

HR 3000 IH

107th CONGRESS
1st Session
H. R. 3000

To amend the Internal Revenue Code of 1986 to allow a business credit for the development of low-to-moderate income housing for home ownership, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

October 2, 2001

Mr. SHOWS introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow a business credit for the development of low-to-moderate income housing for home ownership, 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 'Low-to-Moderate Income Home Ownership Tax Credit Act'.

(b) TABLE OF CONTENTS- The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

Sec. 2. Credit for low-to-moderate income housing for home ownership.

Sec. 3. Partial exclusion of gain from sale of low-to-moderate income housing.

Sec. 4. Expansion of rehabilitation credit.

SEC. 2. CREDIT FOR LOW-TO-MODERATE INCOME HOUSING FOR HOME OWNERSHIP.

(a) IN GENERAL- Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

SEC. 42A. LOW-TO-MODERATE INCOME HOME OWNERSHIP CREDIT.

(a) IN GENERAL- For purposes of section 38, the amount of the home ownership credit determined under this section for any taxable year in the credit period shall be an amount equal to the applicable percentage of the qualified basis of each qualified low-to-moderate income building.

(b) Applicable Percentage: 70 Percent Present Value Credit for New Buildings; 30 Percent Present Value Credit for Existing Buildings- For purposes of this section--

(1) IN GENERAL- The term 'applicable percentage' means the appropriate percentage prescribed by the Secretary for the earlier of--

(A) the first month of the credit period with respect to a low-to-moderate income building, or

(B) at the election of the taxpayer, the month in which the taxpayer and the housing credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the housing credit dollar amount to be allocated to such building.

A month may be elected under subparagraph (B) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable.

(2) METHOD OF PRESCRIBING PERCENTAGES- The percentages prescribed by the Secretary for any month shall be percentages which will yield over a 10-year period amounts of credit under subsection (a) which have a present value equal to--

(A) 70 percent of the qualified basis of a new building, and

(B) 30 percent of the qualified basis of an existing building.

(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 10-year period referred to in paragraph (2),

(B) by using a discount rate equal to 72 percent of the average of the annual Federal mid-term rate and the annual Federal long-term rate applicable under section 1274(d)(1) to the month applicable under subparagraph (A) or (B) of 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 BASIS; ELIGIBLE BASIS; QUALIFIED LOW-TO-MODERATE INCOME BUILDING- For purposes of this section--

`(1) QUALIFIED BASIS-

`(A) DETERMINATION- The qualified basis of any qualified low-to-moderate income building for any taxable year is an amount equal to--

`(i) the applicable fraction (determined as of the close of such taxable year) of

`(ii) the eligible basis of such building.

`(B) APPLICABLE FRACTION-

`(i) IN GENERAL- For purposes of subparagraph (A), the term `applicable fraction' means the smaller of the unit fraction or the floor space fraction.

`(ii) UNIT FRACTION- For purposes of clause (i), the term `unit fraction' means the fraction--

`(I) the numerator of which is the number of low-to-moderate income units in the building, and

`(II) the denominator of which is the number of all units (whether or not occupied) in such building.

`(iii) FLOOR SPACE FRACTION- For purposes of clause (i), the term `floor space fraction' means the fraction--

`(I) the numerator of which is the total floor space of the low-to-moderate income units in such building, and

`(II) the denominator of which is the total floor space of all units (whether or not occupied) in such building.

`(C) ELIGIBLE BASIS-

`(i) IN GENERAL- The eligible basis of any qualified low-to-moderate income building for any taxable year shall be determined under rules similar to the rules under section 42(d), except that--

`(I) the determination of the adjusted basis of any building shall be made as of the beginning of the credit period, and

`(II) such basis shall include development costs properly attributable to such building.

`(ii) DEVELOPMENT COSTS- For purposes of clause (i)(II), the term `development costs' includes--

`(I) site preparation costs,

`(II) State and local impact fees,

`(III) reasonable development costs,

`(IV) professional fees related to basis items,

`(V) construction financing costs related to basis items other than land, and

`(VI) on-site and adjacent improvements required by State and local governments.

`(2) QUALIFIED LOW-TO-MODERATE INCOME BUILDING- The term `qualified low-to-moderate income building' means any building which is part of a qualified low-to-moderate income development project at all times during the period--

`(A) beginning on the 1st day in the compliance period on which such building is part of such a development project, and

`(B) ending on the last day of the compliance period with respect to such building.

`(d) REHABILITATION EXPENDITURES TREATED AS SEPARATE NEW BUILDING- Rehabilitation expenditures paid or incurred by the taxpayer with respect to any building shall be treated for purposes of this section as a separate new building under the rules of section 42(e).

