

118TH CONGRESS
1ST SESSION

H. R. 6686

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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 2023

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. SENSE OF CONGRESS RELATING TO THE MIDDLE-**
7 **INCOME HOUSING TAX CREDIT.**

8 It is the sense of Congress that—

9 (1) the middle-income housing tax credit under
10 section 42 of the Internal Revenue Code of 1986 is

1 a critically important Federal Government policy
2 tool to encourage the production of affordable hous-
3 ing for low-income families; and

4 (2) Congress should further improve and en-
5 hance the middle-income housing tax credit by pass-
6 ing the Affordable Housing Credit Improvement Act
7 of 2023 as a base.

8 **SEC. 3. MIDDLE-INCOME HOUSING TAX CREDIT.**

9 (a) IN GENERAL.—Subpart D of part IV of sub-
10 chapter A of chapter 1 of the Internal Revenue Code of
11 1986 is amended by inserting after section 42 the fol-
12 lowing new section:

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

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

18 “(1) the applicable percentage, of

19 “(2) the qualified basis of each qualified mid-
20 dle-income building.

21 “(b) APPLICABLE PERCENTAGE.—

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

24 “(A) IN GENERAL.—The term ‘applicable
25 percentage’ means, with respect to any building,

1 the appropriate percentage prescribed by the
2 Secretary for the earlier of—

3 “(i) the month in which such building
4 is placed in service, or

5 “(ii) at the election of the taxpayer,
6 the month in which the taxpayer and the
7 housing credit agency enter into an agree-
8 ment with respect to such building (which
9 is binding on such agency, the taxpayer,
10 and all successors in interest) as to the
11 housing credit dollar amount to be allo-
12 cated to such building.

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

17 “(B) METHOD OF PRESCRIBING PERCENT-
18 AGES.—The percentages prescribed by the Sec-
19 retary for any month shall be percentages which
20 will yield over a 15-year period amounts of
21 credit under subsection (a) which have a
22 present value equal to—

23 “(i) 50 percent of the qualified basis
24 of a new building which is not Federally
25 subsidized for the taxable year, and

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

3 “(C) METHOD OF DISCOUNTING.—The
4 present value under subparagraph (B) shall be
5 determined—

6 “(i) as of the last day of the 1st year
7 of the 15-year period referred to in sub-
8 paragraph (B),

9 “(ii) by using a discount rate equal to
10 72 percent of the average of the annual
11 Federal mid-term rate and the annual
12 Federal long-term rate applicable under
13 section 1274(d)(1) to the month applicable
14 under clause (i) or (ii) of subparagraph
15 (A) and compounded annually, and

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

19 “(2) MINIMUM CREDIT RATE.—

20 “(A) IN GENERAL.—The applicable per-
21 centage for any building which is not Federally
22 subsidized for the taxable year shall not be less
23 than 5 percent.

24 “(B) MINIMUM CREDIT RATE FOR FEDER-
25 ALLY SUBSIDIZED BUILDINGS.—In the case of

1 any building to which subparagraph (A) does
2 not apply, except as provided in paragraph (3),
3 the applicable percentage shall not be less than
4 2 percent.

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

9 “(A) a credit is allowed under section 42
10 with respect to such building for the taxable
11 year, and

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

14 “(4) CROSS REFERENCES.—

15 “(A) For treatment of certain rehabilita-
16 tion expenditures as separate new buildings, see
17 subsection (e).

18 “(B) For determination of applicable per-
19 centage for increases in qualified basis after the
20 1st year of the credit period, see subsection
21 (f)(3).

22 “(C) For authority of housing credit agen-
23 cy to limit applicable percentage and qualified
24 basis which may be taken into account under

1 this section with respect to any building, see
2 subsection (h)(6).

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

5 “(1) QUALIFIED BASIS.—

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

9 “(i) the applicable fraction (deter-
10 mined as of the close of such taxable year)
11 of

12 “(ii) the eligible basis of such building
13 (determined under subsection (d)).

14 “(B) APPLICABLE FRACTION.—For pur-
15 poses of subparagraph (A), the term ‘applicable
16 fraction’ means the smaller of the unit fraction
17 or the floor space fraction.

18 “(C) UNIT FRACTION.—For purposes of
19 subparagraph (B), the term ‘unit fraction’
20 means the fraction—

21 “(i) the numerator of which is the
22 number of middle-income units in the
23 building, and

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

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

7 “(i) the numerator of which is the
8 total floor space of the middle-income units
9 in such building, and

10 “(ii) the denominator of which is the
11 total floor space of the residential rental
12 units (whether or not occupied) in such
13 building.

14 “(2) QUALIFIED MIDDLE-INCOME BUILDING.—
15 The term ‘qualified middle-income building’ means
16 any building which is part of a qualified middle-in-
17 come housing project at all times during the pe-
18 riod—

19 “(A) beginning on the 1st day in the credit
20 period on which such building is part of such a
21 project, and

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

24 “(d) ELIGIBLE BASIS.—For purposes of this sec-
25 tion—

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

4 “(2) EXISTING BUILDINGS.—

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

7 “(i) in the case of a building which
8 meets the requirements of subparagraph
9 (B), its adjusted basis as of the close of
10 the 1st taxable year of the credit period,
11 and

12 “(ii) zero in any other case.

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

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

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

21 “(iii) the building was not previously
22 placed in service by the taxpayer or by any
23 person who was a related person with re-
24 spect to the taxpayer as of the time pre-
25 viously placed in service, and

1 “(iv) except as provided in subsection
2 (f)(5), a credit is allowable under sub-
3 section (a) by reason of subsection (e) with
4 respect to the building.

