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(Original Signature of Member)

119TH CONGRESS  
2D SESSION

# H. R.

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

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## IN THE HOUSE OF REPRESENTATIVES

Mr. PANETTA introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# 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

1 1986 is amended by inserting after section 42 the fol-  
2 lowing new section:

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

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

8 “(1) the applicable percentage, of

9 “(2) the qualified basis of each qualified mid-  
10 dle-income building.

11 “(b) APPLICABLE PERCENTAGE.—

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

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

18 “(i) the month in which such building  
19 is placed in service, or

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

1           housing credit dollar amount to be allo-  
2           cated to such building.

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

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

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

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

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

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

24                 “(ii) by using a discount rate equal to  
25                 72 percent of the average of the annual

1 Federal mid-term rate and the annual  
2 Federal long-term rate applicable under  
3 section 1274(d)(1) to the month applicable  
4 under clause (i) or (ii) of subparagraph  
5 (A) and compounded annually, and

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

9 “(2) MINIMUM CREDIT RATE.—

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

14 “(B) MINIMUM CREDIT RATE FOR FEDER-  
15 ALLY SUBSIDIZED BUILDINGS.—In the case of  
16 any building to which subparagraph (A) does  
17 not apply, except as provided in paragraph (3),  
18 the applicable percentage shall not be less than  
19 2 percent.

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

1           “(A) a credit is allowed under section 42  
2 with respect to such building for the taxable  
3 year, and

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

6           “(4) CROSS REFERENCES.—

7           “(A) For treatment of certain rehabilita-  
8 tion expenditures as separate new buildings, see  
9 subsection (e).

10           “(B) For determination of applicable per-  
11 centage for increases in qualified basis after the  
12 1st year of the credit period, see subsection  
13 (f)(3).

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

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

21           “(1) QUALIFIED BASIS.—

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

1                   “(i) the applicable fraction (deter-  
2                   mined as of the close of such taxable year),  
3                   of

4                   “(ii) the eligible basis of such building  
5                   (determined under subsection (d)).

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

10                  “(C) UNIT FRACTION.—For purposes of  
11                  subparagraph (B), the term ‘unit fraction’  
12                  means the fraction—

13                   “(i) the numerator of which is the  
14                   number of middle-income units in the  
15                   building, and

16                   “(ii) the denominator of which is the  
17                   number of residential rental units (whether  
18                   or not occupied) in such building.

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

22                   “(i) the numerator of which is the  
23                   total floor space of the middle-income units  
24                   in such building, and

1                   “(ii) the denominator of which is the  
2                   total floor space of the residential rental  
3                   units (whether or not occupied) in such  
4                   building.

5                   “(2) QUALIFIED MIDDLE-INCOME BUILDING.—  
6                   The term ‘qualified middle-income building’ means  
7                   any building which is part of a qualified middle-in-  
8                   come housing project at all times during the pe-  
9                   riod—

10                   “(A) beginning on the 1st day in the credit  
11                   period on which such building is part of such a  
12                   project, and

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

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

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

20                   “(2) EXISTING BUILDINGS.—

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

23                   “(i) in the case of a building which  
24                   meets the requirements of subparagraph  
25                   (B), its adjusted basis as of the close of

1 the 1st taxable year of the credit period,  
2 and

3 “(ii) zero in any other case.

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

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

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

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

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

21 “(C) ADJUSTED BASIS.—For purposes of  
22 subparagraph (A), the adjusted basis of any  
23 building shall not include so much of the basis  
24 of such building as is determined by reference

1 to the basis of other property held at any time  
2 by the person acquiring the building.

3 “(D) SPECIAL RULES.—

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

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

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

22 “(III) by any governmental unit  
23 or qualified nonprofit organization (as  
24 defined in subsection (h)(4)) if the re-  
25 quirements of subparagraph (B)(ii)

1 are met with respect to the placement  
2 in service by such unit or organization  
3 and all the income from such property  
4 is exempt from Federal income tax-  
5 ation,

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

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

22 “(ii) RELATED PERSON.—For pur-  
23 poses of subparagraph (B)(iii), a person  
24 (hereinafter in this subclause referred to as  
25 the ‘related person’) is related to any per-

1 son if the related person bears a relation-  
2 ship to such person specified in section  
3 267(b) or 707(b)(1), or the related person  
4 and such person are engaged in trades or  
5 businesses under common control (within  
6 the meaning of subsections (a) and (b) of  
7 section 52).

8 “(3) ELIGIBLE BASIS REDUCED WHERE DIS-  
9 PROPORTIONATE STANDARDS FOR UNITS.—

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

19 “(B) EXCEPTION WHERE TAXPAYER  
20 ELECTS TO EXCLUDE EXCESS COSTS.—

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

1           “(I) the excess described in  
2           clause (ii) with respect to such unit is  
3           not greater than 15 percent of the  
4           cost described in clause (ii)(II), and

5           “(II) the taxpayer elects to ex-  
6           clude from the eligible basis of such  
7           building the excess described in clause  
8           (ii) with respect to such unit.

9           “(ii) EXCESS.—The excess described  
10          in this clause with respect to any unit is  
11          the excess of—

12           “(I) the cost of such unit, over

13           “(II) the amount which would be  
14          the cost of such unit if the average  
15          cost per square foot of middle-income  
16          units in the building were substituted  
17          for the cost per square foot of such  
18          unit.

19          The Secretary may by regulation provide  
20          for the determination of the excess under  
21          this clause on a basis other than square  
22          foot costs.

