

108TH CONGRESS
1ST SESSION

S. 198

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

JANUARY 21, 2003

Mr. SMITH (for himself, Ms. STABENOW, and Mr. SANTORUM) 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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; ETC.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “New Homestead Economic Opportunity Act”.

6 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
2 sion of the Internal Revenue Code of 1986.

3 **SEC. 2. COMMUNITY HOMEOWNERSHIP CREDIT.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-
5 chapter A of chapter 1 is amended by inserting after sec-
6 tion 42 the following new section:

7 **“SEC. 42A. HOMEOWNERSHIP CREDIT.**

8 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
9 tion 38, the amount of the homeownership credit deter-
10 mined under this section for any taxable year in the credit
11 period shall be an amount equal to the applicable percent-
12 age of the eligible basis of each qualified residence.

13 “(b) APPLICABLE PERCENTAGE.—For purposes of
14 this section—

15 “(1) IN GENERAL.—The term ‘applicable per-
16 centage’ means the appropriate percentage pre-
17 scribed by the Secretary for the month in which the
18 taxpayer and the homeownership credit agency enter
19 into an agreement with respect to such residence
20 (which is binding on such agency, the taxpayer, and
21 all successors in interest) as to the homeownership
22 credit dollar amount to be allocated to such resi-
23 dence.

24 “(2) METHOD OF PRESCRIBING PERCENT-
25 AGE.—The percentage prescribed by the Secretary

1 for any month shall be the percentage which will
2 yield over a 5-year period amounts of credit under
3 subsection (a) which have a present value equal to
4 50 percent of the eligible basis of a qualified resi-
5 dence.

6 “(3) METHOD OF DISCOUNTING.—The present
7 value under paragraph (2) shall be determined—

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

10 “(B) by using a discount rate equal to 72
11 percent of the annual Federal mid-term rate
12 applicable under section 1274(d)(1) to the
13 month applicable under paragraph (1) and com-
14 pounded annually, and

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

18 “(c) QUALIFIED RESIDENCE.—For purposes of this
19 section—

20 “(1) IN GENERAL.—The term ‘qualified resi-
21 dence’ means any residence—

22 “(A) which is located—

23 “(i) in a census tract which has a me-
24 dian gross income which does not exceed

1 80 percent of the greater of area or state-
2 wide median gross income, or

3 “(ii) in an area of chronic economic
4 distress, and

5 “(B) which is purchased by a qualified
6 buyer.

7 For purposes of clause (ii) of subparagraph (A), an
8 area is an area of chronic economic distress if it is
9 approved for designation as such under section
10 143(j)(3), except that such designation shall not re-
11 quire the approval of the Secretary and shall cease
12 to apply after the end of the 5th calendar year after
13 the calendar year in which the designation is made.

14 “(2) RESIDENCE.—For purposes of paragraph
15 (1), the term ‘residence’ means—

16 “(A) a single-family home containing 1 to
17 4 housing units,

18 “(B) a condominium unit,

19 “(C) stock in a cooperative housing cor-
20 poration (as defined in section 216(b)), or

21 “(D) any factory-made housing which is
22 permanently affixed to real property.

23 In the case of a single-family home described in sub-
24 paragraph (A) which contains more than 1 housing
25 unit, the term ‘residence’ shall not include any new

1 residence and shall include only the portion of such
2 home which is to be occupied by the owner thereof
3 (based on the percentage of the total area of such
4 home which is to be occupied by the owner).

5 “(3) TIMING OF DETERMINATION.—For pur-
6 poses of paragraph (1), the determination of wheth-
7 er a residence is a qualified residence shall be made
8 at the time a binding commitment for an allocation
9 of credit is awarded by the homeownership credit
10 agency, except that the determination of whether a
11 buyer is a qualified buyer shall be made at the time
12 the residence is sold.

13 “(4) MEDIAN GROSS INCOME.—For purposes of
14 this section, median gross income shall be deter-
15 mined consistent with section 143(f)(2).

16 “(d) ELIGIBLE BASIS.—For purposes of this sec-
17 tion—

18 “(1) NEW QUALIFIED RESIDENCES.—

19 “(A) IN GENERAL.—The eligible basis of a
20 new qualified residence is—

21 “(i) in the case of a qualified resi-
22 dence which is sold in a transaction which
23 meets the requirements of subparagraph
24 (B), its adjusted basis (excluding land) im-
25 mediately before such sale, and

1 “(ii) zero in any other case.