`(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 building, the period of 10 taxable years beginning with the taxable year in which the building (or a low-to-moderate income unit in such building) is first sold by the taxpayer to a low-to moderate income individual after being placed in service.

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

`(A) IN GENERAL- The credit allowable under subsection (a) with respect to any building for the 1st taxable year of the credit period shall be determined by substituting for the applicable fraction under subsection (c)(1) the fraction--

`(i) the numerator of which is the sum of the applicable fractions determined under subsection (c)(1) as of the close of each full month of such year during which such building was in service, and

`(ii) the denominator of which is 12.

`(B) DISALLOWED 1ST YEAR CREDIT ALLOWED IN 11TH 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.

`(3) CREDIT PERIOD FOR EXISTING BUILDINGS NOT TO BEGIN BEFORE REHABILITATION CREDIT ALLOWED- The credit period for an existing building shall not begin before the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building.

`(f) QUALIFIED LOW-TO-MODERATE INCOME DEVELOPMENT PROJECT- For purposes of this section--

`(1) IN GENERAL- The term `qualified low-to-moderate income development project' means any development project of 1 or more for qualified low-to-moderate income buildings located in an area if 40 percent or more of the residential units in such development project are occupied and owned by individuals whose income is 100 percent or less of area median gross income.

`(2) TREATMENT OF UNITS OCCUPIED BY INDIVIDUALS WHOSE INCOMES RISE ABOVE LIMIT- Notwithstanding an increase in the income of the occupants of a low-to-moderate income unit above the income limitation applicable under paragraph (2) or (3), such unit shall continue to be treated as a low-to-moderate income unit if the income of such occupants initially met such income limitation and such unit continues to be so restricted.

`(3) CERTAIN RULES MADE APPLICABLE- Paragraphs (3), (5), (7), and (8) of section 42(g) shall apply for purposes of determining whether any development project is a qualified low-to-moderate income development project.

`(g) LIMITATION ON AGGREGATE CREDIT ALLOWABLE WITH RESPECT TO DEVELOPMENT PROJECTS LOCATED IN A STATE-

`(1) CREDIT MAY NOT EXCEED CREDIT AMOUNT ALLOCATED TO BUILDING- The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the housing credit dollar amount allocated to such building under rules similar to the rules of section 42(h)(1) (determined without regard to subparagraph (D) thereof).

`(2) ALLOCATED CREDIT AMOUNT TO APPLY TO ALL TAXABLE YEARS ENDING DURING OR AFTER CREDIT ALLOCATION YEAR- Any housing credit dollar amount allocated to any building for any calendar year--

`(A) shall apply to such building for all taxable years in the credit period ending during or after such calendar year, and

`(B) shall reduce the aggregate housing credit dollar amount of the allocating agency only for such calendar year.

`(3) HOUSING CREDIT DOLLAR AMOUNT FOR AGENCIES-

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

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

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

`(i) the unused State housing 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 housing 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 housing 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 housing credit dollar amount allocated for such year. For purposes of clause (iii), the amount of State housing credit ceiling returned in the calendar year equals the housing credit dollar amount previously allocated within the State to any development project which fails to meet the 10 percent test under section 42(h)(1)(E)(ii) on a date after the close of the calendar year in which the allocation was made or which does not become a qualified low-to-moderate income development project within the period required by this section or the terms of the allocation or to any development project with respect to which an allocation is canceled by mutual consent of the housing credit agency and the allocation recipient.

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

`(i) IN GENERAL- The unused housing 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 HOUSING CREDIT CARRYOVER- For purposes of this subparagraph, the unused housing credit carryover of a State for any calendar year is the excess (if any) of the unused State housing credit ceiling for such year (as defined in subparagraph (C)(i)) over the excess (if any) of --

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

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

`(iii) FORMULA FOR ALLOCATION OF UNUSED HOUSING 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 housing 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. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).

`(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 housing 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) SPECIAL RULE FOR STATES WITH CONSTITUTIONAL HOME RULE CITIES- For purposes of this subsection--

`(i) IN GENERAL- The aggregate housing credit dollar amount for any constitutional home rule city for any calendar year shall be an amount which bears the same ratio to the State housing credit ceiling for such calendar year as--

`(I) the population of such city, bears to

`(II) the population of the entire State.

`(ii) COORDINATION WITH OTHER ALLOCATIONS-

In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying this paragraph with respect to housing credit agencies in such State other than constitutional home rule cities, the State housing credit ceiling for any calendar year shall be reduced by the aggregate housing credit dollar amounts determined for such year for all constitutional home rule cities in such State.

