

119TH CONGRESS
2D SESSION

H. R. 8626

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2026

Mr. PANETTA (for himself, Mr. CAREY, and Mr. NUNN of Iowa) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to 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 “(2) QUALIFIED MIDDLE-INCOME BUILDING.—

2 The term ‘qualified middle-income building’ means
3 any building which is part of a qualified middle-in-
4 come housing project at all times during the pe-
5 riod—

6 “(A) beginning on the 1st day in the credit
7 period on which such building is part of such a
8 project, and

9 “(B) ending on the last day of the credit
10 period with respect to such building.

11 “(d) ELIGIBLE BASIS.—For purposes of this sec-
12 tion—

13 “(1) NEW BUILDINGS.—The eligible basis of a
14 new building is its adjusted basis as of the close of
15 the 1st taxable year of the credit period.

16 “(2) EXISTING BUILDINGS.—

17 “(A) IN GENERAL.—The eligible basis of
18 an existing building is—

19 “(i) in the case of a building which
20 meets the requirements of subparagraph
21 (B), its adjusted basis as of the close of
22 the 1st taxable year of the credit period,
23 and

24 “(ii) zero in any other case.

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 (as
21 defined in subsection (h)(4)) if the re-
22 quirements of subparagraph (B)(ii)
23 are met with respect to the placement
24 in service by such unit or organization
25 and all the income from such property

1 is exempt from Federal income tax-
2 ation,

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) ELIGIBLE BASIS REDUCED WHERE DIS-
6 PROPORTIONATE STANDARDS FOR UNITS.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), the eligible basis of any
9 building shall be reduced by an amount equal to
10 the portion of the adjusted basis of the building
11 which is attributable to residential rental units
12 in the building which are not middle-income
13 units and which are above the average quality
14 standard of the middle-income units in the
15 building.

16 “(B) EXCEPTION WHERE TAXPAYER
17 ELECTS TO EXCLUDE EXCESS COSTS.—

18 “(i) IN GENERAL.—Subparagraph (A)
19 shall not apply with respect to a residential
20 rental unit in a building which is not a
21 middle-income unit if—

22 “(I) the excess described in
23 clause (ii) with respect to such unit is
24 not greater than 15 percent of the
25 cost described in clause (ii)(II), and

1 “(II) the taxpayer elects to ex-
2 clude from the eligible basis of such
3 building the excess described in clause
4 (ii) with respect to such unit.

5 “(ii) EXCESS.—The excess described
6 in this clause with respect to any unit is
7 the excess of—

8 “(I) the cost of such unit, over

9 “(II) the amount which would be
10 the cost of such unit if the average
11 cost per square foot of middle-income
12 units in the building were substituted
13 for the cost per square foot of such
14 unit.

15 The Secretary may by regulation provide
16 for the determination of the excess under
17 this clause on a basis other than square
18 foot costs.

19 “(4) SPECIAL RULES RELATING TO DETER-
20 MINATION OF ADJUSTED BASIS.—For purposes of
21 this subsection—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), the adjusted basis of any
24 building shall be determined without regard to

1 the adjusted basis of any property which is not
2 residential rental property.

3 “(B) BASIS OF PROPERTY IN COMMON
4 AREAS, ETC., INCLUDED.—

5 “(i) IN GENERAL.—Except as pro-
6 vided in clause (ii), the adjusted basis of
7 any building shall be determined by taking
8 into account the adjusted basis of property
9 (of a character subject to the allowance for
10 depreciation) used in common areas or
11 provided as comparable amenities to all
12 residential rental units in such building.

13 “(ii) SPECIAL RULE.—In the case of
14 any building for which the low-income
15 housing tax credit is allowable under sec-
16 tion 42, the adjusted basis of the building
17 under this section shall be determined
18 without regard to property used in com-
19 mon areas or provided as comparable
20 amenities to all residential rental units in
21 such building.

22 “(C) NO REDUCTION FOR DEPRECIA-
23 TION.—The adjusted basis of any building shall
24 be determined without regard to paragraphs (2)
25 and (3) of section 1016(a).

1 “(5) SPECIAL RULES FOR DETERMINING ELIGI-
2 BLE BASIS.—

3 “(A) FEDERAL GRANTS NOT TAKEN INTO
4 ACCOUNT IN DETERMINING ELIGIBLE BASIS.—
5 The eligible basis of a building shall not include
6 any costs financed with the proceeds of a Fed-
7 erally funded grant.

8 “(B) INCREASE IN CREDIT FOR BUILDINGS
9 IN HIGH COST AREAS.—

10 “(i) IN GENERAL.—In the case of any
11 building located in a qualified census tract
12 or difficult development area—

13 “(I) in the case of a new build-
14 ing, the eligible basis of such building
15 shall be 130 percent of such basis de-
16 termined without regard to this sub-
17 paragraph, and

18 “(II) in the case of an existing
19 building, the rehabilitation expendi-
20 tures taken into account under sub-
21 section (e) shall be 130 percent of
22 such expenditures determined without
23 regard to this subparagraph.

24 “(ii) QUALIFIED CENSUS TRACT.—
25 The term ‘qualified census tract’ means,

1 with respect to any period any census tract
2 which is treated as a qualified census tract
3 under section 42(d)(5)(B).

4 “(iii) DIFFICULT DEVELOPMENT
5 AREAS.—The term ‘difficult development
6 areas’ means any census tract which is
7 treated as a difficult development area
8 under section 42(d)(5)(B) (determined
9 without regard to clause (v) thereof).

10 “(iv) BUILDINGS DESIGNATED BY
11 STATE HOUSING CREDIT AGENCY.—Any
12 building which is designated by the State
13 housing credit agency as requiring the in-
14 crease in credit under this subparagraph in
15 order for such building to be financially
16 feasible as part of a qualified middle-in-
17 come housing project shall be treated for
18 purposes of this subparagraph as located
19 in a difficult development area which is
20 designated for purposes of this subpara-
21 graph. The preceding sentence shall not
22 apply to any building if paragraph (1) of
23 subsection (h) does not apply to any por-
24 tion of the eligible basis of such building

1 by reason of paragraph (9) of such sub-
2 section.

3 “(6) CREDIT ALLOWABLE FOR CERTAIN BUILD-
4 INGS ACQUIRED DURING 10-YEAR PERIOD.—

5 “(A) IN GENERAL.—Paragraph (2)(B)(ii)
6 shall not apply to any Federally-assisted build-
7 ing (as defined in section 42(d)(6)(C)(i)) or
8 State-assisted building (as defined in section
9 42(d)(6)(C)(ii)).

10 “(B) BUILDINGS ACQUIRED FROM IN-
11 SURED DEPOSITORY INSTITUTIONS IN DE-
12 FAULT.—On application by the taxpayer, the
13 Secretary may waive paragraph (2)(B)(ii) with
14 respect to any building acquired from an in-
15 sured depository institution in default (as de-
16 fined in section 3 of the Federal Deposit Insur-
17 ance Act) or from a receiver or conservator of
18 such an institution.

19 “(7) ACQUISITION OF BUILDING BEFORE END
20 OF PRIOR CREDIT PERIOD.—

21 “(A) IN GENERAL.—Under regulations
22 prescribed by the Secretary, in the case of a
23 building described in subparagraph (B) (or in-
24 terest therein) which is acquired by the tax-
25 payer—

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

3 “(ii) the credit allowable by reason of
4 subsection (a) to the taxpayer for any pe-
5 riod after such acquisition shall be equal to
6 the amount of credit which would have
7 been allowable under subsection (a) for
8 such period to the prior owner referred to
9 in subparagraph (B) had such owner not
10 disposed of the building.

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

13 “(i) a credit was allowed by reason of
14 subsection (a) to any prior owner of such
15 building, and

16 “(ii) the taxpayer acquired such build-
17 ing before the end of the credit period for
18 such building with respect to such prior
19 owner (determined without regard to any
20 disposition by such prior owner).

21 “(e) REHABILITATION EXPENDITURES TREATED AS
22 SEPARATE NEW BUILDING.—

23 “(1) IN GENERAL.—Rehabilitation expenditures
24 paid or incurred by the taxpayer with respect to any

1 building shall be treated for purposes of this section
2 as a separate new building.