2 “(B) REQUIREMENTS.—A sale of a quali-
3 fied residence meets the requirements of this
4 subparagraph if—

5 “(i) the buyer acquires the qualified
6 residence by purchase (as defined in sec-
7 tion 179(d)(2)),

8 “(ii) the buyer of the qualified resi-
9 dence is not a related person with respect
10 to the seller, and

11 “(iii) the buyer’s debt financing is
12 originated by a 3rd party who is not a re-
13 lated person with respect to the seller.

14 “(2) EXISTING QUALIFIED RESIDENCES.—

15 “(A) IN GENERAL.—The eligible basis of
16 an existing qualified residence is—

17 “(i) in the case of a qualified resi-
18 dence which is sold in a transaction which
19 meets the requirements of subparagraph
20 (B), the adjusted basis of the rehabilitation
21 expenditures with respect to the qualified
22 residence which are paid or incurred in
23 connection with such sale, and

24 “(ii) zero in any other case.

1 “(B) REQUIREMENTS.—A sale of a quali-
2 fied residence meets the requirements of this
3 subparagraph if—

4 “(i) the buyer acquires the qualified
5 residence by purchase (as defined in sec-
6 tion 179(d)(2)),

7 “(ii) the qualified residence has un-
8 dergone substantial rehabilitation in con-
9 nection with the sale described in clause
10 (i),

11 “(iii) the buyer of the qualified resi-
12 dence is not a related person with respect
13 to the seller, and

14 “(iv) the buyer’s debt financing is
15 originated by a 3rd party who is not a re-
16 lated person with respect to the seller.

17 “(C) SUBSTANTIAL REHABILITATION.—

18 “(i) IN GENERAL.—For purposes of
19 subparagraph (B), substantial rehabilita-
20 tion means rehabilitation expenditures paid
21 or incurred with respect to a qualified resi-
22 dence which are at least \$25,000.

23 “(ii) INFLATION ADJUSTMENT.—In
24 the case of a calendar year after 2003, the

1 dollar amount contained in clause (i) shall
2 be increased by an amount equal to—

3 “(I) such dollar amount, multi-
4 plied by

5 “(II) the cost-of-living adjust-
6 ment determined under section 1(f)(3)
7 for such calendar year by substituting
8 ‘calendar year 2002’ for ‘calendar
9 year 1992’ in subparagraph (B) there-
10 of.

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

14 “(3) EFFECT OF SUBSEQUENT SALE, ETC.—A
15 subsequent sale, assignment, rental, or refinancing
16 of the qualified residence by the buyer or the subse-
17 quent sale, assignment, or pooling of the buyer’s fi-
18 nancing by the originator shall not be considered in
19 determining whether or not the prior sales trans-
20 action satisfied the requirements of subparagraph
21 (B) of paragraph (1) or (2).

22 “(4) SPECIAL RULES RELATING TO DETER-
23 MINATION OF ADJUSTED BASIS.—For purposes of
24 this subsection—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), the adjusted basis of any
3 qualified residence (or any rehabilitation ex-
4 penditures in respect thereof)—

5 “(i) shall not include so much of the
6 basis of such qualified residence (or reha-
7 bilitation expenditures) as is determined by
8 reference to the basis of other property
9 held at any time by the person acquiring
10 the residence, and

11 “(ii) shall be determined without re-
12 gard to the adjusted basis of any property
13 which is not part of such qualified resi-
14 dence.

15 “(B) BASIS OF PROPERTY IN COMMON
16 AREAS, ETC., INCLUDED.—The adjusted basis
17 of any qualified residence shall be determined
18 by taking into account (on a pro rata basis) the
19 adjusted basis of property (of a character sub-
20 ject to the allowance for depreciation) used in
21 common areas or provided as comparable amen-
22 ities to all residences within a project.

23 “(5) SPECIAL RULES FOR DETERMINING ELIGI-
24 BLE BASIS.—

1 “(A) RELATED PERSON, ETC.—For pur-
2 poses of this section, a person (in this clause re-
3 ferred to as the ‘related person’) is related to
4 any person if the related person bears a rela-
5 tionship to such person specified in section
6 267(b) or 707(b)(1), or the related person and
7 such person are engaged in trades or businesses
8 under common control (within the meaning of
9 subsections (a) and (b) of section 52). For pur-
10 poses of the preceding sentence, in applying
11 section 267(b) or 707(b)(1), ‘10 percent’ shall
12 be substituted for ‘50 percent’.

