§ 143. Mortgage revenue bonds: qualified mortgage bond and qualified veterans' mortgage bond

(a) Qualified mortgage bond

(1) Qualified mortgage bond defined

For purposes of this title, the term ''qualified mortgage bond'' means a bond which is issued as part of a qualified mortgage issue.

(2) Qualified mortgage issue defined

(A) Definition

For purposes of this title, the term ''qualified mortgage issue'' means an issue by a State or political subdivision thereof of 1 or more bonds, but only if—

(i) all proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are to be used to finance owner-occupied residences,

(ii) such issue meets the requirements of subsections (c), (d), (e), (f), (g), (h), (i), and (m)(7),

(iii) such issue does not meet the private business tests of paragraphs (1) and (2) of section 141(b), and

(iv) except as provided in subparagraph (D)(ii), repayments of principal on financing provided by the issue are used not later than the close of the 1st semiannual period beginning after the date the prepayment (or complete repayment) is received to redeem bonds which are part of such issue.

Clause (iv) shall not apply to amounts received within 10 years after the date of issuance of the issue (or, in the case of refunding bond, the date of issuance of the original bond).

(B) Good faith effort to comply with mortgage eligibility requirements

An issue which fails to meet 1 or more of the requirements of subsections (c), (d), (e), (f), and (i) shall be treated as meeting such requirements if—

(i) the issuer in good faith attempted to meet all such requirements before the mortgages were executed,

(ii) 95 percent or more of the proceeds devoted to owner-financing was devoted to residences with respect to which (at the time the mortgages were executed) all such requirements were met, and

(iii) any failure to meet the requirements of such subsections is corrected within a reasonable period after such failure is first discovered.

(C) Good faith effort to comply with other requirements

An issue which fails to meet 1 or more of the requirements of subsections (g), (h), and (m)(7) shall be treated as meeting such requirements if—

(i) the issuer in good faith attempted to meet all such requirements, and

(ii) any failure to meet such requirements is due to inadvertent error after taking reasonable steps to comply with such requirements.

(D) Proceeds must be used within 42 months of date of issuance

(i) In general

Except as otherwise provided in this subparagraph, an issue shall not meet the requirement of subparagraph (A)(i) unless—

(I) all proceeds of the issue required to be used to finance owner-occupied residences are so used within the 42-month period beginning on the date of issuance of the issue (or, in the case of a refunding bond, within the 42-month period beginning on the date of issuance of the original bond) or, to the extent not so used within such period, are used within such period to redeem bonds which are part of such issue, and

(II) no portion of the proceeds of the issue are used to make or finance any loan (other than a loan which is a nonpurpose investment within the meaning of section 148(f)(6)(A)) after the close of such period.

(ii) Exception

Clause (i) (and clause (iv) of subparagraph (A)) shall not be construed to require amounts of less than $250,000 to be used to redeem bonds. The Secretary may by regulation treat related issues as 1 issue for purposes of the preceding sentence.

(b) Qualified veterans' mortgage bond defined

For purposes of this part, the term ''qualified veterans' mortgage bond'' means any bond—

(1) which is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide residences for veterans,

(2) the payment of the principal and interest on which is secured by the general obligation of a State,

(3) which is part of an issue which meets the requirements of subsections (c), (g), (i)(1), and (*l*), and

(4) which is part of an issue which does not meet the private business tests of paragraphs (1) and (2) of section 141(b).

Rules similar to the rules of subparagraphs (B) and (C) of subsection (a)(2) shall apply to the requirements specified in paragraph (3) of this subsection.

(c) Residence requirements

(1) For a residence

A residence meets the requirements of this subsection only if—

(A) it is a single-family residence which can reasonably be expected to become the principal residence of the mortgagor within a reasonable time after the financing is provided, and

(B) it is located within the jurisdiction of the authority issuing the bond.

(2) For an issue

An issue meets the requirements of this subsection only if all of the residences for which owner-financing is provided under the issue meet the requirements of paragraph (1).

(d) 3-year requirement

(1) In general

An issue meets the requirements of this subsection only if 95 percent or more of the net proceeds of such issue are used to finance the residences of mortgagors who had no present ownership interest in their principal residences at any time during the 3-year period ending on the date their mortgage is executed.

(2) Exceptions

For purposes of paragraph (1), the proceeds of an issue which are used to provide—

(A) financing with respect to targeted area residences,

(B) qualified home improvement loans and qualified rehabilitation loans,

(C) financing with respect to land described in subsection (i)(1)(C) and the construction of any residence thereon, and

(D) in the case of bonds issued after the date of the enactment of this subparagraph, financing of any residence for a veteran (as defined in section 101 of title 38, United States Code), if such veteran has not previously qualified for and received such financing by reason of this subparagraph,

shall be treated as used as described in paragraph (1).

(3) Mortgagor's interest in residence being financed

For purposes of paragraph (1), a mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account.

(e) Purchase price requirement

(1) In general

An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is provided under the issue does not exceed 90 percent of the average area purchase price applicable to such residence.

(2) Average area purchase price

For purposes of paragraph (1), the term ''average area purchase price'' means, with respect to any residence, the average purchase price of single family residences (in the statistical area in which the residence is located) which were purchased during the most recent 12-month period for which sufficient statistical information is available. The determination under the preceding sentence shall be made as of the date on which the commitment to provide the financing is made (or, if earlier, the date of the purchase of the residence).

(3) Separate application to new residences and old residences

For purposes of this subsection, the determination of average area purchase price shall be made separately with respect to—

(A) residences which have not been previously occupied, and

(B) residences which have been previously occupied.

(4) Special rule for 2 to 4 family residences

For purposes of this subsection, to the extent provided in regulations, the determination of average area purchase price shall be made separately with respect to 1 family, 2 family, 3 family, and 4 family residences.

(5) Special rule for targeted area residences

In the case of a targeted area residence, paragraph (1) shall be applied by substituting ''110 percent'' for ''90 percent''.

(6) Exception for qualified home improvement loans

Paragraph (1) shall not apply with respect to any qualified home improvement loan.

(f) Income requirements

(1) In general

An issue meets the requirements of this subsection only if all owner-financing provided under the issue is provided for mortgagors whose family income is 115 percent or less of the applicable median family income.

(2) Determination of family income

For purposes of this subsection, the family income of mortgagors, and area median gross income, shall be determined by the Secretary after taking into account the regulations prescribed under section 8 of the United States Housing Act of 1937 (or, if such program is terminated, under such program as in effect immediately before such termination).

(3) Special rule for applying paragraph (1) in the case of targeted area residences

In the case of any financing provided under any issue for targeted area residences—

(A) ⅓ of the amount of such financing may be provided without regard to paragraph (1), and

(B) paragraph (1) shall be treated as satisfied with respect to the remainder of the owner financing if the family income of the mortgagor is 140 percent or less of the applicable median family income.

(4) Applicable median family income

For purposes of this subsection, the term ''applicable median family income'' means, with respect to a residence, whichever of the following is the greater:

(A) the area median gross income for the area in which such residence is located, or

(B) the statewide median gross income for the State in which such residence is located.

