

118TH CONGRESS
1ST SESSION

S. _____

To amend the Internal Revenue Code of 1986 to provide a credit for middle-income housing, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WYDEN (for himself and Mr. SULLIVAN) introduced the following bill;
which was read twice and referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to provide
a credit for middle-income housing, 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.**

4 This Act may be cited as the “Workforce Housing
5 Tax Credit Act”.

6 **SEC. 2. MIDDLE-INCOME HOUSING TAX CREDIT.**

7 (a) IN GENERAL.—Subpart D of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 is amended by inserting after section 42 the fol-
10 lowing new section:

1 **“SEC. 42A. MIDDLE-INCOME HOUSING CREDIT.**

2 “(a) IN GENERAL.—For purposes of section 38, the
3 amount of the middle-income housing credit determined
4 under this section for any taxable year in the credit period
5 shall be an amount equal to—

6 “(1) the applicable percentage, of

7 “(2) the qualified basis of each qualified mid-
8 dle-income building.

9 “(b) APPLICABLE PERCENTAGE.—

10 “(1) DETERMINATION OF APPLICABLE PER-
11 CENTAGE.—For purposes of this section—

12 “(A) IN GENERAL.—The term ‘applicable
13 percentage’ means, with respect to any building,
14 the appropriate percentage prescribed by the
15 Secretary for the earlier of—

16 “(i) the month in which such building
17 is placed in service, or

18 “(ii) at the election of the taxpayer,
19 the month in which the taxpayer and the
20 housing credit agency enter into an agree-
21 ment with respect to such building (which
22 is binding on such agency, the taxpayer,
23 and all successors in interest) as to the
24 housing credit dollar amount to be allo-
25 cated to such building.

1 A month may be elected under clause (ii) only
2 if the election is made not later than the 5th
3 day after the close of such month. Such an elec-
4 tion, once made, shall be irrevocable.

5 “(B) METHOD OF PRESCRIBING PERCENT-
6 AGES.—The percentages prescribed by the Sec-
7 retary for any month shall be percentages which
8 will yield over a 15-year period amounts of
9 credit under subsection (a) which have a
10 present value equal to—

11 “(i) 50 percent of the qualified basis
12 of a new building which is not Federally
13 subsidized for the taxable year, and

14 “(ii) 20 percent of the qualified basis
15 of a building not described in clause (i).

16 “(C) METHOD OF DISCOUNTING.—The
17 present value under subparagraph (B) shall be
18 determined—

19 “(i) as of the last day of the 1st year
20 of the 15-year period referred to in sub-
21 paragraph (B),

22 “(ii) by using a discount rate equal to
23 72 percent of the average of the annual
24 Federal mid-term rate and the annual
25 Federal long-term rate applicable under

1 section 1274(d)(1) to the month applicable
2 under clause (i) or (ii) of subparagraph
3 (A) and compounded annually, and

4 “(iii) by assuming that the credit al-
5 lowable under this section for any year is
6 received on the last day of such year.

7 “(2) MINIMUM CREDIT RATE.—

8 “(A) IN GENERAL.—The applicable per-
9 centage for any building which is not Federally
10 subsidized for the taxable year shall not be less
11 than 5 percent.

12 “(B) MINIMUM CREDIT RATE FOR FEDER-
13 ALLY SUBSIDIZED BUILDINGS.—In the case of
14 any building to which subparagraph (A) does
15 not apply, except as provided in paragraph (3),
16 the applicable percentage shall not be less than
17 2 percent.

18 “(3) EXCEPTION FOR CERTAIN FEDERALLY
19 SUBSIDIZED BUILDINGS.—In the case of any build-
20 ing to which paragraph (2)(A) does not apply, the
21 applicable percentage is zero unless—

22 “(A) a credit is allowed under section 42
23 with respect to such building for the taxable
24 year, and

1 “(B) such building is financed by tax-ex-
2 empt bonds as described in section 42(h)(4).

3 “(4) CROSS REFERENCES.—

4 “(A) For treatment of certain rehabilita-
5 tion expenditures as separate new buildings, see
6 subsection (e).

7 “(B) For determination of applicable per-
8 centage for increases in qualified basis after the
9 1st year of the credit period, see subsection
10 (f)(3).

11 “(C) For authority of housing credit agen-
12 cy to limit applicable percentage and qualified
13 basis which may be taken into account under
14 this section with respect to any building, see
15 subsection (h)(6).

16 “(c) QUALIFIED BASIS; QUALIFIED MIDDLE-INCOME
17 BUILDING.—For purposes of this section—

18 “(1) QUALIFIED BASIS.—

19 “(A) DETERMINATION.—The qualified
20 basis of any qualified middle-income building
21 for any taxable year is an amount equal to—

22 “(i) the applicable fraction (deter-
23 mined as of the close of such taxable year)
24 of

1 “(ii) the eligible basis of such building
2 (determined under subsection (d)).

3 “(B) APPLICABLE FRACTION.—For pur-
4 poses of subparagraph (A), the term ‘applicable
5 fraction’ means the smaller of the unit fraction
6 or the floor space fraction.

7 “(C) UNIT FRACTION.—For purposes of
8 subparagraph (B), the term ‘unit fraction’
9 means the fraction—

10 “(i) the numerator of which is the
11 number of middle-income units in the
12 building, and

13 “(ii) the denominator of which is the
14 number of residential rental units (whether
15 or not occupied) in such building.

16 “(D) FLOOR SPACE FRACTION.—For pur-
17 poses of subparagraph (B), the term ‘floor
18 space fraction’ means the fraction—

19 “(i) the numerator of which is the
20 total floor space of the middle-income units
21 in such building, and

22 “(ii) the denominator of which is the
23 total floor space of the residential rental
24 units (whether or not occupied) in such
25 building.

1 “(B) REQUIREMENTS.—A building meets
2 the requirements of this subparagraph if—

3 “(i) the building is acquired by pur-
4 chase (as defined in section 179(d)(2)),

5 “(ii) there is a period of at least 10
6 years between the date of its acquisition by
7 the taxpayer and the date the building was
8 last placed in service,

9 “(iii) the building was not previously
10 placed in service by the taxpayer or by any
11 person who was a related person with re-
12 spect to the taxpayer as of the time pre-
13 viously placed in service, and

14 “(iv) except as provided in subsection
15 (f)(5), a credit is allowable under sub-
16 section (a) by reason of subsection (e) with
17 respect to the building.

18 “(C) ADJUSTED BASIS.—For purposes of
19 subparagraph (A), the adjusted basis of any
20 building shall not include so much of the basis
21 of such building as is determined by reference
22 to the basis of other property held at any time
23 by the person acquiring the building.

24 “(D) SPECIAL RULES.—

1 “(i) SPECIAL RULES FOR CERTAIN
2 TRANSFERS.—For purposes of determining
3 under subparagraph (B)(ii) when a build-
4 ing was last placed in service, there shall
5 not be taken into account any placement in
6 service—

7 “(I) in connection with the acqui-
8 sition of the building in a transaction
9 in which the basis of the building in
10 the hands of the person acquiring it is
11 determined in whole or in part by ref-
12 erence to the adjusted basis of such
13 building in the hands of the person
14 from whom acquired,

15 “(II) by a person whose basis in
16 such building is determined under sec-
17 tion 1014(a) (relating to property ac-
18 quired from a decedent),

19 “(III) by any governmental unit
20 or qualified nonprofit organization if
21 the requirements of subparagraph
22 (B)(ii) are met with respect to the
23 placement in service by such unit or
24 organization and all the income from

1 such property is exempt from Federal
2 income taxation,

3 “(IV) by any person who ac-
4 quired such building by foreclosure
5 (or by instrument in lieu of fore-
6 closure) of any purchase-money secu-
7 rity interest held by such person if the
8 requirements of subparagraph (B)(ii)
9 are met with respect to the placement
10 in service by such person and such
11 building is resold within 12 months
12 after the date such building is placed
13 in service by such person after such
14 foreclosure, or

15 “(V) of a single-family residence
16 by any individual who owned and used
17 such residence for no other purpose
18 than as his principal residence.

19 “(ii) RELATED PERSON.—For pur-
20 poses of subparagraph (B)(iii), a person
21 (hereinafter in this subclause referred to as
22 the ‘related person’) is related to any per-
23 son if the related person bears a relation-
24 ship to such person specified in section
25 267(b) or 707(b)(1), or the related person

1 and such person are engaged in trades or
2 businesses under common control (within
3 the meaning of subsections (a) and (b) of
4 section 52).

5 “(3) SPECIAL RULES RELATING TO DETER-
6 MINATION OF ADJUSTED BASIS.—For purposes of
7 this subsection—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), the adjusted basis of any
10 building shall be determined without regard to
11 the adjusted basis of any property which is not
12 residential rental property.

13 “(B) BASIS OF PROPERTY IN COMMON
14 AREAS, ETC., INCLUDED.—

15 “(i) IN GENERAL.—Except as pro-
16 vided in clause (ii), the adjusted basis of
17 any building shall be determined by taking
18 into account the adjusted basis of property
19 (of a character subject to the allowance for
20 depreciation) used in common areas or
21 provided as comparable amenities to all
22 residential rental units in such building.

23 “(ii) SPECIAL RULE.—In the case of
24 any building for which the low-income
25 housing tax credit is allowable under sec-

1 shall be 130 percent of such basis de-
2 termined without regard to this sub-
3 paragraph, and

4 “(II) in the case of an existing
5 building, the rehabilitation expendi-
6 tures taken into account under sub-
7 section (e) shall be 130 percent of
8 such expenditures determined without
9 regard to this subparagraph.

10 “(ii) LIMITATION.—Clause (i) shall
11 not apply to any building if paragraph (1)
12 of subsection (h) does not apply to any
13 portion of the eligible basis of such build-
14 ing by reason of paragraph (9) of such
15 subsection.