13 “(B) NONRESIDENTIAL SPACE EX-
14 CLUDED.—No portion of the eligible basis of a
15 qualified residence shall include costs attrib-
16 utable to nonresidential space.

17 “(C) LIMITATION.—The eligible basis of
18 any residence may not exceed the mortgage
19 limit for Federal Housing Administration in-
20 sured mortgages in the area in which such resi-
21 dence is located.

22 “(e) DEFINITION AND SPECIAL RULES RELATING TO
23 CREDIT PERIOD.—

24 “(1) CREDIT PERIOD DEFINED.—For purposes
25 of this section, the term ‘credit period’ means, with

1 respect to any qualified residence, the period of 5
2 taxable years beginning with the taxable year in
3 which the sale of the qualified residence occurs satis-
4 fying the requirements of subsection (d)(1)(B) or
5 (d)(2)(B).

6 “(2) SPECIAL RULE FOR 1ST YEAR OF CREDIT
7 PERIOD.—

8 “(A) IN GENERAL.—The credit allowable
9 under subsection (a) with respect to any quali-
10 fied residence for the 1st taxable year of the
11 credit period shall be determined by multiplying
12 the eligible basis under subsection (d) by the
13 fraction—

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

18 “(ii) the denominator of which is 12.

19 “(B) DISALLOWED 1ST YEAR CREDIT AL-
20 LOWED IN 6TH YEAR.—Any reduction by reason
21 of subparagraph (A) in the credit allowable
22 (without regard to subparagraph (A)) for the
23 1st taxable year of the credit period shall be al-
24 lowable under subsection (a) for the 1st taxable
25 year following the credit period.

1 “(f) LIMITATION ON AGGREGATE CREDIT ALLOW-
 2 ABLE WITH RESPECT TO QUALIFIED RESIDENCES LO-
 3 CATED IN A STATE.—

4 “(1) CREDIT MAY NOT EXCEED CREDIT DOLLAR
 5 AMOUNT ALLOCATED TO QUALIFIED RESIDENCE.—

6 “(A) IN GENERAL.—The amount of the
 7 credit determined under this section for any
 8 taxable year with respect to any qualified resi-
 9 dence shall not exceed the homeownership cred-
 10 it dollar amount allocated to such qualified resi-
 11 dence under this subsection.

12 “(B) TIME FOR MAKING ALLOCATION.—

13 “(i) GENERAL RULE.—An allocation
 14 shall be taken into account under subpara-
 15 graph (A) only if it is made not later than
 16 the close of the calendar year in which the
 17 qualified residence is sold, and only if the
 18 qualified residence is sold within 1 year
 19 after the residence (or the rehabilitation
 20 expenditures, as applicable) is completed.

21 “(ii) EARLIER ALLOCATION BY AGEN-
 22 CY.—A homeownership credit agency may
 23 allocate available homeownership credit
 24 dollar amounts to a qualified residence

1 prior to the year of sale of such qualified
2 residence if—

3 “(I) the taxpayer owns fee title
4 or a leasehold interest of not less than
5 50 years in the site of the qualified
6 residence as of the later of the date
7 which is 6 months after the date that
8 the allocation was made or the close
9 of the calendar year in which the allo-
10 cation is made, and

11 “(II) such qualified residence is
12 completed not later than the close of
13 the 2nd calendar year following the
14 calendar year in which the allocation
15 was made.

16 “(C) VESTED RIGHT TO CREDIT DOLLAR
17 AMOUNT.—Once a homeownership credit alloca-
18 tion is received by a taxpayer, the right to such
19 credit is vested in such taxpayer and is not sub-
20 ject to recapture, except as provided in para-
21 graph (4)(B).

22 “(2) HOMEOWNERSHIP CREDIT DOLLAR
23 AMOUNT FOR AGENCIES.—

24 “(A) IN GENERAL.—The aggregate home-
25 ownership credit dollar amount which a home-

1 ownership credit agency may allocate for any
2 calendar year is the portion of the State home-
3 ownership credit ceiling allocated under this
4 paragraph for such calendar year to such agen-
5 cy.