`(iii) CONSTITUTIONAL HOME RULE CITY- For purposes of this paragraph, the term `constitutional home rule city' has the meaning given such term by section 146(d)(3)(C).

`(F) 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.

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

`(H) COST-OF-LIVING ADJUSTMENT-

`(i) IN GENERAL- In the case of a calendar year after 2002, 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 2001' 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.

`(4) PORTION OF STATE CEILING SET-ASIDE FOR CERTAIN DEVELOPMENT PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS-

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

`(B) DEVELOPMENT PROJECTS INVOLVING QUALIFIED NONPROFIT ORGANIZATIONS- For purposes of subparagraph (A), a qualified low-to-moderate income development project is described in this subparagraph if a qualified nonprofit organization is to materially participate (within the meaning of section 469(h)) in the development and operation of the development project throughout the compliance 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 housing 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-to-moderate 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 (F) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

“(5) BUILDINGS ELIGIBLE FOR CREDIT ONLY IF MINIMUM LONG-TERM COMMITMENT TO LOW-TO-MODERATE INCOME HOUSING-

“(A) IN GENERAL- No credit shall be allowed by reason of this section with respect to any building for the taxable year unless a low-to-moderate income housing commitment is in effect as of the end of such taxable year.

“(B) LOW-TO-MODERATE INCOME HOUSING COMMITMENT- For purposes of this paragraph, the term ‘low-to-moderate income housing commitment’ means any agreement between the taxpayer and the housing credit agency--

“(i) which requires that the applicable fraction (as defined in subsection (c)(1)(B)) for the building for each taxable year in the compliance period will not be less than the applicable fraction specified in such agreement,

“(ii) which allows individuals who meet the income limitation applicable to the building under subsection (f) (whether prospective, present, or former occupants of the building) the right to enforce in any State court the requirement of clause (i),

“(iii) which allows the taxpayer the right of first refusal to purchase the building from the low-or-moderate income individual to whom the taxpayer first sold the building,

“(iv) which is binding on all successors of the taxpayer, and

“(v) which, with respect to the property, is recorded pursuant to State law as a restrictive covenant.

“(C) ALLOCATION OF CREDIT MAY NOT EXCEED AMOUNT NECESSARY TO SUPPORT COMMITMENT- The housing credit dollar amount allocated to any building may not exceed the amount necessary to support the applicable fraction specified in the low-to-moderate income housing commitment for such building.

“(D) EFFECT OF NONCOMPLIANCE- If, during a taxable year, there is a determination that a low-to-moderate income housing agreement was not in effect as of the beginning of such year, such determination shall not apply to any period before such year and subparagraph (A) shall be applied without regard to such determination if the failure is corrected within 1 year from the date of the determination.

“(E) DEVELOPMENT PROJECTS WHICH CONSIST OF MORE THAN 1 BUILDING- The application of this paragraph to development projects which consist of more than 1 building shall be made under regulations prescribed by the Secretary.

“(6) SPECIAL RULES-

“(A) BUILDING MUST BE LOCATED WITHIN JURISDICTION OF CREDIT AGENCY- A housing credit agency

may allocate its aggregate housing credit dollar amount only to buildings 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 housing credit dollar amounts allocated by a housing credit agency for any calendar year exceed the portion of the State housing credit ceiling allocated to such agency for such calendar year, the housing credit dollar amounts so allocated shall be reduced (to the extent of such excess) for buildings in the reverse of the order in which the allocations of such amounts were made.

`(C) CREDIT REDUCED IF ALLOCATED CREDIT DOLLAR AMOUNT IS LESS THAN CREDIT WHICH WOULD BE ALLOWABLE WITHOUT REGARD TO SALES CONVENTION, ETC-

`(i) IN GENERAL- The amount of the credit determined under this section with respect to any building shall not exceed the clause (ii) percentage of the amount of the credit which would (but for this subparagraph) be determined under this section with respect to such building.

`(ii) DETERMINATION OF PERCENTAGE- For purposes of clause (i), the clause (ii) percentage with respect to any building is the percentage which--

`(I) the housing credit dollar amount allocated to such building bears to

`(II) the credit amount determined in accordance with clause (iii).

`(iii) DETERMINATION OF CREDIT AMOUNT- The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph) be determined under this section with respect to the building if this section were applied without regard to paragraph (2)(A) of subsection (e).