16 “(iii) DIFFICULT DEVELOPMENT
17 AREAS.—

18 “(I) IN GENERAL.—The term
19 ‘difficult development areas’ means
20 any area designated by the Secretary
21 of Housing and Urban Development
22 as an area which has high construc-
23 tion, land, or utility costs relative to
24 area median gross income, any rural
25 area, and any Indian area.

14

1 “(II) RURAL AREA.—For pur-
2 poses of subclause (I), the term ‘rural
3 area’ means any non-metropolitan
4 area, or any rural area as defined by
5 section 520 of the Housing Act of
6 1949, which is identified by the quali-
7 fied allocation plan under subsection
8 (m)(1)(B).

9 “(III) INDIAN AREA.—For pur-
10 poses of subclause (I), the term ‘In-
11 dian area’ means any Indian area (as
12 defined in section 4(11) of the Native
13 American Housing Assistance and
14 Self Determination Act of 1996 (25
15 U.S.C. 4103(11))).

16 “(IV) SPECIAL RULE FOR BUILD-
17 INGS IN INDIAN AREAS.—In the case
18 of an area which is a difficult develop-
19 ment area solely because it is an In-
20 dian area, a building shall not be
21 treated as located in such area unless
22 such building is assisted or financed
23 under the Native American Housing
24 Assistance and Self Determination
25 Act of 1996 (25 U.S.C. 4101 et seq.)

1 or the project sponsor is an Indian
2 tribe (as defined in section
3 45A(c)(6)), a tribally designated hous-
4 ing entity (as defined in section 4(22)
5 of such Act (25 U.S.C. 4103(22))), or
6 wholly owned or controlled by such an
7 Indian tribe or tribally designated
8 housing entity.

9 “(V) LIMIT ON AREAS DES-
10 IGNATED.—The portions of metropoli-
11 tan statistical areas which may be
12 designated for purposes of this sub-
13 paragraph shall not exceed an aggre-
14 gate area having 20 percent of the
15 population of such metropolitan sta-
16 tistical areas. A comparable rule shall
17 apply to nonmetropolitan areas.

18 “(iv) SPECIAL RULES AND DEFINI-
19 TIONS.—For purposes of this subpara-
20 graph—

21 “(I) population shall be deter-
22 mined on the basis of the most recent
23 decennial census for which data are
24 available,

1 “(II) area median gross income
2 shall be determined in accordance
3 with subsection (g)(4),

4 “(III) the term ‘metropolitan sta-
5 tistical area’ has the same meaning as
6 when used in section 143(k)(2)(B),
7 and

8 “(IV) the term ‘nonmetropolitan
9 area’ means any county (or portion
10 thereof) which is not within a metro-
11 politan statistical area.

12 “(v) BUILDINGS DESIGNATED BY
13 STATE HOUSING CREDIT AGENCY.—Any
14 building which is designated by the State
15 housing credit agency as requiring the in-
16 crease in credit under this subparagraph in
17 order for such building to be financially
18 feasible as part of a qualified middle-in-
19 come housing project shall be treated for
20 purposes of this subparagraph as located
21 in a difficult development area which is
22 designated for purposes of this subpara-
23 graph.

24 “(5) CREDIT ALLOWABLE FOR CERTAIN BUILD-
25 INGS ACQUIRED DURING 10-YEAR PERIOD.—On ap-

1 plication by the taxpayer, the Secretary may waive
2 paragraph (2)(B)(ii) with respect to any building ac-
3 quired from an insured depository institution in de-
4 fault (as defined in section 3 of the Federal Deposit
5 Insurance Act) or from a receiver or conservator of
6 such an institution.

7 “(6) ACQUISITION OF BUILDING BEFORE END
8 OF PRIOR CREDIT PERIOD.—

9 “(A) IN GENERAL.—Under regulations
10 prescribed by the Secretary, in the case of a
11 building described in subparagraph (B) (or in-
12 terest therein) which is acquired by the tax-
13 payer—

14 “(i) paragraph (2)(B) shall not apply,
15 but

16 “(ii) the credit allowable by reason of
17 subsection (a) to the taxpayer for any pe-
18 riod after such acquisition shall be equal to
19 the amount of credit which would have
20 been allowable under subsection (a) for
21 such period to the prior owner referred to
22 in subparagraph (B) had such owner not
23 disposed of the building.

24 “(B) DESCRIPTION OF BUILDING.—A
25 building is described in this subparagraph if—

1 “(i) a credit was allowed by reason of
2 subsection (a) to any prior owner of such
3 building, and

4 “(ii) the taxpayer acquired such build-
5 ing before the end of the credit period for
6 such building with respect to such prior
7 owner (determined without regard to any
8 disposition by such prior owner).

9 “(e) REHABILITATION EXPENDITURES TREATED AS
10 SEPARATE NEW BUILDING.—

11 “(1) IN GENERAL.—Rehabilitation expenditures
12 paid or incurred by the taxpayer with respect to any
13 building shall be treated for purposes of this section
14 as a separate new building.

15 “(2) REHABILITATION EXPENDITURES.—For
16 purposes of paragraph (1)—

17 “(A) IN GENERAL.—The term ‘rehabilita-
18 tion expenditures’ means amounts chargeable to
19 capital account and incurred for property (or
20 additions or improvements to property) of a
21 character subject to the allowance for deprecia-
22 tion in connection with the rehabilitation of a
23 building.

24 “(B) COST OF ACQUISITION, ETC., NOT IN-
25 CLUDED.—Such term does not include the cost

1 of acquiring any building (or interest therein)
2 or any amount not permitted to be taken into
3 account under paragraph (3) of subsection (d).

4 “(C) CERTAIN RELOCATION COSTS.—In
5 the case of a rehabilitation of a building to
6 which section 280B does not apply, costs relat-
7 ing to the relocation of occupants, including—

8 “(i) amounts paid to occupants,

9 “(ii) amounts paid to third parties for
10 services relating to such relocation, and

11 “(iii) amounts paid for temporary
12 housing for occupants,

13 shall be treated as chargeable to capital account
14 and taken into account as rehabilitation ex-
15 penditures.

16 “(3) MINIMUM EXPENDITURES TO QUALIFY.—

17 “(A) IN GENERAL.—Paragraph (1) shall
18 apply to rehabilitation expenditures with respect
19 to any building only if—

20 “(i) the expenditures are allocable to
21 1 or more middle-income units or substan-
22 tially benefit such units, and

23 “(ii) the amount of such expenditures
24 during any 24-month period meets the re-
25 quirements of whichever of the following

1 subclauses requires the greater amount of
2 such expenditures:

3 “(I) The requirement of this sub-
4 clause is met if such amount is not
5 less than 20 percent of the adjusted
6 basis of the building (determined as of
7 the 1st day of such period and with-
8 out regard to paragraphs (2) and (3)
9 of section 1016(a)).

10 “(II) The requirement of this
11 subclause is met if the qualified basis
12 attributable to such amount, when di-
13 vided by the number of middle-income
14 units in the building, is equal to or
15 greater than the dollar amount in ef-
16 fect under section 42(e)(3)(A)(ii)(II)
17 for the calendar year in which such
18 expenditures are treated as placed in
19 service under paragraph (4).

20 “(B) DATE OF DETERMINATION.—The de-
21 termination under subparagraph (A) shall be
22 made as of the close of the 1st taxable year in
23 the credit period with respect to such expendi-
24 tures.

1 “(4) SPECIAL RULES.—For purposes of apply-
2 ing this section with respect to expenditures which
3 are treated as a separate building by reason of this
4 subsection—

5 “(A) such expenditures shall be treated as
6 placed in service at the close of the 24-month
7 period referred to in paragraph (3)(A), and

8 “(B) the applicable fraction under sub-
9 section (c)(1) shall be the applicable fraction for
10 the building (without regard to paragraph (1))
11 with respect to which the expenditures were in-
12 curred.

13 Nothing in subsection (d)(2) shall prevent a credit
14 from being allowed by reason of this subsection.

15 “(5) NO DOUBLE COUNTING.—Rehabilitation
16 expenditures may, at the election of the taxpayer, be
17 taken into account under this subsection or sub-
18 section (d)(2)(A)(i) but not under both such sub-
19 sections.

20 “(6) REGULATIONS TO APPLY SUBSECTION
21 WITH RESPECT TO GROUP OF UNITS IN BUILDING.—
22 The Secretary may prescribe regulations, consistent
23 with the purposes of this subsection, treating a
24 group of units with respect to which rehabilitation

1 expenditures are incurred as a separate new build-
2 ing.

3 “(f) DEFINITION AND SPECIAL RULES RELATING TO
4 CREDIT PERIOD.—

5 “(1) CREDIT PERIOD DEFINED.—For purposes
6 of this section, the term ‘credit period’ means, with
7 respect to any building, the period of 15 taxable
8 years beginning with—

9 “(A) the taxable year in which the building
10 is placed in service, or

11 “(B) at the election of the taxpayer, the
12 succeeding taxable year,

13 but only if the building is a qualified middle-income
14 building as of the close of the 1st year of such pe-
15 riod. The election under subparagraph (B), once
16 made, shall be irrevocable.

17 “(2) SPECIAL RULE FOR 1ST YEAR OF CREDIT
18 PERIOD.—

19 “(A) IN GENERAL.—The credit allowable
20 under subsection (a) with respect to any build-
21 ing for the 1st taxable year of the credit period
22 shall be determined by substituting for the ap-
23 plicable fraction under subsection (c)(1) the
24 fraction—

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

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

7 “(B) DISALLOWED 1ST-YEAR CREDIT AL-
8 LOWED IN 16TH YEAR.—Any reduction by rea-
9 son of subparagraph (A) in the credit allowable
10 (without regard to subparagraph (A)) for the
11 1st taxable year of the credit period shall be al-
12 lowable under subsection (a) for the 1st taxable
13 year following the credit period.

