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1ST SESSION

S. 920

To amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

IN THE SENATE OF THE UNITED STATES

MAY 21, 2001

Mr. BREAU (for himself, Mr. JEFFORDS, Mr. GRAHAM, Mr. CHAFEE, and Mr. LEVIN) 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 provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

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 “Historic Homeowner-
5 ship Assistance Act”.

1 **SEC. 2. HISTORIC HOMEOWNERSHIP REHABILITATION**
 2 **CREDIT.**

3 (a) IN GENERAL.—Subpart A of part IV of sub-
 4 chapter A of chapter 1 of the Internal Revenue Code of
 5 1986 (relating to nonrefundable personal credits) is
 6 amended by inserting after section 25A the following new
 7 section:

8 **“SEC. 25B. HISTORIC HOMEOWNERSHIP REHABILITATION**
 9 **CREDIT.**

10 “(a) GENERAL RULE.—In the case of an individual,
 11 there shall be allowed as a credit against the tax imposed
 12 by this chapter for the taxable year an amount equal to
 13 20 percent of the qualified rehabilitation expenditures
 14 made by the taxpayer with respect to a qualified historic
 15 home.

16 “(b) DOLLAR LIMITATION.—

17 “(1) IN GENERAL.—The credit allowed by sub-
 18 section (a) with respect to any residence of a tax-
 19 payer shall not exceed \$40,000 (\$20,000 in the case
 20 of a married individual filing a separate return).

21 “(2) CARRYFORWARD OF CREDIT UNUSED BY
 22 REASON OF LIMITATION BASED ON TAX LIABIL-
 23 ITY.—If the credit allowable under subsection (a) for
 24 any taxable year exceeds the limitation imposed by
 25 section 26(a) for such taxable year reduced by the
 26 sum of the credits allowable under this subpart

1 (other than this section), such excess shall be carried
 2 to the succeeding taxable year and added to the
 3 credit allowable under subsection (a) for such suc-
 4 ceeding taxable year.

5 “(c) QUALIFIED REHABILITATION EXPENDITURE.—

6 For purposes of this section:

7 “(1) IN GENERAL.—The term ‘qualified reha-
 8 bilitation expenditure’ means any amount properly
 9 chargeable to capital account—

10 “(A) in connection with the certified reha-
 11 bilitation of a qualified historic home, and

12 “(B) for property for which depreciation
 13 would be allowable under section 168 if the
 14 qualified historic home were used in a trade or
 15 business.

16 “(2) CERTAIN EXPENDITURES NOT IN-
 17 CLUDED.—

18 “(A) EXTERIOR.—Such term shall not in-
 19 clude any expenditure in connection with the re-
 20 habilitation of a building unless at least 5 per-
 21 cent of the total expenditures made in the reha-
 22 bilitation process are allocable to the rehabilita-
 23 tion of the exterior of such building.

1 “(B) OTHER RULES TO APPLY.—Rules
 2 similar to the rules of clauses (ii) and (iii) of
 3 section 47(c)(2)(B) shall apply.

4 “(3) MIXED USE OR MULTIFAMILY BUILDING.—
 5 If only a portion of a building is used as the prin-
 6 cipal residence of the taxpayer, only qualified reha-
 7 bilitation expenditures which are properly allocable
 8 to such portion shall be taken into account under
 9 this section.

10 “(d) CERTIFIED REHABILITATION.—For purposes of
 11 this section:

12 “(1) IN GENERAL.—Except as otherwise pro-
 13 vided in this subsection, the term ‘certified rehabili-
 14 tation’ has the meaning given such term by section
 15 47(c)(2)(C).

16 “(2) FACTORS TO BE CONSIDERED IN THE
 17 CASE OF TARGETED AREA RESIDENCES, ETC.—

18 “(A) IN GENERAL.—For purposes of ap-
 19 plying section 47(c)(2)(C) under this section
 20 with respect to the rehabilitation of a building
 21 to which this paragraph applies, consideration
 22 shall be given to—

23 “(i) the feasibility of preserving exist-
 24 ing architectural and design elements of
 25 the interior of such building,

1 “(ii) the risk of further deterioration
2 or demolition of such building in the event
3 that certification is denied because of the
4 failure to preserve such interior elements,
5 and

6 “(iii) the effects of such deterioration
7 or demolition on neighboring historic prop-
8 erties.

9 “(B) BUILDINGS TO WHICH THIS PARA-
10 GRAPH APPLIES.—This paragraph shall apply
11 with respect to any building—

12 “(i) any part of which is a targeted
13 area residence within the meaning of sec-
14 tion 143(j)(1), or

15 “(ii) which is located within an enter-
16 prise community or empowerment zone as
17 designated under section 1391, or a re-
18 newal community designated under section
19 1400(e),

20 but shall not apply with respect to any building
21 which is listed in the National Register.