(5) Adjustment of income requirement based on relation of high housing costs to income

(A) In general

If the residence (for which financing is provided under the issue) is located in a high housing cost area and the limitation determined under this paragraph is greater than the limitation otherwise applicable under paragraph (1), there shall be substituted for the income limitation in paragraph (1), a limitation equal to the percentage determined under subparagraph (B) of the area median gross income for such area.

(B) Income requirements for residences in high housing cost area

The percentage determined under this subparagraph for a residence located in a high

housing cost area is the percentage (not greater than 140 percent) equal to the product of—

(I) 115 percent, and

(II) the amount by which the housing cost/income ratio for such area exceeds 0.2.

(C) High housing cost areas

For purposes of this paragraph, the term ''high housing cost area'' means any statistical area for which the housing cost/income ratio is greater than 1.2.

(D) Housing cost/income ratio

For purposes of this paragraph—

(i) In general

The term ''housing cost/income ratio'' means, with respect to any statistical area, the number determined by dividing—

(I) the applicable housing price ratio for such area, by

(II) the ratio which the area median gross income for such area bears to the median gross income for the United States.

(ii) Applicable housing price ratio

For purposes of clause (i), the applicable housing price ratio for any area is the new housing price ratio or the existing housing price ratio, whichever results in the housing cost/income ratio being closer to 1.

(iii) New housing price ratio

The new housing price ratio for any area is the ratio which—

(I) the average area purchase price (as defined in subsection (e)(2)) for residences described in subsection (e)(3)(A) which are located in such area bears to

(II) the average purchase price (determined in accordance with the principles of subsection (e)(2)) for residences so described which are located in the United States.

(iv) Existing housing price ratio

The existing housing price ratio for any area is the ratio determined in accordance with clause (iii) but with respect to residences described in subsection (e)(3)(B).

(6) Adjustment to income requirements based on family size

In the case of a mortgagor having a family of fewer than 3 individuals, the preceding provisions of this subsection shall be applied by substituting—

(A) ''100 percent'' for ''115 percent'' each place it appears, and

(B) ''120 percent'' for ''140 percent'' each place it appears.

(g) Requirements related to arbitrage

(1) In general

An issue meets the requirements of this subsection only if such issue meets the requirements of paragraph (2) of this subsection and, in the case of an issue described in subsection (b)(1), such issue also meets the requirements of paragraph (3) of this subsection. Such requirements shall be in addition to the requirements of section 148.

(2) Effective rate of mortgage interest cannot exceed bond yield by more than 1.125 percentage points

(A) In general

An issue shall be treated as meeting the requirements of this paragraph only if the excess of—

(i) the effective rate of interest on the mortgages provided under the issue, over

(ii) the yield on the issue,

is not greater than 1.125 percentage points.

(B) Effective rate of mortgage interest

(i) In general

In determining the effective rate of interest on any mortgage for purposes of this paragraph, there shall be taken into account all fees, charges, and other amounts borne by the mortgagor which are attributable to the mortgage or to the bond issue.

(ii) Specification of some of the amounts to be treated as borne by the mortgagor

For purposes of clause (i), the following items (among others) shall be treated as borne by the mortgagor:

(I) all points or similar charges paid by the seller of the property, and

(II) the excess of the amounts received from any person other than the mortgagor by any person in connection with the acquisition of the mortgagor's interest in the property over the usual and reasonable acquisition costs of a person acquiring like property where owner-financing is not provided through the use of qualified mortgage bonds or qualified veterans' mortgage bonds.

(iii) Specification of some of the amounts to be treated as not borne by the mortgagor

For purposes of clause (i), the following items shall not be taken into account:

(I) any expected rebate of arbitrage profits, and

(II) any application fee, survey fee, credit report fee, insurance charge, or similar amount to the extent such amount does not exceed amounts charged in such area in cases where owner-financing is not provided through the use of qualified mortgage bonds or qualified veterans' mortgage bonds.

Subclause (II) shall not apply to origination fees, points, or similar amounts.

(iv) Prepayment assumptions

In determining the effective rate of interest—

(I) it shall be assumed that the mortgage prepayment rate will be the rate set forth in the most recent applicable mortgage maturity experience table published by the Federal Housing Administration, and

(II) prepayments of principal shall be treated as received on the last day of the month in which the issuer reasonably expects to receive such prepayments.

The Secretary may by regulation adjust the mortgage prepayment rate otherwise used in determining the effective rate of interest to the extent the Secretary determines that such an adjustment is appropriate by reason of the impact of subsection (m).

(C) Yield on the issue

For purposes of this subsection, the yield on an issue shall be determined on the basis of—

(i) the issue price (within the meaning of sections 1273 and 1274), and

(ii) an expected maturity for the bonds which is consistent with the assumptions required under subparagraph (B)(iv).

(3) Arbitrage and investment gains to be used to reduce costs of owner-financing

(A) In general

An issue shall be treated as meeting the requirements of this paragraph only if an amount equal to the sum of—

(i) the excess of—

(I) the amount earned on all nonpurpose investments (other than investments attributable to an excess described in this clause), over

(II) the amount which would have been earned if such investments were invested at a rate equal to the yield on the issue, plus

(ii) any income attributable to the excess described in clause (i),

is paid or credited to the mortgagors as rapidly as may be practicable.

(B) Investment gains and losses

For purposes of subparagraph (A), in determining the amount earned on all nonpurpose investments, any gain or loss on the disposition of such investments shall be taken into account.

(C) Reduction where issuer does not use full 1.125 percentage points under paragraph (2)

(i) In general

The amount required to be paid or credited to mortgagors under subparagraph (A) (determined under this paragraph without regard to this subparagraph) shall be reduced by the unused paragraph (2) amount.

(ii) Unused paragraph (2) amount

For purposes of clause (i), the unused paragraph (2) amount is the amount which (if it were treated as an interest payment made by mortgagors) would result in the excess referred to in paragraph (2)(A) being equal to 1.125 percentage points. Such amount shall be fixed and determined as of the yield determination date.

(D) Election to pay United States

Subparagraph (A) shall be satisfied with respect to any issue if the issuer elects before issuing the bonds to pay over to the United States—

(i) not less frequently than once each 5 years after the date of issue, an amount equal to 90 percent of the aggregate amount which would be required to be paid or credited to mortgagors under subparagraph (A) (and not theretofore paid to the United States), and

(ii) not later than 60 days after the redemption of the last bond, 100 percent of such aggregate amount not theretofore paid to the United States.

(E) Simplified accounting

The Secretary shall permit any simplified system of accounting for purposes of this paragraph which the issuer establishes to the satisfaction of the Secretary will assure that the purposes of this paragraph are carried out.

(F) Nonpurpose investment

For purposes of this paragraph, the term ''nonpurpose investment'' has the meaning given such term by section 148(f)(6)(A).

(h) Portion of loans required to be placed in targeted areas

(1) In general

An issue meets the requirements of this subsection only if at least 20 percent of the proceeds of the issue which are devoted to providing owner-financing is made available (with reasonable diligence) for owner-financing of targeted area residences for at least 1 year after the date on which owner-financing is first made available with respect to targeted area residences.

(2) Limitation

Nothing in paragraph (1) shall be treated as requiring the making available of an amount which exceeds 40 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family, owner-occupied residences located in targeted areas within the jurisdiction of the issuing authority.

