

107TH CONGRESS  
2D SESSION

# S. 3126

To amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 16, 2002

Mr. KERRY (for himself, Mr. SANTORUM, and Mr. SARBANES) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

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

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

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5   “Community Development Homeownership Tax Credit  
6   Act”.

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

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

4 **SEC. 2. COMMUNITY HOMEOWNERSHIP CREDIT.**

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

8 **“SEC. 42A. COMMUNITY HOMEOWNERSHIP CREDIT.**

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

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

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

1           “(2) METHOD OF PRESCRIBING PERCENT-  
 2           AGE.—The percentage prescribed by the Secretary  
 3           for any month shall be the percentage which will  
 4           yield over a 5-year period amounts of credit under  
 5           subsection (a) which have a present value equal to  
 6           50 percent of the eligible basis of a qualified resi-  
 7           dence.

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

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

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

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

20           “(c) QUALIFIED RESIDENCE.—For purposes of this  
 21           section—

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

24                   “(A) which is located—

1 “(i) in a census tract which has a me-  
2 dian gross income which does not exceed  
3 80 percent of the greater of area or state-  
4 wide median gross income,

5 “(ii) in a rural area (as defined under  
6 section 520 of the Housing Act of 1949),

7 “(iii) on a reservation for a federally  
8 recognized Indian tribe, or

9 “(iv) in an area of chronic economic  
10 distress, and

11 “(B) which is purchased by a qualified  
12 buyer.

13 For purposes of subparagraph (A)(iv), an area is an  
14 area of chronic economic distress if it is approved  
15 for designation as such under section 143(j)(3); ex-  
16 cept that such designation shall not require the ap-  
17 proval of the Secretary, shall be deemed to be ap-  
18 proved by the Secretary of Housing and Urban De-  
19 velopment if not approved or disapproved by the  
20 Secretary of Housing and Urban Development with-  
21 in 90 days after submission for approval for pur-  
22 poses of section 143(j)(3)(A)(ii), and shall cease to  
23 apply after the end of the 5th calendar year after  
24 the calendar year in which the designation is made.

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

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

5                   “(B) a condominium unit,

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

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

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

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

21           “(d) ELIGIBLE BASIS.—For purposes of this  
22           section—

23                   “(1) NEW QUALIFIED RESIDENCES.—

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

1 “(i) in the case of a qualified resi-  
 2 dence which is sold in a transaction which  
 3 meets the requirements of subparagraph  
 4 (B), its adjusted basis (excluding land) im-  
 5 mediately before such sale, and

6 “(ii) zero in any other case.

7 “(B) REQUIREMENTS.—A sale of a quali-  
 8 fied residence meets the requirements of this  
 9 subparagraph if—

10 “(i) the buyer acquires the qualified  
 11 residence by purchase (as defined in sec-  
 12 tion 179(d)(2)),

13 “(ii) the buyer of the qualified resi-  
 14 dence is not a related person with respect  
 15 to the seller, and

16 “(iii) in the case of a seller who mate-  
 17 rially participates in the development of  
 18 the residence, the buyer’s debt financing is  
 19 originated by a third party who is not a re-  
 20 lated person with respect to the seller.

21 “(2) EXISTING QUALIFIED RESIDENCES.—

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

24 “(i) in the case of a qualified resi-  
 25 dence which is sold in a transaction which

1 meets the requirements of subparagraph  
2 (B), its adjusted basis (excluding land) im-  
3 mediately before such sale, and

4 “(ii) zero in any other case.

5 “(B) REQUIREMENTS.—A sale of a quali-  
6 fied residence meets the requirements of this  
7 subparagraph if—

8 “(i) the buyer acquires the qualified  
9 residence by purchase (as defined in sec-  
10 tion 179(d)(2)),

11 “(ii) the qualified residence has un-  
12 dergone substantial rehabilitation in con-  
13 nection with the sale described in clause  
14 (i),

15 “(iii) the buyer of the qualified resi-  
16 dence is not a related person with respect  
17 to the seller, and

18 “(iv) in the case of a seller who mate-  
19 rially participates in the development of  
20 the residence, the buyer’s debt financing is  
21 originated by a third party who is not a re-  
22 lated person with respect to the seller.