22 “(3) APPROVED STATE PROGRAM.—The term
23 ‘certified rehabilitation’ includes a certification made
24 by—

1 “(A) a State Historic Preservation Officer
 2 who administers a State Historic Preservation
 3 Program approved by the Secretary of the Inte-
 4 rior pursuant to section 101(b)(1) of the Na-
 5 tional Historic Preservation Act, or

6 “(B) a local government, certified pursuant
 7 to section 101(c)(1) of the National Historic
 8 Preservation Act and authorized by a State
 9 Historic Preservation Officer, or the Secretary
 10 of the Interior where there is no approved State
 11 program,

12 subject to such terms and conditions as may be
 13 specified by the Secretary of the Interior for the re-
 14 habilitation of buildings within the jurisdiction of
 15 such officer (or local government) for purposes of
 16 this section.

17 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-
 18 poses of this section:

19 “(1) QUALIFIED HISTORIC HOME.—The term
 20 ‘qualified historic home’ means a certified historic
 21 structure—

22 “(A) which has been substantially rehabili-
 23 tated, and

24 “(B) which (or any portion of which)—

25 “(i) is owned by the taxpayer, and

1 “(ii) is used (or will, within a reason-
2 able period, be used) by such taxpayer as
3 his principal residence.

4 “(2) SUBSTANTIALLY REHABILITATED.—The
5 term ‘substantially rehabilitated’ has the meaning
6 given such term by section 47(c)(1)(C); except that,
7 in the case of any building described in subsection
8 (d)(2), clause (i)(I) thereof shall not apply.

9 “(3) PRINCIPAL RESIDENCE.—The term ‘prin-
10 cipal residence’ has the same meaning as when used
11 in section 121.

12 “(4) CERTIFIED HISTORIC STRUCTURE.—

13 “(A) IN GENERAL.—The term ‘certified
14 historic structure’ means any building (and its
15 structural components) which—

16 “(i) is listed in the National Register,
17 or

18 “(ii) is located in a registered historic
19 district (as defined in section 47(c)(3)(B))
20 within which only qualified census tracts
21 (or portions thereof) are located, and is
22 certified by the Secretary of the Interior as
23 being of historic significance to the dis-
24 trict.

1 “(B) CERTAIN STRUCTURES INCLUDED.—

2 Such term includes any building (and its struc-
3 tural components) which is designated as being
4 of historic significance under a statute of a
5 State or local government, if such statute is
6 certified by the Secretary of the Interior to the
7 Secretary as containing criteria which will sub-
8 stantially achieve the purpose of preserving and
9 rehabilitating buildings of historic significance.

10 “(C) QUALIFIED CENSUS TRACTS.—For
11 purposes of subparagraph (A)(ii)—

12 “(i) IN GENERAL.—The term ‘quali-
13 fied census tract’ means a census tract in
14 which the median income is less than twice
15 the statewide median family income.

16 “(ii) DATA USED.—The determination
17 under clause (i) shall be made on the basis
18 of the most recent decennial census for
19 which data are available.

20 “(5) REHABILITATION NOT COMPLETE BEFORE
21 CERTIFICATION.—A rehabilitation shall not be treat-
22 ed as complete before the date of the certification re-
23 ferred to in subsection (d).

24 “(6) LESSEES.—A taxpayer who leases his
25 principal residence shall, for purposes of this section,

1 be treated as the owner thereof if the remaining
 2 term of the lease (as of the date determined under
 3 regulations prescribed by the Secretary) is not less
 4 than such minimum period as the regulations re-
 5 quire.

6 “(7) TENANT-STOCKHOLDER IN COOPERATIVE
 7 HOUSING CORPORATION.—If the taxpayer holds
 8 stock as a tenant-stockholder (as defined in section
 9 216) in a cooperative housing corporation (as de-
 10 fined in such section), such stockholder shall be
 11 treated as owning the house or apartment which the
 12 taxpayer is entitled to occupy as such stockholder.

13 “(8) ALLOCATION OF EXPENDITURES RELAT-
 14 ING TO EXTERIOR OF BUILDING CONTAINING COOP-
 15 ERATIVE OR CONDOMINIUM UNITS.—The percentage
 16 of the total expenditures made in the rehabilitation
 17 of a building containing cooperative or condominium
 18 residential units allocated to the rehabilitation of the
 19 exterior of the building shall be attributed propor-
 20 tionately to each cooperative or condominium resi-
 21 dential unit in such building for which a credit
 22 under this section is claimed.

23 “(f) WHEN EXPENDITURES TAKEN INTO AC-
 24 COUNT.—In the case of a building other than a building
 25 to which subsection (g) applies, qualified rehabilitation ex-

1 penditures shall be treated for purposes of this section as
 2 made—

3 “(1) on the date the rehabilitation is completed,
 4 or

5 “(2) to the extent provided by the Secretary by
 6 regulation, when such expenditures are properly
 7 chargeable to capital account.