5 “(C) ADJUSTED BASIS.—For purposes of
6 subparagraph (A), the adjusted basis of any
7 building shall not include so much of the basis
8 of such building as is determined by reference
9 to the basis of other property held at any time
10 by the person acquiring the building.

11 “(D) SPECIAL RULES.—

12 “(i) SPECIAL RULES FOR CERTAIN
13 TRANSFERS.—For purposes of determining
14 under subparagraph (B)(ii) when a build-
15 ing was last placed in service, there shall
16 not be taken into account any placement in
17 service—

18 “(I) in connection with the acqui-
19 sition of the building in a transaction
20 in which the basis of the building in
21 the hands of the person acquiring it is
22 determined in whole or in part by ref-
23 erence to the adjusted basis of such
24 building in the hands of the person
25 from whom acquired,

1 “(II) by a person whose basis in
2 such building is determined under sec-
3 tion 1014(a) (relating to property ac-
4 quired from a decedent),

5 “(III) by any governmental unit
6 or qualified nonprofit organization if
7 the requirements of subparagraph
8 (B)(ii) are met with respect to the
9 placement in service by such unit or
10 organization and all the income from
11 such property is exempt from Federal
12 income taxation,

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

1 “(V) of a single-family residence
2 by any individual who owned and used
3 such residence for no other purpose
4 than as his principal residence.

5 “(ii) RELATED PERSON.—For pur-
6 poses of subparagraph (B)(iii), a person
7 (hereinafter in this subclause referred to as
8 the ‘related person’) is related to any per-
9 son if the related person bears a relation-
10 ship to such person specified in section
11 267(b) or 707(b)(1), or the related person
12 and such person are engaged in trades or
13 businesses under common control (within
14 the meaning of subsections (a) and (b) of
15 section 52).

16 “(3) SPECIAL RULES RELATING TO DETER-
17 MINATION OF ADJUSTED BASIS.—For purposes of
18 this subsection—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (B), the adjusted basis of any
21 building shall be determined without regard to
22 the adjusted basis of any property which is not
23 residential rental property.

24 “(B) BASIS OF PROPERTY IN COMMON
25 AREAS, ETC., INCLUDED.—

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

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

18 “(C) NO REDUCTION FOR DEPRECIA-
19 TION.—The adjusted basis of any building shall
20 be determined without regard to paragraphs (2)
21 and (3) of section 1016(a).

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

24 “(A) FEDERAL GRANTS NOT TAKEN INTO
25 ACCOUNT IN DETERMINING ELIGIBLE BASIS.—

1 The eligible basis of a building shall not include
2 any costs financed with the proceeds of a Fed-
3 erally funded grant.

4 “(B) INCREASE IN CREDIT FOR BUILDINGS
5 IN HIGH COST AREAS.—

6 “(i) IN GENERAL.—In the case of any
7 building located in a difficult development
8 area which is designated for purposes of
9 this subparagraph—

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

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

21 “(ii) LIMITATION.—Clause (i) shall
22 not apply to any building if paragraph (1)
23 of subsection (h) does not apply to any
24 portion of the eligible basis of such build-

1 ing by reason of paragraph (9) of such
2 subsection.

3 “(iii) DIFFICULT DEVELOPMENT
4 AREAS.—

5 “(I) IN GENERAL.—The term
6 ‘difficult development areas’ means
7 any area designated by the Secretary
8 of Housing and Urban Development
9 as an area which has high construc-
10 tion, land, or utility costs relative to
11 area median gross income, any rural
12 area, and any Indian area.

13 “(II) RURAL AREA.—For pur-
14 poses of subclause (I), the term ‘rural
15 area’ means any non-metropolitan
16 area, or any rural area as defined by
17 section 520 of the Housing Act of
18 1949, which is identified by the quali-
19 fied allocation plan under subsection
20 (m)(1)(B).

21 “(III) INDIAN AREA.—For pur-
22 poses of subclause (I), the term ‘In-
23 dian area’ means any Indian area (as
24 defined in section 4(11) of the Native
25 American Housing Assistance and

1 Self Determination Act of 1996 (25
2 U.S.C. 4103(11))).

3 “(IV) SPECIAL RULE FOR BUILD-
4 INGS IN INDIAN AREAS.—In the case
5 of an area which is a difficult develop-
6 ment area solely because it is an In-
7 dian area, a building shall not be
8 treated as located in such area unless
9 such building is assisted or financed
10 under the Native American Housing
11 Assistance and Self Determination
12 Act of 1996 (25 U.S.C. 4101 et seq.)
13 or the project sponsor is an Indian
14 tribe (as defined in section
15 45A(c)(6)), a tribally designated hous-
16 ing entity (as defined in section 4(22)
17 of such Act (25 U.S.C. 4103(22))), or
18 wholly owned or controlled by such an
19 Indian tribe or tribally designated
20 housing entity.

21 “(V) LIMIT ON AREAS DES-
22 IGNATED.—The portions of metropoli-
23 tan statistical areas which may be
24 designated for purposes of this sub-
25 paragraph shall not exceed an aggre-

1 gate area having 20 percent of the
2 population of such metropolitan sta-
3 tistical areas. A comparable rule shall
4 apply to nonmetropolitan areas.

5 “(iv) SPECIAL RULES AND DEFINI-
6 TIONS.—For purposes of this subpara-
7 graph—

8 “(I) population shall be deter-
9 mined on the basis of the most recent
10 decennial census for which data are
11 available,

12 “(II) area median gross income
13 shall be determined in accordance
14 with subsection (g)(4),

15 “(III) the term ‘metropolitan sta-
16 tistical area’ has the same meaning as
17 when used in section 143(k)(2)(B),
18 and

19 “(IV) the term ‘nonmetropolitan
20 area’ means any county (or portion
21 thereof) which is not within a metro-
22 politan statistical area.