14 “(3) DETERMINATION OF APPLICABLE PER-
15 CENTAGE WITH RESPECT TO INCREASES IN QUALI-
16 FIED BASIS AFTER 1ST YEAR OF CREDIT PERIOD.—

17 “(A) IN GENERAL.—In the case of any
18 building which was a qualified middle-income
19 building as of the close of the 1st year of the
20 credit period, if—

21 “(i) as of the close of any taxable year
22 in the credit period (after the 1st year of
23 such period) the qualified basis of such
24 building, exceeds

1 “(ii) the qualified basis of such build-
2 ing as of the close of the 1st year of the
3 credit period,

4 the applicable percentage which shall apply
5 under subsection (a) for the taxable year to
6 such excess shall be the percentage equal to $\frac{2}{3}$
7 of the applicable percentage which (after the
8 application of subsection (h)) would but for this
9 paragraph apply to such basis.

10 “(B) 1ST YEAR COMPUTATION APPLIES.—
11 A rule similar to the rule of paragraph (2)(A)
12 shall apply to any increase in qualified basis to
13 which subparagraph (A) applies for the 1st year
14 of such increase.

15 “(4) DISPOSITIONS OF PROPERTY.—If a build-
16 ing (or an interest therein) is disposed of during any
17 year for which credit is allowable under subsection
18 (a), such credit shall be allocated between the par-
19 ties on the basis of the number of days during such
20 year the building (or interest) was held by each.

21 “(5) CREDIT PERIOD FOR EXISTING BUILDINGS
22 NOT TO BEGIN BEFORE REHABILITATION CREDIT
23 ALLOWED.—

24 “(A) IN GENERAL.—The credit period for
25 an existing building shall not begin before the

1 1st taxable year of the credit period for reha-
2 bilitation expenditures with respect to the build-
3 ing.

4 “(B) ACQUISITION CREDIT ALLOWED FOR
5 CERTAIN BUILDINGS NOT ALLOWED A REHA-
6 BILITATION CREDIT.—

7 “(i) IN GENERAL.—In the case of a
8 building described in clause (ii)—

9 “(I) subsection (d)(2)(B)(iv)
10 shall not apply, and

11 “(II) the credit period for such
12 building shall not begin before the
13 taxable year which would be the 1st
14 taxable year of the credit period for
15 rehabilitation expenditures with re-
16 spect to the building under the modi-
17 fications described in clause (ii)(II).

18 “(ii) BUILDING DESCRIBED.—A build-
19 ing is described in this clause if—

20 “(I) a waiver is granted under
21 subsection (d)(4) with respect to the
22 acquisition of the building, and

23 “(II) a credit would be allowed
24 for rehabilitation expenditures with
25 respect to such building if subsection

1 (e)(3)(A)(ii)(I) did not apply and if
2 the dollar amount in effect under sub-
3 section (e)(3)(A)(ii)(II) were two-
4 thirds of such amount.

5 “(g) QUALIFIED MIDDLE-INCOME HOUSING
6 PROJECT.—For purposes of this section—

7 “(1) IN GENERAL.—The term ‘qualified middle-
8 income housing project’ means any project for resi-
9 dential rental property if—

10 “(A) 60 percent or more of the residential
11 units in such project are both rent-restricted
12 and occupied by individuals whose income is
13 100 percent or less of area median gross in-
14 come, and

15 “(B) not less than 20 percent of the resi-
16 dential units in such project are units which—

17 “(i) are described in subparagraph
18 (A), and

19 “(ii) are not residential units which
20 are taken into account under section 42.

21 “(2) RENT-RESTRICTED UNITS.—

22 “(A) IN GENERAL.—For purposes of para-
23 graph (1), a residential unit is rent-restricted if
24 the gross rent with respect to such unit does
25 not exceed 30 percent of the imputed income

1 limitation applicable to such unit. For purposes
2 of the preceding sentence, the amount of the in-
3 come limitation under paragraph (1) applicable
4 for any period shall not be less than such limi-
5 tation applicable for the earliest period the
6 building (which contains the unit) was included
7 in the determination of whether the project is
8 a qualified middle-income housing project.

9 “(B) GROSS RENT.—For purposes of sub-
10 paragraph (A), gross rent—

11 “(i) includes any utility allowance de-
12 termined by the Secretary after taking into
13 account such determinations under section
14 8 of the United States Housing Act of
15 1937,

16 “(ii) does not include any fee for a
17 supportive service which is paid to the
18 owner of the unit (on the basis of the mid-
19 dle-income status of the tenant of the unit)
20 by any governmental program of assistance
21 (or by an organization described in section
22 501(c)(3) and exempt from tax under sec-
23 tion 501(a)) if such program (or organiza-
24 tion) provides assistance for rent and the
25 amount of assistance provided for rent is

1 not separable from the amount of assist-
2 ance provided for supportive services, and
3 “(iii) does not include any rental pay-
4 ment to the owner of the unit to the extent
5 such owner pays an equivalent amount to
6 the Farmers’ Home Administration under
7 section 515 of the Housing Act of 1949.

8 For purposes of clause (ii), the term ‘supportive
9 service’ means any service provided under a
10 planned program of services designed to enable
11 residents of a residential rental property to re-
12 main independent and avoid placement in a
13 hospital, nursing home, or intermediate care fa-
14 cility for the mentally or physically handi-
15 capped.

16 “(C) IMPUTED INCOME LIMITATION APPLI-
17 CABLE TO UNIT.—For purposes of this para-
18 graph, the imputed income limitation applicable
19 to a unit is the income limitation which would
20 apply under paragraph (1) to individuals occu-
21 pying the unit if the number of individuals oc-
22 cupying the unit were as follows:

23 “(i) In the case of a unit which does
24 not have a separate bedroom, 1 individual.

1 “(ii) In the case of a unit which has
2 1 or more separate bedrooms, 1.5 individ-
3 uals for each separate bedroom.

4 In the case of a project with respect to which
5 a credit is allowable by reason of this section
6 and for which financing is provided by a bond
7 described in section 142(a)(7), the imputed in-
8 come limitation shall apply in lieu of the other-
9 wise applicable income limitation for purposes
10 of applying section 142(d)(4)(B)(ii).

11 “(D) TREATMENT OF UNITS OCCUPIED BY
12 INDIVIDUALS WHOSE INCOMES RISE ABOVE
13 LIMIT.—

14 “(i) IN GENERAL.—Except as pro-
15 vided in clause (ii), notwithstanding an in-
16 crease in the income of the occupants of a
17 middle-income unit above the income limi-
18 tation applicable under paragraph (1),
19 such unit shall continue to be treated as a
20 middle-income unit if the income of such
21 occupants initially met such income limita-
22 tion and such unit continues to be rent-re-
23 stricted.

24 “(ii) NEXT AVAILABLE UNIT MUST BE
25 RENTED TO MIDDLE-INCOME TENANT IF

1 INCOME RISES ABOVE 140 PERCENT OF IN-
2 COME LIMIT.—If the income of the occu-
3 pants of the unit increases above 140 per-
4 cent of the income limitation applicable
5 under paragraph (1), clause (i) shall cease
6 to apply to such unit if any residential
7 rental unit in the building (of a size com-
8 parable to, or smaller than, such unit) is
9 occupied by a new resident whose income
10 exceeds such income limitation.

11 “(3) DATE FOR MEETING REQUIREMENTS.—

12 “(A) IN GENERAL.—Except as otherwise
13 provided in this paragraph, a building shall be
14 treated as a qualified middle-income building
15 only if the project (of which such building is a
16 part) meets the requirements of paragraph (1)
17 not later than the close of the 1st year of the
18 credit period for such building.

19 “(B) BUILDINGS WHICH RELY ON LATER
20 BUILDINGS FOR QUALIFICATION.—

21 “(i) IN GENERAL.—In determining
22 whether a building (hereinafter in this sub-
23 paragraph referred to as the ‘prior build-
24 ing’) is a qualified middle-income building,
25 the taxpayer may take into account 1 or

1 more additional buildings placed in service
2 during the 12-month period described in
3 subparagraph (A) with respect to the prior
4 building only if the taxpayer elects to apply
5 clause (ii) with respect to each additional
6 building taken into account.

7 “(ii) TREATMENT OF ELECTED
8 BUILDINGS.—In the case of a building
9 which the taxpayer elects to take into ac-
10 count under clause (i), the period under
11 subparagraph (A) for such building shall
12 end at the close of the 12-month period ap-
13 plicable to the prior building.

14 “(iii) DATE PRIOR BUILDING IS
15 TREATED AS PLACED IN SERVICE.—For
16 purposes of determining the credit period
17 for the prior building, the prior building
18 shall be treated for purposes of this section
19 as placed in service on the most recent
20 date any additional building elected by the
21 taxpayer (with respect to such prior build-
22 ing) was placed in service.

23 “(C) SPECIAL RULE.—A building—

24 “(i) other than the 1st building placed
25 in service as part of a project, and

1 “(ii) other than a building which is
2 placed in service during the 12-month pe-
3 riod described in subparagraph (A) with
4 respect to a prior building which becomes
5 a qualified middle-income building,
6 shall in no event be treated as a qualified mid-
7 dle-income building unless the project is a
8 qualified middle-income housing project (with-
9 out regard to such building) on the date such
10 building is placed in service.

11 “(D) PROJECTS WITH MORE THAN 1
12 BUILDING MUST BE IDENTIFIED.—For pur-
13 poses of this section, a project shall be treated
14 as consisting of only 1 building unless, before
15 the close of the 1st calendar year in the project
16 period (as defined in subsection (h)(1)(F)(ii)),
17 each building which is (or will be) part of such
18 project is identified in such form and manner
19 as the Secretary may provide.