(i) Other requirements

(1) Mortgages must be new mortgages

(A) In general

An issue meets the requirements of this subsection only if no part of the proceeds of such issue is used to acquire or replace existing mortgages.

(B) Exceptions

Under regulations prescribed by the Secretary, the replacement of—

(i) construction period loans,

(ii) bridge loans or similar temporary initial financing, and

(iii) in the case of a qualified rehabilitation, an existing mortgage,

shall not be treated as the acquisition or replacement of an existing mortgage for purposes of subparagraph (A).

(C) Exception for certain contract for deed agreements

(i) In general

In the case of land possessed under a contract for deed by a mortgagor—

(I) whose principal residence (within the meaning of section 121) is located on such land, and

(II) whose family income (as defined in subsection (f)(2)) is not more than 50 percent of applicable median family income (as defined in subsection (f)(4)),

the contract for deed shall not be treated as an existing mortgage for purposes of subparagraph (A).

(ii) Contract for deed defined

For purposes of this subparagraph, the term ''contract for deed'' means a seller-financed contract for the conveyance of land under which—

(I) legal title does not pass to the purchaser until the consideration under the contract is fully paid to the seller, and

(II) the seller's remedy for nonpayment is forfeiture rather than judicial or nonjudicial foreclosure.

(2) Certain requirements must be met where mortgage is assumed

An issue meets the requirements of this subsection only if each mortgage with respect to which owner-financing has been provided under such issue may be assumed only if the requirements of subsections (c), (d), and (e), and the requirements of paragraph (1) or (3)(B) of subsection (f) (whichever applies), are met with respect to such assumption.

(j) Targeted area residences

(1) In general

For purposes of this section, the term ''targeted area residence'' means a residence in an area which is either—

(A) a qualified census tract, or

(B) an area of chronic economic distress.

(2) Qualified census tract

(A) In general

For purposes of paragraph (1), the term ''qualified census tract'' means a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income.

(B) Data used

The determination under subparagraph (A) shall be made on the basis of the most recent decennial census for which data are available.

(3) Area of chronic economic distress

(A) In general

For purposes of paragraph (1), the term ''area of chronic economic distress'' means an area of chronic economic distress—

(i) designated by the State as meeting the standards established by the State for purposes of this subsection, and

(ii) the designation of which has been approved by the Secretary and the Secretary of Housing and Urban Development.

(B) Criteria to be used in approving State designations

The criteria used by the Secretary and the Secretary of Housing and Urban Development in evaluating any proposed designation of an area for purposes of this subsection shall be—

(i) the condition of the housing stock, including the age of the housing and the number of abandoned and substandard residential units,

(ii) the need of area residents for owner-financing under this section, as indicated by low per capita income, a high percentage of families in poverty, a high number of welfare recipients, and high unemployment rates,

(iii) the potential for use of owner-financing under this section to improve housing conditions in the area, and

(iv) the existence of a housing assistance plan which provides a displacement program and a public improvements and services program.

(k) Other definitions and special rules

For purposes of this section—

(1) Mortgage

The term ''mortgage'' means any owner-financing.

(2) Statistical area

(A) In general

The term ''statistical area'' means—

(i) a metropolitan statistical area, and

(ii) any county (or the portion thereof) which is not within a metropolitan statistical area.

(B) Metropolitan statistical area

The term ''metropolitan statistical area'' includes the area defined as such by the Secretary of Commerce.

(C) Designation where adequate statistical information not available

For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in subparagraph (A)(ii), the Secretary may substitute for such county (or portion thereof) another area for which there is sufficient recent statistical information.

(D) Designation where no county

In the case of any portion of a State which is not within a county, subparagraphs (A)(ii) and (C) shall be applied by substituting for ''county'' an area designated by the Secretary which is the equivalent of a county.

(3) Acquisition cost

(A) In general

The term ''acquisition cost'' means the cost of acquiring the residence as a completed residential unit.

(B) Exceptions

The term ''acquisition cost'' does not include—

(i) usual and reasonable settlement or financing costs,

(ii) the value of services performed by the mortgagor or members of his family in completing the residence, and

(iii) the cost of land (other than land described in subsection (i)(1)(C)(i)) which has been owned by the mortgagor for at least

2 years before the date on which construction of the residence begins.

(C) Special rule for qualified rehabilitation loans

In the case of a qualified rehabilitation loan, for purposes of subsection (e), the term ''acquisition cost'' includes the cost of the rehabilitation.

(4) Qualified home improvement loan

The term ''qualified home improvement loan'' means the financing (in an amount which does not exceed $15,000)—

(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

(B) only of such items as substantially protect or improve the basic livability or energy efficiency of the property.

(5) Qualified rehabilitation loan

(A) In general

The term ''qualified rehabilitation loan'' means any owner-financing provided in connection with—

(i) a qualified rehabilitation, or

(ii) the acquisition of a residence with respect to which there has been a qualified rehabilitation,

but only if the mortgagor to whom such financing is provided is the first resident of the residence after the completion of the rehabilitation.

(B) Qualified rehabilitation

For purposes of subparagraph (A), the term ''qualified rehabilitation'' means any rehabilitation of a building if—

(i) there is a period of at least 20 years between the date on which the building was first used and the date on which the physical work on such rehabilitation begins,

(ii) in the rehabilitation process—

(I) 50 percent or more of the existing external walls of such building are retained in place as external walls,

(II) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

(III) 75 percent or more of the existing internal structural framework of such building is retained in place, and

(iii) the expenditures for such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the residence.

For purposes of clause (iii), the mortgagor's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the mortgagor acquires the residence.

(6) Determinations on actuarial basis

All determinations of yield, effective interest rates, and amounts required to be paid or credited to mortgagors or paid to the United States under subsection (g) shall be made on an actuarial basis taking into account the present value of money.

(7) Single-family and owner-occupied residences include certain residences with 2 to 4 units

Except for purposes of subsection (h)(2), the terms ''single-family'' and ''owner-occupied'', when used with respect to residences, include 2, 3, or 4 family residences—

(A) one unit of which is occupied by the owner of the units, and

(B) which were first occupied at least 5 years before the mortgage is executed.

Subparagraph (B) shall not apply to any 2-family residence if the residence is a targeted area residence and the family income of the mortgagor meets the requirement of subsection (f)(3)(B).

(8) Cooperative housing corporations

(A) In general

In the case of any cooperative housing corporation—

(i) each dwelling unit shall be treated as if it were actually owned by the person entitled to occupy such dwelling unit by reason of his ownership of stock in the corporation, and

(ii) any indebtedness of the corporation allocable to the dwelling unit shall be treated as if it were indebtedness of the shareholder entitled to occupy the dwelling unit.

(B) Adjustment to targeted area requirement

In the case of any issue to provide financing to a cooperative housing corporation with respect to cooperative housing not located in a targeted area, to the extent provided in regulations, such issue may be combined with 1 or more other issues for purposes of determining whether the requirements of subsection (h) are met.

(C) Cooperative housing corporation

The term ''cooperative housing corporation'' has the meaning given to such term by section 216(b)(1).