6 “(B) STATE CEILING INITIALLY ALLO-
7 CATED TO STATE HOMEOWNERSHIP CREDIT
8 AGENCIES.—Except as provided in subpara-
9 graphs (D) and (E), the State homeownership
10 credit ceiling for each calendar year shall be al-
11 located to the homeownership credit agency of
12 such State. If there is more than 1 homeowner-
13 ship credit agency of a State, all such agencies
14 shall be treated as a single agency.

15 “(C) STATE HOMEOWNERSHIP CREDIT
16 CEILING.—The State homeownership credit ceil-
17 ing applicable to any State for any calendar
18 year before 2003 shall be zero and for any cal-
19 endar year after 2002 shall be an amount equal
20 to the sum of—

21 “(i) the unused State homeownership
22 credit ceiling (if any) of such State for the
23 preceding calendar year,

24 “(ii) the greater of—

1 “(I) \$1.75 multiplied by the
2 State population, or

3 “(II) \$2,000,000,

4 “(iii) the amount of State homeown-
5 ership credit ceiling returned in the calendar
6 year, plus

7 “(iv) the amount (if any) allocated
8 under subparagraph (D) to such State by
9 the Secretary.

10 For purposes of clause (i), the unused State
11 homeownership credit ceiling for any calendar
12 year is the excess (if any) of the sum of the
13 amounts described in clauses (ii) through (iv)
14 over the aggregate homeownership credit dollar
15 amount allocated for such year, except that
16 such amount shall be zero for 2003. For pur-
17 poses of clause (iii), the amount of State home-
18 ownership credit ceiling returned in the cal-
19 endar year equals the homeownership credit
20 dollar amount previously allocated within the
21 State to any qualified residence with respect to
22 which an allocation is canceled by mutual con-
23 sent of the homeownership credit agency and
24 the allocation recipient.

1 “(D) UNUSED HOMEOWNERSHIP CREDIT
2 CARRYOVERS ALLOCATED AMONG CERTAIN
3 STATES.—

4 “(i) IN GENERAL.—The unused home-
5 ownership credit carryover of a State for
6 any calendar year shall be assigned to the
7 Secretary for allocation among qualified
8 States for the succeeding calendar year.

9 “(ii) UNUSED HOMEOWNERSHIP
10 CREDIT CARRYOVER.—For purposes of this
11 subparagraph, the unused homeownership
12 credit carryover of a State for any calendar
13 year is the excess (if any) of the unused
14 State homeownership credit ceiling for
15 such year (as defined in subparagraph
16 (C)(i)) over the excess (if any) of—

17 “(I) the unused State home-
18 ownership credit ceiling for the year
19 preceding such year, over

20 “(II) the aggregate homeowner-
21 ship credit dollar amount allocated for
22 such year.

23 “(iii) FORMULA FOR ALLOCATION OF
24 UNUSED HOMEOWNERSHIP CREDIT
25 CARRYOVERS AMONG QUALIFIED

1 STATES.—The amount allocated under this
2 subparagraph to a qualified State for any
3 calendar year shall be the amount deter-
4 mined by the Secretary to bear the same
5 ratio to the aggregate unused homeowner-
6 ship credit carryovers of all States for the
7 preceding calendar year as such State’s
8 population for the calendar year bears to
9 the population of all qualified States for
10 the calendar year.

11 “(iv) QUALIFIED STATE.—For pur-
12 poses of this subparagraph, the term
13 ‘qualified State’ means, with respect to a
14 calendar year, any State—

15 “(I) which allocated its entire
16 State homeownership credit ceiling for
17 the preceding calendar year, and

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

22 “(E) STATE MAY PROVIDE FOR DIF-
23 FERENT ALLOCATION.—Rules similar to the
24 rules of section 146(e) (other than paragraph

1 (2)(B) thereof) shall apply for purposes of this
2 paragraph.

3 “(F) POPULATION.—For purposes of this
4 paragraph, population shall be determined in
5 accordance with section 146(j).

6 “(G) COST-OF-LIVING ADJUSTMENT.—

7 “(i) IN GENERAL.—In the case of a
8 calendar year after 2003, the \$2,000,000
9 and \$1.75 amounts in subparagraph (C)
10 shall each be increased by an amount equal
11 to—

12 “(I) such dollar amount, multi-
13 plied by

14 “(II) the cost-of-living adjust-
15 ment determined under section
16 1(f)(3) for such calendar year by sub-
17 stituting ‘calendar year 2002’ for ‘cal-
18 endar year 1992’ in subparagraph (B)
19 thereof.