20 “(4) CERTAIN RULES MADE APPLICABLE.—
21 Paragraphs (2) (other than subparagraph (A) there-
22 of), (3), and (7) of section 142(d), and section
23 6652(j), shall apply for purposes of determining
24 whether any project is a qualified middle-income
25 housing project and whether any unit is a middle-in-

1 come unit; except that, in applying such provisions
2 for such purposes—

3 “(A) the term ‘gross rent’ shall have the
4 meaning given such term by paragraph (2)(B)
5 of this subsection, and

6 “(B) the term ‘applicable income limit’
7 means the limitation under paragraph (1) of
8 this subsection.

9 “(5) ELECTION TO TREAT BUILDING AFTER
10 CREDIT PERIOD AS NOT PART OF A PROJECT.—For
11 purposes of this section, the taxpayer may elect to
12 treat any building as not part of a qualified middle-
13 income housing project for any period beginning
14 after the credit period for such building.

15 “(6) SPECIAL RULE WHERE DE MINIMIS EQ-
16 UITY CONTRIBUTION.—Property shall not be treated
17 as failing to be residential rental property for pur-
18 poses of this section merely because the occupant of
19 a residential unit in the project pays (on a voluntary
20 basis) to the lessor a de minimis amount to be held
21 toward the purchase by such occupant of a residen-
22 tial unit in such project if—

23 “(A) all amounts so paid are refunded to
24 the occupant on the cessation of his occupancy
25 of a unit in the project, and

1 “(B) the purchase of the unit is not per-
2 mitted until after the close of the credit period
3 with respect to the building in which the unit
4 is located.

5 Any amount paid to the lessor as described in the
6 preceding sentence shall be included in gross rent
7 under paragraph (2) for purposes of determining
8 whether the unit is rent-restricted.

9 “(7) SCATTERED SITE PROJECTS.—Buildings
10 which would (but for their lack of proximity) be
11 treated as a project for purposes of this section shall
12 be so treated if all of the dwelling units in each of
13 the buildings are rent-restricted (within the meaning
14 of paragraph (2)) residential rental units.

15 “(8) WAIVER OF CERTAIN RECERTIFI-
16 CATIONS.—On application by the taxpayer, the Sec-
17 retary may waive any annual recertification of ten-
18 ant income for purposes of this subsection, if the en-
19 tire building is occupied by middle-income tenants.

20 “(9) CLARIFICATION OF GENERAL PUBLIC USE
21 REQUIREMENT.—A project does not fail to meet the
22 general public use requirement solely because of oc-
23 cupancy restrictions or preferences that favor ten-
24 ants—

25 “(A) with special needs, or

1 “(B) who are members of a specified group
2 under a Federal program or State program or
3 policy that supports housing for such a speci-
4 fied group.

5 “(h) LIMITATION ON AGGREGATE CREDIT ALLOW-
6 ABLE WITH RESPECT TO PROJECTS LOCATED IN A
7 STATE.—

8 “(1) CREDIT MAY NOT EXCEED CREDIT
9 AMOUNT ALLOCATED TO BUILDING.—

10 “(A) IN GENERAL.—The amount of the
11 credit determined under this section for any
12 taxable year with respect to any building shall
13 not exceed the housing credit dollar amount al-
14 located to such building under this subsection.

15 “(B) TIME FOR MAKING ALLOCATION.—
16 Except in the case of an allocation which meets
17 the requirements of subparagraph (C), (D),
18 (E), or (F), an allocation shall be taken into ac-
19 count under subparagraph (A) only if it is
20 made not later than the close of the calendar
21 year in which the building is placed in service.

22 “(C) EXCEPTION WHERE BINDING COM-
23 MITMENT.—An allocation meets the require-
24 ments of this subparagraph if there is a binding
25 commitment (not later than the close of the cal-

1 able year to which such allocation will
2 apply, over

3 “(II) the qualified basis of such
4 building as of the close of the 1st tax-
5 able year to which the most recent
6 prior housing credit allocation with re-
7 spect to such building applied.

8 “(iii) HOUSING CREDIT DOLLAR
9 AMOUNT REDUCED BY FULL ALLOCA-
10 TION.—Notwithstanding clause (i), the full
11 amount of the allocation shall be taken
12 into account under paragraph (2).

13 “(E) EXCEPTION WHERE 10 PERCENT OF
14 COST INCURRED.—

15 “(i) IN GENERAL.—An allocation
16 meets the requirements of this subpara-
17 graph if such allocation is made with re-
18 spect to a qualified building which is
19 placed in service not later than the close of
20 the second calendar year following the cal-
21 endar year in which the allocation is made.

22 “(ii) QUALIFIED BUILDING.—For pur-
23 poses of clause (i), the term ‘qualified
24 building’ means any building which is part
25 of a project if the taxpayer’s basis in such

1 project (as of the date which is 1 year
2 after the date that the allocation was
3 made) is more than 10 percent of the tax-
4 payer's reasonably expected basis in such
5 project (as of the close of the second cal-
6 endar year referred to in clause (i)). Such
7 term does not include any existing building
8 unless a credit is allowable under sub-
9 section (e) for rehabilitation expenditures
10 paid or incurred by the taxpayer with re-
11 spect to such building for a taxable year
12 ending during the second calendar year re-
13 ferred to in clause (i) or the prior taxable
14 year.

15 “(F) ALLOCATION OF CREDIT ON A
16 PROJECT BASIS.—

17 “(i) IN GENERAL.—In the case of a
18 project which includes (or will include)
19 more than 1 building, an allocation meets
20 the requirements of this subparagraph if—

21 “(I) the allocation is made to the
22 project for a calendar year during the
23 project period,

24 “(II) the allocation only applies
25 to buildings placed in service during

1 or after the calendar year for which
2 the allocation is made, and

3 “(III) the portion of such alloca-
4 tion which is allocated to any building
5 in such project is specified not later
6 than the close of the calendar year in
7 which the building is placed in service.

8 “(ii) PROJECT PERIOD.—For pur-
9 poses of clause (i), the term ‘project pe-
10 riod’ means the period—

11 “(I) beginning with the 1st cal-
12 endar year for which an allocation
13 may be made for the 1st building
14 placed in service as part of such
15 project, and

16 “(II) ending with the calendar
17 year the last building is placed in
18 service as part of such project.

19 “(2) ALLOCATED CREDIT AMOUNT TO APPLY
20 TO ALL TAXABLE YEARS ENDING DURING OR AFTER
21 CREDIT ALLOCATION YEAR.—Any housing credit dol-
22 lar amount allocated to any building for any cal-
23 endar year—

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

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

7 “(3) HOUSING CREDIT DOLLAR AMOUNT FOR
8 AGENCIES.—

9 “(A) IN GENERAL.—The aggregate hous-
10 ing credit dollar amount which a housing credit
11 agency may allocate for any calendar year is
12 the portion of the State housing credit ceiling
13 allocated under this paragraph for such cal-
14 endar year to such agency.

15 “(B) STATE CEILING INITIALLY ALLO-
16 CATED TO STATE HOUSING CREDIT AGEN-
17 CIES.—Except as provided in subparagraph
18 (D), the State housing credit ceiling for each
19 calendar year shall be allocated to the housing
20 credit agency of such State. If there is more
21 than 1 housing credit agency of a State, all
22 such agencies shall be treated as a single agen-
23 cy.

24 “(C) STATE HOUSING CREDIT CEILING.—
25 The State housing credit ceiling applicable to

1 any State for any calendar year shall be an
2 amount equal to the sum of—

3 “(i) the unused State housing credit
4 ceiling (if any) of such State for the pre-
5 ceding calendar year,

6 “(ii) the greater of—

7 “(I) \$1.00 multiplied by the
8 State population, or

9 “(II) \$1,500,000, plus

10 “(iii) the amount of State housing
11 credit ceiling returned in the calendar year.

12 For purposes of clause (i), the unused State
13 housing credit ceiling for any calendar year is
14 the excess (if any) of the sum of the amounts
15 described in clauses (ii) (reduced by the aggre-
16 gate amounts described in paragraph (10)(A)(i)
17 with respect to all elections made for such cal-
18 endar year) and (iii) over the aggregate housing
19 credit dollar amount allocated for such year.

20 For purposes of clause (iii), the amount of
21 State housing credit ceiling returned in the cal-
22 endar year equals the housing credit dollar
23 amount previously allocated within the State to
24 any project which fails to meet the 10 percent
25 test under paragraph (1)(E)(ii) on a date after

1 the close of the calendar year in which the allo-
2 cation was made or which does not become a
3 qualified middle-income housing project within
4 the period required by this section or the terms
5 of the allocation or to any project with respect
6 to which an allocation is cancelled by mutual
7 consent of the housing credit agency and the al-
8 location recipient.

9 “(D) STATE MAY PROVIDE FOR DIF-
10 FERENT ALLOCATION.—Rules similar to the
11 rules of section 146(e) (other than paragraph
12 (2)(B) thereof) shall apply for purposes of this
13 paragraph.

14 “(E) POPULATION.—For purposes of this
15 paragraph, population shall be determined in
16 accordance with section 146(j).

17 “(F) COST-OF-LIVING ADJUSTMENT.—

18 “(i) IN GENERAL.—In the case of a
19 calendar year after 2024, the \$1,500,000
20 and \$1.00 amounts in subparagraph (C)
21 shall each be increased by an amount equal
22 to—

23 “(I) such dollar amount, multi-
24 plied by

1 “(II) the cost-of-living adjust-
2 ment determined under section 1(f)(3)
3 for such calendar year by substituting
4 ‘calendar year 2023’ for ‘calendar
5 year 2016’ in subparagraph (A)(ii)
6 thereof.

