

103D CONGRESS
1ST SESSION

S. 487

To amend the Internal Revenue Code of 1986 to permanently extend and modify the low-income housing tax credit.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 1993

Mr. MITCHELL (for himself and Mr. DANFORTH) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to permanently extend and modify the low-income housing tax credit.

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. PERMANENT EXTENSION AND MODIFICATION**

4 **OF LOW-INCOME HOUSING TAX CREDIT.**

5 (a) PERMANENT EXTENSION.—

6 (1) IN GENERAL.—Section 42 of the Internal
7 Revenue Code of 1986 (relating to low-income hous-
8 ing credit) is amended by striking subsection (o).

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall apply to periods after June
3 30, 1992.

4 (b) MODIFICATIONS.—

5 (1) CARRYFORWARD RULES.—

6 (A) IN GENERAL.—Clause (ii) of section
7 42(h)(3)(D) (relating to unused housing credit
8 carryovers allocated among certain States) is
9 amended by striking “the excess” and all that
10 follows and inserting “the excess (if any) of the
11 unused State housing credit ceiling for the year
12 preceding such year over the aggregate housing
13 credit dollar amount allocated for such year.”

14 (B) CONFORMING AMENDMENT.—The sec-
15 ond sentence of section 42(h)(3)(C) (relating to
16 State housing credit ceiling) is amended by
17 striking “clauses (i) and (iii)” and inserting
18 “clauses (i) through (iv)”.

19 (C) DE MINIMIS EXCEPTION FOR QUALI-
20 FICATION RULE.—Section 42(h)(3)(D)(iv) (de-
21 fining qualified State) is amended by adding at
22 the end the following new flush sentence:
23 “For purposes of subclause (I), unallocated
24 amounts from a State’s housing credit ceiling
25 for the preceding calendar year which do not

1 exceed 1 percent of such ceiling shall be dis-
2 regarded.”

3 (2) 10-YEAR ANTI-CHURNING RULE WAIVER EX-
4 PANDED.—Clause (ii) of section 42(d)(6)(B) (defin-
5 ing federally assisted building) is amended by insert-
6 ing “, 221(d)(4),” after “221(d)(3)”.

7 (3) HOUSING CREDIT AGENCY DETERMINATION
8 OF REASONABLENESS OF PROJECT COSTS.—Sub-
9 paragraph (B) of section 42 (m)(2) (relating to
10 credit allocated to building not to exceed amount
11 necessary to assure project feasibility) is amended—

12 (A) by striking “and” at the end of clause
13 (ii),

14 (B) by striking the period at the end of
15 clause (iii) and inserting “, and”, and

16 (C) by inserting after clause (iii) the fol-
17 lowing new clause:

18 “(iv) the reasonableness of the devel-
19 opmental and operational costs of the
20 project.”

21 (4) UNITS WITH CERTAIN FULL-TIME STU-
22 DENTS NOT DISQUALIFIED.—Subparagraph (D) of
23 section 42(i)(3) (defining low-income unit) is amend-
24 ed to read as follows:

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

“(i) by an individual who is—

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

“(II) enrolled in a job training
program receiving assistance under
the Job Training Partnership Act or
under other similar Federal, State, or
local laws, or

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

“(I) single parents and their chil-
dren and such parents and children
are not dependents (as defined in sec-
tion 152) of another individual, or

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

(5) TREASURY WAIVERS OF CERTAIN DE-
MINIMIS ERRORS AND RECERTIFICATIONS.—Sub-
section (g) of section 42 (relating to qualified low-

income housing projects) is amended by adding at the end thereof the following new paragraph:

“(8) WAIVER OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—On application by the taxpayer, the Secretary may waive—

“(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1), or

“(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants.”

