

111TH CONGRESS  
1ST SESSION

# S. 253

To amend the Internal Revenue Code of 1986 to expand the application of the homebuyer credit, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 15, 2009

Mr. ISAKSON (for himself, Mr. CHAMBLISS, and Mr. CORKER) 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 expand the application of the homebuyer credit, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fix Housing First  
5 Homebuyer Tax Credit Act”.

6 **SEC. 2. EXPANSION AND MODIFICATION OF HOMEBUYER**  
7 **CREDIT.**

8 (a) **ELIMINATION OF FIRST-TIME HOMEBUYER RE-**  
9 **QUIREMENT.—**

1           (1) IN GENERAL.—Subsection (a) of section 36  
2 of the Internal Revenue Code of 1986, as added by  
3 section 3011 of the Housing and Economic Recovery  
4 Act of 2008, is amended by striking “who is a first-  
5 time homebuyer of a principal residence” and insert-  
6 ing “who purchases a principal residence”.

7           (2) CONFORMING AMENDMENTS.—

8           (A) Subsection (c) of section 36 of such  
9 Code is amended by striking paragraph (1) and  
10 by redesignating paragraphs (2), (3), (4), and  
11 (5) as paragraphs (1), (2), (3), and (4), respec-  
12 tively.

13           (B) Section 36 of such Code is amended by  
14 striking “**FIRST-TIME HOMEBUYER CREDIT**”  
15 in the heading and inserting “**HOME PUR-**  
16 **CHASE CREDIT**”.

17           (C) The table of sections for subpart C of  
18 part IV of subchapter A of chapter 1 of such  
19 Code is amended by striking the item relating  
20 to section 36 and inserting the following new  
21 item:

“Sec. 36. Home purchase credit.”.

22           (D) Subparagraph (W) of section 26(b)(2)  
23 of such Code is amended by striking “home-  
24 buyer credit” and inserting “home purchase  
25 credit”.

1 (b) ELIMINATION OF RECAPTURE EXCEPT FOR  
 2 HOMES SOLD WITHIN 3 YEARS.—Subsection (f) of sec-  
 3 tion 36 of the Internal Revenue Code of 1986, as so added,  
 4 is amended to read as follows:

5 “(f) RECAPTURE OF CREDIT IN THE CASE OF CER-  
 6 TAIN DISPOSITIONS.—

7 “(1) IN GENERAL.—In the event that a tax-  
 8 payer—

9 “(A) disposes of the principal residence  
 10 with respect to which a credit was allowed  
 11 under subsection (a), or

12 “(B) fails to occupy such residence as the  
 13 taxpayer’s principal residence,

14 at any time within 36 months after the date on  
 15 which the taxpayer purchased such residence, then  
 16 the tax imposed by this chapter for the taxable year  
 17 during which such disposition occurred or in which  
 18 the taxpayer failed to occupy the residence as a prin-  
 19 cipal residence shall be increased by the amount of  
 20 such credit.

21 “(2) EXCEPTIONS.—

22 “(A) DEATH OF TAXPAYER.—Paragraph  
 23 (1) shall not apply to any taxable year ending  
 24 after the date of the taxpayer’s death.

1           “(B) INVOLUNTARY CONVERSION.—Para-  
2 graph (1) shall not apply in the case of a resi-  
3 dence which is compulsorily or involuntarily  
4 converted (within the meaning of section  
5 1033(a)) if the taxpayer acquires a new prin-  
6 cipal residence within the 2-year period begin-  
7 ning on the date of the disposition or cessation  
8 referred to in such paragraph. Paragraph (1)  
9 shall apply to such new principal residence dur-  
10 ing the remainder of the 36-month period de-  
11 scribed in such paragraph as if such new prin-  
12 cipal residence were the converted residence.

13           “(C) TRANSFERS BETWEEN SPOUSES OR  
14 INCIDENT TO DIVORCE.—In the case of a trans-  
15 fer of a residence to which section 1041(a) ap-  
16 plies—

17                   “(i) paragraph (1) shall not apply to  
18 such transfer, and

19                   “(ii) in the case of taxable years end-  
20 ing after such transfer, paragraph (1) shall  
21 apply to the transferee in the same manner  
22 as if such transferee were the transferor  
23 (and shall not apply to the transferor).