(9) Treatment of limited equity cooperative housing

(A) Treatment as residential rental property

Except as provided in subparagraph (B), for purposes of this part—

(i) any limited equity cooperative housing shall be treated as residential rental property and not as owner-occupied housing, and

(ii) bonds issued to provide such housing shall be subject to the same requirements and limitations as bonds the proceeds of which are to be used to provide qualified residential rental projects (as defined in section 142(d)).

(B) Bonds subject to qualified mortgage bond termination date

Subparagraph (A) shall not apply to any bond issued after the date specified in subsection (a)(1)(B).

(C) Limited equity cooperative housing

For purposes of this paragraph, the term ''limited equity cooperative housing'' means

any dwelling unit which a person is entitled to occupy by reason of his ownership of stock in a qualified cooperative housing corporation.

(D) Qualified cooperative housing corporation

For purposes of this paragraph, the term ''qualified cooperative housing corporation'' means any cooperative housing corporation (as defined in section 216(b)(1)) if—

(i) the consideration paid for stock held by any stockholder entitled to occupy any house or apartment in a building owned or leased by the corporation may not exceed the sum of—

(I) the consideration paid for such stock by the first such stockholder, as adjusted by a cost-of-living adjustment determined by the Secretary,

(II) payments made by any stockholder for improvements to such house or apartment, and

(III) payments (other than amounts taken into account under subclause (I) or (II)) attributable to any stockholder to amortize the principal of the corporation's indebtedness arising from the acquisition or development of real property, including improvements thereof,

(ii) the value of the corporation's assets (reduced by any corporate liabilities), to the extent such value exceeds the combined transfer values of the outstanding corporate stock, shall be used only for public benefit or charitable purposes, or directly to benefit the corporation itself, and shall not be used directly to benefit any stockholder, and

(iii) at the time of issuance of the issue, such corporation makes an election under this paragraph.

(E) Effect of election

If a cooperative housing corporation makes an election under this paragraph, section 216 shall not apply with respect to such corporation (or any successor thereof) during the qualified project period (as defined in section 142(d)(2)).

(F) Corporation must continue to be qualified cooperative

Subparagraph (A)(i) shall not apply to limited equity cooperative housing unless the cooperative housing corporation continues to be a qualified cooperative housing corporation at all times during the qualified project period (as defined in section 142(d)(2)).

(G) Election irrevocable

Any election under this paragraph, once made, shall be irrevocable.

(10) Treatment of resale price control and subsidy lien programs

(A) In general

In the case of a residence which is located in a high housing cost area (as defined in section 143(f)(5)), the interest of a governmental unit in such residence by reason of financing provided under any qualified program shall not be taken into account under this section (other than subsection (m)), and the acquisition cost of the residence which is taken into account under subsection (e) shall be such cost reduced by the amount of such financing.

(B) Qualified program

For purposes of subparagraph (A), the term ''qualified program'' means any governmental program providing mortgage loans (other than 1st mortgage loans) or grants—

(i) which restricts (throughout the 9-year period beginning on the date the financing is provided) the resale of the residence to a purchaser qualifying under this section and to a price determined by an index that reflects less than the full amount of any appreciation in the residence's value, or

(ii) which provides for deferred or reduced interest payments on such financing and grants the governmental unit a share in the appreciation of the residence,

but only if such financing is not provided directly or indirectly through the use of any tax-exempt private activity bond.

(11) Special rules for residences located in disaster areas

In the case of a residence located in an area determined by the President to warrant assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of the Taxpayer Relief Act of 1997), this section shall be applied with the following modifications to financing provided with respect to such residence within 2 years after the date of the disaster declaration:

(A) Subsection (d) (relating to 3-year requirement) shall not apply.

(B) Subsections (e) and (f) (relating to purchase price requirement and income requirement) shall be applied as if such residence were a targeted area residence.

The preceding sentence shall apply only with respect to bonds issued after May 1, 2008, and before January 1, 2010.

(12)[1] Special rules for subprime refinancings

(A) In general

Notwithstanding the requirements of subsection (i)(1), the proceeds of a qualified mortgage issue may be used to refinance a mortgage on a residence which was originally financed by the mortgagor through a qualified subprime loan.

(B) Special rules

In applying subparagraph (A) to any refinancing—

(i) subsection (a)(2)(D)(i) shall be applied by substituting ''12-month period'' for ''42-month period'' each place it appears,

(ii) subsection (d) (relating to 3-year requirement) shall not apply, and

(iii) subsection (e) (relating to purchase price requirement) shall be applied by

[1] So in original. Two pars. (12) have been enacted.

using the market value of the residence at the time of refinancing in lieu of the acquisition cost.

(C) Qualified subprime loan

The term ''qualified subprime loan'' means an adjustable rate single-family residential mortgage loan made after December 31, 2001, and before January 1, 2008, that the bond issuer determines would be reasonably likely to cause financial hardship to the borrower if not refinanced.

(D) Termination

This paragraph shall not apply to any bonds issued after December 31, 2010.

(12)[1] Special rules for residences destroyed in federally declared disasters

(A) Principal residence destroyed

At the election of the taxpayer, if the principal residence (within the meaning of section 121) of such taxpayer is—

(i) rendered unsafe for use as a residence by reason of a federally declared disaster occurring before January 1, 2010, or

(ii) demolished or relocated by reason of an order of the government of a State or political subdivision thereof on account of a federally declared disaster occurring before such date,

then, for the 2-year period beginning on the date of the disaster declaration, subsection (d)(1) shall not apply with respect to such taxpayer and subsection (e) shall be applied by substituting ''110'' for ''90'' in paragraph (1) thereof.

(B) Principal residence damaged

(i) In general

At the election of the taxpayer, if the principal residence (within the meaning of section 121) of such taxpayer was damaged as the result of a federally declared disaster occurring before January 1, 2010, any owner-financing provided in connection with the repair or reconstruction of such residence shall be treated as a qualified rehabilitation loan.

(ii) Limitation

The aggregate owner-financing to which clause (i) applies shall not exceed the lesser of—

(I) the cost of such repair or reconstruction, or

(II) $150,000.

(C) Federally declared disaster

For purposes of this paragraph, the term ''federally declared disaster'' has the meaning given such term by section 165(h)(3)(C)(i).

(D) Election; denial of double benefit

(i) Election

An election under this paragraph may not be revoked except with the consent of the Secretary.

(ii) Denial of double benefit

If a taxpayer elects the application of this paragraph, paragraph (11) shall not apply with respect to the purchase or financing of any residence by such taxpayer.

***(l)* Additional requirements for qualified veterans' mortgage bonds**

An issue meets the requirements of this subsection only if it meets the requirements of paragraphs (1), (2), and (3).

(1) Veterans to whom financing may be provided

An issue meets the requirements of this paragraph only if each mortgagor to whom financing is provided under the issue is a qualified veteran.

(2) Requirement that State program be in effect before June 22, 1984

An issue meets the requirements of this paragraph only if it is a general obligation of a State which issued qualified veterans' mortgage bonds before June 22, 1984.

(3) Volume limitation

(A) In general

An issue meets the requirements of this paragraph only if the aggregate amount of bonds issued pursuant thereto (when added to the aggregate amount of qualified veterans' mortgage bonds previously issued by the State during the calendar year) does not exceed the State veterans limit for such calendar year.