23 “(C) SUBSTANTIAL REHABILITATION.—

24 “(i) IN GENERAL.—For purposes of  
25 subparagraph (B), substantial rehabilita-

tion means rehabilitation expenditures paid or incurred with respect to a qualified residence that are at least \$25,000.

“(ii) INFLATION ADJUSTMENT.—In the case of a calendar year after 2002, the dollar amount contained in clause (i) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 2001’ for ‘calendar year 1992’ in subparagraph (B) thereof.

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

“(D) LIMITATION OF ACQUISITION BASIS.—The eligible basis of an existing qualified residence may not exceed 150 percent of the qualified rehabilitation expenditures.

“(3) EFFECT OF SUBSEQUENT SALE, ETC.—A subsequent sale, assignment, rental, or refinancing of the qualified residence by the buyer or the subse-



1       quent sale, assignment, or pooling of the buyer's fi-  
 2       nancing by the originator shall not be considered in  
 3       determining whether or not the prior sales trans-  
 4       action satisfied the requirements of subparagraph  
 5       (B) of paragraph (1) or (2).

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

9               “(A) IN GENERAL.—Except as provided in  
 10       subparagraph (B), the adjusted basis of any  
 11       qualified residence—

12               “(i) shall not include so much of the  
 13       basis of such qualified residence as is de-  
 14       termined by reference to the basis of other  
 15       property held at any time by the person  
 16       acquiring the residence, and

17               “(ii) shall be determined without re-  
 18       gard to the adjusted basis of any property  
 19       which is not part of such qualified resi-  
 20       dence.

21               “(B) BASIS OF PROPERTY IN COMMON  
 22       AREAS, ETC., INCLUDED.—The adjusted basis  
 23       of any qualified residence shall be determined  
 24       by taking into account (on a pro rata basis) the  
 25       adjusted basis of property (other than land)

1           used in common areas or provided as com-  
 2           parable amenities to all residences within a  
 3           project.

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

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

18                   “(B) NONRESIDENTIAL SPACE EX-  
 19          CLUDED.—No portion of the eligible basis of a  
 20          qualified residence shall include costs attrib-  
 21          utable to nonresidential space.

22                   “(C) LIMITATION.—The eligible basis of  
 23          any residence may not exceed the mortgage  
 24          limit for Federal Housing Administration in-

1           sured mortgages for single family homes in the  
2           area in which such residence is located.

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

5           “(1) CREDIT PERIOD DEFINED.—For purposes  
6 of this section, the term ‘credit period’ means, with  
7 respect to any qualified residence, the period of 5  
8 taxable years beginning with the taxable year in  
9 which the sale of the qualified residence occurs satis-  
10 fying the requirements of subsection (d)(1)(B) or  
11 (d)(2)(B).

12           “(2) SPECIAL RULE FOR 1ST YEAR OF CREDIT  
13 PERIOD.—

14           “(A) IN GENERAL.—The credit allowable  
15 under subsection (a) with respect to any quali-  
16 fied residence for the 1st taxable year of the  
17 credit period shall be determined by multiplying  
18 the eligible basis under subsection (d) by the  
19 fraction—

20                   “(i) the numerator of which is the  
21                   sum of the number of remaining whole  
22                   months in such 1st taxable year after the  
23                   sale of the qualified residence, and

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

1           “(B) DISALLOWED 1ST YEAR CREDIT AL-  
 2           LOWED IN 6TH YEAR.—Any reduction by reason  
 3           of subparagraph (A) in the credit allowable  
 4           (without regard to subparagraph (A)) for the  
 5           1st taxable year of the credit period shall be al-  
 6           lowable under subsection (a) for the 1st taxable  
 7           year following the credit period.

