II

106TH CONGRESS
1ST SESSION

S. 1336

To amend the Internal Revenue Code of 1986 to provide a credit to promote home ownership among low-income individuals.

IN THE SENATE OF THE UNITED STATES

JULY 1, 1999

Mr. REED (for himself, Mr. SCHUMER, and Mr. EDWARDS) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend the Internal Revenue Code of 1986 to provide a credit to promote home ownership among low-income individuals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS; PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the "Home Ownership Tax Credit Act of 1999".

(b) FINDINGS.—Congress finds the following:

(1) Home ownership is of primary importance in building wealth in low-income families.

(2) 67 percent of the wealth that is owned by non-elderly low-income households consists of the eq-

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uity in their residences and the median wealth of such non-elderly low-income households is 12 times greater than the median wealth for non-elderly renters with the same level of income.

(3) Only 45 percent of low-income households live in owner-occupied homes, as compared to 66 percent of all households, and 86 percent of high-income households.

(4) According to the Bureau of the Census, in 1993, 88 percent of all renters and 93 percent of renters earning less than $20,000 could not afford a house selling for half of the regional median house price.

(5) There is a 23 percentage point difference in home ownership rates between central cities and suburban cities which is largely the result of the concentration of low-income households in central cities.

(6) The cost of the largest Federal tax incentives for home ownership, the mortgage interest deduction and the real estate tax deduction, is equal to approximately twice the amount of Federal expenditures for direct Federal housing assistance which benefits low-income households.

(7) The mortgage interest deduction and the real estate tax deduction have little value to low-income households because the itemized tax deductions of low-income households generally do not exceed the standard deduction.

(8) Over 90 percent of the total benefits of the mortgage interest deduction accrue to home buyers with incomes greater than $40,000.

(9) Current provisions in the Federal tax code to promote home ownership among low-income households, such as the mortgage revenue bond program, the mortgage credit certificate program, and the low-income housing credit, fail to simultaneously attack the twin constraints of lack of wealth and low income that prevent many low-income households from becoming homeowners.

(c) PURPOSES.—The purposes of this Act are—

(1) to establish a decentralized, market-driven approach to increasing home ownership among low-income households,

(2) to enable low-income households to overcome the wealth and income constraints that frequently prevent such households from becoming homeowners, and

(3) to reduce the disparities in home ownership between low-income households and higher-income households and between central cities and suburban cities.

SEC. 2. HOME OWNERSHIP TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

"SEC. 45D. HOME OWNERSHIP TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the home ownership tax credit determined under this section for any taxable year in the credit period shall be an amount equal to the applicable percentage of the home ownership tax credit amount allocated such taxpayer by a State housing finance agency in the credit allocation year under subsection (b).

"(2) APPLICABLE PERCENTAGE.—For purposes of this section, the Secretary shall prescribe the applicable percentage for any year in which the taxpayer is a qualified lender. Such percentage with respect to any month in the credit period with respect to such taxpayer shall be percentages which will yield over such period amounts of credit under paragraph (1) which have a present value equal to 100 percent of the home ownership tax credit amount allocated such taxpayer under subsection (b).

"(3) METHOD OF DISCOUNTING.—The present value under paragraph (2) shall be determined in the same manner as the low-income housing credit under section 42(b)(2)(C).

"(b) ALLOCATION OF HOME OWNERSHIP TAX CREDIT AMOUNTS.—

"(1) AMOUNT OF CREDIT.—Each qualified State shall receive a home ownership tax credit dollar amount for each calendar year in an amount equal to the sum of—

"(A) an amount equal to—

"(i) 40 cents multiplied by the State population, multiplied by

"(ii) 10, plus

"(B) the unused home ownership tax credit dollar amount (if any) of such State for the preceding year.

"(2) QUALIFIED STATE.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified State' means a State with an approved allocation plan to allocate home ownership tax credits to qualified lenders through the State housing finance agency.

"(B) APPROVED ALLOCATION PLAN.—For purposes of this paragraph, the term 'approved allocation plan' means a written plan, certified by the Secretary, which includes—

"(i) selection criteria for the allocation of credits to qualified lenders—

"(I) based on a process in which lenders submit bids for the value of the credit, and

"(II) which gives priority to qualified lenders with qualified home ownership tax credit loans which are prepaid during a calendar year, for credit allocations in the succeeding calendar year,

"(ii) an assurance that the State will not allocate in excess of 10 percent of the home ownership tax credit amount for the calendar year for qualified home ownership tax credit loans which are neighborhood revitalization project loans, "(iii) a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance with respect to which such agency becomes aware, and

"(iv) such other assurances as the Secretary may require.