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

1           “(A) IN GENERAL.—Except as provided in  
2           subparagraph (B), the adjusted basis of any  
3           building shall be determined without regard to  
4           the adjusted basis of any property which is not  
5           residential rental property.

6           “(B) BASIS OF PROPERTY IN COMMON  
7           AREAS, ETC., INCLUDED.—

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

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

1           “(C) NO REDUCTION FOR DEPRECIATION.—The adjusted basis of any building shall  
2           be determined without regard to paragraphs (2)  
3           and (3) of section 1016(a).

4           “(5) SPECIAL RULES FOR DETERMINING ELIGIBLE BASIS.—

5           “(A) FEDERAL GRANTS NOT TAKEN INTO  
6           ACCOUNT IN DETERMINING ELIGIBLE BASIS.—  
7           The eligible basis of a building shall not include  
8           any costs financed with the proceeds of a Federally funded grant.  
9           

10           “(B) INCREASE IN CREDIT FOR BUILDINGS  
11           IN HIGH COST AREAS.—

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

15           “(I) in the case of a new building,  
16           the eligible basis of such building  
17           shall be 130 percent of such basis determined without regard to this subparagraph, and  
18           

19           “(II) in the case of an existing  
20           building, the rehabilitation expenditures taken into account under subsection (e) shall be 130 percent of  
21

1           such expenditures determined without  
2           regard to this subparagraph.

3           “(ii) QUALIFIED CENSUS TRACT.—  
4           The term ‘qualified census tract’ means,  
5           with respect to any period any census tract  
6           which is treated as a qualified census tract  
7           under section 42(d)(5)(B).

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

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

1 apply to any building if paragraph (1) of  
2 subsection (h) does not apply to any por-  
3 tion of the eligible basis of such building  
4 by reason of paragraph (9) of such sub-  
5 section.

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

8 “(A) IN GENERAL.—Paragraph (2)(B)(ii)  
9 shall not apply to any Federally-assisted build-  
10 ing (as defined in section 42(d)(6)(C)(i)) or  
11 State-assisted building (as defined in section  
12 42(d)(6)(C)(ii)).

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

22 “(7) ACQUISITION OF BUILDING BEFORE END  
23 OF PRIOR CREDIT PERIOD.—

24 “(A) IN GENERAL.—Under regulations  
25 prescribed by the Secretary, in the case of a

1 building described in subparagraph (B) (or in-  
2 terest therein) which is acquired by the tax-  
3 payer—

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

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

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

16 “(i) a credit was allowed by reason of  
17 subsection (a) to any prior owner of such  
18 building, and

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

24 “(e) REHABILITATION EXPENDITURES TREATED AS  
25 SEPARATE NEW BUILDING.—

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

5           “(2) REHABILITATION EXPENDITURES.—For  
6           purposes of paragraph (1)—

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

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

20           “(3) MINIMUM EXPENDITURES TO QUALIFY.—

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

1           “(i) the expenditures are allocable to  
2           1 or more middle-income units or substan-  
3           tially benefit such units, and

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

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

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

1           “(B) EXCEPTION.—In the case of a build-  
2           ing acquired by the taxpayer from a govern-  
3           mental unit, at the election of the taxpayer,  
4           subparagraph (A)(ii)(I) shall not apply and the  
5           credit under this section for such rehabilitation  
6           expenditures shall be determined using the per-  
7           centage under subsection (b) which is applicable  
8           to buildings which are Federally subsidized.

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

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

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

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

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

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

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

15 “(f) DEFINITION AND SPECIAL RULES RELATING TO  
16 CREDIT PERIOD.—

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

21 “(A) the taxable year in which the building  
22 is placed in service, or

23 “(B) at the election of the taxpayer, the  
24 succeeding taxable year,

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

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

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

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

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

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

1           “(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-

1 graph if such allocation is made not later  
2 than the close of the calendar year in  
3 which ends the taxable year to which it will  
4 1st apply but only to the extent the  
5 amount of such allocation does not exceed  
6 the limitation under clause (ii).

7 “(ii) LIMITATION.—The limitation  
8 under this clause is the amount of credit  
9 allowable under this section (without re-  
10 gard to this subsection) for a taxable year  
11 with respect to an increase in the qualified  
12 basis of the building equal to the excess  
13 of—

14 “(I) the qualified basis of such  
15 building as of the close of the 1st tax-  
16 able year to which such allocation will  
17 apply, over

18 “(II) the qualified basis of such  
19 building as of the close of the 1st tax-  
20 able year to which the most recent  
21 prior housing credit allocation with re-  
22 spect to such building applied.

23 “(iii) HOUSING CREDIT DOLLAR  
24 AMOUNT REDUCED BY FULL ALLOCA-  
25 TION.—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

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

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

6 “(F) COST-OF-LIVING ADJUSTMENT.—

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

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

14 “(II) the cost-of-living adjust-  
15 ment determined under section 1(f)(3)  
16 for such calendar year by substituting  
17 ‘calendar year 2025’ for ‘calendar  
18 year 2016’ in subparagraph (A)(ii)  
19 thereof.

20 “(ii) ROUNDING.—

21 “(I) In the case of the  
22 \$1,500,000 amount, any increase  
23 under clause (i) which is not a mul-  
24 tiple of \$5,000 shall be rounded to the  
25 next lowest multiple of \$5,000.

1                   “(II) In the case of the \$1.00  
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           ERTY.—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.