(B) State veterans limit

(i) In general

In the case of any State to which clause (ii) does not apply, the State veterans limit for any calendar year is the amount equal to—

(I) the aggregate amount of qualified veterans bonds issued by such State during the period beginning on January 1, 1979, and ending on June 22, 1984 (not including the amount of any qualified veterans bond issued by such State during the calendar year (or portion thereof) in such period for which the amount of such bonds so issued was the lowest), divided by

(II) the number (not to exceed 5) of calendar years after 1979 and before 1985 during which the State issued qualified veterans bonds (determined by only taking into account bonds issued on or before June 22, 1984).

(ii) Alaska, Oregon, and Wisconsin

In the case of the following States, the State veterans limit for any calendar year is the amount equal to—

(I) $100,000,000 for the State of Alaska,

(II) $100,000,000 for the State of Oregon, and

(III) $100,000,000 for the State of Wisconsin.

(iii) Phasein

In the case of calendar years beginning before 2010, clause (ii) shall be applied by substituting for each of the dollar amounts therein an amount equal to the applicable percentage of such dollar amount. For pur-

poses of the preceding sentence, the applicable percentage shall be determined in accordance with the following table:

For Calendar Year:	Applicable percentage is:
2006	20 percent
2007	40 percent
2008	60 percent
2009	80 percent.

(C) Treatment of refunding issues

(i) In general

For purposes of subparagraph (A), the term ''qualified veterans' mortgage bond'' shall not include any bond issued to refund another bond but only if the maturity date of the refunding bond is not later than the later of—

(I) the maturity date of the bond to be refunded, or

(II) the date 32 years after the date on which the refunded bond was issued (or in the case of a series of refundings, the date on which the original bond was issued).

The preceding sentence shall apply only to the extent that the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

(ii) Exception for advance refunding

Clause (i) shall not apply to any bond issued to advance refund another bond.

(4) Qualified veteran

For purposes of this subsection, the term ''qualified veteran'' means any veteran who—

(A) served on active duty, and

(B) applied for the financing before the date 25 years after the last date on which such veteran left active service.

(5) Special rule for certain short-term bonds

In the case of any bond—

(A) which has a term of 1 year or less,

(B) which is authorized to be issued under O.R.S. 407.435 (as in effect on the date of the enactment of this subsection), to provide financing for property taxes, and

(C) which is redeemed at the end of such term,

the amount taken into account under this subsection with respect to such bond shall be 1/15 of its principal amount.

(m) Recapture of portion of Federal subsidy from use of qualified mortgage bonds and mortgage credit certificates

(1) In general

If, during the taxable year, any taxpayer disposes of an interest in a residence with respect to which there is or was any federally-subsidized indebtedness for the payment of which the taxpayer was liable in whole or part, then the taxpayer's tax imposed by this chapter for such taxable year shall be increased by the lesser of—

(A) the recapture amount with respect to such indebtedness, or

(B) 50 percent of the gain (if any) on the disposition of such interest.

(2) Exceptions

Paragraph (1) shall not apply to—

(A) any disposition by reason of death, and

(B) any disposition which is more than 9 years after the testing date.

(3) Federally-subsidized indebtedness

For purposes of this subsection—

(A) In general

The term ''federally-subsidized indebtedness'' means any indebtedness if—

(i) financing for the indebtedness was provided in whole or part from the proceeds of any tax-exempt qualified mortgage bond, or

(ii) any credit was allowed under section 25 (relating to interest on certain home mortgages) to the taxpayer for interest paid or incurred on such indebtedness.

(B) Exception for home improvement loans

Such term shall not include any indebtedness to the extent such indebtedness is federally-subsidized indebtedness solely by reason of being a qualified home improvement loan (as defined in subsection (k)(4)).

(4) Recapture amount

For purposes of this subsection—

(A) In general

The recapture amount with respect to any indebtedness is the amount equal to the product of—

(i) the federally-subsidized amount with respect to the indebtedness,

(ii) the holding period percentage, and

(iii) the income percentage.

(B) Federally-subsidized amount

The federally-subsidized amount with respect to any indebtedness is the amount equal to 6.25 percent of the highest principal amount of the indebtedness for which the taxpayer was liable.

(C) Holding period percentage

(i) In general

The term ''holding period percentage'' means the percentage determined in accordance with the following table:

If the disposition occurs during a year after the testing date which is:	The holding period percentage is:
The 1st such year	20
The 2d such year	40
The 3d such year	60
The 4th such year	80
The 5th such year	100
The 6th such year	80
The 7th such year	60
The 8th such year	40
The 9th such year	20.

(ii) Retirements of indebtedness

If the federally-subsidized indebtedness is completely repaid during any year of the 4-year period beginning on the testing date, the holding period percentage for succeeding years shall be determined by reducing ratably to zero over the succeeding 5 years the holding period percentage

which would have been determined under this subparagraph had the taxpayer disposed of his interest in the residence on the date of the repayment.

(D) Testing date

The term ''testing date'' means the earliest date on which all of the following requirements are met:

(i) The indebtedness is federally-subsidized indebtedness.

(ii) The taxpayer is liable in whole or part for payment of the indebtedness.

(E) Income percentage

The term ''income percentage'' means the percentage (but not greater than 100 percent) which—

(i) the excess of—

(I) the modified adjusted gross income of the taxpayer for the taxable year in which the disposition occurs, over

(II) the adjusted qualifying income for such taxable year, bears to

(ii) $5,000.

The percentage determined under the preceding sentence shall be rounded to the nearest whole percentage point (or, if it includes a half of a percentage point, shall be increased to the nearest whole percentage point).

(5) Adjusted qualifying income; modified adjusted gross income

(A) Adjusted qualifying income

For purposes of paragraph (4), the term ''adjusted qualifying income'' means the product of—

(i) the highest family income which (as of the date the financing was provided) would have met the requirements of subsection (f) with respect to the residents, and

(ii) 1.05 to the nth power where ''n'' equals the number of full years during the period beginning on the date the financing was provided and ending on the date of the disposition.

For purposes of clause (i), highest family income shall be determined without regard to subsection (f)(3)(A) and on the basis of the number of members of the taxpayer's family as of the date of the disposition.

(B) Modified adjusted gross income

For purposes of paragraph (4), the term ''modified adjusted gross income'' means adjusted gross income—

(i) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is excluded from gross income under section 103, and

(ii) decreased by the amount of gain (if any) included in gross income of the taxpayer by reason of the disposition to which this subsection applies.

(6) Special rules relating to limitation on recapture amount based on gain realized

(A) In general

For purposes of paragraph (1), gain shall be taken into account whether or not recognized, and the adjusted basis of the taxpayer's interest in the residence shall be determined without regard to sections 1033(b) and 1034(e) (as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997) for purposes of determining gain.

(B) Dispositions other than sales, exchanges, and involuntary conversions

In the case of a disposition other than a sale, exchange, or involuntary conversion, gain shall be determined as if the interest had been sold for its fair market value.

(C) Involuntary conversions resulting from casualties

In the case of property which (as a result of its destruction in whole or in part by fire, storm, or other casualty) is compulsorily or involuntarily converted, paragraph (1) shall not apply to such conversion if the taxpayer purchases (during the period specified in section 1033(a)(2)(B)) property for use as his principal residence on the site of the converted property. For purposes of subparagraph (A), the adjusted basis of the taxpayer in the residence shall not be adjusted for any gain or loss on a conversion to which this subparagraph applies.

