

105TH CONGRESS  
1ST SESSION

# H. R. 1102

To amend the Internal Revenue Code of 1986 to provide tax incentives  
to encourage the preservation of low-income housing.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 1997

Mr. JEFFERSON introduced the following bill; which was referred to the  
Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide  
tax incentives to encourage the preservation of low-in-  
come housing.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Low-Income Housing  
5 Preservation Act of 1997”.

6 **SEC. 2. 15-YEAR RECOVERY PERIOD.**

7 (a) GENERAL RULE.—Subsection (c) of section 168  
8 of the Internal Revenue Code of 1986 (relating to applica-  
9 ble recovery period) is amended—

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1           (1) by striking “as provided in paragraph (2)”  
2           in paragraph (1) and inserting “as otherwise pro-  
3           vided in this subsection”,

4           (2) by redesignating paragraph (2) as para-  
5           graph (3), and

6           (3) by inserting after paragraph (1) the follow-  
7           ing new paragraph:

8           “(2) LOW-INCOME HOUSING.—In the case of  
9           any residential rental property which is part of a  
10          qualified low-income housing project (as defined in  
11          subsection (i)(14)), the applicable recovery period  
12          shall be 15 years.”

13          (b) QUALIFIED LOW-INCOME HOUSING PROJECT.—  
14          Subsection (i) of section 168 of such Code is amended by  
15          adding at the end the following new paragraph:

16                 “(14) QUALIFIED LOW-INCOME HOUSING  
17          PROJECT.—

18                         “(A) IN GENERAL.—For purposes of this  
19                         section, the term ‘qualified low-income housing  
20                         project’ means any project for residential rental  
21                         property if—

22                                 “(i) such project is assisted under a  
23                                 specified HUD program,

24   “(ii) 50 percent or more of the resi-  
25   dential units in such project—

1           “(I) in the case of a project de-  
2           scribed in clause (i) or (ii) of subpara-  
3           graph (C), are occupied by individuals  
4           whose income (at the time of their ini-  
5           tial occupancy in such project) was  
6           less than 80 percent of the area me-  
7           dian gross income (as of such time),  
8           or

9           “(II) in the case of a project de-  
10          scribed in clause (iii) or (iv) of sub-  
11          paragraph (C), are units with respect  
12          to which rental assistance is provided  
13          under section 8 of the United States  
14          Housing Act of 1937 (42 U.S.C.  
15          1437f),

16          “(iii) such project was originally  
17          placed in service at least 10 years before  
18          the taxpayer acquired an interest in such  
19          project,

20          “(iv) such project is substantially re-  
21          habilitated,

22          “(v) the taxpayer acquired such tax-  
23          payer’s interest in such project by pur-  
24          chase, and

1           “(vi) such project was not previously  
2 placed in service by the taxpayer or by any  
3 person who was a related person (as de-  
4 fined in section 42(d)(2)(D)(iii)) with re-  
5 spect to the taxpayer as of the time pre-  
6 viously placed in service.

7           “(B) DENIAL OF DOUBLE BENEFIT.—A  
8 project shall not be treated as a qualified low-  
9 income housing project if the taxpayer (or any  
10 other person holding an interest in such  
11 project) claims any benefits with respect to  
12 such project under—

13           “(i) section 42 (relating to low-income  
14 housing credit),

15           “(ii) section 47 (relating to rehabilita-  
16 tion credit),

17           “(iii) the Low-Income Housing Pres-  
18 ervation and Resident Homeownership Act  
19 of 1990 (12 U.S.C. 4101 et seq.), or

20           “(iv) the Emergency Low-Income  
21 Housing Preservation Act of 1987 pursu-  
22 ant to section 604 of the Cranston-Gon-  
23 zalez National Affordable Housing Act (12  
24 U.S.C. 4101 note).