20 “(ii) ROUNDING.—

21 “(I) In the case of the
22 \$2,000,000 amount, any increase
23 under clause (i) which is not a mul-
24 tiple of \$5,000 shall be rounded to the
25 next lowest multiple of \$5,000.

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

6 “(3) LIMITATION ON ALLOCATIONS TO AREAS
7 OF CHRONIC ECONOMIC DISTRESS.—Not more than
8 50 percent of a homeownership credit agency’s por-
9 tion of the State homeownership credit ceiling for a
10 calendar year may be allocated to residences located
11 in areas which are designated as areas of chronic
12 economic distress in accordance with paragraph (1)
13 of subsection (c).

14 “(4) SPECIAL RULES.—

15 “(A) RESIDENCE MUST BE LOCATED
16 WITHIN JURISDICTION OF CREDIT AGENCY.—A
17 homeownership credit agency may allocate its
18 aggregate homeownership credit dollar amount
19 only to qualified residences located in the juris-
20 diction of the governmental unit of which such
21 agency is a part.

22 “(B) AGENCY ALLOCATIONS IN EXCESS OF
23 LIMIT.—If the aggregate homeownership credit
24 dollar amounts allocated by a homeownership
25 credit agency for any calendar year exceed the

1 portion of the State homeownership credit ceil-
2 ing allocated to such agency for such calendar
3 year, the homeownership credit dollar amounts
4 so allocated shall be reduced (to the extent of
5 such excess) for residences in the reverse of the
6 order in which the allocations of such amounts
7 were made.

8 “(g) DEFINITIONS AND SPECIAL RULES.—For pur-
9 poses of this section—

10 “(1) COMPLETED.—The term ‘completed’
11 means the point in time where a qualified residence
12 is first placed in a condition or state of readiness
13 and availability for occupancy.

14 “(2) PROJECT.—The term ‘project’ means 1 or
15 more residences together with functionally related
16 and subordinate facilities developed and made avail-
17 able to inhabitants of such residences, including rec-
18 reational facilities and parking areas. To constitute
19 a project, each residence must—

20 “(A) be developed by the same taxpayer
21 pursuant to common planning and feasibility
22 studies,

23 “(B) be financed through a common plan
24 of construction financing, and

25 “(C) have common ownership prior to sale.

1 For purposes of this paragraph, it is not necessary
2 that all residences within a project be contiguous or
3 that all residences consist only of either new resi-
4 dences or existing residences and it is not necessary
5 that each residence within a project be a qualified
6 residence.

7 “(3) QUALIFIED BUYER.—

8 “(A) IN GENERAL.—The term ‘qualified
9 buyer’ means a buyer if at the time of the ac-
10 quisition of the qualified residence, the buyer—

11 “(i) is 1 or more individuals whose in-
12 come does not exceed 80 percent of the
13 area median gross income (70 percent for
14 families of less than 3 members), and

15 “(ii) intends to occupy the residence
16 as the buyer’s principal residence (within
17 the meaning of section 121).

18 “(B) SPECIAL RULES IN QUALIFIED CEN-
19 SUS TRACTS.—With respect to residences lo-
20 cated in qualified census tracts (as defined in
21 section 42), subparagraph (A) shall be applied
22 by substituting ‘100 percent’ for ‘80 percent’
23 and ‘90 percent’ for ‘70 percent’.

24 “(C) DETERMINATION OF INCOME.—For
25 purposes of this paragraph, a buyer’s income

1 shall be determined in accordance with section
2 143(f)(4).

3 “(4) NEW QUALIFIED RESIDENCE.—The term
4 ‘new qualified residence’ means a qualified residence
5 the original ownership of which begins with the tax-
6 payer.

7 “(5) EXISTING QUALIFIED RESIDENCE.—The
8 term ‘existing qualified residence’ means any quali-
9 fied residence which is not a new qualified residence.

10 “(6) HOMEOWNERSHIP CREDIT AGENCY.—The
11 term ‘homeownership credit agency’ means any
12 agency authorized to carry out this section.

13 “(7) POSSESSIONS TREATED AS STATES.—The
14 term ‘State’ includes the District of Columbia and a
15 possession of the United States.