8 Regulations under paragraph (2) shall include a rule simi-
 9 lar to the rule under section 50(a)(2) (relating to recap-
 10 ture if property ceases to qualify for progress expendi-
 11 tures).

12 “(g) ALLOWANCE OF CREDIT FOR PURCHASE OF RE-
 13 HABILITATED HISTORIC HOME.—

14 “(1) IN GENERAL.—In the case of a qualified
 15 purchased historic home, the taxpayer shall be treat-
 16 ed as having made (on the date of purchase) the ex-
 17 penditures made by the seller of such home. For
 18 purposes of the preceding sentence, expenditures
 19 made by the seller shall be deemed to be qualified
 20 rehabilitation expenditures if such expenditures, if
 21 made by the purchaser, would be qualified rehabili-
 22 tation expenditures.

23 “(2) QUALIFIED PURCHASED HISTORIC
 24 HOME.—For purposes of this subsection, the term
 25 ‘qualified purchased historic home’ means any sub-

1 stantially rehabilitated certified historic structure
2 purchased by the taxpayer if—

3 “(A) the taxpayer is the first purchaser of
4 such structure after the date rehabilitation is
5 completed, and the purchase occurs within 5
6 years after such date,

7 “(B) the structure (or a portion thereof)
8 will, within a reasonable period, be the principal
9 residence of the taxpayer,

10 “(C) no credit was allowed to the seller
11 under this section or section 47 with respect to
12 such rehabilitation, and

13 “(D) the taxpayer is furnished with such
14 information as the Secretary determines is nec-
15 essary to determine the credit under this sub-
16 section.

17 “(h) HISTORIC REHABILITATION MORTGAGE CREDIT
18 CERTIFICATE.—

19 “(1) IN GENERAL.—The taxpayer may elect, in
20 lieu of the credit otherwise allowable under this sec-
21 tion, to receive a historic rehabilitation mortgage
22 credit certificate. An election under this paragraph
23 shall be made—

1 “(A) in the case of a building to which
 2 subsection (g) applies, at the time of purchase,
 3 or

4 “(B) in any other case, at the time reha-
 5 bilitation is completed.

6 “(2) HISTORIC REHABILITATION MORTGAGE
 7 CREDIT CERTIFICATE.—For purposes of this sub-
 8 section, the term ‘historic rehabilitation mortgage
 9 credit certificate’ means a certificate—

10 “(A) issued to the taxpayer, in accordance
 11 with procedures prescribed by the Secretary,
 12 with respect to a certified rehabilitation,

13 “(B) the face amount of which shall be
 14 equal to the credit which would (but for this
 15 subsection) be allowable under subsection (a) to
 16 the taxpayer with respect to such rehabilitation,

17 “(C) which may only be transferred by the
 18 taxpayer to a lending institution (including a
 19 nondepository institution) in connection with a
 20 loan—

21 “(i) that is secured by the building
 22 with respect to which the credit relates,
 23 and

24 “(ii) the proceeds of which may not be
 25 used for any purpose other than the acqui-

sition or rehabilitation of such building,
and

“(D) in exchange for which such lending
institution provides to the taxpayer—

“(i) a reduction in the rate of interest
on the loan which results in interest pay-
ment reductions which are substantially
equivalent on a present value basis to the
face amount of such certificate, or

“(ii) if the taxpayer so elects with re-
spect to a specified amount of the face
amount of such a certificate relating to a
building—

“(I) which is a targeted area res-
idence (within the meaning of section
143(j)(1)), or

“(II) which is located in an en-
terprise community or empowerment
zone as designated under section
1391, or a renewal community as des-
ignated under section 1400(e),

a payment which is substantially equivalent
to such specified amount to be used to re-
duce the taxpayer’s cost of purchasing the
building (and only the remainder of such

1 face amount shall be taken into account
2 under clause (i)).

3 “(3) METHOD OF DISCOUNTING.—The present
4 value under paragraph (2)(D)(i) shall be
5 determined—

6 “(A) for a period equal to the term of the
7 loan referred to in subparagraph (D)(i),

8 “(B) by using the convention that any pay-
9 ment on such loan in any taxable year within
10 such period is deemed to have been made on
11 the last day of such taxable year,

12 “(C) by using a discount rate equal to 65
13 percent of the average of the annual Federal
14 mid-term rate and the annual Federal long-
15 term rate applicable under section 1274(d)(1)
16 to the month in which the taxpayer makes an
17 election under paragraph (1) and compounded
18 annually, and

19 “(D) by assuming that the credit allowable
20 under this section for any year is received on
21 the last day of such year.