23 “(v) BUILDINGS DESIGNATED BY
24 STATE HOUSING CREDIT AGENCY.—Any
25 building which is designated by the State

1 housing credit agency as requiring the in-
2 crease in credit under this subparagraph in
3 order for such building to be financially
4 feasible as part of a qualified middle-in-
5 come housing project shall be treated for
6 purposes of this subparagraph as located
7 in a difficult development area which is
8 designated for purposes of this subpara-
9 graph.

10 “(5) CREDIT ALLOWABLE FOR CERTAIN BUILD-
11 INGS ACQUIRED DURING 10-YEAR PERIOD.—On ap-
12 plication by the taxpayer, the Secretary may waive
13 paragraph (2)(B)(ii) with respect to any building ac-
14 quired from an insured depository institution in de-
15 fault (as defined in section 3 of the Federal Deposit
16 Insurance Act) or from a receiver or conservator of
17 such an institution.

18 “(6) ACQUISITION OF BUILDING BEFORE END
19 OF PRIOR CREDIT PERIOD.—

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

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

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

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

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

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

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

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

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

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

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

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

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

21 “(i) amounts paid to occupants,

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

24 “(iii) amounts paid for temporary
25 housing for occupants,

1 shall be treated as chargeable to capital account
2 and taken into account as rehabilitation ex-
3 penditures.

4 “(3) MINIMUM EXPENDITURES TO QUALIFY.—

5 “(A) IN GENERAL.—Paragraph (1) shall
6 apply to rehabilitation expenditures with respect
7 to any building only if—

8 “(i) the expenditures are allocable to
9 1 or more middle-income units or substan-
10 tially benefit such units, and

11 “(ii) the amount of such expenditures
12 during any 24-month period meets the re-
13 quirements of whichever of the following
14 subclauses requires the greater amount of
15 such expenditures:

16 “(I) The requirement of this sub-
17 clause is met if such amount is not
18 less than 20 percent of the adjusted
19 basis of the building (determined as of
20 the 1st day of such period and with-
21 out regard to paragraphs (2) and (3)
22 of section 1016(a)).

23 “(II) The requirement of this
24 subclause is met if the qualified basis
25 attributable to such amount, when di-

1 vided by the number of middle-income
2 units in the building, is equal to or
3 greater than the dollar amount in ef-
4 fect under section 42(e)(3)(A)(ii)(II)
5 for the calendar year in which such
6 expenditures are treated as placed in
7 service under paragraph (4).

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

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

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

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

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.

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

21 “(1) CREDIT MAY NOT EXCEED CREDIT
22 AMOUNT ALLOCATED TO BUILDING.—

23 “(A) IN GENERAL.—The amount of the
24 credit determined under this section for any
25 taxable year with respect to any building shall

1 not exceed the housing credit dollar amount al-
2 located to such building under this subsection.

3 “(B) TIME FOR MAKING ALLOCATION.—

4 Except in the case of an allocation which meets
5 the requirements of subparagraph (C), (D),
6 (E), or (F), an allocation shall be taken into ac-
7 count under subparagraph (A) only if it is
8 made not later than the close of the calendar
9 year in which the building is placed in service.

10 “(C) EXCEPTION WHERE BINDING COM-

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

19 “(D) EXCEPTION WHERE INCREASE IN

20 QUALIFIED BASIS.—

21 “(i) IN GENERAL.—An allocation

22 meets the requirements of this subpara-
23 graph if such allocation is made not later
24 than the close of the calendar year in
25 which ends the taxable year to which it will

1 1st apply but only to the extent the
2 amount of such allocation does not exceed
3 the limitation under clause (ii).

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

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

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

20 “(iii) HOUSING CREDIT DOLLAR
21 AMOUNT REDUCED BY FULL ALLOCA-
22 TION.—Notwithstanding clause (i), the full
23 amount of the allocation shall be taken
24 into account under paragraph (2).

1 “(E) EXCEPTION WHERE 10 PERCENT OF
2 COST INCURRED.—

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

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

1 ferred to in clause (i) or the prior taxable
2 year.

3 “(F) ALLOCATION OF CREDIT ON A
4 PROJECT BASIS.—

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

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

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

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

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

24 “(I) beginning with the 1st cal-
25 endar year for which an allocation

1 may be made for the 1st building
2 placed in service as part of such
3 project, and

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

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

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

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

18 “(3) HOUSING CREDIT DOLLAR AMOUNT FOR
19 AGENCIES.—

20 “(A) IN GENERAL.—The aggregate hous-
21 ing credit dollar amount which a housing credit
22 agency may allocate for any calendar year is
23 the portion of the State housing credit ceiling
24 allocated under this paragraph for such cal-
25 endar year to such agency.

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

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

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

17 “(ii) the greater of—

18 “(I) \$1.00 multiplied by the
19 State population, or

20 “(II) \$1,500,000, plus

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

23 For purposes of clause (i), the unused State
24 housing credit ceiling for any calendar year is
25 the excess (if any) of the sum of the amounts

1 described in clauses (ii) (reduced by the aggregate
2 amounts described in paragraph (10)(A)(i)
3 with respect to all elections made for such calendar
4 year) and (iii) over the aggregate housing
5 credit dollar amount allocated for such year.
6 For purposes of clause (iii), the amount of
7 State housing credit ceiling returned in the calendar
8 year equals the housing credit dollar
9 amount previously allocated within the State to
10 any project which fails to meet the 10 percent
11 test under paragraph (1)(E)(ii) on a date after
12 the close of the calendar year in which the allocation
13 was made or which does not become a
14 qualified middle-income housing project within
15 the period required by this section or the terms
16 of the allocation or to any project with respect
17 to which an allocation is cancelled by mutual
18 consent of the housing credit agency and the allocation
19 recipient.