16 “(8) APPLICATION TO ESTATES AND TRUSTS.—
17 In the case of an estate or trust, the amount of the
18 credit determined under subsection (a) shall be ap-
19 portioned between the estate or trust and the bene-
20 ficiaries on the basis of the income of the estate or
21 trust allocable to each.

22 “(h) REDUCTION IN TAX BENEFITS.—

23 “(1) RECAPTURE OF CREDIT.—If within the
24 first 3 years after the original purchase of a quali-
25 fied residence, the residence is sold by the qualified

1 buyer to a buyer who does not qualify as a qualified
2 buyer, the qualified buyer—

3 “(A) shall deduct and withhold an amount
4 equal to the recapture amount from the amount
5 realized on such sale, and

6 “(B) shall transfer such amount to the
7 homeownership credit agency which allocated
8 the homeownership credit dollar amount to such
9 residence.

10 “(2) RECAPTURE AMOUNT.—For purposes of
11 paragraph (1), the recapture amount is an amount
12 equal to 50 percent of the gain resulting from such
13 resale, reduced by 1/36th for each month the resale
14 occurs after the original purchase.

15 “(3) DENIAL OF DEDUCTIONS IF CONVERTED
16 TO RENTAL HOUSING.—If a qualified residence is
17 converted to rental housing within the first 3 years
18 after the original purchase, no deduction under this
19 chapter shall be permitted to offset rental income
20 with respect to such residence during such period.

21 “(i) APPLICATION OF AT-RISK RULES.—For pur-
22 poses of this section, rules of section 465 shall not apply
23 in determining the eligible basis of any qualified residence.

24 “(j) REPORTS TO THE SECRETARY.—

1 “(1) FROM THE TAXPAYER.—The Secretary
2 may require taxpayers to submit an information re-
3 turn (at such time and in such form and manner as
4 the Secretary prescribes) for each taxable year set-
5 ting forth—

6 “(A) the eligible basis for the taxable year
7 of each qualified residence with respect to which
8 the taxpayer is claiming a credit under this sec-
9 tion,

10 “(B) the amount of all homeownership
11 credit allocations received by the taxpayer from
12 any and all State homeownership credit agen-
13 cies, and

14 “(C) such other information as the Sec-
15 retary may require.

16 The penalty under section 6652(j) shall apply to any
17 failure to submit the return required by the Sec-
18 retary under the preceding sentence on the date pre-
19 scribed therefor.

20 “(2) FROM HOMEOWNERSHIP CREDIT AGEN-
21 CIES.—Each agency which allocates any homeown-
22 ership credit dollar amount to any residence for any
23 calendar year shall submit to the Secretary (at such
24 time and in such form and manner as the Secretary
25 shall prescribe) an annual report specifying—

1 “(A) the amount of the homeownership
2 credit dollar amount allocated to each residence
3 for such year,

4 “(B) sufficient information to identify each
5 such residence and the taxpayer initially enti-
6 tled to claim the credit under this section with
7 respect thereto, and

8 “(C) such other information as the Sec-
9 retary may require.

10 “(k) RESPONSIBILITIES OF HOMEOWNERSHIP CRED-
11 IT AGENCIES.—

12 “(1) PLANS FOR ALLOCATION OF CREDIT
13 AMONG RESIDENCES.—

14 “(A) IN GENERAL.—Notwithstanding any
15 other provision of this section, the homeown-
16 ership credit dollar amount with respect to any
17 qualified residence shall be zero unless such
18 amount was allocated pursuant to a qualified
19 allocation plan of the homeownership credit
20 agency which is approved by the governmental
21 unit (in accordance with rules similar to the
22 rules of section 147(f)(2) (other than subpara-
23 graph (B)(ii) thereof)) of which such agency is
24 a part.

1 “(B) QUALIFIED ALLOCATION PLAN.—For
 2 purposes of this paragraph, the term ‘qualified
 3 allocation plan’ means any plan which sets forth
 4 the homeownership development priorities of
 5 the homeownership credit agency.

6 “(C) CERTAIN HOMEOWNERSHIP DEVEL-
 7 OPMENT PRIORITIES MUST BE USED.—The de-
 8 velopment priorities set forth in a qualified allo-
 9 cation plan must include—

10 “(i) contribution of the development
 11 to community stability and revitalization,

12 “(ii) community and local government
 13 support for the development,

14 “(iii) need for homeownership develop-
 15 ment within the area,

16 “(iv) sponsor capability, and

17 “(v) long-term sustainability of the
 18 project as owner-occupied residences.