"(3) QUALIFIED LENDER.—For purposes of this section, the term 'qualified lender' means a lender which—

"(A) is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), insured credit union (as defined in section 101 of the Federal Credit Union Act), community development financial institution (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)), or nonprofit community development corporation (as defined in section 613 of the Community Economic Development Act of 1981 (42 U.S.C. 9802)), “(B) makes available, through such lender or the lender’s designee, pre-purchase home-ownership counseling for mortgagors, and

“(C) during the 1-year period beginning on the date of the credit allocation, originates not less than 100 qualified home ownership tax credit loans in an aggregate amount not less than the amount of the bid of such lender for such credit allocation.

“(4) CARRYOVER OF CREDIT.—A home ownership tax credit amount received by a State for any calendar year and not allocated in such year shall remain available to be allocated in the succeeding calendar year.

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

“(6) COST-OF-LIVING ADJUSTMENT.—

“(A) IN GENERAL.—In the case of a calendar year after 2000, the 40 cent amount contained in paragraph (1)(A)(i) shall be increased by an amount equal to—

“(i) such amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1999' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple of 5 cents, such amount shall be rounded to the next lowest multiple of 5 cents.

"(c) QUALIFIED HOME OWNERSHIP TAX CREDIT LOAN DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified home ownership tax credit loan' means a loan originated and funded by a qualified lender which is secured by a second lien on a residence, but only if—

"(A) the requirements of subsections (d), (e), and (f) are met,

"(B) subject to subparagraphs (F), (H), and (I), the proceeds from such loan are applied exclusively—

"(i) to acquire such residence, or

"(ii) to substantially improve such residence in connection with a neighborhood revitalization project,

"(C) the principal amount of the loan is equal to an amount which is—

"(i) not less than 18 percent of the purchase price of the residence securing the loan, and

"(ii) not more than the lesser of—

"(I) 22 percent of such purchase price, or

"(II) $25,000,

"(D) in the case of a neighborhood revitalization project loan, subparagraph (C) is applied by substituting—

"(i) 'purchase price or appraised value' for 'purchase price', and

"(ii) '$40,000' for '$25,000',

"(E) the loan is—

"(i) amortized over a period of not more than 30 years (or any lesser period of time as determined by the lender or the State housing finance agency (as applicable)), or

"(ii) described in paragraph (2),

"(F) the proceeds of such loan are not used for settlement or other closing costs of the transaction in an amount in excess of 4 percent of the purchase price of the residence securing the loan, "(G) the rate of interest of the loan does not exceed the greater of—

"(i) the excess of—

"(I) the prime lending rate in effect as of the date on which the loan is originated, over

"(II) 5.5 percent, or

"(ii) 3 percent,

"(H) the origination fee paid with respect to the loan does not cause the aggregate amount of origination fees paid with respect to any loans secured by the residence—

"(i) in the case of a neighborhood revitalization project loan, to exceed 1 percent of the appraised value of the residence which secures the loan, and

"(ii) in the case of any other loan, to exceed 2 percent of the appraised value of such residence, and

"(I) the servicing fees of such loan—

"(i) are allocated from interest payments made with respect to the loan, and

"(ii) may not—

"(I) in the case of a neighborhood revitalization project loan, exceed a total of 38 basis points, and

"(II) in the case of any other loan, when added to such fees of any other loan secured by the residence, exceed a total of 63 basis points.

"(2) BALLOON PAYMENT LOAN.—

"(A) IN GENERAL.—A loan is described in this paragraph if such loan—

"(i) meets the requirements of subparagraphs (B) and (C),

"(ii) is for a period of 25 years and, except as provided in clause (iv), no payment is due on such loan until the sooner of—

"(I) the end of such period, or

"(II) the date on which the residence which secures the loan is disposed of,

"(iii) does not prohibit early repayment of such loan, and

"(iv) requires payment on such loan if the mortgagor receives any portion of the equity of such residence as part of a refinancing of any loan secured by such residence.

