year.

`(3) DENIAL OF DEDUCTIONS IF CONVERTED TO RENTAL HOUSING- If a qualified residence is converted to rental housing within the 5-year period beginning on the date of the original purchase of a qualified residence, no deduction for amortization or depreciation under this chapter shall be permitted with respect to such residence during such period.

`(i) APPLICATION OF AT-RISK RULES- For purposes of this section, rules of section 465 shall not apply in determining the eligible basis of any qualified residence.

`(j) REPORTS TO THE SECRETARY-

`(1) FROM THE TAXPAYER- The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth--

`(A) the eligible basis for the taxable year of each qualified residence with respect to which the taxpayer is claiming a credit under this section,

`(B) the amount of all homeownership credit allocations received by the taxpayer from any and all State homeownership credit agencies, and

`(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefor.

`(2) FROM HOMEOWNERSHIP CREDIT AGENCIES- Each agency which allocates any homeownership credit dollar amount to any residence for any calendar year shall submit to the Secretary (at such time and in such form and manner as the Secretary shall prescribe) an annual report specifying--

`(A) the amount of the homeownership credit dollar amount allocated to each residence for such year,

`(B) sufficient information to identify each such residence and the taxpayer initially entitled to claim the credit under this section with respect thereto, and

`(C) such other information as the Secretary may require.

`(k) RESPONSIBILITIES OF HOMEOWNERSHIP CREDIT AGENCIES-

`(1) PLANS FOR ALLOCATION OF CREDIT AMONG RESIDENCES-

`(A) IN GENERAL- Notwithstanding any other provision of this section, the homeownership credit dollar amount with respect to any qualified residence shall be zero unless such amount was allocated pursuant to a qualified allocation plan of the homeownership credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part.

`(B) QUALIFIED ALLOCATION PLAN- For purposes of this paragraph, the term 'qualified allocation plan' means any plan which sets forth selection criteria to be used to determine the homeownership development priorities of the homeownership credit agency which are appropriate to local conditions.

`(C) CERTAIN HOMEOWNERSHIP DEVELOPMENT CRITERIA MUST BE USED- The development criteria set forth in a qualified allocation plan must include--

`(i) contribution of the development to community stability and revitalization,

`(ii) community and local government support for the development,

`(iii) need for homeownership development within the area,

`(iv) sponsor capability, and

`(v) long-term sustainability of the project as owner-occupied residences.

`(2) CREDIT ALLOCATED TO RESIDENCE NOT TO EXCEED AMOUNT NECESSARY TO ASSURE FEASIBILITY-

`(A) IN GENERAL- The homeownership credit dollar amount allocated to a residence shall not exceed the amount the homeownership credit agency determines is necessary for the feasibility of the residence.

`(B) AGENCY EVALUATION- In making the determination under subparagraph (A), the homeownership credit agency shall consider--

- `(i) the sources and uses of funds and the total financing planned for the residence,
- `(ii) any proceeds or receipts expected to be generated by reason of tax benefits,
- `(iii) the anticipated appraised value of the residence,
- `(iv) the reasonableness of the developmental costs of the residence, and
- `(v) the affordability to a reasonable range of prospective qualified buyers.

`(C) DETERMINATION MADE WHEN CREDIT DOLLAR AMOUNT APPLIED FOR- A determination under subparagraph (A) shall be made as of each of the following times:

- `(i) The application for the homeownership credit dollar amount.
- `(ii) The allocation of the homeownership credit dollar amount.

`(3) LIEN FOR RECAPTURE AMOUNT- A homeownership credit dollar amount may be allocated by a homeownership credit agency to a residence only if such agency has a lien on such residence for the payment of any amount potentially required to be paid under subsection (h) to such agency.

`(I) REGULATIONS- The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations--

`(1) dealing with--

- `(A) projects which include more than 1 residence or only a portion of a residence, and
- `(B) buildings which are completed in portions,

`(2) providing for the application of this section to short taxable years,

`(3) preventing the avoidance of the rules of this section, and

`(4) providing the opportunity for homeownership credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.'

(b) CURRENT YEAR BUSINESS CREDIT CALCULATION- Section 38(b) (relating to current year business credit) is amended by redesignating paragraphs (6) through (15) as paragraphs (7) through (16), respectively, and by inserting after paragraph (5) the following new paragraph:

`(6) the homeownership credit determined under section 42A(a),'

(c) LIMITATION ON CARRYBACK- Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

`(11) NO CARRYBACK OF HOMEOWNERSHIP CREDIT BEFORE EFFECTIVE DATE- No amount of unused business credit available under section 42A may be carried back to a taxable year beginning on or before the date of the enactment of this paragraph.'

(d) CONFORMING AMENDMENTS-

(1) Section 55(c)(1) is amended by inserting `or subsection (h) or (i) of section 42A' after `section 42'.

(2) Subsections (i)(3)(D), (i)(6)(B)(i), and (k)(1) of section 469 are each amended by inserting `or 42A' after `section 42'.

(3) Section 772(a) is amended by striking `and' at the end of paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting after paragraph (10) the following:

`(11) the homeownership credit determined under section 42A, and'.

(4) Section 774(b)(4) is amended by inserting `, 42A(h),' after `section 42(j)'.

(e) CLERICAL AMENDMENT- The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 42 the following:

`Sec. 42A. Community homeownership credit.'

(f) EFFECTIVE DATE- The amendments made by this section shall apply to qualified residences sold in taxable years beginning after the date of the enactment of this Act.