24           “(D) RELOCATION OF MEMBERS OF THE  
25 ARMED FORCES.—Paragraph (1) shall not

1           apply in the case of a member of the Armed  
2           Forces of the United States on active duty who  
3           moves pursuant to a military order and incident  
4           to a permanent change of station.

5           “(3) JOINT RETURNS.—In the case of a credit  
6           allowed under subsection (a) with respect to a joint  
7           return, half of such credit shall be treated as having  
8           been allowed to each individual filing such return for  
9           purposes of this subsection.

10           “(4) RETURN REQUIREMENT.—If the tax im-  
11           posed by this chapter for the taxable year is in-  
12           creased under this subsection, the taxpayer shall,  
13           notwithstanding section 6012, be required to file a  
14           return with respect to the taxes imposed under this  
15           subtitle.”.

16           (c) EXPANSION OF APPLICATION PERIOD.—Sub-  
17           section (h) of section 36 of the Internal Revenue Code of  
18           1986, as so added, is amended by striking “July 1, 2009”  
19           and inserting “December 31, 2009”.

20           (d) ELECTION TO TREAT PURCHASE IN PRIOR  
21           YEAR.—Subsection (g) of section 36 of the Internal Rev-  
22           enue Code of 1986, as so added, is amended by striking  
23           “July 1, 2009” and inserting “December 31, 2009”.

24           (e) MODIFICATION OF CREDIT AMOUNT.—

1           (1) IN GENERAL.—Subparagraph (A) of section  
2           36(b)(1) of the Internal Revenue Code of 1986, as  
3           so added, is amended by striking “\$7,500” and in-  
4           serting “the amount that is 3.5 percent of the dollar  
5           amount limitation determined under section  
6           305(a)(2) of the Federal Home Loan Mortgage Cor-  
7           poration Act (12 U.S.C. 1454(a)(2)), including any  
8           increase in the limitation for an area determined to  
9           be a high-cost area under such section, with respect  
10          to the purchase of the qualified principal residence”.

11          (2) CONFORMING AMENDMENTS.—Paragraph  
12          (1) of section 36(b) of such Code is amended—

13                 (A) by striking “\$3,750” in subparagraph

14                 (B) and inserting “1.75 percent”,

15                 (B) by striking “\$7,500” in subparagraph

16                 (B) and inserting “3.5 percent”, and

17                 (C) by striking “\$7,500” in subparagraph

18                 (C) and inserting “the amount described in

19                 subparagraph (A)”.

20          (f) MODIFICATION OF INCOME LIMITATION.—Sub-

21          clause (II) of section 36(b)(2)(i) of the Internal Revenue

22          Code of 1986, as so added, is amended by striking

23          “\$75,000 (\$150,000 in the case of a joint return)” and

24          inserting “\$125,000 (\$250,000 in the case of a joint re-

25          turn)”.

1 (g) AVAILABILITY OF CREDIT FOR TRANSFER.—Sec-  
2 tion 36 of the Internal Revenue Code of 1986, as so added,  
3 is amended by redesignating subsections (g) and (h), as  
4 amended by this section, as subsections (h) and (i), respec-  
5 tively, and by inserting after subsection (f) the following  
6 new subsection:

7 “(g) TRANSFER OF CREDIT.—

8 “(1) IN GENERAL.—A taxpayer may transfer  
9 all or a portion of the credit allowable under sub-  
10 section (a) to 1 or more persons as payment of any  
11 liability of the taxpayer arising out of—

12 “(A) the downpayment of any portion of  
13 the purchase price of the principal residence,

14 “(B) mortgage, flood, and hazard insur-  
15 ance premiums in connection with the purchase  
16 and paid at or before closing,

17 “(C) interest on any debt incurred to pur-  
18 chase the residence,

19 “(D) State and local real property taxes  
20 paid in connection with the purchase, and

21 “(E) funding fees paid to the Department  
22 of Veterans Affairs in connection with the pur-  
23 chase.