3 “(2) REHABILITATION EXPENDITURES.—For
4 purposes of paragraph (1)—

5 “(A) IN GENERAL.—The term ‘rehabilita-
6 tion expenditures’ means amounts chargeable to
7 capital account and incurred for property (or
8 additions or improvements to property) of a
9 character subject to the allowance for deprecia-
10 tion in connection with the rehabilitation of a
11 building.

12 “(B) COST OF ACQUISITION, ETC., NOT IN-
13 CLUDED.—Such term does not include the cost
14 of acquiring any building (or interest therein)
15 or any amount not permitted to be taken into
16 account under paragraph (3) or (4) of sub-
17 section (d).

18 “(3) MINIMUM EXPENDITURES TO QUALIFY.—

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

22 “(i) the expenditures are allocable to
23 1 or more middle-income units or substan-
24 tially benefit such units, and

1 “(ii) the amount of such expenditures
2 during any 24-month period meets the re-
3 quirements of whichever of the following
4 subclauses requires the greater amount of
5 such expenditures:

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

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

23 “(B) EXCEPTION.—In the case of a build-
24 ing acquired by the taxpayer from a govern-
25 mental unit, at the election of the taxpayer,

1 subparagraph (A)(ii)(I) shall not apply and the
2 credit under this section for such rehabilitation
3 expenditures shall be determined using the per-
4 centage under subsection (b) which is applicable
5 to buildings which are Federally subsidized.

6 “(C) DATE OF DETERMINATION.—The de-
7 termination under subparagraph (A) shall be
8 made as of the close of the 1st taxable year in
9 the credit period with respect to such expendi-
10 tures.

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

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

18 “(B) the applicable fraction under sub-
19 section (c)(1) shall be the applicable fraction for
20 the building (without regard to paragraph (1))
21 with respect to which the expenditures were in-
22 curred.

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

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

6 “(6) REGULATIONS TO APPLY SUBSECTION
 7 WITH RESPECT TO GROUP OF UNITS IN BUILDING.—
 8 The Secretary may prescribe regulations, consistent
 9 with the purposes of this subsection, treating a
 10 group of units with respect to which rehabilitation
 11 expenditures are incurred as a separate new build-
 12 ing.

13 “(f) DEFINITION AND SPECIAL RULES RELATING TO
 14 CREDIT PERIOD.—

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

19 “(A) the taxable year in which the building
 20 is placed in service, or

21 “(B) at the election of the taxpayer, the
 22 succeeding taxable year,

23 but only if the building is a qualified middle-income
 24 building as of the close of the 1st year of such pe-

1 riod. The election under subparagraph (B), once
 2 made, shall be irrevocable.

3 “(2) SPECIAL RULE FOR 1ST YEAR OF CREDIT
 4 PERIOD.—

5 “(A) IN GENERAL.—The credit allowable
 6 under subsection (a) with respect to any build-
 7 ing for the 1st taxable year of the credit period
 8 shall be determined by substituting for the ap-
 9 plicable fraction under subsection (c)(1) the
 10 fraction—

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

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

17 “(B) DISALLOWED 1ST-YEAR CREDIT AL-
 18 LOWED IN 16TH YEAR.—Any reduction by rea-
 19 son of subparagraph (A) in the credit allowable
 20 (without regard to subparagraph (A)) for the
 21 1st taxable year of the credit period shall be al-
 22 lowable under subsection (a) for the 1st taxable
 23 year following the credit period.

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

4 “(A) IN GENERAL.—In the case of any
5 building which was a qualified middle-income
6 building as of the close of the 1st year of the
7 credit period, if—

8 “(i) as of the close of any taxable year
9 in the credit period (after the 1st year of
10 such period) the qualified basis of such
11 building, exceeds

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

15 the applicable percentage which shall apply
16 under subsection (a) for the taxable year to
17 such excess shall be the percentage equal to $\frac{2}{3}$
18 of the applicable percentage which (after the
19 application of subsection (h)) would but for this
20 paragraph apply to such basis.

21 “(B) 1ST YEAR COMPUTATION APPLIES.—

22 A rule similar to the rule of paragraph (2)(A)
23 shall apply to any increase in qualified basis to
24 which subparagraph (A) applies for the 1st year
25 of such increase.

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

7 “(5) CREDIT PERIOD FOR EXISTING BUILDINGS
 8 NOT TO BEGIN BEFORE REHABILITATION CREDIT
 9 ALLOWED.—

10 “(A) IN GENERAL.—The credit period for
 11 an existing building shall not begin before the
 12 1st taxable year of the credit period for reha-
 13 bilitation expenditures with respect to the build-
 14 ing.

15 “(B) ACQUISITION CREDIT ALLOWED FOR
 16 CERTAIN BUILDINGS NOT ALLOWED A REHA-
 17 BILITATION CREDIT.—

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

20 “(I) subsection (d)(2)(B)(iv)
 21 shall not apply, and

22 “(II) the credit period for such
 23 building shall not begin before the
 24 taxable year which would be the 1st
 25 taxable year of the credit period for

1 rehabilitation expenditures with re-
 2 spect to the building under the modi-
 3 fications described in clause (ii)(II).

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

6 “(I) a waiver is granted under
 7 subsection (d)(5) with respect to the
 8 acquisition of the building, and

9 “(II) a credit would be allowed
 10 for rehabilitation expenditures with
 11 respect to such building if subsection
 12 (e)(3)(A)(ii)(I) did not apply and if
 13 the dollar amount in effect under sub-
 14 section (e)(3)(A)(ii)(II) were two-
 15 thirds of such amount.

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

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

21 “(A) 60 percent or more of the residential
 22 units in such project are both rent-restricted
 23 and occupied by individuals whose income is
 24 100 percent or less of area median gross in-
 25 come, and

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

3 “(i) are described in subparagraph
4 (A), and

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

7 “(2) RENT-RESTRICTED UNITS.—

8 “(A) IN GENERAL.—For purposes of para-
9 graph (1), a residential unit is rent-restricted if
10 the gross rent with respect to such unit does
11 not exceed 30 percent of the imputed income
12 limitation applicable to such unit. For purposes
13 of the preceding sentence, the amount of the in-
14 come limitation under paragraph (1) applicable
15 for any period shall not be less than such limi-
16 tation applicable for the earliest period the
17 building (which contains the unit) was included
18 in the determination of whether the project is
19 a qualified middle-income housing project.

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

22 “(i) includes any utility allowance de-
23 termined by the Secretary after taking into
24 account such determinations under section

1 8 of the United States Housing Act of
2 1937,

3 “(ii) does not include any fee for a
4 supportive service which is paid to the
5 owner of the unit (on the basis of the mid-
6 dle-income status of the tenant of the unit)
7 by any governmental program of assistance
8 (or by an organization described in section
9 501(c)(3) and exempt from tax under sec-
10 tion 501(a)) if such program (or organiza-
11 tion) provides assistance for rent and the
12 amount of assistance provided for rent is
13 not separable from the amount of assist-
14 ance provided for supportive services, and

15 “(iii) does not include any rental pay-
16 ment to the owner of the unit to the extent
17 such owner pays an equivalent amount to
18 the Farmers’ Home Administration under
19 section 515 of the Housing Act of 1949.

20 For purposes of clause (ii), the term ‘supportive
21 service’ means any service provided under a
22 planned program of services designed to enable
23 residents of a residential rental property to re-
24 main independent and avoid placement in a
25 hospital, nursing home, or intermediate care fa-

1 cility for the mentally or physically handi-
2 capped.

3 “(C) IMPUTED INCOME LIMITATION APPLI-
4 CABLE TO UNIT.—For purposes of this para-
5 graph, the imputed income limitation applicable
6 to a unit is the income limitation which would
7 apply under paragraph (1) to individuals occu-
8 pying the unit if the number of individuals oc-
9 cupying the unit were as follows:

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

12 “(ii) In the case of a unit which has
13 1 or more separate bedrooms, 1.5 individ-
14 uals for each separate bedroom.

15 In the case of a project with respect to which
16 a credit is allowable by reason of this section
17 and for which financing is provided by a bond
18 described in section 142(a)(7), the imputed in-
19 come limitation shall apply in lieu of the other-
20 wise applicable income limitation for purposes
21 of applying section 142(d)(4)(B)(ii).