"(B) INTEREST.—Notwithstanding paragraph (1)(G), the rate of interest of the loan is zero percent.

"(C) SERVICING FEES.—Notwithstanding paragraph (1)(I), there shall be no servicing fees in connection with the loan.

"(3) INDEX OF AMOUNT.—

"(A) IN GENERAL.—In the case of a calendar year after 2000, the amounts under subparagraphs (C) and (D) of paragraph (1) shall be increased by an amount equal to—

"(i) such amount, multiplied by

"(ii) the housing price adjustment for such calendar year.

"(B) HOUSING PRICE ADJUSTMENT.—For purposes of subparagraph (A), the housing price adjustment for any calendar year is the percentage (if any) by which—

"(i) the housing price index for the preceding calendar year, exceeds

"(ii) the housing price index for calendar year 2000.

"(C) HOUSING PRICE INDEX.—For purposes of subparagraph (B), the housing price index means the housing price index published by the Federal Housing Finance Board (as established in section 2A of the Federal Home Loan Bank Act (12 U.S.C. 1422a)) for the calendar year.

"(d) MORTGAGOR.—

"(1) IN GENERAL.—A loan meets the requirements of this subsection if it is made to a mortgagor—

"(A) whose family income for the year in which the mortgagor applies for the loan is 80 percent or less of the area median gross income for the area in which the residence which secures the mortgage is located,

"(B) for whom the loan would not result in a housing debt-to-income ratio, with respect to the residence securing the loan, or total debt-to-income ratio which is greater than the guidelines set by the Federal Housing Administration (or any other ratio as determined by the State housing finance agency or lender if such ratio is less than such guidelines), and

"(C) who attends pre-purchase homeownership counseling provided by the qualified lender or the lender's designee.

"(2) DETERMINATION OF FAMILY INCOME.—For purposes of this subsection and subsection (h), the family income of a mortgagor and area median gross income shall be determined in accordance with section 143(f)(2).

"(e) RESIDENCE REQUIREMENTS.—A loan meets the requirements of this subsection if it is secured by a residence that is—

"(1) a single-family residence (including a manufactured home (within the meaning of section 25(e)(10))) which is the principal residence (within the meaning of section 121) of the mortgagor, or can reasonably be expected to become the principal residence of the mortgagor within a reasonable time after the financing is provided,

"(2) purchased by the mortgagor with a down payment in an amount not less than the lesser of—

"(A) 2 percent of the purchase price, or

"(B) $1,000, and

"(3) in the case of a mortgagor with a family income greater than 50 percent of the area median gross income, as determined under subsection (d)(1)(A), not financed in connection with a qualified mortgage issued under section 143.

"(f) DEFINITION AND SPECIAL RULES RELATING TO CREDIT PERIOD.—

"(1) CREDIT PERIOD DEFINED.—For purposes of this section, the term 'credit period' means the period of 10 taxable years beginning with the taxable year in which a home ownership tax credit amount is allocated to the taxpayer.

"(2) SPECIAL RULE FOR 1ST YEAR OF CREDIT PERIOD.—

"(A) IN GENERAL.—The credit allowable under subsection (a) with respect to any taxpayer for the 1st taxable year of the credit period shall be determined by substituting for the applicable percentage under subsection (a)(2) the fraction—

"(i) the numerator of which is the sum of the applicable percentages determined under subsection (a)(2) as of the close of each full month of such year, during which the taxpayer was a qualified lender, and

"(ii) the denominator of which is 12.

"(B) DISALLOWED 1ST YEAR CREDIT ALLOWED IN 11TH YEAR.—Any reduction by reason of subparagraph (A) in the credit allowable (without regard to subparagraph (A)) for the 1st taxable year of the credit period shall be allowable under subsection (a) for the 1st taxable year following the credit period.

"(3) DISPOSITION OF HOME OWNERSHIP TAX CREDIT LOANS.—If a qualified home ownership tax credit loan is disposed of during any year for which a credit is allowable under subsection (a), such credit shall be allocated between the parties on the basis of the number of days during such year the mortgage was held by each and the portion of the total credit allocated to the qualified lender which is attributable to such mortgage.

"(g) LOSS OF CREDIT.—If, during the taxable year, a qualified home ownership tax credit loan is repaid prior to the expiration of the credit period with respect to such loan, the amount of the home ownership tax credit attributable to such loan is no longer available under subsection (a). For purposes of the preceding sentence, the tax credit is allowable for the portion of the year in which such repayment occurs for which the loan is outstanding, determined in the same manner as provided in subsection (f)(2)(A).