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

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

4 “(F) COST-OF-LIVING ADJUSTMENT.—

5 “(i) IN GENERAL.—In the case of a
6 calendar year after 2024, the \$1,500,000
7 and \$1.00 amounts in subparagraph (C)
8 shall each be increased by an amount equal
9 to—

10 “(I) such dollar amount, multi-
11 plied by

12 “(II) the cost-of-living adjust-
13 ment determined under section 1(f)(3)
14 for such calendar year by substituting
15 ‘calendar year 2023’ for ‘calendar
16 year 2016’ in subparagraph (A)(ii)
17 thereof.

18 “(ii) ROUNDING.—

19 “(I) In the case of the
20 \$1,140,000 amount, any increase
21 under clause (i) which is not a mul-
22 tiple of \$5,000 shall be rounded to the
23 next lowest multiple of \$5,000.

24 “(II) In the case of the \$1.00
25 amount, any increase under clause (i)

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

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

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

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

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

1 term ‘qualified nonprofit organization’ means
2 any organization if—

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

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

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

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

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

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

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

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

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

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

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

22 “(i) which requires that the applicable
23 fraction (as defined in subsection (c)(1))
24 for the building for each taxable year in
25 the extended use period will not be less

1 than the applicable fraction specified in
2 such agreement and which prohibits the
3 actions described in subclauses (I) and (II)
4 of subparagraph (E)(ii),

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

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

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

23 “(v) which is binding on all successors
24 of the taxpayer, and

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

4 “(C) ALLOCATION OF CREDIT MAY NOT
5 EXCEED AMOUNT NECESSARY TO SUPPORT
6 COMMITMENT.—The housing credit dollar
7 amount allocated to any building may not ex-
8 ceed the amount necessary to support the appli-
9 cable fraction specified in the extended middle-
10 income housing commitment for such building,
11 including any increase in such fraction pursu-
12 ant to the application of subsection (f)(3) if
13 such increase is reflected in an amended mid-
14 dle-income housing commitment.

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

18 “(i) beginning on the 1st day in the
19 credit period on which such building is
20 part of a qualified middle-income housing
21 project, and

22 “(ii) ending on the later of—

23 “(I) the date specified by such
24 agency in such agreement, or

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

3 “(E) EXCEPTIONS IF FORECLOSURE OR IF
4 NO BUYER WILLING TO MAINTAIN MIDDLE-IN-
5 COME STATUS.—

6 “(i) IN GENERAL.—The extended use
7 period for any building shall terminate on
8 the 61st day after the taxpayer (or a suc-
9 cessor in interest) provides notice to the
10 Secretary and the housing credit agency
11 that the building has been acquired by
12 foreclosure (or instrument in lieu of fore-
13 closure) and that the taxpayer intends the
14 termination of such period, unless, before
15 such date, the Secretary or the housing
16 credit agency determines that such acquisi-
17 tion is part of an arrangement with the
18 taxpayer a purpose of which is to termi-
19 nate such period.

20 “(ii) EVICTION, ETC., OF EXISTING
21 MIDDLE-INCOME TENANTS NOT PER-
22 MITTED.—The termination of an extended
23 use period under clause (i) shall not be
24 construed to permit before the close of the
25 3-year period following such termination—

1 “(I) the eviction or the termi-
2 nation of tenancy (other than for good
3 cause) of an existing tenant of any
4 middle-income unit, or

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

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

17 “(G) PROJECTS WHICH CONSIST OF MORE
18 THAN 1 BUILDING.—The application of this
19 paragraph to projects which consist of more
20 than 1 building shall be made under regulations
21 prescribed by the Secretary.

22 “(6) SPECIAL RULES.—

23 “(A) BUILDING MUST BE LOCATED WITH-
24 IN JURISDICTION OF CREDIT AGENCY.—A hous-
25 ing credit agency may allocate its aggregate

1 housing credit dollar amount only to buildings
2 located in the jurisdiction of the governmental
3 unit of which such agency is a part.

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

14 “(C) CREDIT REDUCED IF ALLOCATED
15 CREDIT DOLLAR AMOUNT IS LESS THAN CREDIT
16 WHICH WOULD BE ALLOWABLE WITHOUT RE-
17 GARD TO PLACED IN SERVICE CONVENTION,
18 ETC.—

19 “(i) IN GENERAL.—The amount of
20 the credit determined under this section
21 with respect to any building shall not ex-
22 ceed the clause (ii) percentage of the
23 amount of the credit which would (but for
24 this subparagraph) be determined under
25 this section with respect to such building.

1 “(ii) DETERMINATION OF PERCENT-
2 AGE.—For purposes of clause (i), the
3 clause (ii) percentage with respect to any
4 building is the percentage which—

5 “(I) the housing credit dollar
6 amount allocated to such building,
7 bears to

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

10 “(iii) DETERMINATION OF CREDIT
11 AMOUNT.—The credit amount determined
12 in accordance with this clause is the
13 amount of the credit which would (but for
14 this subparagraph) be determined under
15 this section with respect to the building
16 if—

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

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

23 “(D) HOUSING CREDIT AGENCY TO SPECI-
24 FY APPLICABLE PERCENTAGE AND MAXIMUM
25 QUALIFIED BASIS.—In allocating a housing

1 credit dollar amount to any building, the hous-
2 ing credit agency shall specify the applicable
3 percentage and the maximum qualified basis
4 which may be taken into account under this
5 section with respect to such building. The appli-
6 cable percentage and maximum qualified basis
7 so specified shall not exceed the applicable per-
8 centage and qualified basis determined under
9 this section without regard to this subsection.