7 “(ii) ROUNDING.—

8 “(I) In the case of the
9 \$1,140,000 amount, any increase
10 under clause (i) which is not a mul-
11 tiple of \$5,000 shall be rounded to the
12 next lowest multiple of \$5,000.

13 “(II) In the case of the \$1.00
14 amount, any increase under clause (i)
15 which is not a multiple of 5 cents
16 shall be rounded to the next lowest
17 multiple of 5 cents.

18 “(4) PORTION OF STATE CEILING SET-ASIDE
19 FOR CERTAIN PROJECTS INVOLVING QUALIFIED
20 NONPROFIT ORGANIZATIONS.—

21 “(A) IN GENERAL.—Not more than 90
22 percent of the State housing credit ceiling (de-
23 termined without regard to paragraph (7)) for
24 any State for any calendar year shall be allo-
25 cated to projects other than qualified middle-in-

1 come housing projects described in subpara-
2 graph (B).

3 “(B) PROJECTS INVOLVING QUALIFIED
4 NONPROFIT ORGANIZATIONS.—For purposes of
5 subparagraph (A), a qualified middle-income
6 housing project is described in this subpara-
7 graph if a qualified nonprofit organization is to
8 own an interest in the project (directly or
9 through a partnership) and materially partici-
10 pate (within the meaning of section 469(h)) in
11 the development and operation of the project
12 throughout the credit period.

13 “(C) QUALIFIED NONPROFIT ORGANIZA-
14 TION.—For purposes of this paragraph, the
15 term ‘qualified nonprofit organization’ means
16 any organization if—

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

20 “(ii) such organization is determined
21 by the State housing credit agency not to
22 be affiliated with or controlled by a for-
23 profit organization; and

1 “(iii) one of the exempt purposes of
2 such organization includes the fostering of
3 middle-income housing.

4 “(D) TREATMENT OF CERTAIN SUBSIDI-
5 ARIES.—

6 “(i) IN GENERAL.—For purposes of
7 this paragraph, a qualified nonprofit orga-
8 nization shall be treated as satisfying the
9 ownership and material participation test
10 of subparagraph (B) if any qualified cor-
11 poration in which such organization holds
12 stock satisfies such test.

13 “(ii) QUALIFIED CORPORATION.—For
14 purposes of clause (i), the term ‘qualified
15 corporation’ means any corporation if 100
16 percent of the stock of such corporation is
17 held by 1 or more qualified nonprofit orga-
18 nizations at all times during the period
19 such corporation is in existence.

20 “(E) STATE MAY NOT OVERRIDE SET-
21 ASIDE.—Nothing in subparagraph (E) of para-
22 graph (3) shall be construed to permit a State
23 not to comply with subparagraph (A) of this
24 paragraph.

1 “(5) BUILDINGS ELIGIBLE FOR CREDIT ONLY
2 IF MINIMUM LONG-TERM COMMITMENT TO MIDDLE-
3 INCOME HOUSING.—

4 “(A) IN GENERAL.—No credit shall be al-
5 lowed by reason of this section with respect to
6 any building for the taxable year unless an ex-
7 tended middle-income housing commitment is in
8 effect as of the end of such taxable year.

9 “(B) EXTENDED MIDDLE-INCOME HOUS-
10 ING COMMITMENT.—For purposes of this para-
11 graph, the term ‘extended middle-income hous-
12 ing commitment’ means any agreement between
13 the taxpayer and the housing credit agency—

14 “(i) which requires that the applicable
15 fraction (as defined in subsection (c)(1))
16 for the building for each taxable year in
17 the extended use period will not be less
18 than the applicable fraction specified in
19 such agreement and which prohibits the
20 actions described in subclauses (I) and (II)
21 of subparagraph (E)(ii),

22 “(ii) which allows individuals who
23 meet the income limitation applicable to
24 the building under subsection (g) (whether
25 prospective, present, or former occupants

1 of the building) the right to enforce in any
2 State court the requirement and prohibi-
3 tions of clause (i),

4 “(iii) which prohibits the disposition
5 to any person of any portion of the build-
6 ing to which such agreement applies unless
7 all of the building to which such agreement
8 applies is disposed of to such person,

9 “(iv) which prohibits the refusal to
10 lease to a holder of a voucher or certificate
11 of eligibility under section 8 of the United
12 States Housing Act of 1937 because of the
13 status of the prospective tenant as such a
14 holder,

15 “(v) which is binding on all successors
16 of the taxpayer, and

17 “(vi) which, with respect to the prop-
18 erty, is recorded pursuant to State law as
19 a restrictive covenant.

20 “(C) ALLOCATION OF CREDIT MAY NOT
21 EXCEED AMOUNT NECESSARY TO SUPPORT
22 COMMITMENT.—The housing credit dollar
23 amount allocated to any building may not ex-
24 ceed the amount necessary to support the appli-
25 cable fraction specified in the extended middle-

1 income housing commitment for such building,
2 including any increase in such fraction pursu-
3 ant to the application of subsection (f)(3) if
4 such increase is reflected in an amended mid-
5 dle-income housing commitment.

6 “(D) EXTENDED USE PERIOD.—For pur-
7 poses of this paragraph, the term ‘extended use
8 period’ means the period—

9 “(i) beginning on the 1st day in the
10 credit period on which such building is
11 part of a qualified middle-income housing
12 project, and

13 “(ii) ending on the later of—

14 “(I) the date specified by such
15 agency in such agreement, or

16 “(II) the date which is 15 years
17 after the close of the credit period.

18 “(E) EXCEPTIONS IF FORECLOSURE OR IF
19 NO BUYER WILLING TO MAINTAIN MIDDLE-IN-
20 COME STATUS.—

21 “(i) IN GENERAL.—The extended use
22 period for any building shall terminate on
23 the 61st day after the taxpayer (or a suc-
24 cessor in interest) provides notice to the
25 Secretary and the housing credit agency

1 that the building has been acquired by
2 foreclosure (or instrument in lieu of fore-
3 closure) and that the taxpayer intends the
4 termination of such period, unless, before
5 such date, the Secretary or the housing
6 credit agency determines that such acquisi-
7 tion is part of an arrangement with the
8 taxpayer a purpose of which is to termi-
9 nate such period.

10 “(ii) EVICTION, ETC., OF EXISTING
11 MIDDLE-INCOME TENANTS NOT PER-
12 MITTED.—The termination of an extended
13 use period under clause (i) shall not be
14 construed to permit before the close of the
15 3-year period following such termination—

16 “(I) the eviction or the termi-
17 nation of tenancy (other than for good
18 cause) of an existing tenant of any
19 middle-income unit, or

20 “(II) any increase in the gross
21 rent with respect to such unit not oth-
22 erwise permitted under this section.

23 “(F) EFFECT OF NONCOMPLIANCE.—If,
24 during a taxable year, there is a determination
25 that an extended middle-income housing agree-

1 ment was not in effect as of the beginning of
2 such year, such determination shall not apply to
3 any period before such year and subparagraph
4 (A) shall be applied without regard to such de-
5 termination if the failure is corrected within 1
6 year from the date of the determination.

7 “(G) PROJECTS WHICH CONSIST OF MORE
8 THAN 1 BUILDING.—The application of this
9 paragraph to projects which consist of more
10 than 1 building shall be made under regulations
11 prescribed by the Secretary.

12 “(6) SPECIAL RULES.—

13 “(A) BUILDING MUST BE LOCATED WITH-
14 IN JURISDICTION OF CREDIT AGENCY.—A hous-
15 ing credit agency may allocate its aggregate
16 housing credit dollar amount only to buildings
17 located in the jurisdiction of the governmental
18 unit of which such agency is a part.

19 “(B) AGENCY ALLOCATIONS IN EXCESS OF
20 LIMIT.—If the aggregate housing credit dollar
21 amounts allocated by a housing credit agency
22 for any calendar year exceed the portion of the
23 State housing credit ceiling allocated to such
24 agency for such calendar year, the housing
25 credit dollar amounts so allocated shall be re-

1 duced (to the extent of such excess) for build-
2 ings in the reverse of the order in which the al-
3 locations of such amounts were made.

4 “(C) CREDIT REDUCED IF ALLOCATED
5 CREDIT DOLLAR AMOUNT IS LESS THAN CREDIT
6 WHICH WOULD BE ALLOWABLE WITHOUT RE-
7 GARD TO PLACED IN SERVICE CONVENTION,
8 ETC.—

9 “(i) IN GENERAL.—The amount of
10 the credit determined under this section
11 with respect to any building shall not ex-
12 ceed the clause (ii) percentage of the
13 amount of the credit which would (but for
14 this subparagraph) be determined under
15 this section with respect to such building.

16 “(ii) DETERMINATION OF PERCENT-
17 AGE.—For purposes of clause (i), the
18 clause (ii) percentage with respect to any
19 building is the percentage which—

20 “(I) the housing credit dollar
21 amount allocated to such building,
22 bears to

23 “(II) the credit amount deter-
24 mined in accordance with clause (iii).

1 “(iii) DETERMINATION OF CREDIT
2 AMOUNT.—The credit amount determined
3 in accordance with this clause is the
4 amount of the credit which would (but for
5 this subparagraph) be determined under
6 this section with respect to the building
7 if—

8 “(I) this section were applied
9 without regard to paragraphs (2)(A)
10 and (3)(B) of subsection (f), and

11 “(II) subsection (f)(3)(A) were
12 applied without regard to ‘the per-
13 centage equal to $\frac{2}{3}$ of’.