(7) Issuer to inform mortgagor of federally-subsidized amount and family income limits

The issuer of the issue which provided the federally-subsidized indebtedness to the mortgagor shall—

(A) at the time of settlement, provide a written statement informing the mortgagor of the potential recapture under this subsection, and

(B) not later than 90 days after the date such indebtedness is provided, provide a written statement to the mortgagor specifying—

(i) the federally-subsidized amount with respect to such indebtedness, and

(ii) the adjusted qualifying income (as defined in paragraph (5)) for each category of family size for each year of the 9-year period beginning on the date the financing was provided.

(8) Special rules

(A) No basis adjustment

No adjustment shall be made to the basis of any property for the increase in tax under this subsection.

(B) Special rule where 2 or more persons hold interests in residence

Except as provided in subparagraph (C) and in regulations prescribed by the Secretary, if 2 or more persons hold interests in any residence and are jointly liable for the federally-subsidized indebtedness, the recapture amount shall be determined separately with respect to their respective interests in the residence.

(C) Transfers to spouses and former spouses

Paragraph (1) shall not apply to any transfer on which no gain or loss is recognized under section 1041. In any such case, the transferee shall be treated under this sub-

section in the same manner as the transferor would have been treated had such transfer not occurred.

(D) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this subsection, including regulations dealing with dispositions of partial interests in a residence.

(Added Pub. L. 99–514, title XIII, § 1301(b), Oct. 22, 1986, 100 Stat. 2610; amended Pub. L. 100–647, title I, § 1013(a)(2), (3), title IV, § 4005(a)(1), (b)–(d)(1), (e)–(g)(2), (6), Nov. 10, 1988, 102 Stat. 3537, 3645–3651; Pub. L. 101–239, title VII, § 7104(a), Dec. 19, 1989, 103 Stat. 2305; Pub. L. 101–508, title XI, § 11408(a), (c), Nov. 5, 1990, 104 Stat. 1388–477; Pub. L. 102–227, title I, § 108(a), Dec. 11, 1991, 105 Stat. 1688; Pub. L. 103–66, title XIII, § 13141(a), (c)–(e), Aug. 10, 1993, 107 Stat. 436, 437; Pub. L. 104–188, title I, §§ 1702(d)(2), 1703(n)(3), Aug. 20, 1996, 110 Stat. 1870, 1877; Pub. L. 105–34, title III, § 312(d)(1), (3), title IX, § 914, Aug. 5, 1997, 111 Stat. 839, 840, 878; Pub. L. 109–222, title II, § 203(a)(1), (b)(1), May 17, 2006, 120 Stat. 348, 349; Pub. L. 109–432, div. A, title IV, §§ 411(a), 416(a), Dec. 20, 2006, 120 Stat. 2963, 2965; Pub. L. 110–245, title I, § 103(a)–(c), June 17, 2008, 122 Stat. 1625; Pub. L. 110–289, div. C, title I, §§ 3021(b)(1), 3026(a), July 30, 2008, 122 Stat. 2893, 2897; Pub. L. 110–343, div. C, title VII, § 709(a), Oct. 3, 2008, 122 Stat. 3925.)

REFERENCES IN TEXT

The date of the enactment of this subparagraph, referred to in subsec. (d)(2)(D), is the date of enactment of Pub. L. 109–432, which was approved Dec. 20, 2006.

Section 8 of the United States Housing Act of 1937, referred to in subsec. (f)(2), is classified to section 1437f of Title 42, The Public Health and Welfare.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (k)(11), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as in effect on the date of enactment of Pub. L. 105–34, which was approved Aug. 5, 1997. The Act is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

The date of the enactment of this subsection, referred to in subsec. (*l*)(5)(B), is the date of enactment of Pub. L. 99–514, which was approved Oct. 22, 1986.

Section 1034(e) (as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997), referred to in subsec. (m)(6)(A), means section 1034(e) of this title as in effect on the day before the date of enactment of Pub. L. 105–34, which was approved Aug. 5, 1997. Section 1034 was repealed by Pub. L. 105–34, title III, § 312(b), Aug. 5, 1997, 111 Stat. 839.

PRIOR PROVISIONS

A prior section 143, acts Aug. 16, 1954, ch. 736, 68A Stat. 41; Dec. 30, 1969, Pub. L. 91–172, title VIII, § 802(b), 83 Stat. 677; Oct. 4, 1976, Pub. L. 94–455, title XIX, § 1901(a)(22), 90 Stat. 1767; May 23, 1977, Pub. L. 95–30, title I, § 101(d)(4), 91 Stat. 133; July 18, 1984, Pub. L. 98–369, div. A, title IV, § 423(c)(1), 98 Stat. 800, related to determination of marital status, prior to the general revision of this part by Pub. L. 99–514. See section 7703 of this title.

Provisions similar to this section were contained in section 103A of this title prior to repeal by Pub. L. 99–514.

AMENDMENTS

2008—Subsec. (d)(2)(D). Pub. L. 110–245, § 103(a), struck out ''and before January 1, 2008'' after ''enactment of this subparagraph''.

Subsec. (k)(11). Pub. L. 110–289, § 3026(a), substituted ''May 1, 2008'' for ''December 31, 1996'' and ''January 1, 2010'' for ''January 1, 1999'' in concluding provisions.

Subsec. (k)(12). Pub. L. 110–343 added par. (12) relating to special rules for residences destroyed in federally declared disasters.

Pub. L. 110–289, § 3021(b)(1), added par. (12) relating to special rules for subprime refinancings.

Subsec. (*l*)(3)(B)(ii). Pub. L. 110–245, § 103(b), substituted ''$100,000,000'' for ''$25,000,000'' wherever appearing.

Subsec. (*l*)(4). Pub. L. 110–245, § 103(c), reenacted heading without change and amended text generally. Prior to amendment, par. (4) defined ''qualified veteran'' differently with respect to different States.

2006—Subsec. (d)(2)(D). Pub. L. 109–432, § 416(a), added subpar. (D).

Subsec. (*l*)(3)(B). Pub. L. 109–222, § 203(b)(1), reenacted heading without change, substituted introductory provisions of cl. (i) for ''A State veterans limit for any calendar year is the amount equal to—'' and inserted heading, redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, of cl. (i) and adjusted margins, and added cls. (ii) to (iv).

Subsec. (*l*)(3)(B)(iv). Pub. L. 109–432, § 411(a), struck out heading and text of cl. (iv). Text read as follows: ''The State veterans limit for the States specified in clause (ii) for any calendar year after 2010 is zero.''

Subsec. (*l*)(4). Pub. L. 109–222, § 203(a)(1), amended par. (4) generally. Prior to amendment, par. (4) defined the term ''qualified veteran''.

1997—Subsec. (i)(1)(C)(i)(I). Pub. L. 105–34, § 312(d)(1), substituted ''section 121'' for ''section 1034''.

Subsec. (k)(11). Pub. L. 105–34, § 914, added par. (11).

Subsec. (m)(6)(A). Pub. L. 105–34, § 312(d)(3), inserted ''(as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997)'' after ''1034(e)''.