8           “(f) LIMITATION ON AGGREGATE CREDIT ALLOW-  
 9           ABLE WITH RESPECT TO QUALIFIED RESIDENCES LO-  
 10          CATED IN A STATE.—

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

13           “(A) IN GENERAL.—The amount of the  
 14          credit determined under this section for any  
 15          taxable year with respect to any qualified resi-  
 16          dence shall not exceed the homeownership cred-  
 17          it dollar amount allocated to such qualified resi-  
 18          dence under this subsection.

19           “(B) TIME FOR MAKING ALLOCATION.—

20           “(i) An allocation shall be taken into  
 21          account under subparagraph (A) only if it  
 22          is made not later than the close of the cal-  
 23          endar year in which the qualified residence  
 24          is sold.

1           “(ii) A homeownership credit agency  
2           may allocate available homeownership cred-  
3           it dollar amounts to a qualified residence  
4           prior to the year of sale of such qualified  
5           residence if—

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

14                  “(II) such qualified residence is  
15                  completed not later than the close of  
16                  the second calendar year following the  
17                  calendar year in which the allocation  
18                  was made.

19           “(C) VESTED RIGHT TO CREDIT DOLLAR  
20           AMOUNT.—Once a homeownership credit alloca-  
21           tion is received by a taxpayer, the right to such  
22           credit is vested in such taxpayer and is not sub-  
23           ject to recapture, except as provided in para-  
24           graph (5)(B).

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

3           “(A) IN GENERAL.—The aggregate home-  
4   ownership credit dollar amount which a home-  
5   ownership credit agency may allocate for any  
6   calendar year is the portion of the State home-  
7   ownership credit ceiling allocated under this  
8   paragraph for such calendar year to such agen-  
9   cy.

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

19          “(C) STATE HOMEOWNERSHIP CREDIT  
20   CEILING.—The State homeownership credit ceil-  
21   ing applicable to any State for any calendar  
22   year shall be an amount equal to the sum of—

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

1 “(ii) the greater of—

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

4 “(II) \$2,000,000,

5 “(iii) the amount of State homeowner-  
6 ship credit ceiling returned in the calendar  
7 year, plus

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

11 For purposes of clause (i), the unused State  
12 homeownership credit ceiling for any calendar  
13 year is the excess (if any) of the sum of the  
14 amounts described in clauses (ii) through (iv)  
15 over the aggregate homeownership credit dollar  
16 amount allocated for such year. For purposes of  
17 clause (iii), the amount of State homeownership  
18 credit ceiling returned in the calendar year  
19 equals the homeownership credit dollar amount  
20 previously allocated within the State to any  
21 qualified residence with respect to which an al-  
22 location is canceled by mutual consent of the  
23 homeownership credit agency and the allocation  
24 recipient.

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

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

9           “(ii) UNUSED HOMEOWNERSHIP  
10 CREDIT CARRYOVER.—For purposes of this  
11 subparagraph, the unused homeownership  
12 credit carryover of a State for any calendar  
13 year is the excess (if any) of—

14           “(I) the unused State home-  
15 ownership credit ceiling for the year  
16 preceding such year, over

17           “(II) the aggregate homeowner-  
18 ship credit dollar amount allocated for  
19 such year.

20           “(iii) FORMULA FOR ALLOCATION OF  
21 UNUSED HOMEOWNERSHIP CREDIT  
22 CARRYOVERS AMONG QUALIFIED  
23 STATES.—The amount allocated under this  
24 subparagraph to a qualified State for any  
25 calendar year shall be the amount deter-



1           mined by the Secretary to bear the same  
 2           ratio to the aggregate unused homeowner-  
 3           ship credit carryovers of all States for the  
 4           preceding calendar year as such State's  
 5           population for the calendar year bears to  
 6           the population of all qualified States for  
 7           the calendar year.

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

12                   “(I) which allocated its entire  
 13                   State homeownership credit ceiling for  
 14                   the preceding calendar year, and

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

19           “(E) STATE MAY PROVIDE FOR DIF-  
 20          FERENT ALLOCATION.—Rules similar to the  
 21          rules of section 146(e) (other than paragraph  
 22          (2)(B) thereof) shall apply for purposes of this  
 23          paragraph.