14 “(D) HOUSING CREDIT AGENCY TO SPECI-
15 FY APPLICABLE PERCENTAGE AND MAXIMUM
16 QUALIFIED BASIS.—In allocating a housing
17 credit dollar amount to any building, the hous-
18 ing credit agency shall specify the applicable
19 percentage and the maximum qualified basis
20 which may be taken into account under this
21 section with respect to such building. The appli-
22 cable percentage and maximum qualified basis
23 so specified shall not exceed the applicable per-
24 centage and qualified basis determined under
25 this section without regard to this subsection.

1 “(7) INCREASE IN STATE CEILING DEDICATED
2 TO CERTAIN RURAL DEVELOPMENT PROJECTS.—

3 “(A) IN GENERAL.—The State housing
4 credit ceiling for any calendar year shall be in-
5 creased by an amount equal to 5 percent of the
6 amount determined under paragraph (3)(C)(ii).

7 “(B) USE OF INCREASED AMOUNT.—

8 “(i) IN GENERAL.—The amount of
9 the increase under subparagraph (A) for
10 any calendar year may only be allocated to
11 buildings located in a rural area.

12 “(ii) RURAL AREA.—For purposes of
13 clause (i), the term ‘rural area’ means any
14 non-metropolitan area, or any rural area
15 as defined by section 520 of the Housing
16 Act of 1949, which is identified by the
17 qualified allocation plan under subsection
18 (1)(1)(B).

19 “(8) OTHER DEFINITIONS.—For purposes of
20 this subsection—

21 “(A) HOUSING CREDIT AGENCY.—The
22 term ‘housing credit agency’ means any agency
23 authorized to carry out this subsection.

1 “(B) POSSESSIONS TREATED AS STATES.—

2 The term ‘State’ includes a possession of the
3 United States.

4 “(9) CREDIT FOR BUILDINGS FINANCED BY
5 TAX-EXEMPT BONDS SUBJECT TO VOLUME CAP NOT
6 TAKEN INTO ACCOUNT.—Rules similar to the rules
7 of subsections (h)(4), (m)(1)(D), and (m)(2)(D) of
8 section 42 shall apply for purposes of this sub-
9 section.

10 “(10) ELECTION TO TRANSFER STATE HOUSING
11 CREDIT CEILING FOR ALLOCATIONS TO LOW-INCOME
12 BUILDINGS.—

13 “(A) IN GENERAL.—If a State housing
14 credit agency makes an election under this
15 paragraph with respect to a calendar year—

16 “(i) the State housing credit ceiling
17 for such calendar year under paragraph
18 (3) (determined before application of para-
19 graph (7)) shall be reduced by the amount
20 specified in such election,

21 “(ii) the amount determined under
22 paragraph (7) for such calendar year shall
23 be reduced by the amount specified in such
24 election, and

1 “(iii) the amount determined under
2 section 42(h)(3)(C)(ii) for such calendar
3 year shall be increased by the sum of the
4 amounts specified in clauses (i) and (ii),
5 except that any amount specified under
6 clause (ii)—

7 “(I) may only be allocated under
8 such section to qualified low-income
9 buildings (as defined in section 42) lo-
10 cated in a rural area (as defined in
11 paragraph (7), and

12 “(II) shall not be taken into ac-
13 count for purposes of determining the
14 unused housing credit ceiling under
15 the second sentence of section
16 42(h)(3)(C).

17 “(B) TIME AND MANNER FOR MAKING
18 ELECTION.—

19 “(i) IN GENERAL.—An election under
20 this paragraph—

21 “(I) shall be made before the end
22 of the calendar year with respect to
23 which such election applies,

24 “(II) shall be made in such man-
25 ner as specified by the Secretary, and

1 “(III) shall separately specify the
2 amount of reductions to be made
3 under paragraph (3) and paragraph
4 (7).

5 “(ii) FREQUENCY.—A State housing
6 credit agency may make more than one
7 election under this section with respect to
8 any calendar year, and any such election,
9 once made, shall be revocable only if such
10 revocation is made before the end of the
11 calendar year with respect to which such
12 election is made.

13 “(C) LIMITATION.—The aggregate amount
14 specified in elections under this paragraph with
15 respect to any State housing credit agency for
16 calendar year shall not exceed the sum of—

17 “(i) the amount determined under
18 paragraph (3)(C)(ii) for such calendar
19 year, plus

20 “(ii) the amount determined under
21 paragraph (7) for such calendar year.

22 “(i) DEFINITIONS AND SPECIAL RULES.—For pur-
23 poses of this section—

24 “(1) MIDDLE-INCOME UNIT.—

1 “(A) IN GENERAL.—The term ‘middle-in-
2 come unit’ means any unit in a building if—

3 “(i) such unit is rent-restricted (as de-
4 fined in subsection (g)(2)), and

5 “(ii) the individuals occupying such
6 unit meet the income limitation applicable
7 under subsection (g)(1) to the project of
8 which such building is a part.

9 “(B) EXCEPTIONS.—

10 “(i) EXCLUSION OF LOW-INCOME
11 UNITS.—A unit shall not be treated as a
12 middle-income unit if such unit is a low-in-
13 come unit (as defined under section
14 42(i)(3)).

15 “(ii) UNIT MUST BE SUITABLE FOR
16 PERMANENT OCCUPANCY.—

17 “(I) IN GENERAL.—A unit shall
18 not be treated as a middle-income
19 unit unless the unit is suitable for oc-
20 cupancy and used other than on a
21 transient basis.

22 “(II) SUITABILITY FOR OCCU-
23 PANCY.—For purposes of subclause
24 (I), the suitability of a unit for occu-
25 pancy shall be determined under regu-

1 lations prescribed by the Secretary
2 taking into account local health, safe-
3 ty, and building codes.

4 “(III) SINGLE-ROOM OCCUPANCY
5 UNITS.—For purposes of subclause
6 (I), a single-room occupancy unit shall
7 not be treated as used on a transient
8 basis merely because it is rented on a
9 month-by-month basis.

10 “(C) SPECIAL RULE FOR BUILDINGS HAV-
11 ING 4 OR FEWER UNITS.—In the case of any
12 building which has 4 or fewer residential rental
13 units, no unit in such building shall be treated
14 as a middle-income unit if the units in such
15 building are owned by—

16 “(i) any individual who occupies a res-
17 idential unit in such building, or

18 “(ii) any person who is related (as de-
19 fined in subsection (d)(2)(D)(ii)) to such
20 individual.

21 “(D) RULES RELATING TO STUDENTS.—

22 “(i) IN GENERAL.—A unit occupied
23 solely by individuals who—

24 “(I) have not attained age 24,
25 and

1 “(II) are enrolled in a full-time
2 course of study at an institution of
3 higher education (as defined in section
4 3304(f)),
5 shall not be treated as a middle-income
6 unit.

7 “(ii) EXCEPTION FOR CERTAIN FED-
8 ERAL PROGRAMS.—In the case of a Feder-
9 ally-assisted building (as defined in sub-
10 section (d)(6)(C)(i) of section 42), clause
11 (i) shall not apply to a unit all of the occu-
12 pants of which meet all applicable require-
13 ments under the housing program de-
14 scribed in such subsection through which
15 the building is assisted, financed, or oper-
16 ated.

17 “(iii) OTHER EXCEPTIONS.—Clause
18 (i) shall not apply to a unit occupied by an
19 individual who—

20 “(I) is married, if such individ-
21 ual’s spouse also occupies the unit,

22 “(II) is a person with disabilities
23 (as defined in section 3(b)(3)(E) of
24 the United States Housing Act of
25 1937),

1 “(III) is a veteran (as defined in
2 section 101(2) of title 38, United
3 States Code),

4 “(IV) has one or more qualifying
5 children (as defined in section
6 152(c)), if such children also occupy
7 the unit, the individual is not a de-
8 pendent (as defined in section 152,
9 determined without regard to sub-
10 sections (b)(1), (b)(2), and (d)(1)(B)
11 thereof) of another individual, and
12 such children are not claimed as de-
13 pendants (as so defined) of another
14 individual, or

15 “(V) is, or was immediately prior
16 to attaining the age of majority—

17 “(aa) an emancipated minor
18 or in legal guardianship as deter-
19 mined by a court of competent
20 jurisdiction in the individual’s
21 State of legal residence,

22 “(bb) under the care and
23 placement responsibility of the
24 State agency responsible for ad-
25 ministering a plan under part B

1 or part E of title IV of the Social
2 Security Act, or

3 “(cc) was an unaccompanied
4 youth (within the meaning of sec-
5 tion 725(6) of the McKinney-
6 Vento Homeless Assistance Act
7 (42 U.S.C. 11434a(6))) or a
8 homeless child or youth (within
9 the meaning of section 725(2) of
10 such Act (42 U.S.C.
11 11434a(2))).

12 “(E) OWNER-OCCUPIED BUILDINGS HAV-
13 ING 4 OR FEWER UNITS ELIGIBLE FOR CREDIT
14 WHERE DEVELOPMENT PLAN.—

15 “(i) IN GENERAL.—Subparagraph (C)
16 shall not apply to the acquisition or reha-
17 bilitation of a building pursuant to a devel-
18 opment plan of action sponsored by a
19 State or local government or a qualified
20 nonprofit organization.

21 “(ii) LIMITATION ON CREDIT.—In the
22 case of a building to which clause (i) ap-
23 plies, the applicable fraction shall not ex-
24 ceed 80 percent of the unit fraction.

1 “(iii) CERTAIN UNRENTED UNITS
2 TREATED AS OWNER-OCCUPIED.—In the
3 case of a building to which clause (i) ap-
4 plies, any unit which is not rented for 90
5 days or more shall be treated as occupied
6 by the owner of the building as of the 1st
7 day it is not rented.

8 “(2) NEW BUILDING.—The term ‘new building’
9 means a building the original use of which begins
10 with the taxpayer.