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

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

16 “(B) USE OF INCREASED AMOUNT.—

17 “(i) IN GENERAL.—The amount of
18 the increase under subparagraph (A) for
19 any calendar year may only be allocated to
20 buildings located in a rural area.

21 “(ii) RURAL AREA.—For purposes of
22 clause (i), the term ‘rural area’ means any
23 non-metropolitan area, or any rural area
24 as defined by section 520 of the Housing
25 Act of 1949, which is identified by the

1 qualified allocation plan under subsection
2 (l)(1)(B).

3 “(8) OTHER DEFINITIONS.—For purposes of
4 this subsection—

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

8 “(B) POSSESSIONS TREATED AS STATES.—
9 The term ‘State’ includes a possession of the
10 United States.

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

17 “(10) ELECTION TO TRANSFER STATE HOUSING
18 CREDIT CEILING FOR ALLOCATIONS TO LOW-INCOME
19 BUILDINGS.—

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

23 “(i) the State housing credit ceiling
24 for such calendar year under paragraph
25 (3) (determined before application of para-

1 graph (7)) shall be reduced by the amount
2 specified in such election,

3 “(ii) the amount determined under
4 paragraph (7) for such calendar year shall
5 be reduced by the amount specified in such
6 election, and

7 “(iii) the amount determined under
8 section 42(h)(3)(C)(ii) for such calendar
9 year shall be increased by the sum of the
10 amounts specified in clauses (i) and (ii),
11 except that any amount specified under
12 clause (ii)—

13 “(I) may only be allocated under
14 such section to qualified low-income
15 buildings (as defined in section 42) lo-
16 cated in a rural area (as defined in
17 paragraph (7), and

18 “(II) shall not be taken into ac-
19 count for purposes of determining the
20 unused housing credit ceiling under
21 the second sentence of section
22 42(h)(3)(C).

23 “(B) TIME AND MANNER FOR MAKING
24 ELECTION.—

1 “(i) IN GENERAL.—An election under
2 this paragraph—

3 “(I) shall be made before the end
4 of the calendar year with respect to
5 which such election applies,

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

8 “(III) shall separately specify the
9 amount of reductions to be made
10 under paragraph (3) and paragraph
11 (7).

12 “(ii) FREQUENCY.—A State housing
13 credit agency may make more than one
14 election under this section with respect to
15 any calendar year, and any such election,
16 once made, shall be revocable only if such
17 revocation is made before the end of the
18 calendar year with respect to which such
19 election is made.

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

1 “(i) the amount determined under
2 paragraph (3)(C)(ii) for such calendar
3 year, plus

4 “(ii) the amount determined under
5 paragraph (7) for such calendar year.

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

8 “(1) MIDDLE-INCOME UNIT.—

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

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

13 “(ii) the individuals occupying such
14 unit meet the income limitation applicable
15 under subsection (g)(1) to the project of
16 which such building is a part.

17 “(B) EXCEPTIONS.—

18 “(i) EXCLUSION OF LOW-INCOME
19 UNITS.—A unit shall not be treated as a
20 middle-income unit if such unit is a low-in-
21 come unit (as defined under section
22 42(i)(3)).

23 “(ii) UNIT MUST BE SUITABLE FOR
24 PERMANENT OCCUPANCY.—

1 “(I) IN GENERAL.—A unit shall
2 not be treated as a middle-income
3 unit unless the unit is suitable for oc-
4 cupancy and used other than on a
5 transient basis.

6 “(II) SUITABILITY FOR OCCU-
7 PANCY.—For purposes of subclause
8 (I), the suitability of a unit for occu-
9 pancy shall be determined under regu-
10 lations prescribed by the Secretary
11 taking into account local health, safe-
12 ty, and building codes.

13 “(III) SINGLE-ROOM OCCUPANCY
14 UNITS.—For purposes of subclause
15 (I), a single-room occupancy unit shall
16 not be treated as used on a transient
17 basis merely because it is rented on a
18 month-by-month basis.

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

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

3 “(ii) any person who is related (as de-
4 fined in subsection (d)(2)(D)(ii)) to such
5 individual.

6 “(D) RULES RELATING TO STUDENTS.—

7 “(i) IN GENERAL.—A unit occupied
8 solely by individuals who—

9 “(I) have not attained age 24,
10 and

11 “(II) are enrolled in a full-time
12 course of study at an institution of
13 higher education (as defined in section
14 3304(f)),

15 shall not be treated as a middle-income
16 unit.

17 “(ii) EXCEPTION FOR CERTAIN FED-
18 ERAL PROGRAMS.—In the case of a Feder-
19 ally-assisted building (as defined in sub-
20 section (d)(6)(C)(i) of section 42), clause
21 (i) shall not apply to a unit all of the occu-
22 pants of which meet all applicable require-
23 ments under the housing program de-
24 scribed in such subsection through which

1 the building is assisted, financed, or oper-
2 ated.

3 “(iii) OTHER EXCEPTIONS.—Clause
4 (i) shall not apply to a unit occupied by an
5 individual who—

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

8 “(II) is a person with disabilities
9 (as defined in section 3(b)(3)(E) of
10 the United States Housing Act of
11 1937),

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

15 “(IV) has one or more qualifying
16 children (as defined in section
17 152(c)), if such children also occupy
18 the unit, the individual is not a de-
19 pendent (as defined in section 152,
20 determined without regard to sub-
21 sections (b)(1), (b)(2), and (d)(1)(B)
22 thereof) of another individual, and
23 such children are not claimed as de-
24 pendants (as so defined) of another
25 individual, or

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

3 “(aa) an emancipated minor
4 or in legal guardianship as deter-
5 mined by a court of competent
6 jurisdiction in the individual’s
7 State of legal residence,

8 “(bb) under the care and
9 placement responsibility of the
10 State agency responsible for ad-
11 ministering a plan under part B
12 or part E of title IV of the Social
13 Security Act, or

14 “(cc) was an unaccompanied
15 youth (within the meaning of sec-
16 tion 725(6) of the McKinney-
17 Vento Homeless Assistance Act
18 (42 U.S.C. 11434a(6))) or a
19 homeless child or youth (within
20 the meaning of section 725(2) of
21 such Act (42 U.S.C.
22 11434a(2))).