22 “(D) TREATMENT OF UNITS OCCUPIED BY
23 INDIVIDUALS WHOSE INCOMES RISE ABOVE
24 LIMIT.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), notwithstanding an in-
3 crease in the income of the occupants of a
4 middle-income unit above the income limi-
5 tation applicable under paragraph (1),
6 such unit shall continue to be treated as a
7 middle-income unit if the income of such
8 occupants initially met such income limita-
9 tion and such unit continues to be rent-re-
10 stricted.

11 “(ii) NEXT AVAILABLE UNIT MUST BE
12 RENTED TO MIDDLE-INCOME TENANT IF
13 INCOME RISES ABOVE 140 PERCENT OF IN-
14 COME LIMIT.—If the income of the occu-
15 pants of the unit increases above 140 per-
16 cent of the income limitation applicable
17 under paragraph (1), clause (i) shall cease
18 to apply to such unit if any residential
19 rental unit in the building (of a size com-
20 parable to, or smaller than, such unit) is
21 occupied by a new resident whose income
22 exceeds such income limitation.

23 “(3) DATE FOR MEETING REQUIREMENTS.—

24 “(A) IN GENERAL.—Except as otherwise
25 provided in this paragraph, a building shall be

1 treated as a qualified middle-income building
2 only if the project (of which such building is a
3 part) meets the requirements of paragraph (1)
4 not later than the close of the 1st year of the
5 credit period for such building.

6 “(B) BUILDINGS WHICH RELY ON LATER
7 BUILDINGS FOR QUALIFICATION.—

8 “(i) IN GENERAL.—In determining
9 whether a building (hereinafter in this sub-
10 paragraph referred to as the ‘prior build-
11 ing’) is a qualified middle-income building,
12 the taxpayer may take into account 1 or
13 more additional buildings placed in service
14 during the 12-month period described in
15 subparagraph (A) with respect to the prior
16 building only if the taxpayer elects to apply
17 clause (ii) with respect to each additional
18 building taken into account.

19 “(ii) TREATMENT OF ELECTED
20 BUILDINGS.—In the case of a building
21 which the taxpayer elects to take into ac-
22 count under clause (i), the period under
23 subparagraph (A) for such building shall
24 end at the close of the 12-month period ap-
25 plicable to the prior building.

1 “(iii) DATE PRIOR BUILDING IS
 2 TREATED AS PLACED IN SERVICE.—For
 3 purposes of determining the credit period
 4 for the prior building, the prior building
 5 shall be treated for purposes of this section
 6 as placed in service on the most recent
 7 date any additional building elected by the
 8 taxpayer (with respect to such prior build-
 9 ing) was placed in service.

10 “(C) SPECIAL RULE.—A building—

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

13 “(ii) other than a building which is
 14 placed in service during the 12-month pe-
 15 riod described in subparagraph (A) with
 16 respect to a prior building which becomes
 17 a qualified middle-income building,

18 shall in no event be treated as a qualified mid-
 19 dle-income building unless the project is a
 20 qualified middle-income housing project (with-
 21 out regard to such building) on the date such
 22 building is placed in service.

23 “(D) PROJECTS WITH MORE THAN 1
 24 BUILDING MUST BE IDENTIFIED.—For pur-
 25 poses of this section, a project shall be treated

1 as consisting of only 1 building unless, before
 2 the close of the 1st calendar year in the project
 3 period (as defined in subsection (h)(1)(F)(ii)),
 4 each building which is (or will be) part of such
 5 project is identified in such form and manner
 6 as the Secretary may provide.

7 “(4) CERTAIN RULES MADE APPLICABLE.—
 8 Paragraphs (2) (other than subparagraph (A) there-
 9 of), (3), and (7) of section 142(d), and section
 10 6652(j), shall apply for purposes of determining
 11 whether any project is a qualified middle-income
 12 housing project and whether any unit is a middle-in-
 13 come unit; except that, in applying such provisions
 14 for such purposes—

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

18 “(B) the term ‘applicable income limit’
 19 means the limitation under paragraph (1) of
 20 this subsection.

21 “(5) ELECTION TO TREAT BUILDING AFTER
 22 CREDIT PERIOD AS NOT PART OF A PROJECT.—For
 23 purposes of this section, the taxpayer may elect to
 24 treat any building as not part of a qualified middle-

1 income housing project for any period beginning
2 after the credit period for such building.

3 “(6) SPECIAL RULE WHERE DE MINIMIS EQ-
4 UITY CONTRIBUTION.—Property shall not be treated
5 as failing to be residential rental property for pur-
6 poses of this section merely because the occupant of
7 a residential unit in the project pays (on a voluntary
8 basis) to the lessor a de minimis amount to be held
9 toward the purchase by such occupant of a residen-
10 tial unit in such project if—

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

14 “(B) the purchase of the unit is not per-
15 mitted until after the close of the credit period
16 with respect to the building in which the unit
17 is located.

18 Any amount paid to the lessor as described in the
19 preceding sentence shall be included in gross rent
20 under paragraph (2) for purposes of determining
21 whether the unit is rent-restricted.

22 “(7) SCATTERED SITE PROJECTS.—Buildings
23 which would (but for their lack of proximity) be
24 treated as a project for purposes of this section shall
25 be so treated if all of the dwelling units in each of

1 the buildings are rent-restricted (within the meaning
2 of paragraph (2)) residential rental units.

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

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

13 “(A) with special needs,

14 “(B) who are members of a specified group
15 under a Federal program or State program or
16 policy that supports housing for such a speci-
17 fied group, or

18 “(C) who are involved in artistic or literary
19 activities.

20 “(h) LIMITATION ON AGGREGATE CREDIT ALLOW-
21 ABLE WITH RESPECT TO PROJECTS LOCATED IN A
22 STATE.—

23 “(1) CREDIT MAY NOT EXCEED CREDIT
24 AMOUNT ALLOCATED TO BUILDING.—

1 “(A) IN GENERAL.—The amount of the
2 credit determined under this section for any
3 taxable year with respect to any building shall
4 not exceed the housing credit dollar amount al-
5 located to such building under this subsection.

6 “(B) TIME FOR MAKING ALLOCATION.—
7 Except in the case of an allocation which meets
8 the requirements of subparagraph (C), (D),
9 (E), or (F), an allocation shall be taken into ac-
10 count under subparagraph (A) only if it is
11 made not later than the close of the calendar
12 year in which the building is placed in service.

13 “(C) EXCEPTION WHERE BINDING COM-
14 MITMENT.—An allocation meets the require-
15 ments of this subparagraph if there is a binding
16 commitment (not later than the close of the cal-
17 endar year in which the building is placed in
18 service) by the housing credit agency to allocate
19 a specified housing credit dollar amount to such
20 building beginning in a specified later taxable
21 year.

22 “(D) EXCEPTION WHERE INCREASE IN
23 QUALIFIED BASIS.—

24 “(i) IN GENERAL.—An allocation
25 meets the requirements of this subpara-

graph if such allocation is made not later than the close of the calendar year in which ends the taxable year to which it will 1st apply but only to the extent the amount of such allocation does not exceed the limitation under clause (ii).

“(ii) LIMITATION.—The limitation under this clause is the amount of credit allowable under this section (without regard to this subsection) for a taxable year with respect to an increase in the qualified basis of the building equal to the excess of—

“(I) the qualified basis of such building as of the close of the 1st taxable year to which such allocation will apply, over

“(II) the qualified basis of such building as of the close of the 1st taxable year to which the most recent prior housing credit allocation with respect to such building applied.

“(iii) HOUSING CREDIT DOLLAR AMOUNT REDUCED BY FULL ALLOCATION.—Notwithstanding clause (i), the full

1 amount of the allocation shall be taken
2 into account under paragraph (2).

3 “(E) EXCEPTION WHERE 10 PERCENT OF
4 COST INCURRED.—

5 “(i) IN GENERAL.—An allocation
6 meets the requirements of this subpara-
7 graph if such allocation is made with re-
8 spect to a qualified building which is
9 placed in service not later than the close of
10 the second calendar year following the cal-
11 endar year in which the allocation is made.

12 “(ii) QUALIFIED BUILDING.—For pur-
13 poses of clause (i), the term ‘qualified
14 building’ means any building which is part
15 of a project if the taxpayer’s basis in such
16 project (as of the date which is 1 year
17 after the date that the allocation was
18 made) is more than 10 percent of the tax-
19 payer’s reasonably expected basis in such
20 project (as of the close of the second cal-
21 endar year referred to in clause (i)). Such
22 term does not include any existing building
23 unless a credit is allowable under sub-
24 section (e) for rehabilitation expenditures
25 paid or incurred by the taxpayer with re-

1 spect to such building for a taxable year
2 ending during the second calendar year re-
3 ferred to in clause (i) or the prior taxable
4 year.