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

“(G) COST-OF-LIVING ADJUSTMENT.—

“(i) IN GENERAL.—In the case of a calendar year after 2002, the \$2,000,000 and \$1.75 amounts in subparagraph (C) shall each be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 2001’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(ii) ROUNDING.—

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

“(II) In the case of the \$1.75 amount, any increase under clause (i)

1                   which is not a multiple of 5 cents  
2                   shall be rounded to the next lowest  
3                   multiple of 5 cents.

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

7                   “(A) IN GENERAL.—Not more than 90  
8           percent of the State homeownership credit ceil-  
9           ing for any State for any calendar year shall be  
10          allocated to projects other than qualified non-  
11          profit housing projects described in subpara-  
12          graph (B).

13                  “(B) PROJECTS INVOLVING QUALIFIED  
14          NONPROFIT ORGANIZATIONS.—For purposes of  
15          subparagraph (A), a qualified nonprofit housing  
16          project is described in this subparagraph if a  
17          qualified nonprofit organization is to own an in-  
18          terest in the project (directly or through a part-  
19          nership) and materially participate (within the  
20          meaning of section 469(h)) in the development  
21          and operation of the project throughout the  
22          credit period.

23                  “(C) QUALIFIED NONPROFIT ORGANIZA-  
24          TION.—For purposes of this paragraph, the

term ‘qualified nonprofit organization’ means  
any organization if—

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

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

“(iii) 1 of the exempt purposes of  
such organization includes the fostering of  
low-income housing.

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

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

“(ii) QUALIFIED CORPORATION.—For  
purposes of clause (i), the term ‘qualified  
corporation’ means any corporation if 100  
percent of the stock of such corporation is

1           held by 1 or more qualified nonprofit orga-  
2           nizations at all times during the period  
3           such corporation is in existence.

4           “(E) STATE MAY NOT OVERRIDE SET-  
5           ASIDE.—Nothing in subparagraph (E) of para-  
6           graph (2) shall be construed to permit a State  
7           not to comply with subparagraph (A) of this  
8           paragraph.

9           “(4) LIMITATION ON ALLOCATIONS TO AREAS  
10          OF CHRONIC ECONOMIC DISTRESS.—No more than  
11          50 percent of a homeownership credit agency’s por-  
12          tion of the State homeownership credit ceiling for a  
13          calendar year may be allocated to residences located  
14          in areas that—

15               “(A) are designated as areas of chronic  
16               economic distress in accordance with paragraph  
17               (1) of subsection (c), and

18               “(B) do not meet the requirements of  
19               clause (i), (ii), or (iii) of subsection (c)(1)(A).

20          “(5) SPECIAL RULES.—

21               “(A) RESIDENCE MUST BE LOCATED  
22               WITHIN JURISDICTION OF CREDIT AGENCY.—A  
23               homeownership credit agency may allocate its  
24               aggregate homeownership credit dollar amount  
25               only to qualified residences located in the juris-

1           diction of the governmental unit of which such  
2           agency is a part.

3           “(B) AGENCY ALLOCATIONS IN EXCESS OF  
4           LIMIT.—If the aggregate homeownership credit  
5           dollar amounts allocated by a homeownership  
6           credit agency for any calendar year exceed the  
7           portion of the State homeownership credit ceil-  
8           ing allocated to such agency for such calendar  
9           year, the homeownership credit dollar amounts  
10          so allocated shall be reduced (to the extent of  
11          such excess) for residences in the reverse of the  
12          order in which the allocations of such amounts  
13          were made.

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

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

20                 “(2) PROJECT.—The term ‘project’ means 1 or  
21                 more residences together with functionally related  
22                 and subordinate facilities developed and made avail-  
23                 able to inhabitants of such residences, including rec-  
24                 reational facilities and parking areas. To constitute  
25                 a project, each residence must—

1           “(A) be developed by the same taxpayer  
2           pursuant to common planning and feasibility  
3           studies,

4           “(B) be financed through a common plan  
5           of construction financing, and

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

7           For purposes of this paragraph, it is not necessary  
8           that all residences within a project be contiguous or  
9           that all residences consist only of either new resi-  
10          dences or existing residences and it is not necessary  
11          that each residence within a project be a qualified  
12          residence.