11 “(3) EXISTING BUILDING.—The term ‘existing
12 building’ means any building which is not a new
13 building.

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

20 “(5) IMPACT OF TENANT’S OPTION TO ACQUIRE
21 PROPERTY.—

22 “(A) IN GENERAL.—No Federal income
23 tax benefit shall fail to be allowable to the tax-
24 payer with respect to any qualified middle-in-
25 come building merely by reason of an option

1 held by the tenants (in cooperative form or oth-
2 erwise) or resident management corporation of
3 such building or by a qualified nonprofit organi-
4 zation or government agency to purchase the
5 property or all of the partnership interests
6 (other than interests of the person exercising
7 such option or a related party thereto (within
8 the meaning of section 267(b) or 707(b)(1)))
9 relating to the property after the close of the
10 credit period for a price which is not less than
11 the minimum purchase price determined under
12 subparagraph (B).

13 “(B) MINIMUM PURCHASE PRICE.—For
14 purposes of subparagraph (A), the minimum
15 purchase price under this subparagraph is an
16 amount equal to the principal amount of out-
17 standing indebtedness secured by the building
18 (other than indebtedness incurred within the 5-
19 year period ending on the date of the sale to
20 the tenants). In the case of a purchase of a
21 partnership interest, the minimum purchase
22 price is an amount equal to such interest’s rat-
23 able share of the amount determined under the
24 preceding sentence.

1 “(6) TREATMENT OF RURAL PROJECTS.—For
2 purposes of this section, in the case of any project
3 for residential rental property located in a rural area
4 (as defined in section 520 of the Housing Act of
5 1949), any income limitation measured by reference
6 to area median gross income shall be measured by
7 reference to the greater of area median gross income
8 or national non-metropolitan median income.

9 “(7) DETERMINATION OF WHETHER BUILDING
10 IS FEDERALLY SUBSIDIZED.—

11 “(A) IN GENERAL.—Except as otherwise
12 provided in this paragraph, for purposes of this
13 section, a project shall be treated as Federally
14 subsidized for any taxable year if, at any time
15 during such taxable year or any prior taxable
16 year, there is or was outstanding any obligation
17 the interest on which is exempt from tax under
18 section 103 the proceeds of which are or were
19 used (directly or indirectly) with respect to such
20 project or the operation thereof.

21 “(B) SPECIAL RULE FOR SUBSIDIZED CON-
22 STRUCTION FINANCING.—Subparagraph (A)
23 shall not apply to any tax-exempt obligation
24 used to provide construction financing for any
25 building if—

1 “(i) such obligation (when issued)
2 identified the building for which the pro-
3 ceeds of such obligation would be used,
4 and

5 “(ii) such obligation is redeemed be-
6 fore such building is placed in service.

7 “(8) REDUCTION IN BASIS.—In the case of any
8 building for which a credit is allowable under this
9 section and section 42, the basis of the building shall
10 be reduced by the amount of such credit allowed
11 under subsection (a).

12 “(j) APPLICATION OF AT-RISK RULES.—For pur-
13 poses of this section—

14 “(1) IN GENERAL.—Except as otherwise pro-
15 vided in this subsection, rules similar to the rules of
16 section 49(a)(1) (other than subparagraphs
17 (D)(ii)(II) and (D)(iv)(I) thereof), section 49(a)(2),
18 and section 49(b)(1) shall apply in determining the
19 qualified basis of any building in the same manner
20 as such sections apply in determining the credit base
21 of property.

22 “(2) SPECIAL RULES FOR DETERMINING QUALI-
23 FIED PERSON.—For purposes of paragraph (1)—

24 “(A) IN GENERAL.—If the requirements of
25 subparagraphs (B), (C), and (D) are met with

1 respect to any financing borrowed from a quali-
2 fied nonprofit organization, the determination
3 of whether such financing is qualified commer-
4 cial financing with respect to any qualified mid-
5 dle-income building shall be made without re-
6 gard to whether such organization—

7 “(i) is actively and regularly engaged
8 in the business of lending money, or

9 “(ii) is a person described in section
10 49(a)(1)(D)(iv)(II).

11 “(B) FINANCING SECURED BY PROP-
12 ERTY.—The requirements of this subparagraph
13 are met with respect to any financing if such fi-
14 nancing is secured by the qualified middle-in-
15 come building, except that this subparagraph
16 shall not apply in the case of a federally as-
17 sisted building described in section 42(d)(6)(C)
18 if—

19 “(i) a security interest in such build-
20 ing is not permitted by a Federal agency
21 holding or insuring the mortgage secured
22 by such building, and

23 “(ii) the proceeds from the financing
24 (if any) are applied to acquire or improve
25 such building.

1 “(C) PORTION OF BUILDING ATTRIB-
2 UTABLE TO FINANCING.—The requirements of
3 this subparagraph are met with respect to any
4 financing for any taxable year in the credit pe-
5 riod if, as of the close of such taxable year, not
6 more than 60 percent of the eligible basis of the
7 qualified middle-income building is attributable
8 to such financing (reduced by the principal and
9 interest of any governmental financing which is
10 part of a wrap-around mortgage involving such
11 financing).

12 “(D) REPAYMENT OF PRINCIPAL AND IN-
13 TEREST.—The requirements of this subpara-
14 graph are met with respect to any financing if
15 such financing is fully repaid on or before the
16 earliest of—

17 “(i) the date on which such financing
18 matures,

19 “(ii) the 90th day after the close of
20 the credit period with respect to the quali-
21 fied middle-income building, or

22 “(iii) the date of its refinancing or the
23 sale of the building to which such financ-
24 ing relates.

1 In the case of a qualified nonprofit organization
2 which is not described in section
3 49(a)(1)(D)(iv)(II) with respect to a building,
4 clause (ii) of this subparagraph shall be applied
5 as if the date described therein were the 90th
6 day after the earlier of the date the building
7 ceases to be a qualified middle-income building
8 or the date which is 15 years after the close of
9 a credit period with respect thereto.

10 “(3) PRESENT VALUE OF FINANCING.—If the
11 rate of interest on any financing described in para-
12 graph (2)(A) is less than the rate which is 1 per-
13 centage point below the applicable Federal rate as of
14 the time such financing is incurred, then the quali-
15 fied basis (to which such financing relates) of the
16 qualified middle-income building shall be the present
17 value of the amount of such financing, using as the
18 discount rate such applicable Federal rate. For pur-
19 poses of the preceding sentence, the rate of interest
20 on any financing shall be determined by treating in-
21 terest to the extent of government subsidies as not
22 payable.

23 “(4) FAILURE TO FULLY REPAY.—

24 “(A) IN GENERAL.—To the extent that the
25 requirements of paragraph (2)(D) are not met,

1 then the taxpayer's tax under this chapter for
2 the taxable year in which such failure occurs
3 shall be increased by an amount equal to the
4 applicable portion of the credit under this sec-
5 tion with respect to such building, increased by
6 an amount of interest for the period—

7 “(i) beginning with the due date for
8 the filing of the return of tax imposed by
9 chapter 1 for the 1st taxable year for
10 which such credit was allowable, and

11 “(ii) ending with the due date for the
12 taxable year in which such failure occurs,
13 determined by using the underpayment rate and
14 method under section 6621.

15 “(B) APPLICABLE PORTION.—For pur-
16 poses of subparagraph (A), the term ‘applicable
17 portion’ means the aggregate decrease in the
18 credits allowed to a taxpayer under section 38
19 for all prior taxable years which would have re-
20 sulted if the eligible basis of the building were
21 reduced by the amount of financing which does
22 not meet requirements of paragraph (2)(D).

23 “(C) CERTAIN RULES TO APPLY.—Rules
24 similar to the rules of subparagraphs (A) and

1 (D) of section 42(j)(4) shall apply for purposes
2 of this subsection.

3 “(k) CERTIFICATIONS AND OTHER REPORTS TO SEC-
4 RETARY.—

5 “(1) CERTIFICATION WITH RESPECT TO 1ST
6 YEAR OF CREDIT PERIOD.—Following the close of
7 the 1st taxable year in the credit period with respect
8 to any qualified middle-income building, the tax-
9 payer shall certify to the Secretary (at such time
10 and in such form and in such manner as the Sec-
11 retary prescribes)—

12 “(A) the taxable year, and calendar year,
13 in which such building was placed in service,

14 “(B) the adjusted basis and eligible basis
15 of such building as of the close of the 1st year
16 of the credit period,

17 “(C) the maximum applicable percentage
18 and qualified basis permitted to be taken into
19 account by the appropriate housing credit agen-
20 cy under subsection (h), and

21 “(D) such other information as the Sec-
22 retary may require.

23 In the case of a failure to make the certification re-
24 quired by the preceding sentence on the date pre-
25 scribed therefor, unless it is shown that such failure

1 is due to reasonable cause and not to willful neglect,
2 no credit shall be allowable by reason of subsection
3 (a) with respect to such building for any taxable
4 year ending before such certification is made.

5 “(2) ANNUAL REPORTS TO THE SECRETARY.—
6 The Secretary may require taxpayers to submit an
7 information return (at such time and in such form
8 and manner as the Secretary prescribes) for each
9 taxable year setting forth—

10 “(A) the qualified basis for the taxable
11 year of each qualified middle-income building of
12 the taxpayer,

13 “(B) the information described in para-
14 graph (1)(C) for the taxable year, and

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

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

21 “(3) ANNUAL REPORTS FROM HOUSING CREDIT
22 AGENCIES.—Each agency which allocates any hous-
23 ing credit amount to any building for any calendar
24 year shall submit to the Secretary (at such time and

1 in such manner as the Secretary shall prescribe) an
2 annual report specifying—

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

5 “(B) sufficient information to identify each
6 such building and the taxpayer with respect
7 thereto, and

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

10 The penalty under section 6652(j) shall apply to any
11 failure to submit the report required by the pre-
12 ceding sentence on the date prescribed therefor.