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

1 “(i) IN GENERAL.—Subparagraph (C)
2 shall not apply to the acquisition or reha-
3 bilitation of a building pursuant to a devel-
4 opment plan of action sponsored by a
5 State or local government or a qualified
6 nonprofit organization.

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

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

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

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

24 “(4) APPLICATION TO ESTATES AND TRUSTS.—
25 In the case of an estate or trust, the amount of the

1 credit determined under subsection (a) shall be ap-
2 portioned between the estate or trust and the bene-
3 ficiaries on the basis of the income of the estate or
4 trust allocable to each.

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

7 “(A) IN GENERAL.—No Federal income
8 tax benefit shall fail to be allowable to the tax-
9 payer with respect to any qualified middle-in-
10 come building merely by reason of an option
11 held by the tenants (in cooperative form or oth-
12 erwise) or resident management corporation of
13 such building or by a qualified nonprofit organi-
14 zation or government agency to purchase the
15 property or all of the partnership interests
16 (other than interests of the person exercising
17 such option or a related party thereto (within
18 the meaning of section 267(b) or 707(b)(1)))
19 relating to the property after the close of the
20 credit period for a price which is not less than
21 the minimum purchase price determined under
22 subparagraph (B).

23 “(B) MINIMUM PURCHASE PRICE.—For
24 purposes of subparagraph (A), the minimum
25 purchase price under this subparagraph is an

1 amount equal to the principal amount of out-
2 standing indebtedness secured by the building
3 (other than indebtedness incurred within the 5-
4 year period ending on the date of the sale to
5 the tenants). In the case of a purchase of a
6 partnership interest, the minimum purchase
7 price is an amount equal to such interest's rat-
8 able share of the amount determined under the
9 preceding sentence.

10 “(6) TREATMENT OF RURAL PROJECTS.—For
11 purposes of this section, in the case of any project
12 for residential rental property located in a rural area
13 (as defined in section 520 of the Housing Act of
14 1949), any income limitation measured by reference
15 to area median gross income shall be measured by
16 reference to the greater of area median gross income
17 or national non-metropolitan median income.

18 “(7) DETERMINATION OF WHETHER BUILDING
19 IS FEDERALLY SUBSIDIZED.—

20 “(A) IN GENERAL.—Except as otherwise
21 provided in this paragraph, for purposes of this
22 section, a project shall be treated as Federally
23 subsidized for any taxable year if, at any time
24 during such taxable year or any prior taxable
25 year, there is or was outstanding any obligation

1 the interest on which is exempt from tax under
2 section 103 the proceeds of which are or were
3 used (directly or indirectly) with respect to such
4 project or the operation thereof.

5 “(B) SPECIAL RULE FOR SUBSIDIZED CON-
6 STRUCTION FINANCING.—Subparagraph (A)
7 shall not apply to any tax-exempt obligation
8 used to provide construction financing for any
9 building if—

10 “(i) such obligation (when issued)
11 identified the building for which the pro-
12 ceeds of such obligation would be used,
13 and

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

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

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

23 “(1) IN GENERAL.—Except as otherwise pro-
24 vided in this subsection, rules similar to the rules of
25 section 49(a)(1) (other than subparagraphs

1 (D)(ii)(II) and (D)(iv)(I) thereof), section 49(a)(2),
2 and section 49(b)(1) shall apply in determining the
3 qualified basis of any building in the same manner
4 as such sections apply in determining the credit base
5 of property.

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

8 “(A) IN GENERAL.—If the requirements of
9 subparagraphs (B), (C), and (D) are met with
10 respect to any financing borrowed from a quali-
11 fied nonprofit organization, the determination
12 of whether such financing is qualified commer-
13 cial financing with respect to any qualified mid-
14 dle-income building shall be made without re-
15 gard to whether such organization—

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

18 “(ii) is a person described in section
19 49(a)(1)(D)(iv)(II).

20 “(B) FINANCING SECURED BY PROP-
21 erty.—The requirements of this subparagraph
22 are met with respect to any financing if such fi-
23 nancing is secured by the qualified middle-in-
24 come building, except that this subparagraph
25 shall not apply in the case of a federally as-

1 sisted building described in section 42(d)(6)(C)
2 if—

3 “(i) a security interest in such build-
4 ing is not permitted by a Federal agency
5 holding or insuring the mortgage secured
6 by such building, and

7 “(ii) the proceeds from the financing
8 (if any) are applied to acquire or improve
9 such building.

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

21 “(D) REPAYMENT OF PRINCIPAL AND IN-
22 TEREST.—The requirements of this subpara-
23 graph are met with respect to any financing if
24 such financing is fully repaid on or before the
25 earliest of—

1 “(i) the date on which such financing
2 matures,

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

6 “(iii) the date of its refinancing or the
7 sale of the building to which such financ-
8 ing relates.

9 In the case of a qualified nonprofit organization
10 which is not described in section
11 49(a)(1)(D)(iv)(II) with respect to a building,
12 clause (ii) of this subparagraph shall be applied
13 as if the date described therein were the 90th
14 day after the earlier of the date the building
15 ceases to be a qualified middle-income building
16 or the date which is 15 years after the close of
17 a credit period with respect thereto.