22 “(4) USE OF CERTIFICATE BY LENDER.—The
23 amount of the credit specified in the certificate shall
24 be allowed to the lender only to offset the regular
25 tax (as defined in section 55(c)) of such lender. The

1 lender may carry forward all unused amounts under
2 this subsection until exhausted.

3 “(5) HISTORIC REHABILITATION MORTGAGE
4 CREDIT CERTIFICATE NOT TREATED AS TAXABLE IN-
5 COME.—Notwithstanding any other provision of law,
6 no benefit accruing to the taxpayer through the use
7 of a historic rehabilitation mortgage credit certifi-
8 cate shall be included in gross income for purposes
9 of this title.

10 “(i) RECAPTURE.—

11 “(1) IN GENERAL.—If, before the end of the 5-
12 year period beginning on the date on which the reha-
13 bilitation of the building is completed (or, if sub-
14 section (g) applies, the date of purchase of such
15 building by the taxpayer)—

16 “(A) the taxpayer disposes of such tax-
17 payer’s interest in such building, or

18 “(B) such building ceases to be used as the
19 principal residence of the taxpayer or ceases to
20 be a certified historic structure,

21 the taxpayer’s tax imposed by this chapter for the
22 taxable year in which such disposition or cessation
23 occurs shall be increased by the recapture percent-
24 age of the credit allowed under this section for all

1 prior taxable years with respect to such rehabilita-
 2 tion.

3 “(2) RECAPTURE PERCENTAGE.—For purposes
 4 of paragraph (1), the recapture percentage shall be
 5 determined in accordance with the table under sec-
 6 tion 50(a)(1)(B), deeming such table to be
 7 amended—

8 “(A) by striking ‘If the property ceases to
 9 be investment credit property within—’ and in-
 10 serting ‘If the disposition or cessation occurs
 11 within—’, and

12 “(B) in clause (i) by striking ‘One full year
 13 after placed in service’ and inserting ‘One full
 14 year after the taxpayer becomes entitled to the
 15 credit’.

16 “(3) TRANSFER BETWEEN SPOUSES OR INCI-
 17 DENT TO DIVORCE.—In the case of any transfer de-
 18 scribed in subsection (a) of section 1041 (relating to
 19 transfers between spouses or incident to divorce)—

20 “(A) the foregoing provisions of this sub-
 21 section shall not apply, and

22 “(B) the same tax treatment under this
 23 subsection with respect to the transferred prop-
 24 erty shall apply to the transferee as would have
 25 applied to the transferor.

1 “(j) BASIS ADJUSTMENTS.—For purposes of this
2 subtitle, if a credit is allowed under this section for any
3 expenditure with respect to any property (including any
4 purchase under subsection (g) and any transfer under sub-
5 section (h)), the increase in the basis of such property
6 which would (but for this subsection) result from such ex-
7 penditure shall be reduced by the amount of the credit
8 so allowed.

9 “(k) PROCESSING FEES.—Any State may impose a
10 fee for the processing of applications for the certification
11 of any rehabilitation under this section provided that the
12 amount of such fee is used only to defray expenses associ-
13 ated with the processing of such applications.

14 “(l) DENIAL OF DOUBLE BENEFIT.—No credit shall
15 be allowed under this section for any amount for which
16 credit is allowed under section 47.

17 “(m) REGULATIONS.—The Secretary shall prescribe
18 such regulations as may be appropriate to carry out the
19 purposes of this section, including regulations where less
20 than all of a building is used as a principal residence and
21 where more than 1 taxpayer use the same dwelling unit
22 as their principal residence.”

23 (b) CONFORMING AMENDMENTS.—

1 (1) Subsection (c) of section 23 of such Code
 2 is amended by striking “and section 1400C” and in-
 3 serting “and sections 25B and 1400C”.

4 (2) Subparagraph (C) of section 25(e)(1) of
 5 such Code is amended by inserting “, 25B,” after
 6 “sections 23”.

7 (3) Subsection (d) of section 1400C of such
 8 Code is amended by striking “other than this sec-
 9 tion)” and inserting “other than this section and
 10 section 25B)”.

11 (4) Subsection (a) of section 1016 of such Code
 12 is amended by striking “and” at the end of para-
 13 graph (26), by striking the period at the end of
 14 paragraph (27) and inserting “, and”, and by add-
 15 ing at the end the following new item:

16 “(28) to the extent provided in section 25B(j).”

17 (c) CLERICAL AMENDMENT.—The table of sections
 18 for subpart A of part IV of subchapter A of chapter 1
 19 of such Code is amended by inserting after the item relat-
 20 ing to section 25A the following new item:

 “Sec. 25B. Historic homeownership rehabilitation credit.”

21 (d) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply with respect to rehabilitations the
 23 physical work on which begins after the date of enactment
 24 of this Act.