5 “(F) ALLOCATION OF CREDIT ON A
6 PROJECT BASIS.—

7 “(i) IN GENERAL.—In the case of a
8 project which includes (or will include)
9 more than 1 building, an allocation meets
10 the requirements of this subparagraph if—

11 “(I) the allocation is made to the
12 project for a calendar year during the
13 project period,

14 “(II) the allocation only applies
15 to buildings placed in service during
16 or after the calendar year for which
17 the allocation is made, and

18 “(III) the portion of such alloca-
19 tion which is allocated to any building
20 in such project is specified not later
21 than the close of the calendar year in
22 which the building is placed in service.

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

1 “(I) beginning with the 1st cal-
2 endar year for which an allocation
3 may be made for the 1st building
4 placed in service as part of such
5 project, and

6 “(II) ending with the calendar
7 year the last building is placed in
8 service as part of such project.

9 “(2) ALLOCATED CREDIT AMOUNT TO APPLY
10 TO ALL TAXABLE YEARS ENDING DURING OR AFTER
11 CREDIT ALLOCATION YEAR.—Any housing credit dol-
12 lar amount allocated to any building for any cal-
13 endar year—

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

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

20 “(3) HOUSING CREDIT DOLLAR AMOUNT FOR
21 AGENCIES.—

22 “(A) IN GENERAL.—The aggregate hous-
23 ing credit dollar amount which a housing credit
24 agency may allocate for any calendar year is
25 the portion of the State housing credit ceiling

1 allocated under this paragraph for such cal-
2 endar year to such agency.

3 “(B) STATE CEILING INITIALLY ALLO-
4 CATED TO STATE HOUSING CREDIT AGEN-
5 CIES.—Except as provided in subparagraph
6 (D), the State housing credit ceiling for each
7 calendar year shall be allocated to the housing
8 credit agency of such State. If there is more
9 than 1 housing credit agency of a State, all
10 such agencies shall be treated as a single agen-
11 cy.

12 “(C) STATE HOUSING CREDIT CEILING.—
13 The State housing credit ceiling applicable to
14 any State for any calendar year shall be an
15 amount equal to the sum of—

16 “(i) the unused State housing credit
17 ceiling (if any) of such State for the pre-
18 ceding calendar year,

19 “(ii) the greater of—

20 “(I) \$1.00 multiplied by the
21 State population, or

22 “(II) \$1,500,000, plus

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

1 For purposes of clause (i), the unused State
2 housing credit ceiling for any calendar year is
3 the excess (if any) of the sum of the amounts
4 described in clauses (ii) (reduced by the aggregate
5 amounts described in paragraph (10)(A)(i)
6 with respect to all elections made for such calendar
7 year) and (iii) over the aggregate housing
8 credit dollar amount allocated for such year.

9 For purposes of clause (iii), the amount of
10 State housing credit ceiling returned in the calendar
11 year equals the housing credit dollar
12 amount previously allocated within the State to
13 any project which fails to meet the 10 percent
14 test under paragraph (1)(E)(ii) on a date after
15 the close of the calendar year in which the allocation
16 was made or which does not become a
17 qualified middle-income housing project within
18 the period required by this section or the terms
19 of the allocation or to any project with respect
20 to which an allocation is cancelled by mutual
21 consent of the housing credit agency and the allocation
22 recipient.

23 “(D) STATE MAY PROVIDE FOR DIFFERENT
24 ALLOCATION.—Rules similar to the
25 rules of section 146(e) (other than paragraph

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

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

“(F) COST-OF-LIVING ADJUSTMENT.—

“(i) IN GENERAL.—In the case of a calendar year after 2026, the \$1,500,000 and \$1.00 amounts in subparagraph (C) shall each be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 2025’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

“(ii) ROUNDING.—

“(I) In the case of the \$1,500,000 amount, any increase under clause (i) which is not a multiple of \$5,000 shall be rounded to the next lowest multiple of \$5,000.

1 “(II) In the case of the \$1.00
 2 amount, any increase under clause (i)
 3 which is not a multiple of 5 cents
 4 shall be rounded to the next lowest
 5 multiple of 5 cents.

6 “(4) PORTION OF STATE CEILING SET-ASIDE
 7 FOR CERTAIN PROJECTS INVOLVING QUALIFIED
 8 NONPROFIT ORGANIZATIONS.—

9 “(A) IN GENERAL.—Not more than 90
 10 percent of the State housing credit ceiling (de-
 11 termined without regard to paragraph (7)) for
 12 any State for any calendar year shall be allo-
 13 cated to projects other than qualified middle-in-
 14 come housing projects described in subpara-
 15 graph (B).

16 “(B) PROJECTS INVOLVING QUALIFIED
 17 NONPROFIT ORGANIZATIONS.—For purposes of
 18 subparagraph (A), a qualified middle-income
 19 housing project is described in this subpara-
 20 graph if a qualified nonprofit organization is to
 21 own an interest in the project (directly or
 22 through a partnership) and materially partici-
 23 pate (within the meaning of section 469(h)) in
 24 the development and operation of the project
 25 throughout the credit period.

1 “(C) QUALIFIED NONPROFIT ORGANIZA-
2 TION.—For purposes of this paragraph, the
3 term ‘qualified nonprofit organization’ means
4 any organization if—

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

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

12 “(iii) one of the exempt purposes of
13 such organization includes the fostering of
14 middle-income housing.

15 “(D) TREATMENT OF CERTAIN SUBSIDI-
16 ARIES.—

17 “(i) IN GENERAL.—For purposes of
18 this paragraph, a qualified nonprofit orga-
19 nization shall be treated as satisfying the
20 ownership and material participation test
21 of subparagraph (B) if any qualified cor-
22 poration in which such organization holds
23 stock satisfies such test.

24 “(ii) QUALIFIED CORPORATION.—For
25 purposes of clause (i), the term ‘qualified

1 corporation’ means any corporation if 100
 2 percent of the stock of such corporation is
 3 held by 1 or more qualified nonprofit orga-
 4 nizations at all times during the period
 5 such corporation is in existence.

6 “(E) STATE MAY NOT OVERRIDE SET-
 7 ASIDE.—Nothing in subparagraph (E) of para-
 8 graph (3) shall be construed to permit a State
 9 not to comply with subparagraph (A) of this
 10 paragraph.

11 “(5) BUILDINGS ELIGIBLE FOR CREDIT ONLY
 12 IF MINIMUM LONG-TERM COMMITMENT TO MIDDLE-
 13 INCOME HOUSING.—

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

19 “(B) EXTENDED MIDDLE-INCOME HOUS-
 20 ING COMMITMENT.—For purposes of this para-
 21 graph, the term ‘extended middle-income hous-
 22 ing commitment’ means any agreement between
 23 the taxpayer and the housing credit agency—

24 “(i) which requires that the applicable
 25 fraction (as defined in subsection (c)(1))

1 for the building for each taxable year in
2 the extended use period will not be less
3 than the applicable fraction specified in
4 such agreement and which prohibits the
5 actions described in subclauses (I) and (II)
6 of subparagraph (E)(ii),

7 “(ii) which allows individuals who
8 meet the income limitation applicable to
9 the building under subsection (g) (whether
10 prospective, present, or former occupants
11 of the building) the right to enforce in any
12 State court the requirement and prohibi-
13 tions of clause (i),

14 “(iii) which prohibits the disposition
15 to any person of any portion of the build-
16 ing to which such agreement applies unless
17 all of the building to which such agreement
18 applies is disposed of to such person,

19 “(iv) which prohibits the refusal to
20 lease to a holder of a voucher or certificate
21 of eligibility under section 8 of the United
22 States Housing Act of 1937 because of the
23 status of the prospective tenant as such a
24 holder,

1 “(v) which is binding on all successors
2 of the taxpayer, and

3 “(vi) which, with respect to the prop-
4 erty, is recorded pursuant to State law as
5 a restrictive covenant.