18 “(3) PRESENT VALUE OF FINANCING.—If the
19 rate of interest on any financing described in para-
20 graph (2)(A) is less than the rate which is 1 per-
21 centage point below the applicable Federal rate as of
22 the time such financing is incurred, then the quali-
23 fied basis (to which such financing relates) of the
24 qualified middle-income building shall be the present
25 value of the amount of such financing, using as the

1 discount rate such applicable Federal rate. For pur-
2 poses of the preceding sentence, the rate of interest
3 on any financing shall be determined by treating in-
4 terest to the extent of government subsidies as not
5 payable.

6 “(4) FAILURE TO FULLY REPAY.—

7 “(A) IN GENERAL.—To the extent that the
8 requirements of paragraph (2)(D) are not met,
9 then the taxpayer’s tax under this chapter for
10 the taxable year in which such failure occurs
11 shall be increased by an amount equal to the
12 applicable portion of the credit under this sec-
13 tion with respect to such building, increased by
14 an amount of interest for the period—

15 “(i) beginning with the due date for
16 the filing of the return of tax imposed by
17 chapter 1 for the 1st taxable year for
18 which such credit was allowable, and

19 “(ii) ending with the due date for the
20 taxable year in which such failure occurs,
21 determined by using the underpayment rate and
22 method under section 6621.

23 “(B) APPLICABLE PORTION.—For pur-
24 poses of subparagraph (A), the term ‘applicable
25 portion’ means the aggregate decrease in the

1 credits allowed to a taxpayer under section 38
2 for all prior taxable years which would have re-
3 sulted if the eligible basis of the building were
4 reduced by the amount of financing which does
5 not meet requirements of paragraph (2)(D).

6 “(C) CERTAIN RULES TO APPLY.—Rules
7 similar to the rules of subparagraphs (A) and
8 (D) of section 42(j)(4) shall apply for purposes
9 of this subsection.

10 “(k) CERTIFICATIONS AND OTHER REPORTS TO SEC-
11 RETARY.—

12 “(1) CERTIFICATION WITH RESPECT TO 1ST
13 YEAR OF CREDIT PERIOD.—Following the close of
14 the 1st taxable year in the credit period with respect
15 to any qualified middle-income building, the tax-
16 payer shall certify to the Secretary (at such time
17 and in such form and in such manner as the Sec-
18 retary prescribes)—

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

21 “(B) the adjusted basis and eligible basis
22 of such building as of the close of the 1st year
23 of the credit period,

24 “(C) the maximum applicable percentage
25 and qualified basis permitted to be taken into

1 account by the appropriate housing credit agen-
2 cy under subsection (h), and

3 “(D) such other information as the Sec-
4 retary may require.

5 In the case of a failure to make the certification re-
6 quired by the preceding sentence on the date pre-
7 scribed therefor, unless it is shown that such failure
8 is due to reasonable cause and not to willful neglect,
9 no credit shall be allowable by reason of subsection
10 (a) with respect to such building for any taxable
11 year ending before such certification is made.

12 “(2) ANNUAL REPORTS TO THE SECRETARY.—
13 The Secretary may require taxpayers to submit an
14 information return (at such time and in such form
15 and manner as the Secretary prescribes) for each
16 taxable year setting forth—

17 “(A) the qualified basis for the taxable
18 year of each qualified middle-income building of
19 the taxpayer,

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

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

24 The penalty under section 6652(j) shall apply to any
25 failure to submit the return required by the Sec-

1 retary under the preceding sentence on the date pre-
2 scribed therefor.

3 “(3) ANNUAL REPORTS FROM HOUSING CREDIT
4 AGENCIES.—Each agency which allocates any hous-
5 ing credit amount to any building for any calendar
6 year shall submit to the Secretary (at such time and
7 in such manner as the Secretary shall prescribe) an
8 annual report specifying—

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

11 “(B) sufficient information to identify each
12 such building and the taxpayer with respect
13 thereto, and

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

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

19 “(1) RESPONSIBILITIES OF HOUSING CREDIT AGEN-
20 CIES.—

21 “(1) PLANS FOR ALLOCATION OF CREDIT
22 AMONG PROJECTS.—

23 “(A) IN GENERAL.—Notwithstanding any
24 other provision of this section, the housing cred-

1 it dollar amount with respect to any building
2 shall be zero unless—

3 “(i) such amount was allocated pursu-
4 ant to a qualified allocation plan of the
5 housing credit agency which is approved by
6 the governmental unit (in accordance with
7 rules similar to the rules of section
8 42(m)(1)) of which such agency is a part,

9 “(ii) a comprehensive market study of
10 the housing needs of middle-income indi-
11 viduals in the area to be served by the
12 project is conducted before the credit allo-
13 cation is made and at the developer’s ex-
14 pense by a disinterested party who is ap-
15 proved by such agency, and

16 “(iii) a written explanation is available
17 to the general public for any allocation of
18 a housing credit dollar amount which is
19 not made in accordance with established
20 priorities and selection criteria of the hous-
21 ing credit agency.

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

1 “(i) which sets forth selection criteria
2 to be used to determine housing priorities
3 of the housing credit agency which are ap-
4 propriate to local conditions,

5 “(ii) which also gives preference in al-
6 locating housing credit dollar amounts
7 among selected projects to—

8 “(I) projects obligated to serve
9 qualified tenants for the longest peri-
10 ods,

11 “(II) projects in areas with insuf-
12 ficient supply of housing affordable to
13 median income households,

14 “(III) projects which target hous-
15 ing to tenants at a range of incomes
16 between 60 and 100 percent of area
17 median gross income, and

18 “(IV) projects located near tran-
19 sit hubs, and

20 “(iii) which provides a procedure that
21 the agency (or an agent or other private
22 contractor of such agency) will follow in
23 monitoring for noncompliance with the
24 provisions of this section and in notifying
25 the Internal Revenue Service of such non-

1 compliance which such agency becomes
2 aware of and in monitoring for noncompli-
3 ance with habitability standards through
4 regular site visits.