13 “(l) RESPONSIBILITIES OF HOUSING CREDIT AGEN-
14 CIES.—

15 “(1) PLANS FOR ALLOCATION OF CREDIT
16 AMONG PROJECTS.—

17 “(A) IN GENERAL.—Notwithstanding any
18 other provision of this section, the housing cred-
19 it dollar amount with respect to any building
20 shall be zero unless—

21 “(i) such amount was allocated pursu-
22 ant to a qualified allocation plan of the
23 housing credit agency which is approved by
24 the governmental unit (in accordance with

1 rules similar to the rules of section
2 42(m)(1)) of which such agency is a part,

3 “(ii) a comprehensive market study of
4 the housing needs of middle-income indi-
5 viduals in the area to be served by the
6 project is conducted before the credit allo-
7 cation is made and at the developer’s ex-
8 pense by a disinterested party who is ap-
9 proved by such agency, and

10 “(iii) a written explanation is available
11 to the general public for any allocation of
12 a housing credit dollar amount which is
13 not made in accordance with established
14 priorities and selection criteria of the hous-
15 ing credit agency.

16 “(B) QUALIFIED ALLOCATION PLAN.—For
17 purposes of this paragraph, the term ‘qualified
18 allocation plan’ means any plan—

19 “(i) which sets forth selection criteria
20 to be used to determine housing priorities
21 of the housing credit agency which are ap-
22 propriate to local conditions,

23 “(ii) which also gives preference in al-
24 locating housing credit dollar amounts
25 among selected projects to—

1 “(I) projects obligated to serve
2 qualified tenants for the longest peri-
3 ods,

4 “(II) projects in areas with insuf-
5 ficient supply of housing affordable to
6 median income households,

7 “(III) projects which target hous-
8 ing to tenants at a range of incomes
9 between 60 and 100 percent of area
10 median gross income, and

11 “(IV) projects located near tran-
12 sit hubs, and

13 “(iii) which provides a procedure that
14 the agency (or an agent or other private
15 contractor of such agency) will follow in
16 monitoring for noncompliance with the
17 provisions of this section and in notifying
18 the Internal Revenue Service of such non-
19 compliance which such agency becomes
20 aware of and in monitoring for noncompli-
21 ance with habitability standards through
22 regular site visits.

23 “(C) CERTAIN SELECTION CRITERIA MUST
24 BE USED.—The selection criteria set forth in a
25 qualified allocation plan must include—

- 1 “(i) project location,
2 “(ii) housing needs characteristics,
3 “(iii) project characteristics, including
4 whether the project includes the use of ex-
5 isting housing as part of a community revi-
6 talization plan,
7 “(iv) sponsor characteristics,
8 “(v) tenant populations with special
9 housing needs,
10 “(vi) tenant populations of individuals
11 with children,
12 “(vii) projects intended for eventual
13 tenant ownership,
14 “(viii) the energy efficiency of the
15 project, and
16 “(ix) the historic nature of the
17 project.

18 “(D) CERTAIN SELECTION CRITERIA PRO-
19 HIBITED.—The selection criteria set forth in a
20 qualified allocation plan shall not include a re-
21 quirement of local approval or local contribu-
22 tions, either as a threshold qualification re-
23 quirement or as part of a point system to be
24 considered for allocations of housing credit dol-
25 lar amount.

1 “(2) CREDIT ALLOCATED TO BUILDING NOT TO
2 EXCEED AMOUNT NECESSARY TO ASSURE PROJECT
3 FEASIBILITY.—

4 “(A) IN GENERAL.—The housing credit
5 dollar amount allocated to a project shall not
6 exceed the amount the housing credit agency
7 determines is necessary for the financial feasi-
8 bility of the project and its viability as a quali-
9 fied middle-income housing project throughout
10 the credit period.

11 “(B) AGENCY EVALUATION.—In making
12 the determination under subparagraph (A), the
13 housing credit agency shall consider—

14 “(i) the sources and uses of funds and
15 the total financing planned for the project,

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

18 “(iii) the percentage of the housing
19 credit dollar amount used for project costs
20 other than the cost of intermediaries, and

21 “(iv) the reasonableness of the devel-
22 opmental and operational costs of the
23 project.

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

1 areas. Such a determination shall not be con-
2 strued to be a representation or warranty as to
3 the feasibility or viability of the project.

4 “(C) DETERMINATION MADE WHEN CRED-
5 IT AMOUNT APPLIED FOR AND WHEN BUILDING
6 PLACED IN SERVICE.—

7 “(i) IN GENERAL.—A determination
8 under subparagraph (A) shall be made as
9 of each of the following times:

10 “(I) The application for the
11 housing credit dollar amount.

12 “(II) The allocation of the hous-
13 ing credit dollar amount.

14 “(III) The date the building is
15 placed in service.

16 “(ii) CERTIFICATION AS TO AMOUNT
17 OF OTHER SUBSIDIES.—Prior to each de-
18 termination under clause (i), the taxpayer
19 shall certify to the housing credit agency
20 the full extent of all Federal, State, and
21 local subsidies which apply (or which the
22 taxpayer expects to apply) with respect to
23 the building.

1 “(m) REGULATIONS.—The Secretary shall prescribe
2 such regulations as may be necessary or appropriate to
3 carry out the purposes of this section, including—

4 “(1) regulations dealing with—

5 “(A) projects which include more than 1
6 building or only a portion of a building, or

7 “(B) buildings which are placed in service
8 in portions,

9 “(2) regulations providing for the application of
10 this section to short taxable years,

11 “(3) regulations preventing the avoidance of the
12 rules of this section,

13 “(4) regulations providing the opportunity for
14 housing credit agencies to correct administrative er-
15 rors and omissions with respect to allocations and
16 record keeping within a reasonable period after their
17 discovery, taking into account the availability of reg-
18 ulations and other administrative guidance from the
19 Secretary, and

20 “(5) in consultation with the Secretary of
21 Housing and Urban Development, regulations or
22 guidance to promote uniform definitions and to
23 streamline requirements for with respect to qualified
24 middle-income buildings which receive funding from
25 programs administrated by the Department of Hous-

1 ing and Urban Development, including programs au-
2 thorized by Native American Housing Assistance
3 and Self-Determination Act of 1996 .”.

4 (b) TREATMENT AS PART OF GENERAL BUSINESS
5 CREDIT.—Section 38(b) of the Internal Revenue Code of
6 1986 is amended by striking “plus” at the end of para-
7 graph (40), by striking the period at the end of paragraph
8 (41) and inserting “, plus”, and by adding at the end the
9 following new paragraph:

10 “(42) the middle-income housing credit deter-
11 mined under section 42A(a).”.

12 (c) REDUCTION IN BASIS.—Section 1016(a) of the
13 Internal Revenue Code of 1986 is amended—

14 (1) by striking “and” at the end of paragraph
15 (37);

16 (2) by redesignating paragraph (38) as para-
17 graph (39); and

18 (3) by inserting after paragraph (37) the fol-
19 lowing new paragraph:

20 “(38) to the extent provided in section
21 42A(i)(8), and”.

22 (d) TREATMENT UNDER BASE EROSION MINIMUM
23 TAX .—Section 59A(b)(4) of he Internal Revenue Code
24 of 1986 is amended by redesignating subparagraphs (B)
25 and (C) as subparagraphs (C) and (D), respectively, and

1 by inserting after subparagraphs (A) the following new
2 subparagraph:

3 “(B) the middle-income housing credit de-
4 termined under section 42A(a),”.

5 (e) CONFORMING AMENDMENTS RELATING TO LOW-
6 INCOME HOUSING TAX CREDIT.—Section 42(n) of the In-
7 ternal Revenue Code of 1986 is amended—

8 (1) by striking “regulations” in the matter pre-
9 ceding paragraph (1),

10 (2) by inserting “regulations” before “dealing
11 with” in paragraph (1),

12 (3) by inserting “regulations” before “pro-
13 viding” in paragraphs (2) and (4),

14 (4) by inserting “regulations” before “pre-
15 venting” in paragraph (3),

16 (5) by striking “and” at the end of paragraph
17 (3),

18 (6) by striking the period at the end of para-
19 graph (4) and inserting “, and”, and

20 (7) by adding at the end the following new
21 paragraph

22 “(5) in consultation with the Secretary of
23 Housing and Urban Development, regulations or
24 guidance to promote uniform definitions and to
25 streamline requirements for with respect to qualified

1 low-income buildings which receive funding from
2 programs administrated by the Department of Hous-
3 ing and Urban Development, including programs au-
4 thorized by Native American Housing Assistance
5 and Self-Determination Act of 1996.”.

6 (f) CONFORMING AMENDMENTS.—

7 (1) Section 45L(e) of the Internal Revenue
8 Code of 1986 is amended by inserting “or 42A”
9 after “42”.

10 (2) Section 50(c)(3)(C) of such Code is amend-
11 ed by inserting “or 42A” after “42”.

12 (3) Section 55(c)(1) of such Code is amended
13 by inserting “42A(j),” before “45(e)(11)(C)”.

14 (4) Subsections (i)(3)(C), (i)(6)(B)(i), and
15 (k)(1) of section 469 of such Code are each amended
16 by inserting “or 42A” after “42”.

17 (5) The table of sections for subpart D of part
18 IV of subchapter A of chapter 1 of such Code is
19 amended by inserting after the item relating to sec-
20 tion 42 the following new item:

“Sec. 42A. Middle-income housing credit.”.

21 (g) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to buildings placed in service after
23 December 31, 2023, in taxable years ending after such
24 date.