`(D) HOUSING CREDIT AGENCY TO SPECIFY APPLICABLE PERCENTAGE AND MAXIMUM QUALIFIED BASIS- In allocating a housing credit dollar amount to any building, the housing credit agency shall specify the applicable percentage and the maximum qualified basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum qualified basis so specified shall not exceed the applicable percentage and qualified basis determined under this section without regard to this subsection.

`(7) OTHER DEFINITIONS- For purposes of this subsection--

`(A) HOUSING CREDIT AGENCY- The term 'housing credit agency' means any agency authorized to carry out this subsection.

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

- `(h) DEFINITIONS AND SPECIAL RULES- For purposes of this section--
- `(1) COMPLIANCE PERIOD- The term `compliance period' means, with respect to any building, the period of 5 taxable years beginning with the 1st taxable year of the credit period with respect thereto.
 - `(2) NEW BUILDING- The term `new building' means a building the original use of which begins with the taxpayer.
 - `(3) EXISTING BUILDING- The term `existing building' means any building which is not a new building.
 - `(4) APPLICATION TO ESTATES AND TRUSTS- In the case of an estate or trust, the amount of the credit determined under subsection (a) and any increase in tax under subsection (j) 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.
- `(i) RECAPTURE OF CREDIT- If--
- `(1) as of the close of any taxable year in the compliance period, the amount of the qualified basis of any building with respect to the taxpayer is less than
 - `(2) the amount of such basis as of the close of the preceding taxable year, then the taxpayer's tax under this chapter for the taxable year shall be increased by the credit recapture amount determined under rules similar to the rules of section 42(j).
- `(j) APPLICATION OF AT-RISK RULES- For purposes of this section, rules similar to the rules of section 42(k) shall apply.
- `(k) CERTIFICATIONS AND OTHER REPORTS TO SECRETARY-
- `(1) CERTIFICATION WITH RESPECT TO 1ST YEAR OF CREDIT PERIOD- Following the close of the 1st taxable year in the credit period with respect to any qualified low-to-moderate income building, the taxpayer shall certify to the Secretary (at such time and in such form and in such manner as the Secretary prescribes)--
 - `(A) the taxable year, and calendar year, in which such building was first sold after being placed in service,
 - `(B) the adjusted basis and eligible basis of such building as of the beginning of the credit period,
 - `(C) the maximum applicable percentage and qualified basis permitted to be taken into account by the appropriate housing credit agency under subsection (g),
 - `(D) the election made under subsection (f) with respect to the qualified low-to-moderate income housing development project of which such building is a part, and
 - `(E) such other information as the Secretary may require.
- In the case of a failure to make the certification required by the preceding sentence on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, no credit shall be allowable by reason of subsection (a) with respect to such building for any taxable year ending before such certification is made.

`(2) ANNUAL REPORTS TO THE SECRETARY- 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 qualified basis for the taxable year of each qualified low-to-moderate income building of the taxpayer,

`(B) the information described in paragraph (1)(C) for the taxable year, 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.

`(3) ANNUAL REPORTS FROM HOUSING CREDIT AGENCIES-

Each agency which allocates any housing credit amount to any building for any calendar year shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual report specifying--

`(A) the amount of housing credit amount allocated to each building for such year,

`(B) sufficient information to identify each such building and the taxpayer with respect thereto, and

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

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

`(1) RESPONSIBILITIES OF HOUSING CREDIT AGENCIES-

`(1) PLANS FOR ALLOCATION OF CREDIT AMONG DEVELOPMENT PROJECTS-

`(A) IN GENERAL- Notwithstanding any other provision of this section, the housing credit dollar amount with respect to any building shall be zero unless--

`(i) such amount was allocated pursuant to a qualified allocation plan of the housing 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,

`(ii) such agency notifies the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such development project and provides such individual a reasonable opportunity to comment on the development project,

`(iii) a comprehensive market study of the housing needs of low- and moderate-income individuals in the area to be served by the development project is conducted before the credit allocation is made and at the developer's expense by a disinterested party who is approved by such agency, and

`(iv) a written explanation is available to the general public for any allocation of a housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the housing credit agency.

`(B) QUALIFIED ALLOCATION PLAN- For purposes of this paragraph, the term `qualified allocation plan' means any plan--

`(i) which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions,

`(ii) which also gives preference in allocating housing credit dollar amounts among selected development projects to--

`(I) development projects serving the lowest income owners, and

`(II) development projects which are located in qualified census tracts (as defined in section 42(d)(5)(C)) and the development of which contributes to a concerted community revitalization plan, and

`(iii) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of and in monitoring for noncompliance with habitability standards through regular site visits.