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

8 “(i) project location,

9 “(ii) housing needs characteristics,

10 “(iii) project characteristics, including
11 whether the project includes the use of ex-
12 isting housing as part of a community revi-
13 talization plan,

14 “(iv) sponsor characteristics,

15 “(v) tenant populations with special
16 housing needs,

17 “(vi) tenant populations of individuals
18 with children,

19 “(vii) projects intended for eventual
20 tenant ownership,

21 “(viii) the energy efficiency of the
22 project, and

23 “(ix) the historic nature of the
24 project.

1 “(D) CERTAIN SELECTION CRITERIA PRO-
2 HIBITED.—The selection criteria set forth in a
3 qualified allocation plan shall not include a re-
4 quirement of local approval or local contribu-
5 tions, either as a threshold qualification re-
6 quirement or as part of a point system to be
7 considered for allocations of housing credit dol-
8 lar amount.

9 “(2) CREDIT ALLOCATED TO BUILDING NOT TO
10 EXCEED AMOUNT NECESSARY TO ASSURE PROJECT
11 FEASIBILITY.—

12 “(A) IN GENERAL.—The housing credit
13 dollar amount allocated to a project shall not
14 exceed the amount the housing credit agency
15 determines is necessary for the financial feasi-
16 bility of the project and its viability as a quali-
17 fied middle-income housing project throughout
18 the credit period.

19 “(B) AGENCY EVALUATION.—In making
20 the determination under subparagraph (A), the
21 housing credit agency shall consider—

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

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

1 “(iii) the percentage of the housing
2 credit dollar amount used for project costs
3 other than the cost of intermediaries, and

4 “(iv) the reasonableness of the devel-
5 opmental and operational costs of the
6 project.

7 Clause (iii) shall not be applied so as to impede
8 the development of projects in hard-to-develop
9 areas. Such a determination shall not be con-
10 strued to be a representation or warranty as to
11 the feasibility or viability of the project.

12 “(C) DETERMINATION MADE WHEN CRED-
13 IT AMOUNT APPLIED FOR AND WHEN BUILDING
14 PLACED IN SERVICE.—

15 “(i) IN GENERAL.—A determination
16 under subparagraph (A) shall be made as
17 of each of the following times:

18 “(I) The application for the
19 housing credit dollar amount.

20 “(II) The allocation of the hous-
21 ing credit dollar amount.

22 “(III) The date the building is
23 placed in service.

24 “(ii) CERTIFICATION AS TO AMOUNT
25 OF OTHER SUBSIDIES.—Prior to each de-

1 termination under clause (i), the taxpayer
2 shall certify to the housing credit agency
3 the full extent of all Federal, State, and
4 local subsidies which apply (or which the
5 taxpayer expects to apply) with respect to
6 the building.

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

10 “(1) regulations dealing with—

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

13 “(B) buildings which are placed in service
14 in portions,

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

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

19 “(4) regulations providing the opportunity for
20 housing credit agencies to correct administrative er-
21 rors and omissions with respect to allocations and
22 record keeping within a reasonable period after their
23 discovery, taking into account the availability of reg-
24 ulations and other administrative guidance from the
25 Secretary, and

1 “(5) in consultation with the Secretary of
2 Housing and Urban Development, regulations or
3 guidance to promote uniform definitions and to
4 streamline requirements for with respect to qualified
5 middle-income buildings which receive funding from
6 programs administrated by the Department of Hous-
7 ing and Urban Development, including programs au-
8 thorized by Native American Housing Assistance
9 and Self-Determination Act of 1996 .”.

10 (b) TREATMENT AS PART OF GENERAL BUSINESS
11 CREDIT.—Section 38(b) of the Internal Revenue Code of
12 1986 is amended by striking “plus” at the end of para-
13 graph (40), by striking the period at the end of paragraph
14 (41) and inserting “, plus”, and by adding at the end the
15 following new paragraph:

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

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

20 (1) by striking “and” at the end of paragraph
21 (37);

22 (2) by redesignating paragraph (38) as para-
23 graph (39); and

24 (3) by inserting after paragraph (37) the fol-
25 lowing new paragraph:

1 “(38) to the extent provided in section
2 42A(i)(8), and”.

3 (d) TREATMENT UNDER BASE EROSION MINIMUM
4 TAX.—Section 59A(b)(4) of the Internal Revenue Code of
5 1986 is amended by redesignating subparagraphs (B) and
6 (C) as subparagraphs (C) and (D), respectively, and by
7 inserting after subparagraphs (A) the following new sub-
8 paragraph:

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

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

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

16 (2) by inserting “regulations” before “dealing
17 with” in paragraph (1),

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

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

22 (5) by striking “and” at the end of paragraph
23 (3),

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

1 (7) by adding at the end the following new
2 paragraph

3 “(5) in consultation with the Secretary of
4 Housing and Urban Development, regulations or
5 guidance to promote uniform definitions and to
6 streamline requirements for with respect to qualified
7 low-income buildings which receive funding from
8 programs administrated by the Department of Hous-
9 ing and Urban Development, including programs au-
10 thORIZED by Native American Housing Assistance
11 and Self-Determination Act of 1996.”.

12 (f) CONFORMING AMENDMENTS.—

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

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

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

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

23 (5) The table of sections for subpart D of part
24 IV of subchapter A of chapter 1 of such Code is

1 amended by inserting after the item relating to sec-
2 tion 42 the following new item:

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

3 (g) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to buildings placed in service after
5 December 31, 2023, in taxable years ending after such
6 date.

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