6 “(C) ALLOCATION OF CREDIT MAY NOT
7 EXCEED AMOUNT NECESSARY TO SUPPORT
8 COMMITMENT.—

9 “(i) IN GENERAL.—The housing cred-
10 it dollar amount allocated to any building
11 may not exceed the amount necessary to
12 support the applicable fraction specified in
13 the extended middle-income housing com-
14 mitment for such building, including any
15 increase in such fraction pursuant to the
16 application of subsection (f)(3) if such in-
17 crease is reflected in an amended middle-
18 income housing commitment.

19 “(ii) BUILDINGS FINANCED BY TAX-
20 EXEMPT BONDS.—If paragraph (9) applies
21 to any building the amount of credit al-
22 lowed in any taxable year may not exceed
23 the amount necessary to support the appli-
24 cable fraction specified in the extended
25 low-income housing commitment for such

1 building. Such commitment may be amend-
2 ed to increase such fraction.

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

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

10 “(ii) ending on the later of—

11 “(I) the date specified by such
12 agency in such agreement, or

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

15 “(E) EXCEPTIONS IF FORECLOSURE OR IF
16 NO BUYER WILLING TO MAINTAIN MIDDLE-IN-
17 COME STATUS.—

18 “(i) IN GENERAL.—The extended use
19 period for any building shall terminate—

20 “(I) on the date the building is
21 acquired by foreclosure (or instrument
22 in lieu of foreclosure) unless the Sec-
23 retary determines that such acquisi-
24 tion is part of an arrangement with

1 the taxpayer a purpose of which is to
 2 terminate such period, or

3 “(II) on the last day of the pe-
 4 riod specified in subparagraph (I) if
 5 the housing credit agency is unable to
 6 present during such period a qualified
 7 contract for the acquisition of the
 8 middle-income portion of the building
 9 by any person who will continue to op-
 10 erate such portion as a qualified mid-
 11 dle-income building.

12 Subclause (II) shall no apply to the extent
 13 more stringent requirements are provided
 14 in the agreement or in State law.

15 “(ii) EVICTION, ETC., OF EXISTING
 16 MIDDLE-INCOME TENANTS NOT PER-
 17 MITTED.—The termination of an extended
 18 use period under clause (i) shall not be
 19 construed to permit before the close of the
 20 3-year period following such termination—

21 “(I) the eviction or the termi-
 22 nation of tenancy (other than for good
 23 cause) of an existing tenant of any
 24 middle-income unit, or

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

4 “(F) QUALIFIED CONTRACT.—For pur-
5 poses of subparagraph (E), the term ‘qualified
6 contract’ means a bona fide contract to acquire
7 (within a reasonable period after the contract is
8 entered into) the nonmiddle-income portion of
9 the building for fair market value and the mid-
10 dle-income portion of the building for an
11 amount not less than the applicable fraction
12 (specified in the extended middle-income hous-
13 ing commitment) of—

14 “(i) the sum of—

15 “(I) the outstanding indebtedness
16 secured by, or with respect to, the
17 building,

18 “(II) the adjusted investor equity
19 in the building, plus

20 “(III) other capital contributions
21 not reflected in the amounts described
22 in subclause (I) or (II), reduced by

23 “(ii) cash distributions from (or avail-
24 able for distribution from) the project.

1 The Secretary shall prescribe such regulations
2 as may be necessary or appropriate to carry out
3 this paragraph, including regulations to prevent
4 the manipulation of the amount determined
5 under the preceding sentence.

6 “(G) ADJUSTED INVESTOR EQUITY.—

7 “(i) IN GENERAL.—For purposes of
8 subparagraph (F), the term ‘adjusted in-
9 vestor equity’ means, with respect to any
10 calendar year, the aggregate amount of
11 cash taxpayers invested with respect to the
12 project increased by the amount equal to—

13 “(I) such amount, multiplied by

14 “(II) the cost-of-living adjust-
15 ment for such calendar year, deter-
16 mined under section 1(f)(3) by sub-
17 stituting the base calendar year for
18 ‘calendar year 2016’ in subparagraph
19 (A)(ii) thereof.

20 An amount shall be taken into account as
21 an investment in the project only to the ex-
22 tent there was an obligation to invest such
23 amount as of the beginning of the credit
24 period and to the extent such amount is

1 reflected in the adjusted basis of the
2 project.

3 “(ii) COST-OF-LIVING INCREASES IN
4 EXCESS OF 5 PERCENT NOT TAKEN INTO
5 ACCOUNT.—Under regulations prescribed
6 by the Secretary, if the C–CPI–U for any
7 calendar year (as defined in section
8 1(f)(6)) exceeds the C–CPI–U for the pre-
9 ceding calendar year by more than 5 per-
10 cent, the C–CPI–U for the base calendar
11 year shall be increased such that such ex-
12 cess shall never be taken into account
13 under clause (i). In the case of a base cal-
14 endar year before 2017, the C–CPI–U for
15 such year shall be determined by multi-
16 plying the CPI for such year by the
17 amount determined under section
18 1(f)(3)(B).

19 “(iii) BASE CALENDAR YEAR.—For
20 purposes of this subparagraph, the term
21 ‘base calendar year’ means the calendar
22 year with or within which the 1st taxable
23 year of the credit period ends.

24 “(H) MIDDLE-INCOME PORTION.—For
25 purposes of this paragraph, the middle-income

1 portion of a building is the portion of such
2 building equal to the applicable fraction speci-
3 fied in the extended middle-income housing
4 commitment for the building.

5 “(I) PERIOD FOR FINDING BUYER.—The
6 period referred to in this subparagraph is the 1-
7 year period beginning on the date (after the
8 14th year of the credit period) the taxpayer
9 submits a written request to the housing credit
10 agency to find a person to acquire the tax-
11 payer’s interest in the low-income portion of the
12 building.

13 “(J) EFFECT OF NONCOMPLIANCE.—If,
14 during a taxable year, there is a determination
15 that an extended middle-income housing agree-
16 ment was not in effect as of the beginning of
17 such year, such determination shall not apply to
18 any period before such year and subparagraph
19 (A) shall be applied without regard to such de-
20 termination if the failure is corrected within 1
21 year from the date of the determination.

22 “(K) PROJECTS WHICH CONSIST OF MORE
23 THAN 1 BUILDING.—The application of this
24 paragraph to projects which consist of more

1 than 1 building shall be made under regulations
2 prescribed by the Secretary.

3 “(6) SPECIAL RULES.—

4 “(A) BUILDING MUST BE LOCATED WITH-
5 IN JURISDICTION OF CREDIT AGENCY.—A hous-
6 ing credit agency may allocate its aggregate
7 housing credit dollar amount only to buildings
8 located in the jurisdiction of the governmental
9 unit of which such agency is a part.

10 “(B) AGENCY ALLOCATIONS IN EXCESS OF
11 LIMIT.—If the aggregate housing credit dollar
12 amounts allocated by a housing credit agency
13 for any calendar year exceed the portion of the
14 State housing credit ceiling allocated to such
15 agency for such calendar year, the housing
16 credit dollar amounts so allocated shall be re-
17 duced (to the extent of such excess) for build-
18 ings in the reverse of the order in which the al-
19 locations of such amounts were made.

20 “(C) CREDIT REDUCED IF ALLOCATED
21 CREDIT DOLLAR AMOUNT IS LESS THAN CREDIT
22 WHICH WOULD BE ALLOWABLE WITHOUT RE-
23 GARD TO PLACED IN SERVICE CONVENTION,
24 ETC.—

1 “(i) IN GENERAL.—The amount of
2 the credit determined under this section
3 with respect to any building shall not ex-
4 ceed the clause (ii) percentage of the
5 amount of the credit which would (but for
6 this subparagraph) be determined under
7 this section with respect to such building.

8 “(ii) DETERMINATION OF PERCENT-
9 AGE.—For purposes of clause (i), the
10 clause (ii) percentage with respect to any
11 building is the percentage which—

12 “(I) the housing credit dollar
13 amount allocated to such building,
14 bears to

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

17 “(iii) DETERMINATION OF CREDIT
18 AMOUNT.—The credit amount determined
19 in accordance with this clause is the
20 amount of the credit which would (but for
21 this subparagraph) be determined under
22 this section with respect to the building
23 if—

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

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

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

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

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

25 “(B) USE OF INCREASED AMOUNT.—

1 “(i) IN GENERAL.—The amount of
 2 the increase under subparagraph (A) for
 3 any calendar year may only be allocated to
 4 buildings located in a rural area.