19 “(2) CREDIT ALLOCATED TO RESIDENCE NOT
 20 TO EXCEED AMOUNT NECESSARY TO ASSURE FEASI-
 21 BILITY.—

22 “(A) IN GENERAL.—The homeownership
 23 credit dollar amount allocated to a residence
 24 shall not exceed the amount the homeownership

1 credit agency determines is necessary for the
2 feasibility of the residence.

3 “(B) AGENCY EVALUATION.—In making
4 the determination under subparagraph (A), the
5 homeownership credit agency shall consider—

6 “(i) the sources and uses of funds and
7 the total financing planned for the resi-
8 dence,

9 “(ii) any proceeds or receipts expected
10 to be generated by reason of tax benefits,

11 “(iii) the anticipated appraised value
12 of the residence, and

13 “(iv) the reasonableness of the devel-
14 opmental costs of the residence.

15 “(C) DETERMINATION MADE WHEN CRED-
16 IT DOLLAR AMOUNT APPLIED FOR.—A deter-
17 mination under subparagraph (A) shall be made
18 as of each of the following times:

19 “(i) The application for the home-
20 ownership credit dollar amount.

21 “(ii) The allocation of the homeowner-
22 ship credit dollar amount.

23 “(3) LIEN FOR RECAPTURE AMOUNT.—A home-
24 ownership credit dollar amount may be allocated by
25 a homeownership credit agency to a residence only

1 if such agency has a lien on such residence for the
 2 payment of any amount potentially required to be
 3 paid under subsection (h) to such agency.

4 “(1) REGULATIONS.—The Secretary shall prescribe
 5 such regulations as may be necessary or appropriate to
 6 carry out the purposes of this section, including regula-
 7 tions—

8 “(1) dealing with—

9 “(A) projects which include more than 1
 10 residence or only a portion of a residence, and

11 “(B) buildings which are completed in por-
 12 tions,

13 “(2) providing for the application of this section
 14 to short taxable years,

15 “(3) preventing the avoidance of the rules of
 16 this section, and

17 “(4) providing the opportunity for homeowner-
 18 ship credit agencies to correct administrative errors
 19 and omissions with respect to allocations and record
 20 keeping within a reasonable period after their dis-
 21 covery, taking into account the availability of regula-
 22 tions and other administrative guidance from the
 23 Secretary.”.

24 (b) CURRENT YEAR BUSINESS CREDIT CALCULA-
 25 TION.—Section 38(b) (relating to current year business

1 credit) is amended by striking “plus” at the end of para-
2 graph (14), by striking the period at the end of paragraph
3 (15) and inserting “, plus”, and by adding at the end the
4 following:

5 “(16) the homeownership credit determined
6 under section 42A(a).”.

7 (c) LIMITATION ON CARRYBACK.—Subsection (d) of
8 section 39 (relating to carryback and carryforward of un-
9 used credits) is amended by adding at the end the fol-
10 lowing:

11 “(11) NO CARRYBACK OF HOMEOWNERSHIP
12 CREDIT BEFORE EFFECTIVE DATE.—No amount of
13 unused business credit available under section 42A
14 may be carried back to a taxable year beginning on
15 or before the date of the enactment of this para-
16 graph.”.

17 (d) CONFORMING AMENDMENTS.—

18 (1) Section 55(c)(1) is amended by inserting
19 “or subsection (h) or (i) of section 42A” after “sec-
20 tion 42”.

21 (2) Subsections (i)(3)(D), (i)(6)(B)(i), and
22 (k)(1) of section 469 are each amended by inserting
23 “or 42A” after “section 42”.

24 (3) Section 772(a) is amended by striking
25 “and” at the end of paragraph (10), by redesignig-

1 nating paragraph (11) as paragraph (12), and by in-
2 serting after paragraph (10) the following:

3 “(11) the homeownership credit determined
4 under section 42A, and”.

5 (4) Section 774(b)(4) is amended by inserting
6 “, 42A(h),” after “section 42(j)”.

7 (e) CLERICAL AMENDMENT.—The table of sections
8 for subpart D of part IV of subchapter A of chapter 1
9 is amended by inserting after the item relating to section
10 42 the following:

“Sec. 42A. Homeownership credit.”.

11 (f) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to qualified residences sold after
13 December 31, 2002.

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