"(h) Recapture of Portion of Federal Subsidy From Home-Owner.—

"(1) In general.—If, during the taxable year, any taxpayer described in paragraph (3) disposes of an interest in a residence with respect to which a home ownership tax credit amount applies, then the taxpayer's tax imposed by this chapter for such taxable year shall be increased by 50 percent of the gain (if any) on the disposition of such interest.

"(2) Exceptions.—Paragraph (1) shall not apply to any disposition—

"(A) by reason of death,

"(B) which is made on a date that is more than 10 years after the date on which the qualified home ownership tax credit loan secured by such residence was made, or

"(C) in which the purchaser of the residence assumes the qualified home ownership tax credit loan secured by the residence.

"(3) Income limitation.—A taxpayer is described in this paragraph if, on the date of the disposition, the family income of the mortgagor is 115 percent or more of the area median gross income as determined under subsection (d)(1)(A) for the year in which the disposition occurs.

"(4) SPECIAL RULES RELATING TO LIMITATION ON RECAPTURE AMOUNT BASED ON GAIN REALIZED.—For purposes of this subsection, rules similar to the rules of section 143(m)(6) shall apply.

"(5) LENDER TO INFORM MORTGAGOR OF POTENTIAL RECAPTURE.—The qualified lender which makes a qualified home ownership tax credit loan to a mortgagor shall, at the time of settlement, provide a written statement informing the mortgagor of the potential recapture under this subsection.

"(6) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of section 143(m)(8) shall apply.

"(i) OTHER DEFINITIONS.—

"(1) NEIGHBORHOOD REVITALIZATION PROJECT LOAN.—

"(A) IN GENERAL.—The term 'neighborhood revitalization project loan' means a loan secured by a second lien on a residence, the proceeds of which are used to substantially improve such residence in connection with a neighborhood revitalization project.

"(B) NEIGHBORHOOD REVITALIZATION PROJECT.—The term 'neighborhood revitalization project' means a project of sufficient size and scope to alleviate physical deterioration and stimulate investment in—

"(i) a geographic location within the jurisdiction of a unit of local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other documents as a neighborhood, village, or similar geographic designation, or

"(ii) the entire jurisdiction of a unit of local government if the population of such jurisdiction is not in excess of 25,000.

"(2) STATE.—The term 'State' includes a possession of the United States.

"(3) STATE HOUSING FINANCE AGENCY.—The term 'State housing finance agency' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout the State.

"(j) CERTIFICATION AND OTHER REPORTS TO THE SECRETARY.—

"(1) CERTIFICATION WITH RESPECT TO STATE ALLOCATION OF HOME OWNERSHIP TAX CREDITS.—The Secretary may, upon a finding of noncompliance, revoke the certification of a qualified State and revoke any qualified home ownership tax credit amounts allocated to such State or allocated by such State to a qualified lender.

"(2) ANNUAL REPORT FROM HOUSING FINANCE AGENCIES.—Each State housing finance agency which allocates any home ownership tax credit amount to any qualified lender for any calendar year shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual report specifying—

"(A) the home ownership tax credit amount allocated to each qualified lender for such year, and

"(B) with respect to each qualified lender—

"(i) the principal amount of the aggregate qualified home ownership tax credit loans made by such lender in such year and the outstanding amount of such loans in such year, and "(ii) the number of qualified home ownership tax credit loans made by such lender in such year.

The penalty under section 6652(j) shall apply to any failure to submit the report required by this paragraph on the date prescribed therefore.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) LIMITATION ON CARRYBACK OF UNUSED CREDIT.—Subsection (d) of section 39 of the Internal Revenue Code of 1986 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

"(9) NO CARRYBACK OF HOME OWNERSHIP TAX CREDITS BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the home ownership tax credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D."

(c) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking “plus” at the end of paragraph (11),

(B) by striking the period at the end of paragraph (12), and inserting “, plus”, and

(C) by adding at the end the following:

“(13) the home ownership tax credit determined under section 45D.”

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

“Sec. 45D. Home ownership tax credit.”

(d) EFFECTIVE DATE.—The amendments made by this section apply to calendar years after 1999.