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

`(i) development project location,

`(ii) housing needs characteristics,

`(iii) development project characteristics, including whether the development project includes the use of existing housing as part of a community revitalization plan,

`(iv) populations with special housing needs,

`(v) low-to-moderate income housing waiting lists, and

`(vi) populations of individuals with children.

`(2) CREDIT ALLOCATED TO BUILDING NOT TO EXCEED AMOUNT NECESSARY TO ASSURE DEVELOPMENT PROJECT FEASIBILITY-

`(A) IN GENERAL- The housing credit dollar amount allocated to a development project shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the development project and its viability as a qualified low-to-

moderate income development project throughout the compliance period.

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

- `(i) the sources and uses of funds and the total financing planned for the development project,
- `(ii) any proceeds or receipts expected to be generated by reason of tax benefits,
- `(iii) the percentage of the housing credit dollar amount used for development project costs other than the cost of intermediaries, and
- `(iv) the reasonableness of the developmental and operational costs of the development project.

Clause (iii) shall not be applied so as to impede the development of development projects in hard-to-develop areas.

`(C) DETERMINATION MADE WHEN CREDIT AMOUNT APPLIED FOR AND WHEN BUILDING SOLD-

`(i) IN GENERAL- A determination under subparagraph (A) shall be made as of each of the following times:

- `(I) The application for the housing credit dollar amount.
- `(II) The allocation of the housing credit dollar amount.
- `(III) The date the building is first sold after having been placed in service.

`(ii) CERTIFICATION AS TO AMOUNT OF OTHER SUBSIDIES- Prior to each determination under clause (i), the taxpayer shall certify to the housing credit agency the full extent of all Federal, State, and local subsidies which apply (or which the taxpayer expects to apply) with respect to the building.

`(m) 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) development projects which include more than 1 building or only a portion of a building,
- `(B) buildings which are sold 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 housing 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.

`(n) TERMINATION- Clause (ii) of subsection (g)(3)(C) shall not apply to any amount allocated after December 31, 2004.'

(b) CURRENT YEAR BUSINESS CREDIT CALCULATION- Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking `plus' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting `, plus', and by adding at the end the following:

`(16) the home ownership credit determined under section 42A(a).'

(c) LIMITATION ON CARRYBACK- Subsection (d) of section 39 of the Internal Revenue Code of 1986 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

`(11) NO CARRYBACK OF HOME OWNERSHIP 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) of the Internal Revenue Code of 1986 is amended by inserting `or subsection (i) or (j) of section 42A' after `section 42'.

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

(3) Section 772(a) of such Code 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 home ownership credit determined under section 42A, and'

(4) Section 774(b)(4) of such Code is amended by inserting `, 42A(i),' after `section 42(j)'

(e) CLERICAL AMENDMENT- The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 42 the following:

`Sec. 42A. Low-to-moderate income home ownership credit.'

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

SEC. 3. PARTIAL EXCLUSION OF GAIN FROM SALE OF LOW-TO-MODERATE INCOME HOUSING.

(a) IN GENERAL- Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and inserting after section 138 the following new section:

SEC. 139. CERTAIN GAIN FROM SALE OF LOW-TO-MODERATE INCOME HOUSING.

(a) IN GENERAL- Gross income shall not include the gain from the sale of any low-to-moderate income building made during the taxable year and with respect to which the taxpayer is allowed a credit under section 42A.

(b) LIMITATION- The amount of gain which may be taken into account under subsection (a) with respect to the sale of a low-to-moderate income building shall not exceed \$10,000 for each low-to-moderate income unit in such building.'

(b) CONFORMING AMENDMENT- The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 139 and inserting the following new items:

Sec. 139. Certain gain from sale of low-to-moderate income housing.

Sec. 140. Cross references to other Acts.'

(c) EFFECTIVE DATE- The amendments made by this section shall apply sales in taxable years beginning after the date of the enactment of this Act.

SEC. 4. EXPANSION OF REHABILITATION CREDIT.

(a) CREDIT APPLICABLE TO BUILDINGS AT LEAST 50 YEARS OLD- Subparagraph (B) of section 47(c)(1) of the Internal Revenue Code of 1986 (relating to qualified rehabilitated building is amended to read as follows:

(B) BUILDING MUST BE AT LEAST 50 YEARS OLD- In the case of a building other than a certified historic structure, a building shall not be a qualified rehabilitated building unless the building was first placed in service before the date which is at least 50 years before the date such building is placed in service for purposes of the credit under this section.'

(b) EFFECTIVE DATE- The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

END