1996—Subsec. (d)(2)(C). Pub. L. 104–188, § 1703(n)(3), substituted ''thereon,'' for ''thereon.''.

Subsec. (m)(4)(C)(ii). Pub. L. 104–188, § 1702(d)(2), substituted ''any year of the 4-year period'' for ''any month of the 10-year period'', ''succeeding years'' for ''succeeding months'', and ''to zero over the succeeding 5 years'' for ''over the remainder of such period (or, if lesser, over 5 years)''.

1993—Subsec. (a)(1). Pub. L. 103–66, § 13141(a), amended heading and text of par. (1) generally. Prior to amendment, text read as follows:

''(A) IN GENERAL.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue.

''(B) TERMINATION ON JUNE 30, 1992.—No bond issued after June 30, 1992, may be treated as a qualified mortgage bond.''

Subsec. (d)(2)(C). Pub. L. 103–66, § 13141(d)(1), added subpar. (C).

Subsec. (i)(1)(C). Pub. L. 103–66, § 13141(d)(2), added subpar. (C).

Subsec. (k)(3)(B)(iii). Pub. L. 103–66, § 13141(d)(3), inserted ''(other than land described in subsection (i)(1)(C)(i))'' after ''cost of land''.

Subsec. (k)(7). Pub. L. 103–66, § 13141(e), inserted at end ''Subparagraph (B) shall not apply to any 2-family residence if the residence is a targeted area residence and the family income of the mortgagor meets the requirement of subsection (f)(3)(B).''

Subsec. (k)(10). Pub. L. 103–66, § 13141(c), added par. (10).

1991—Subsec. (a)(1)(B). Pub. L. 102–227 substituted ''June 30, 1992'' for ''December 31, 1991'' in heading and text.

1990—Subsec. (a)(1)(B). Pub. L. 101–508, § 11408(a), substituted ''December 31, 1991'' for ''September 30, 1990'' in heading and text.

Subsec. (m)(1). Pub. L. 101–508, §11408(c)(3)(A), substituted ''increased by the lesser of—'' and subpars. (A) and (B) for ''increased by the recapture amount with respect to such indebtedness.''

Subsec. (m)(2)(B). Pub. L. 101–508, §11408(c)(1)(C), substituted ''9 years'' for ''10 years''.

Subsec. (m)(4)(A)(iii). Pub. L. 101–508, §11408(c)(2)(A), added cl. (iii).

Subsec. (m)(4)(C)(i). Pub. L. 101–508, §11408(c)(1)(A), substituted heading for one which read: ''Dispositions during 1st 5 years'' and amended text generally. Prior to amendment, text read as follows: ''If the disposition of the taxpayer's interest in the residence occurs during the 5-year period beginning on the testing date, the holding period percentage is the percentage determined by dividing the number of full months during which the requirements of subparagraph (D) were met by 60.''

Subsec. (m)(4)(C)(ii), (iii). Pub. L. 101–508, §11408(c)(1)(B), redesignated cl. (iii) as (ii) and struck out former cl. (ii) ''Dispositions during 2d 5 years'' which read as follows: ''If the disposition of the taxpayer's interest in the residence occurs during the 5-year period following the 5-year period described in clause (i), the holding period percentage is the percentage determined by dividing—

''(I) the excess of 120 over the number of full months during which such requirements were met by

''(II) 60.''

Subsec. (m)(4)(E). Pub. L. 101–508, §11408(c)(2)(B), added subpar. (E).

Subsec. (m)(5). Pub. L. 101–508, §11408(c)(2)(C)(i), added heading and struck out former heading which read: ''Reduction of recapture amount if taxpayer meets certain income limitations''.

Subsec. (m)(5)(A). Pub. L. 101–508, §11408(c)(2)(C)(i), added subpar. (A) and struck out former subpar. (A) ''In general'' which read as follows: ''The recapture amount which would (but for this paragraph) apply with respect to any disposition during a taxable year shall be reduced (but not below zero) by 2 percent of such amount for each $100 by which adjusted qualifying income exceeds the modified adjusted gross income of the taxpayer for such year.''

Subsec. (m)(5)(B), (C). Pub. L. 101–508, §11408(c)(2)(C), redesignated subpar. (C) as (B), substituted ''paragraph (4)'' for ''this paragraph'' in introductory provisions, and struck out former subpar. (B) ''Adjusted qualifying income'' which read as follows: ''For purposes of this paragraph, the term 'adjusted qualifying income' means the amount equal to the sum of—

''(i) $5,000, plus

''(ii) the product of—

''(I) the highest family income which (as of the date the financing was provided) would have met the requirement of subsection (f) with respect to the residence, and

''(II) the percentage equal to the sum of 100 percent plus 5 percent for each full year during the period beginning on such date and ending on the date of the disposition.

For purposes of clause (ii)(I), highest family income shall be determined without regard to subsection (f)(3)(A) and on the basis of the number of members of the taxpayer's family as of the date of the disposition.''

Subsec. (m)(6). Pub. L. 101–508, §11408(c)(3)(B)(i), substituted ''Special rules relating to limitation'' for ''Limitation'' in heading.

Subsec. (m)(6)(A). Pub. L. 101–508, §11408(c)(3)(B)(ii), (iii), struck out at beginning ''In no event shall the recapture amount of the taxpayer with respect to any indebtedness exceed 50 percent of the gain (if any) on the disposition of the taxpayer's interest in the residence.'' and substituted ''paragraph (1)'' for ''the preceding sentence''.

Subsec. (m)(7)(B)(ii). Pub. L. 101–508, §11408(c)(3)(C), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''the amounts described in paragraph (5)(B)(ii) for each category of family size for each year of the 10-year period beginning on the date the financing was provided.''

1989—Subsec. (a)(1)(B). Pub. L. 101–239 substituted ''September 30, 1990'' for ''December 31, 1989'' in heading and in text.

1988—Subsec. (a)(1)(B). Pub. L. 100–647, §4005(a)(1), substituted ''1989'' for ''1988'' in heading and in text.

Subsec. (a)(2)(A). Pub. L. 100–647, §4005(f), inserted sentence at end relating to application of cl. (iv).

Subsec. (a)(2)(A)(ii). Pub. L. 100–647, §4005(g)(1), substituted ''(i), and (m)(7)'' for ''and (i)''.

Subsec. (a)(2)(A)(iii). Pub. L. 100–647, §1013(a)(2), substituted ''such issue does not meet'' for ''no bond which is part of such issue meets''.

Subsec. (a)(2)(A)(iv). Pub. L. 100–647, §4005(f), added cl. (iv).

Subsec. (a)(2)(C). Pub. L. 100–647, §4005(g)(2)(B), substituted '', (h), and (m)(7)'' for ''and (h)'' in introductory text.

Subsec. (a)(2)(D). Pub. L. 100–647, §4005(e), added subpar. (D).

Subsec. (b)(4). Pub. L. 100–647, §1013(a)(3), inserted ''is part of an issue which'' after ''which''.

Subsec. (f)(5). Pub. L. 100–647, §4005(b), added par. (5).

Subsec. (f)(6). Pub. L. 100–647, §4005(c), added par. (6).