13          “(3) QUALIFIED BUYER.—

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

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

21                       “(ii) intends to occupy the residence  
22                       as the buyer’s principal residence (within  
23                       the meaning of section 121).

24               “(B) SPECIAL RULES IN QUALIFIED CEN-  
25               SUS TRACTS.—With respect to residences lo-

1 cated in qualified census tracts (as defined in  
 2 section 42), subparagraph (A) shall be applied  
 3 by substituting ‘100 percent’ for ‘80 percent’  
 4 and ‘90 percent’ for ‘70 percent’.

5 “(C) DETERMINATION OF INCOME.—For  
 6 purposes of this paragraph, a buyer’s income  
 7 shall be determined in accordance with section  
 8 143(f)(4), except that subparagraph (B) of  
 9 such section shall be applied substituting ‘the  
 10 national median gross income’ for ‘the state-  
 11 wide median gross income for the State in  
 12 which such residence is located’.

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

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

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

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



1           “(8) APPLICATION TO ESTATES AND TRUSTS.—

2           In the case of an estate or trust, the amount of the  
3           credit determined under subsection (a) shall be ap-  
4           portioned between the estate or trust and the bene-  
5           ficiaries on the basis of the income of the estate or  
6           trust allocable to each.

7           “(h) REDUCTION IN TAX BENEFITS.—

8           “(1) RECAPTURE OF CREDIT.—If within the 5-  
9           year period beginning on the date of the original  
10          purchase of a qualified residence, the residence is  
11          sold, the qualified buyer—

12                 “(A) shall deduct and withhold an amount  
13                 equal to the recapture amount from the amount  
14                 realized on such sale, and

15                 “(B) shall transfer such amount to the  
16                 homeownership credit agency which allocated  
17                 the homeownership credit dollar amount to such  
18                 residence.

19           “(2) RECAPTURE AMOUNT.—For purposes of  
20          paragraph (1), the recapture amount is the amount  
21          equal to—

22                 “(A) 100 percent of the gain from the sale  
23                 referred to in paragraph (1) in the 1st or 2nd  
24                 year,

1                   “(B) 80 percent of the gain from such sale  
2                   in the 3rd year,

3                   “(C) 70 percent of the gain from such sale  
4                   in the 4th year, or

5                   “(D) 60 percent of the gain from such sale  
6                   in the 5th year.

7                   “(3) DENIAL OF DEDUCTIONS IF CONVERTED  
8                   TO RENTAL HOUSING.—If a qualified residence is  
9                   converted to rental housing within the 5-year period  
10                  beginning on the date of the original purchase of a  
11                  qualified residence, no deduction for amortization or  
12                  depreciation under this chapter shall be permitted  
13                  with respect to such residence during such period.

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

17                  “(j) REPORTS TO THE SECRETARY.—

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

23                         “(A) the eligible basis for the taxable year  
24                         of each qualified residence with respect to which

1           the taxpayer is claiming a credit under this sec-  
2           tion,

3                 “(B) the amount of all homeownership  
4           credit allocations received by the taxpayer from  
5           any and all State homeownership credit agen-  
6           cies, and

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

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

13                 “(2) FROM HOMEOWNERSHIP CREDIT AGEN-  
14          CIES.—Each agency which allocates any homeowner-  
15          ship credit dollar amount to any residence for any  
16          calendar year shall submit to the Secretary (at such  
17          time and in such form and manner as the Secretary  
18          shall prescribe) an annual report specifying—

19                         “(A) the amount of the homeownership  
20           credit dollar amount allocated to each residence  
21           for such year,

22                         “(B) sufficient information to identify each  
23           such residence and the taxpayer initially enti-  
24           tled to claim the credit under this section with  
25           respect thereto, and

1           “(C) such other information as the Sec-  
2           retary may require.