5 “(ii) RURAL AREA.—For purposes of
 6 clause (i), the term ‘rural area’ means any
 7 non-metropolitan area, or any rural area
 8 as defined by section 520 of the Housing
 9 Act of 1949, which is identified by the
 10 qualified allocation plan under subsection
 11 (l)(1)(B).

12 “(8) OTHER DEFINITIONS.—For purposes of
 13 this subsection—

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

17 “(B) POSSESSIONS TREATED AS STATES.—
 18 The term ‘State’ includes a possession of the
 19 United States.

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

1 “(10) ELECTION TO TRANSFER STATE HOUSING
2 CREDIT CEILING FOR ALLOCATIONS TO LOW-INCOME
3 BUILDINGS.—

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

7 “(i) the State housing credit ceiling
8 for such calendar year under paragraph
9 (3) (determined before application of para-
10 graph (7)) shall be reduced by the amount
11 specified in such election,

12 “(ii) the amount determined under
13 paragraph (7) for such calendar year shall
14 be reduced by the amount specified in such
15 election, and

16 “(iii) the amount determined under
17 section 42(h)(3)(C)(ii) for such calendar
18 year shall be increased by the sum of the
19 amounts specified in clauses (i) and (ii),
20 except that any amount specified under
21 clause (ii)—

22 “(I) may only be allocated under
23 such section to qualified low-income
24 buildings (as defined in section 42) lo-

1 cated in a rural area (as defined in
2 paragraph (7), and

3 “(II) shall not be taken into ac-
4 count for purposes of determining the
5 unused housing credit ceiling under
6 the second sentence of section
7 42(h)(3)(C).

8 “(B) TIME AND MANNER FOR MAKING
9 ELECTION.—

10 “(i) IN GENERAL.—An election under
11 this paragraph—

12 “(I) shall be made before the end
13 of the calendar year with respect to
14 which such election applies,

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

17 “(III) shall separately specify the
18 amount of reductions to be made
19 under paragraph (3) and paragraph
20 (7).

21 “(ii) FREQUENCY.—A State housing
22 credit agency may make more than one
23 election under this section with respect to
24 any calendar year, and any such election,
25 once made, shall be revocable only if such

1 revocation is made before the end of the
2 calendar year with respect to which such
3 election is made.

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

8 “(i) the amount determined under
9 paragraph (3)(C)(ii) for such calendar
10 year, plus

11 “(ii) the amount determined under
12 paragraph (7) for such calendar year.

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

15 “(1) MIDDLE-INCOME UNIT.—

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

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

20 “(ii) the individuals occupying such
21 unit meet the income limitation applicable
22 under subsection (g)(1) to the project of
23 which such building is a part.

24 “(B) EXCEPTIONS.—

1 “(i) EXCLUSION OF LOW-INCOME
2 UNITS.—A unit shall not be treated as a
3 middle-income unit if such unit is a low-in-
4 come unit (as defined under section
5 42(i)(3)).

6 “(ii) UNIT MUST BE SUITABLE FOR
7 PERMANENT OCCUPANCY.—

8 “(I) IN GENERAL.—A unit shall
9 not be treated as a middle-income
10 unit unless the unit is suitable for oc-
11 cupancy and used other than on a
12 transient basis.

13 “(II) TRANSITIONAL HOUSING
14 FOR HOMELESS.—For purposes of
15 subclause (I), a unit shall be consid-
16 ered to be used other than on a tran-
17 sient basis if the unit contains sleep-
18 ing accommodations and kitchen and
19 bathroom facilities and is located in a
20 building—

21 “(aa) which is used exclu-
22 sively to facilitate the transition
23 of homeless individuals (within
24 the meaning of section 103 of the
25 Stewart B. McKinney Homeless

1 Assistance Act (42 U.S.C.
2 11302), as in effect on the date
3 of the enactment of this clause)
4 to independent living within 24
5 months, and

6 “(bb) in which a govern-
7 mental entity or qualified non-
8 profit organization (as defined in
9 subsection (h)(4)) provides such
10 individuals with temporary hous-
11 ing and supportive services de-
12 signed to assist such individuals
13 in locating and retaining perma-
14 nent housing.

15 “(III) SUITABILITY FOR OCCU-
16 PANCY.—For purposes of subclause
17 (I), the suitability of a unit for occu-
18 pancy shall be determined under regu-
19 lations prescribed by the Secretary
20 taking into account local health, safe-
21 ty, and building codes.

22 “(IV) SINGLE-ROOM OCCUPANCY
23 UNITS.—For purposes of subclause
24 (I), a single-room occupancy unit shall
25 not be treated as used on a transient

1 basis merely because it is rented on a
2 month-by-month basis.

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

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

11 “(ii) any person who is related (as de-
12 fined in subsection (d)(2)(D)(ii)) to such
13 individual.

14 “(D) CERTAIN STUDENTS NOT TO DIS-
15 QUALIFY UNIT.—A unit shall not fail to be
16 treated as a middle-income unit merely because
17 it is occupied—

18 “(i) by an individual who is—

19 “(I) a student and receiving as-
20 sistance under title IV of the Social
21 Security Act,

22 “(II) a student who was pre-
23 viously under the care and placement
24 responsibility of the State agency re-
25 sponsible for administering a plan

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

3 “(III) enrolled in a job training
4 program receiving assistance under
5 the Job Training Partnership Act or
6 under other similar Federal, State, or
7 local laws, or

8 “(ii) entirely by full-time students if
9 such students are—

10 “(I) single parents and their chil-
11 dren and such parents are not de-
12 pendents (as defined in section 152,
13 determined without regard to sub-
14 sections (b)(1), (b)(2), and (d)(1)(B)
15 thereof) of another individual and
16 such children are not dependents (as
17 so defined) of another individual other
18 than a parent of such children, or

19 “(II) married and file a joint re-
20 turn.

21 “(E) OWNER-OCCUPIED BUILDINGS HAV-
22 ING 4 OR FEWER UNITS ELIGIBLE FOR CREDIT
23 WHERE DEVELOPMENT PLAN.—

24 “(i) IN GENERAL.—Subparagraph (C)
25 shall not apply to the acquisition or reha-

1 bilitation of a building pursuant to a devel-
2 opment plan of action sponsored by a
3 State or local government or a qualified
4 nonprofit organization.

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

9 “(iii) CERTAIN UNRENTED UNITS
10 TREATED AS OWNER-OCCUPIED.—In the
11 case of a building to which clause (i) ap-
12 plies, any unit which is not rented for 90
13 days or more shall be treated as occupied
14 by the owner of the building as of the 1st
15 day it is not rented.

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

19 “(3) EXISTING BUILDING.—The term ‘existing
20 building’ means any building which is not a new
21 building.

22 “(4) APPLICATION TO ESTATES AND TRUSTS.—
23 In the case of an estate or trust, the amount of the
24 credit determined under subsection (a) shall be ap-
25 portioned between the estate or trust and the bene-

1 ficiaries on the basis of the income of the estate or
2 trust allocable to each.

3 “(5) IMPACT OF TENANT’S RIGHT OF 1ST RE-
4 FUSAL TO ACQUIRE PROPERTY.—

5 “(A) IN GENERAL.—No Federal income
6 tax benefit shall fail to be allowable to the tax-
7 payer with respect to any qualified middle-in-
8 come building merely by reason of a right of 1st
9 refusal held by the tenants (in cooperative form
10 or otherwise) or resident management corpora-
11 tion of such building or by a qualified nonprofit
12 organization (as defined in subsection
13 (h)(4)(C)) or government agency to purchase
14 the property after the close of the credit period
15 for a price which is not less than the minimum
16 purchase price determined under subparagraph
17 (B).

18 “(B) MINIMUM PURCHASE PRICE.—For
19 purposes of subparagraph (A), the minimum
20 purchase price under this subparagraph is an
21 amount equal to the sum of—

22 “(i) the principal amount of out-
23 standing indebtedness secured by the
24 building (other than indebtedness incurred

1 within the 5-year period ending on the date
2 of the sale to the tenants), and

3 “(ii) all Federal, State, and local
4 taxes attributable to such sale.

5 Except in the case of Federal income taxes,
6 there shall not be taken into account under
7 clause (ii) any additional tax attributable to the
8 application of clause (ii).