1           “(C) SPECIFIED HUD PROGRAMS.—For  
2 purposes of subparagraph (A), a project is as-  
3 sisted under a specified HUD program if such  
4 project was financed by a loan or mortgage  
5 which—

6           “(i) is insured or held by the Sec-  
7 retary of Housing and Urban Development  
8 under section 221(d)(3) of the National  
9 Housing Act (12 U.S.C. 1715l(d)(3)) and  
10 bears interest at a rate determined under  
11 the proviso of section 221(d)(5) of such  
12 Act,

13           “(ii) is insured, assisted, or held by  
14 such Secretary or a State or State agency  
15 under section 236 of such Act (12 U.S.C.  
16 1715z-1),

17           “(iii) is insured or held by such Sec-  
18 retary under section 221(d)(3) of such Act  
19 and receiving assistance under section 8 of  
20 the United States Housing Act of 1937  
21 (42 U.S.C. 1437f), or

22           “(iv) is insured or held by such Sec-  
23 retary under section 221(d)(4) of the Na-  
24 tional Housing Act.

25           “(D) SUBSTANTIALLY REHABILITATED.—

1           “(i) IN GENERAL.—For purposes of  
2           subparagraph (A), a project is substan-  
3           tially rehabilitated if the amount of the re-  
4           habilitation expenditures with respect to  
5           such project during the 24-month period  
6           beginning on the date the taxpayer ac-  
7           quired his interest in such project equals  
8           or exceeds 10 percent of the aggregate ad-  
9           justed bases (as of the beginning of such  
10          24-month period) of the residential rental  
11          property which is part of such project.

12           “(ii) REHABILITATION EXPENDI-  
13          TURES.—

14           “(I) IN GENERAL.—For purposes  
15          of clause (i), the term ‘rehabilitation  
16          expenditures’ means amounts charge-  
17          able to capital account and incurred  
18          for property (or additions or improve-  
19          ments to property) of a character sub-  
20          ject to the allowance for depreciation  
21          in connection with the rehabilitation  
22          of a building. Such term shall not in-  
23          clude the cost of acquiring the build-  
24          ing (or any interest therein).

1                   “(II) SPECIAL RULE.—An ex-  
2                   penditure may be taken into account  
3                   only if it benefits the low-income units  
4                   in the project at least in proportion to  
5                   the total number of units in such  
6                   project which are low-income units.  
7                   For purposes of the preceding sen-  
8                   tence, the term ‘low-income units’  
9                   means units with respect to which the  
10                  requirements of subparagraph (A)(ii)  
11                  are met.

12                  “(E) INCOME DETERMINATIONS.—For  
13                  purposes of subparagraph (A), income of indi-  
14                  viduals and area median gross income shall be  
15                  determined as provided in section 142(d)(2)(B).

16                  “(F) PURCHASE.—For purposes of sub-  
17                  paragraph (A), the term ‘purchase’ has the  
18                  meaning given to such term by section  
19                  179(d)(2); except that such term shall not in-  
20                  clude any acquisition where the basis of the  
21                  property acquired is determined in whole or in  
22                  part by reference to the basis of other property  
23                  held at any time by the person acquiring the  
24                  property.

1           “(G) TREATMENT OF UNITS OCCUPIED BY  
2 INDIVIDUALS WHOSE INCOMES RISE ABOVE  
3 LIMIT.—

4           “(i) IN GENERAL.—Except as pro-  
5 vided in clause (ii), notwithstanding an in-  
6 crease in the income of the occupants of a  
7 low-income unit above the income limita-  
8 tion applicable under subparagraph (A)(ii),  
9 such unit shall continue to be treated as a  
10 low-income unit if the income of such occu-  
11 pants initially met such income limitation.

12           “(ii) NEXT AVAILABLE UNIT MUST BE  
13 RENTED TO LOW-INCOME TENANT IF IN-  
14 COME RISES ABOVE 140 PERCENT OF IN-  
15 COME LIMIT.—If the income of the occu-  
16 pants of the unit increases above 140 per-  
17 cent of the income limitation applicable  
18 under subparagraph (A)(ii), clause (i) shall  
19 cease to apply to any such unit if any resi-  
20 dential unit in the project (of a size com-  
21 parable to, or smaller than, such unit) is  
22 occupied by a new resident whose income  
23 exceeds such income limitation. In the case  
24 of a project described in section  
25 142(d)(4)(B), the preceding sentence shall

1 be applied by substituting ‘170 percent’ for  
2 ‘140 percent’ and by substituting ‘any low-  
3 income unit in the project is occupied by  
4 a new resident whose income exceeds 40  
5 percent of area median gross income’ for  
6 ‘any residential unit in the project (of a  
7 size comparable to, or smaller than, such  
8 unit) is occupied by a new resident whose  
9 income exceeds such income limitation’.