3           “(k) RESPONSIBILITIES OF HOMEOWNERSHIP CRED-  
4 IT AGENCIES.—

5           “(1) PLANS FOR ALLOCATION OF CREDIT  
6           AMONG RESIDENCES.—

7           “(A) IN GENERAL.—Notwithstanding any  
8           other provision of this section, the homeowner-  
9           ship credit dollar amount with respect to any  
10          qualified residence shall be zero unless such  
11          amount was allocated pursuant to a qualified  
12          allocation plan of the homeownership credit  
13          agency which is approved by the governmental  
14          unit (in accordance with rules similar to the  
15          rules of section 147(f)(2) (other than subpara-  
16          graph (B)(ii) thereof)) of which such agency is  
17          a part.

18          “(B) QUALIFIED ALLOCATION PLAN.—For  
19          purposes of this paragraph, the term ‘qualified  
20          allocation plan’ means any plan which sets forth  
21          selection criteria to be used to determine the  
22          homeownership development priorities of the  
23          homeownership credit agency which are appro-  
24          priate to local conditions.

1           “(C) CERTAIN HOMEOWNERSHIP DEVEL-  
 2           OPMENT CRITERIA MUST BE USED.—The devel-  
 3           opment criteria set forth in a qualified alloca-  
 4           tion plan must include—

5                   “(i) contribution of the development  
 6                   to community stability and revitalization,

7                   “(ii) community and local government  
 8                   support for the development,

9                   “(iii) need for homeownership develop-  
 10                  ment within the area,

11                  “(iv) sponsor capability, and

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

14           “(2) CREDIT ALLOCATED TO RESIDENCE NOT  
 15           TO EXCEED AMOUNT NECESSARY TO ASSURE FEASI-  
 16           BILITY.—

17                   “(A) IN GENERAL.—The homeownership  
 18                   credit dollar amount allocated to a residence  
 19                   shall not exceed the amount the homeownership  
 20                   credit agency determines is necessary for the  
 21                   feasibility of the residence.

22                   “(B) AGENCY EVALUATION.—In making  
 23                   the determination under subparagraph (A), the  
 24                   homeownership credit agency shall consider—

1 “(i) the sources and uses of funds and  
 2 the total financing planned for the resi-  
 3 dence,

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

6 “(iii) the anticipated appraised value  
 7 of the residence,

8 “(iv) the reasonableness of the devel-  
 9 opmental costs of the residence, and

10 “(v) the affordability to a reasonable  
 11 range of prospective qualified buyers.

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

16 “(i) The application for the home-  
 17 ownership credit dollar amount.

18 “(ii) The allocation of the homeowner-  
 19 ship credit dollar amount.

20 “(3) LIEN FOR RECAPTURE AMOUNT.—A home-  
 21 ownership credit dollar amount may be allocated by  
 22 a homeownership credit agency to a residence only  
 23 if such agency has a lien on such residence for the  
 24 payment of any amount potentially required to be  
 25 paid under subsection (h) to such agency.

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

5               “(1) dealing with—

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

8                       “(B) buildings which are completed in por-  
 9 tions,

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

12               “(3) preventing the avoidance of the rules of  
 13 this section, and

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

21       (b) CURRENT YEAR BUSINESS CREDIT CALCULA-  
 22 TION.—Section 38(b) (relating to current year business  
 23 credit) is amended by redesignating paragraphs (6)  
 24 through (15) as paragraphs (7) through (16), respectively,

1 and by inserting after paragraph (5) the following new  
2 paragraph:

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

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

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

15 (d) CONFORMING AMENDMENTS.—

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

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

22 (3) Section 772(a) is amended by striking  
23 “and” at the end of paragraph (10), by redesign-  
24 ating paragraph (11) as paragraph (12), and by in-  
25 serting after paragraph (10) the following:



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

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

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

                  “Sec. 42A. Community homeownership credit.”.

9           (f) EFFECTIVE DATE.—The amendments made by  
10          this section shall apply to qualified residences sold in tax-  
11          able years beginning after the date of the enactment of  
12          this Act.

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