Subsec. (g)(1). Pub. L. 100–647, §4005(d)(1), substituted ''paragraph (2) of this subsection and, in the case of an issue described in subsection (b)(1), such issue also meets the requirements of paragraph (3) of this subsection'' for ''paragraphs (2) and (3) of this subsection'' and struck out ''(other than subsection (f) thereof)'' before period at end.

Subsec. (g)(2)(B)(iv). Pub. L. 100–647, §4005(g)(6), inserted at end ''The Secretary may by regulation adjust the mortgage prepayment rate otherwise used in determining the effective rate of interest to the extent the Secretary determines that such an adjustment is appropriate by reason of the impact of subsection (m).''

Subsec. (m). Pub. L. 100–647, §4005(g)(1), added subsec. (m).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–343, div. C, title VII, §709(b), Oct. 3, 2008, 122 Stat. 3926, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to disasters occurring after December 31, 2007.''

Pub. L. 110–289, div. C, title I, §3021(c), July 30, 2008, 122 Stat. 2893, provided that: ''The amendments made by this section [amending this section and section 146 of this title] shall apply to bonds issued after the date of the enactment of this Act [July 30, 2008].''

Pub. L. 110–289, div. C, title I, §3026(b), July 30, 2008, 122 Stat. 2897, provided that: ''The amendments made by this section [amending this section] shall apply to bonds issued after May 1, 2008.''

Pub. L. 110–245, title I, §103(d), June 17, 2008, 122 Stat. 1626, provided that: ''The amendments made by this section [amending this section] shall apply to bonds issued after December 31, 2007.''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–432, div. A, title IV, §411(b), Dec. 20, 2006, 120 Stat. 2963, provided that: ''The amendment made by this section [amending this section] shall take effect as if included in section 203 [probably means 203(b)] of the Tax Increase Prevention and Reconciliation Act of 2005 [Pub. L. 109–222].''

Pub. L. 109–432, div. A, title IV, §416(b), Dec. 20, 2006, 120 Stat. 2965, provided that: ''The amendments made by this section [amending this section] shall apply to bonds issued after the date of the enactment of this Act [Dec. 20, 2006].''

Pub. L. 109–222, title II, §203(a)(2), May 17, 2006, 120 Stat. 349, provided that: ''The amendments made by this subsection [amending this section] shall apply to bonds issued on or after the date of the enactment of this Act [May 17, 2006].''

Pub. L. 109–222, title II, §203(b)(2), May 17, 2006, 120 Stat. 350, provided that: ''The amendments made by this subsection [amending this section] shall apply to allocations of State volume limit after April 5, 2006.''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 312(d)(1), (3) of Pub. L. 105–34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105–34, set out as a note under section 121 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1702(d)(2) of Pub. L. 104–188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101–508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104–188, set out as a note under section 38 of this title.

Amendment by section 1703(n)(3) of Pub. L. 104–188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103–66, §§ 13001–13444, to which such amendment relates, see section 1703(*o*) of Pub. L. 104–188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13141(f)(1) of Pub. L. 103–66 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to bonds issued after June 30, 1992.''

Section 13141(f)(3) of Pub. L. 103–66 provided that: ''The amendments made by subsections (c) and (e) [amending this section] shall apply to qualified mortgage bonds issued and mortgage credit certificates provided on or after the date of enactment of this Act [Aug. 10, 1993].''

Section 13141(f)(4) of Pub. L. 103–66 provided that: ''The amendments made by subsection (d) [amending this section] shall apply to loans originated and credit certificates provided after the date of the enactment of this Act [Aug. 10, 1993].''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 108(c)(1) of Pub. L. 102–227 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to bonds issued after December 31, 1991.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11408(d) of Pub. L. 101–508 provided that:

''(1) BONDS.—The amendment made by subsection (a) [amending this section] shall apply to bonds issued after September 30, 1990.

''(2) CERTIFICATES.—The amendment made by subsection (b) [amending section 25 of this title] shall apply to elections for periods after September 30, 1990.

''(3) SIMPLIFICATION.—The amendment made by subsection (c) [amending this section] shall take effect as if included in the amendments made by section 4005 of the Technical and Miscellaneous Revenue Act of 1988 [Pub. L. 100–647].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1013(a)(2), (3) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

Section 4005(h) of Pub. L. 100–647 provided that:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and sections 25, 26, 148, 6045, and 6654 of this title] shall apply to bonds issued, and nonissued bond amounts elected, after December 31, 1988.

''(2) SPECIAL RULES RELATING TO CERTAIN REQUIREMENTS AND REFUNDING BONDS.—In the case of a bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before January 1, 1989—

''(A) the amendments made by subsections (b) and (c) [amending this section] shall apply to financing provided after the date of issuance of the refunding issue, and

''(B) the amendment made by subsection (f) [amending this section] shall apply to payments (including on loans made before such date of issuance) received on or after such date of issuance.

''(3) SUBSECTION (g).—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (g) [amending this section and sections 25, 26, 6045, and 6654 of this title] shall apply to financing provided, and mortgage credit certificates issued, after December 31, 1990.

''(B) EXCEPTION.—The amendments made by subsection (g) shall not apply to financing provided pursuant to a binding contract (entered into before June 23, 1988) with a homebuilder, lender, or mortgagor if the bonds (the proceeds of which are used to provide such financing) are issued—

''(i) before June 23, 1988, or

''(ii) before August 1, 1988, pursuant to a written application (made before July 1, 1988) for State bond volume authority.''

TRANSITION RULE

Pub. L. 110–245, title I, § 103(e), June 17, 2008, 122 Stat. 1626, provided that: ''In the case of any bond issued after December 31, 2007, and before the date of the enactment of this Act [June 17, 2008], subparagraph (B) of section 143(*l*)(4) of the Internal Revenue Code of 1986, as amended by this section, shall be applied by substituting '30 years' for '25 years'.''

TERMINATION DATE FOR OBLIGATIONS TREATED AS QUALIFIED MORTGAGE BONDS UNDER FORMER SECTION 103A

Section 1013(a)(27) of Pub. L. 100–647 provided that: ''The date contained in [former] section 143(a)(1)(B) of the 1986 Code shall be treated as contained in section 103A(c)(1)(B) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act [Oct. 22, 1986], for purposes of any bond issued to refund a bond to which such [section] 103A(c)(1) applies.''

STUDY OF RECAPTURE PROVISIONS

Section 4005(i) of Pub. L. 100–647 provided that: ''The Comptroller General of the United States shall conduct a study of section 143(m) of the 1986 Code (as added by this section) and of alternatives to accomplish the purposes of such section. A report of such study shall be submitted not later than July 1, 1990, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.''

§ 144. Qualified small issue bond; qualified student loan bond; qualified redevelopment bond

(a) Qualified small issue bond

(1) In general

For purposes of this part, the term ''qualified small issue bond'' means any bond issued as part of an issue the aggregate authorized face amount of which is $1,000,000 or less and 95 percent or more of the net proceeds of which are to be used—

(A) for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation, or

(B) to redeem part or all of a prior issue which was issued for purposes described in subparagraph (A) or this subparagraph.

(2) Certain prior issues taken into account

If—

(A) the proceeds of 2 or more issues of bonds (whether or not the issuer of each