(6) BASIS OF COMMUNITY SERVICE AREAS INCLUDED IN ADJUSTED BASIS.—Paragraph (4) of section 42(d) (relating to special rules relating to determination of adjusted basis) is amended—

(A) by striking “subparagraph (B)” in subparagraph (A) and inserting “subparagraphs (B) and (C)”,

(B) by redesignating subparagraph (C) as subparagraph (D), and

(C) by inserting after subparagraph (B) the following new subparagraph:

“(C) BASIS OF PROPERTY IN COMMUNITY SERVICE AREAS INCLUDED.—The adjusted

basis of any building located in a qualified census tract shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in functionally related and subordinate community activity facilities if—

“(i) such facilities are designed to serve individuals meeting the income requirements of subsection (g)(1)(B) and employees of the qualified low-income housing project of which the building is a part, and

“(ii) not more than 20 percent of the aggregate eligible basis of all buildings in such project is attributable to the aggregate basis of such facilities.

Such facilities the aggregate basis of which is more than 20 percent of such aggregate eligible basis shall not be disqualified under clause (ii), if not more than 20 percent of such aggregate eligible basis claimed by the taxpayer is attributable to such facilities.”

(7) APPLICATION OF AT-RISK RULES.—

(A) CERTIFIED HISTORIC STRUCTURES INCLUDED.—Paragraph (1) of section 42(k) (re-

1 lating to application of at-risk rules) is amend-
 2 ed by inserting “(and, for purposes of comput-
 3 ing the credit under section 47(a)(2), the basis
 4 of any building subject to such credit which is
 5 part of a qualified low-income housing project)”
 6 after “building”.

7 (B) QUALIFIED NONPROFIT LENDERS EX-
 8 CLUDED.—Subparagraph (A) of section
 9 42(k)(2) (relating to special rules for determin-
 10 ing qualified person) is amended by inserting
 11 “which is not a qualified person (as defined in
 12 section 49(a)(1)(D)(iv))” after “subsection
 13 (h)(5))”.

14 (8) DISCRIMINATION AGAINST TENANTS PRO-
 15 HIBITED.—Section 42(h)(6)(B) (defining extended
 16 low-income housing commitment) is amended by re-
 17 designating clauses (iv) and (v) as clauses (v) and
 18 (vi) and by inserting after clause (iii) the following
 19 new clause:

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

1 (9) EFFECTIVE DATES.—

2 (A) IN GENERAL.—Except as provided in
3 subparagraphs (B) and (C), the amendments
4 made by this subsection shall apply to—

5 (i) determinations under section 42 of
6 the Internal Revenue Code of 1986 with
7 respect to housing credit dollar amounts
8 allocated from State housing credit ceilings
9 after June 30, 1992, or

10 (ii) buildings placed in service after
11 June 30, 1992, to the extent paragraph
12 (1) of section 42(h) of such Code does not
13 apply to any building by reason of para-
14 graph (4) thereof, but only with respect to
15 bonds issued after such date.

16 (B) CARRYFORWARD RULES.—The amend-
17 ments made by paragraph (1) shall apply to
18 calendar years beginning after December 31,
19 1992.

20 (C) WAIVER AUTHORITY AND PROHIBITED
21 DISCRIMINATION.—The amendments made by
22 paragraphs (2), (5), and (8) shall take effect on
23 the date of the enactment of this Act.

24 (c) ELECTION TO DETERMINE RENT LIMITATION
25 BASED ON NUMBER OF BEDROOMS.—In the case of a

1 building to which the amendments made by section
2 7108(e)(1) of the Revenue Reconciliation Act of 1989 did
3 not apply, the taxpayer may elect to have such amend-
4 ments apply to such building but only with respect to ten-
5 ants first occupying any unit in the building after the date
6 of the election, and if the taxpayer has met the require-
7 ments of the procedures described in section
8 42(m)(1)(B)(iii) of the Internal Revenue Code of 1986.
9 Such an election may be made only during the 180 day
10 period beginning on the date of the enactment of this Act.
11 Once made, the election shall be irrevocable.

○