10 “(H) RECAPTURE RULES.—

11 “(i) SUBSTANTIALLY REHABILITATION  
12 REQUIREMENTS.—If the requirements of  
13 subparagraph (D) are not satisfied with re-  
14 spect to any project—

15 “(I) such project shall not be  
16 treated as a qualified low-income  
17 housing project for any period (includ-  
18 ing periods before the close of the 24-  
19 month period set forth in subpara-  
20 graph (D)(i)), and

21 “(II) the statutory period for the  
22 assessment of any deficiency attrib-  
23 utable to the failure of the project to  
24 meet such requirements shall not ex-  
25 pire before the date prescribed by sec-

1                   tion 6501 for the assessment of a de-  
 2                   ficiency for the taxable year in which  
 3                   the 24-month period set forth in sub-  
 4                   paragraph (D)(i) ends.

5                   “(ii) CROSS REFERENCE.—

**“For treatment of subsequent failure to meet  
 other requirements after initial qualification, see  
 paragraph (5) of this subsection.”**

6 **SEC. 3. EXEMPTION FROM PASSIVE LOSS LIMITATIONS.**

7           Section 469 of the Internal Revenue Code of 1986  
 8 (relating to limitation on passive activity losses and cred-  
 9 its) is amended—

10                   (1) by redesignating subsections (j), (k), (l),  
 11                   and (m) as subsections (k), (l), (m), and (n), respec-  
 12                   tively, and

13                   (2) by inserting after subsection (i) the follow-  
 14                   ing new subsection:

15                   “(j) \$50,000 OFFSET FOR CERTAIN LOW-INCOME  
 16 HOUSING ACTIVITIES.—

17                   “(1) IN GENERAL.—Subsection (a) shall not  
 18                   apply to that portion of the passive activity loss for  
 19                   any taxable year which is attributable to rental ac-  
 20                   tivities with respect to residential rental property  
 21                   which is part of a qualified low-income housing  
 22                   project (as defined in section 168(i)(14)).

23                   “(2) DOLLAR LIMITATION.—The aggregate  
 24                   amount to which paragraph (1) applies for any tax-

1       able year shall not exceed \$50,000 (\$25,000 in the  
2       case of a separate return by a married individual).

3               “(3) COORDINATION WITH SUBSECTION (i).—

4       This subsection shall be applied before the applica-  
5       tion of subsection (i).”

6   **SEC. 4. MINIMUM TAX TREATMENT.**

7       (a) GENERAL RULE.—Paragraph (1) of section 56(a)  
8       of the Internal Revenue Code of 1986 (relating to depre-  
9       ciation deduction) is amended—

10           (1) by redesignating subparagraphs (C) and  
11           (D) as subparagraphs (D) and (E), respectively, and

12           (2) by inserting after subparagraph (B) the fol-  
13       lowing new subparagraph:

14               “(C) SPECIAL RULE FOR CERTAIN LOW-IN-  
15               COME HOUSING PROJECTS.—In the case of resi-  
16               dential rental property which is part of a quali-  
17               fied low-income housing project (as defined in  
18               section 168(i)(14))—

19                   “(i) the depreciation deduction with  
20                   respect to 50 percent of the adjusted basis  
21                   of such property shall be determined as  
22                   provided in subparagraph (A), and

23                   “(ii) the depreciation deduction with  
24                   respect to the other 50 percent of such ad-  
25                   justed basis shall be determined under the

1                   method applicable in computing the regu-  
2                   lar tax.”

3           (b) CONFORMING AMENDMENT.—Clause (i) of sec-  
4 tion 56(g)(4)(A) of such Code is amended by inserting be-  
5 fore the period at the end the following: “or, if applicable,  
6 the rules of subsection (a)(1)(C)”.

7 **SEC. 5. EFFECTIVE DATE.**

8           The amendments made by this section shall apply to  
9 property placed in service after December 31, 1997.

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