24 “(2) CREDIT TRANSFER MECHANISM.—

1           “(A) IN GENERAL.—Not less than 60 days  
2 after the date of the enactment of this sub-  
3 section, the Secretary shall establish and imple-  
4 ment a credit transfer mechanism for purposes  
5 of paragraph (1). Such mechanism shall require  
6 the Secretary to—

7           “(i) certify that the taxpayer is eligi-  
8 ble to receive the credit provided by this  
9 section with respect to the purchase of a  
10 principal residence and that the transferee  
11 is eligible to receive the credit transfer,

12           “(ii) certify the credit transfer  
13 amount which will be paid to the trans-  
14 feree, and

15           “(iii) require any transferee that di-  
16 rectly receives the credit transfer amount  
17 from the Secretary to notify the taxpayer  
18 within 14 days of the receipt of such  
19 amount.

20 Any check, certificate, or voucher issued by the  
21 Secretary pursuant to this paragraph shall in-  
22 clude the taxpayer identification number of the  
23 taxpayer and the address of the principal resi-  
24 dence being purchased. For purposes of deter-  
25 mining the credit transfer amount under clause

1 (ii), the Secretary may estimate the taxpayer's  
2 modified adjusted gross income for the taxable  
3 year (as described in subsection (b)(2)) based  
4 on the taxpayer's modified adjusted gross in-  
5 come (as so described) for the preceding taxable  
6 year.

7 “(B) TIMELY RECEIPT.—The Secretary  
8 shall issue the credit transfer amount not less  
9 than 30 days after the date of the receipt of an  
10 application for a credit transfer.

11 “(3) PAYMENT OF INTEREST.—

12 “(A) IN GENERAL.—Notwithstanding any  
13 other provision of this title, the Secretary shall  
14 pay interest on any amount which is not paid  
15 to a person during the 30-day period described  
16 in paragraph (2)(B).

17 “(B) AMOUNT OF INTEREST.—Interest  
18 under subparagraph (A) shall be allowed and  
19 paid—

20 “(i) from the day after the 30-day pe-  
21 riod described in paragraph (2)(B) to the  
22 date payment is made, and

23 “(ii) at the overpayment rate estab-  
24 lished under section 6621.

1           “(C) EXCEPTION.—This paragraph shall  
2           not apply to failures to make payments as a re-  
3           sult of any natural disaster or other cir-  
4           cumstance beyond the control of the Secretary.

5           “(4) RECAPTURE OF TRANSFER AMOUNT.—If  
6           the credit transfer amount paid to the transferee ex-  
7           ceeds the amount of the credit allowable under sub-  
8           section (a) to the taxpayer, the taxpayer’s tax im-  
9           posed by this chapter for the taxable year shall be  
10          increased by the amount of such excess.

11          “(5) EFFECT ON LEGAL RIGHTS AND OBLIGA-  
12          TIONS.—Nothing in this subsection shall be con-  
13          strued to—

14                 “(A) require a lender to complete a loan  
15                 transaction before the credit transfer amount  
16                 has been transferred to the lender, or

17                 “(B) prevent a lender from altering the  
18                 terms of a loan (including the rate, points, fees,  
19                 and other costs) due to changes in market con-  
20                 ditions or other factors during the period of  
21                 time between the application by the taxpayer  
22                 for a credit transfer and the receipt by the  
23                 lender of the credit transfer amount.”.

24          (h) ALLOWANCE OF CREDIT FOR RESIDENCES FI-  
25          NANCED BY PROCEEDS FROM STATE OR LOCAL

1 BONDS.—Subsection (d) of section 36 of the Internal Rev-  
2 enue Code of 1986, as so added, is amended by striking  
3 paragraph (2) and redesignating paragraphs (3) and (4)  
4 as paragraphs (2) and (3), respectively.

5 (i) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to residences purchased on or after  
7 December 31, 2008, in taxable years ending on or after  
8 such date.

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