9 “(6) IMPACT OF PURCHASE OPTION TO AC-
10 QUIRE PROPERTY.—

11 “(A) IN GENERAL.—No Federal income
12 tax benefit shall fail to be allowable to the tax-
13 payer with respect to any qualified middle-in-
14 come building merely by reason of a purchase
15 option held by the tenants (in cooperative form
16 or otherwise) or resident management corpora-
17 tion of such building or by a qualified nonprofit
18 organization (as defined in subsection
19 (h)(4)(C)) or government agency to purchase
20 the property or all of the partnership interests
21 (other than interests of the person exercising
22 such option or a related party thereto (within
23 the meaning of section 267(b) or 707(b)(1)))
24 relating to the property after the close of the
25 credit period for a price which is not less than

1 the minimum purchase price determined under
2 subparagraph (B).

3 “(B) MINIMUM PURCHASE PRICE.—For
4 purposes of subparagraph (A)—

5 “(i) IN GENERAL.—Except as pro-
6 vided in clause (ii), the minimum purchase
7 price is the amount determined under
8 paragraph (5)(B).

9 “(ii) PARTNERSHIP INTERESTS.—In
10 the case of a purchase of all of the part-
11 nership interests relating to a property, the
12 minimum purchase price under this sub-
13 paragraph shall be an amount not less
14 than the sum of the interests’ shares of the
15 amount which would be determined with
16 respect to the property under paragraph
17 (5)(B) without regard to this sentence.

18 “(C) PROPERTY.—For purposes of sub-
19 paragraph (A), the term ‘property’ may include
20 all or any of the assets held for the develop-
21 ment, operation, or maintenance of a building.

22 “(D) APPLICATION TO S CORPORATIONS
23 AND OTHER PASS-THROUGH ENTITIES.—Except
24 as provided by the Secretary, the rules of this
25 paragraph shall apply to S corporations and

1 other pass-through entities in the same manner
2 as such rules apply to partnerships.

3 “(7) TREATMENT OF RURAL PROJECTS.—For
4 purposes of this section, in the case of any project
5 for residential rental property located in a rural area
6 (as defined in section 520 of the Housing Act of
7 1949), any income limitation measured by reference
8 to area median gross income shall be measured by
9 reference to the greater of area median gross income
10 or national non-metropolitan median income. The
11 preceding sentence shall not apply with respect to
12 any building if paragraph (1) of section 42(h) does
13 not apply by reason of paragraph (9) thereof to any
14 portion of the credit determined under this section
15 with respect to such building.

16 “(8) DETERMINATION OF WHETHER BUILDING
17 IS FEDERALLY SUBSIDIZED.—

18 “(A) IN GENERAL.—Except as otherwise
19 provided in this paragraph, for purposes of this
20 section, a project shall be treated as Federally
21 subsidized for any taxable year if, at any time
22 during such taxable year or any prior taxable
23 year, there is or was outstanding any obligation
24 the interest on which is exempt from tax under
25 section 103 the proceeds of which are or were

1 used (directly or indirectly) with respect to such
2 project or the operation thereof.

3 “(B) ELECTION TO REDUCE ELIGIBLE
4 BASIS BY PROCEEDS OF OBLIGATIONS.—A tax-
5 exempt obligation shall not be taken into ac-
6 count under subparagraph (A) if the taxpayer
7 elects to exclude from the eligible basis of the
8 building for purposes of subsection (d) the pro-
9 ceeds of such obligation.

10 “(C) SPECIAL RULE FOR SUBSIDIZED CON-
11 STRUCTION FINANCING.—Subparagraph (A)
12 shall not apply to any tax-exempt obligation
13 used to provide construction financing for any
14 building if—

15 “(i) such obligation (when issued)
16 identified the building for which the pro-
17 ceeds of such obligation would be used,
18 and

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

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

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

3 “(1) IN GENERAL.—Except as otherwise pro-
4 vided in this subsection, rules similar to the rules of
5 section 49(a)(1) (other than subparagraphs
6 (D)(ii)(II) and (D)(iv)(I) thereof), section 49(a)(2),
7 and section 49(b)(1) shall apply in determining the
8 qualified basis of any building in the same manner
9 as such sections apply in determining the credit base
10 of property.

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

13 “(A) IN GENERAL.—If the requirements of
14 subparagraphs (B), (C), and (D) are met with
15 respect to any financing borrowed from a quali-
16 fied nonprofit organization (as defined in sub-
17 section (h)(4)), the determination of whether
18 such financing is qualified commercial financing
19 with respect to any qualified middle-income
20 building shall be made without regard to wheth-
21 er such organization—

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

24 “(ii) is a person described in section
25 49(a)(1)(D)(iv)(II).

1 “(B) FINANCING SECURED BY PROP-
2 PERTY.—The requirements of this subparagraph
3 are met with respect to any financing if such fi-
4 nancing is secured by the qualified middle-in-
5 come building, except that this subparagraph
6 shall not apply in the case of a federally as-
7 sisted building described in section
8 42(d)(6)(C)(i) if—

9 “(i) a security interest in such build-
10 ing is not permitted by a Federal agency
11 holding or insuring the mortgage secured
12 by such building, and

13 “(ii) the proceeds from the financing
14 (if any) are applied to acquire or improve
15 such building.

16 “(C) PORTION OF BUILDING ATTRIB-
17 UTABLE TO FINANCING.—The requirements of
18 this subparagraph are met with respect to any
19 financing for any taxable year in the credit pe-
20 riod if, as of the close of such taxable year, not
21 more than 60 percent of the eligible basis of the
22 qualified middle-income building is attributable
23 to such financing (reduced by the principal and
24 interest of any governmental financing which is

1 part of a wrap-around mortgage involving such
2 financing).

3 “(D) REPAYMENT OF PRINCIPAL AND IN-
4 TEREST.—The requirements of this subpara-
5 graph are met with respect to any financing if
6 such financing is fully repaid on or before the
7 earliest of—

8 “(i) the date on which such financing
9 matures,

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

13 “(iii) the date of its refinancing or the
14 sale of the building to which such financ-
15 ing relates.

16 In the case of a qualified nonprofit organization
17 which is not described in section
18 49(a)(1)(D)(iv)(II) with respect to a building,
19 clause (ii) of this subparagraph shall be applied
20 as if the date described therein were the 90th
21 day after the earlier of the date the building
22 ceases to be a qualified middle-income building
23 or the date which is 15 years after the close of
24 a credit period with respect thereto.

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

14 “(4) FAILURE TO FULLY REPAY.—

15 “(A) IN GENERAL.—To the extent that the
16 requirements of paragraph (2)(D) are not met,
17 then the taxpayer’s tax under this chapter for
18 the taxable year in which such failure occurs
19 shall be increased by an amount equal to the
20 applicable portion of the credit under this sec-
21 tion with respect to such building, increased by
22 an amount of interest for the period—

23 “(i) beginning with the due date for
24 the filing of the return of tax imposed by

1 chapter 1 for the 1st taxable year for
2 which such credit was allowable, and

3 “(ii) ending with the due date for the
4 taxable year in which such failure occurs,
5 determined by using the underpayment rate and
6 method under section 6621.

7 “(B) APPLICABLE PORTION.—For pur-
8 poses of subparagraph (A), the term ‘applicable
9 portion’ means the aggregate decrease in the
10 credits allowed to a taxpayer under section 38
11 for all prior taxable years which would have re-
12 sulted if the eligible basis of the building were
13 reduced by the amount of financing which does
14 not meet requirements of paragraph (2)(D).

15 “(C) CERTAIN RULES TO APPLY.—Rules
16 similar to the rules of subparagraphs (A) and
17 (D) of section 42(j)(4) shall apply for purposes
18 of this subsection.

19 “(k) CERTIFICATIONS AND OTHER REPORTS TO SEC-
20 RETARY.—

21 “(1) CERTIFICATION WITH RESPECT TO 1ST
22 YEAR OF CREDIT PERIOD.—Following the close of
23 the 1st taxable year in the credit period with respect
24 to any qualified middle-income building, the tax-
25 payer shall certify to the Secretary (at such time

1 and in such form and in such manner as the Sec-
2 retary prescribes)—

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

5 “(B) the adjusted basis and eligible basis
6 of such building as of the close of the 1st year
7 of the credit period,

8 “(C) the maximum applicable percentage
9 and qualified basis permitted to be taken into
10 account by the appropriate housing credit agen-
11 cy under subsection (h), and

12 “(D) such other information as the Sec-
13 retary may require.

14 In the case of a failure to make the certification re-
15 quired by the preceding sentence on the date pre-
16 scribed therefor, unless it is shown that such failure
17 is due to reasonable cause and not to willful neglect,
18 no credit shall be allowable by reason of subsection
19 (a) with respect to such building for any taxable
20 year ending before such certification is made.

21 “(2) ANNUAL REPORTS TO THE SECRETARY.—

22 The Secretary may require taxpayers to submit an
23 information return (at such time and in such form
24 and manner as the Secretary prescribes) for each
25 taxable year setting forth—

1 “(A) the qualified basis for the taxable
2 year of each qualified middle-income building of
3 the taxpayer,

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

6 “(C) such other information as the Sec-
7 retary may require.

8 The penalty under section 6652(j) shall apply to any
9 failure to submit the return required by the Sec-
10 retary under the preceding sentence on the date pre-
11 scribed therefor.

12 “(3) ANNUAL REPORTS FROM HOUSING CREDIT
13 AGENCIES.—Each agency which allocates any hous-
14 ing credit amount to any building for any calendar
15 year shall submit to the Secretary (at such time and
16 in such manner as the Secretary shall prescribe) an
17 annual report specifying—

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

20 “(B) sufficient information to identify each
21 such building and the taxpayer with respect
22 thereto, and

23 “(C) such other information as the Sec-
24 retary may require.

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

4 “(1) RESPONSIBILITIES OF HOUSING CREDIT AGEN-
5 CIES.—

6 “(1) PLANS FOR ALLOCATION OF CREDIT
7 AMONG PROJECTS.—

8 “(A) IN GENERAL.—Notwithstanding any
9 other provision of this section, the housing cred-
10 it dollar amount with respect to any building
11 shall be zero unless—

12 “(i) such amount was allocated pursu-
13 ant to a qualified allocation plan of the
14 housing credit agency which is approved by
15 the governmental unit (in accordance with
16 rules similar to the rules of section
17 42(m)(1)) of which such agency is a part,

18 “(ii) a comprehensive market study of
19 the housing needs of middle-income indi-
20 viduals in the area to be served by the
21 project is conducted before the credit allo-
22 cation is made and at the developer’s ex-
23 pense by a disinterested party who is ap-
24 proved by such agency, and

1 “(iii) a written explanation is available
2 to the general public for any allocation of
3 a housing credit dollar amount which is
4 not made in accordance with established
5 priorities and selection criteria of the hous-
6 ing credit agency.

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

10 “(i) which sets forth selection criteria
11 to be used to determine housing priorities
12 of the housing credit agency which are ap-
13 propriate to local conditions,

14 “(ii) which also gives preference in al-
15 locating housing credit dollar amounts
16 among selected projects to—

17 “(I) projects obligated to serve
18 qualified tenants for the longest peri-
19 ods,

20 “(II) projects in areas with insuf-
21 ficient supply of housing affordable to
22 median income households,

23 “(III) projects which target hous-
24 ing to tenants at a range of incomes

1 between 60 and 100 percent of area
2 median gross income, and

3 “(IV) projects located near tran-
4 sit hubs, and

5 “(iii) which provides a procedure that
6 the agency (or an agent or other private
7 contractor of such agency) will follow in
8 monitoring for noncompliance with the
9 provisions of this section and in notifying
10 the Internal Revenue Service of such non-
11 compliance which such agency becomes
12 aware of and in monitoring for noncompli-
13 ance with habitability standards through
14 regular site visits.

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

18 “(i) project location,

19 “(ii) housing needs characteristics,

20 “(iii) project characteristics, including
21 whether the project includes the use of ex-
22 isting housing as part of a community revi-
23 talization plan,

24 “(iv) sponsor characteristics,

1 “(v) tenant populations with special
2 housing needs,

3 “(vi) tenant populations of individuals
4 with children,

5 “(vii) projects intended for eventual
6 tenant ownership,

7 “(viii) the energy efficiency of the
8 project, and

9 “(ix) the historic nature of the
10 project.

11 “(D) CERTAIN SELECTION CRITERIA PRO-
12 HIBITED.—The selection criteria set forth in a
13 qualified allocation plan shall not include a re-
14 quirement of local approval or local contribu-
15 tions, either as a threshold qualification re-
16 quirement or as part of a point system to be
17 considered for allocations of housing credit dol-
18 lar amount.

19 “(2) CREDIT ALLOCATED TO BUILDING NOT TO
20 EXCEED AMOUNT NECESSARY TO ASSURE PROJECT
21 FEASIBILITY.—

22 “(A) IN GENERAL.—The housing credit
23 dollar amount allocated to a project shall not
24 exceed the amount the housing credit agency
25 determines is necessary for the financial feasi-

1 bility of the project and its viability as a quali-
2 fied middle-income housing project throughout
3 the credit period.

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

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

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

11 “(iii) the percentage of the housing
12 credit dollar amount used for project costs
13 other than the cost of intermediaries, and

14 “(iv) the reasonableness of the devel-
15 opmental and operational costs of the
16 project.

17 Clause (iii) shall not be applied so as to impede
18 the development of projects in hard-to-develop
19 areas. Such a determination shall not be con-
20 strued to be a representation or warranty as to
21 the feasibility or viability of the project.

22 “(C) DETERMINATION MADE WHEN CRED-
23 IT AMOUNT APPLIED FOR AND WHEN BUILDING
24 PLACED IN SERVICE.—

1 “(i) IN GENERAL.—A determination
2 under subparagraph (A) shall be made as
3 of each of the following times:

4 “(I) The application for the
5 housing credit dollar amount.

6 “(II) The allocation of the hous-
7 ing credit dollar amount.

8 “(III) The date the building is
9 placed in service.

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

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

21 “(1) regulations dealing with—

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

24 “(B) buildings which are placed in service
25 in portions,

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

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

5 “(4) regulations providing the opportunity for
6 housing credit agencies to correct administrative er-
7 rors and omissions with respect to allocations and
8 record keeping within a reasonable period after their
9 discovery, taking into account the availability of reg-
10 ulations and other administrative guidance from the
11 Secretary, and

12 “(5) in consultation with the Secretary of
13 Housing and Urban Development, regulations or
14 guidance to promote uniform definitions and to
15 streamline requirements with respect to qualified
16 middle-income buildings which receive funding from
17 programs administrated by the Department of Hous-
18 ing and Urban Development, including programs au-
19 thorized by Native American Housing Assistance
20 and Self-Determination Act of 1996.”.

21 (b) TREATMENT AS PART OF GENERAL BUSINESS
22 CREDIT.—Section 38(b) of the Internal Revenue Code of
23 1986 is amended by striking “plus” at the end of para-
24 graph (40), by striking the period at the end of paragraph

1 (41) and inserting “, plus”, and by adding at the end the
2 following new paragraph:

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

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

7 (1) by striking “and” at the end of paragraph
8 (37),

9 (2) by redesignating paragraph (38) as para-
10 graph (39), and

11 (3) by inserting after paragraph (37) the fol-
12 lowing new paragraph:

13 “(38) to the extent provided in section
14 42A(i)(9), and”.

15 (d) TREATMENT UNDER BASE EROSION MINIMUM
16 TAX.—Section 59A(b)(3) of the Internal Revenue Code
17 of 1986, as amended by Public Law 119–21, is amended
18 by redesignating subparagraphs (B) and (C) as subpara-
19 graphs (C) and (D), respectively, and by inserting after
20 subparagraph (A) the following new subparagraph:

21 “(B) the middle-income housing credit de-
22 termined under section 42A(a).”.

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

1 (1) by striking “including regulations—” in the
2 matter preceding paragraph (1) and inserting “in-
3 cluding—”,

4 (2) by inserting “regulations” before “dealing
5 with” in paragraph (1),

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

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

10 (5) by striking “and” at the end of paragraph
11 (3),

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

14 (7) by adding at the end the following new
15 paragraph

16 “(5) in consultation with the Secretary of
17 Housing and Urban Development, regulations or
18 guidance to promote uniform definitions and to
19 streamline requirements with respect to qualified
20 low-income buildings which receive funding from
21 programs administrated by the Department of Hous-
22 ing and Urban Development, including programs au-
23 thorized by Native American Housing Assistance
24 and Self-Determination Act of 1996.”.

25 (f) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

15 (g) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to buildings placed in service after
17 December 31, 2025, in taxable years ending after such
18 date.

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