

Amendment by section 202(f)(2)(C) of Pub. L. 107-16 applicable to taxable years beginning after Dec. 31, 2001, see section 202(g)(1) of Pub. L. 107-16, set out as a note under section 23 of this title.

Amendment by section 618(b)(2)(E) of Pub. L. 107-16 applicable to taxable years beginning after Dec. 31, 2001, see section 618(d) of Pub. L. 107-16, set out as a note under section 24 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

Subchapter X—Renewal Communities

- Part I. Designation.
- II. Renewal community capital gain; renewal community business.
- III. Additional incentives.

PART I—DESIGNATION

- Sec. 1400E. Designation of renewal communities.

§ 1400E. Designation of renewal communities

(a) Designation

(1) Definitions

For purposes of this title, the term “renewal community” means any area—

(A) which is nominated by 1 or more local governments and the State or States in which it is located for designation as a renewal community (hereafter in this section referred to as a “nominated area”), and

(B) which the Secretary of Housing and Urban Development designates as a renewal community, after consultation with—

- (i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury;¹ the Director of the Office of Management and Budget, and the Administrator of the Small Business Administration, and
- (ii) in the case of an area on an Indian reservation, the Secretary of the Interior.

(2) Number of designations

(A) In general

Not more than 40 nominated areas may be designated as renewal communities.

(B) Minimum designation in rural areas

Of the areas designated under paragraph (1), at least 12 must be areas—

- (i) which are within a local government jurisdiction or jurisdictions with a population of less than 50,000,
- (ii) which are outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or
- (iii) which are determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be rural areas.

(3) Areas designated based on degree of poverty, etc.

(A) In general

Except as otherwise provided in this section, the nominated areas designated as re-

newal communities under this subsection shall be those nominated areas with the highest average ranking with respect to the criteria described in subparagraphs (B), (C), and (D) of subsection (c)(3). For purposes of the preceding sentence, an area shall be ranked within each such criterion on the basis of the amount by which the area exceeds such criterion, with the area which exceeds such criterion by the greatest amount given the highest ranking.

(B) Exception where inadequate course of action, etc.

An area shall not be designated under subparagraph (A) if the Secretary of Housing and Urban Development determines that the course of action described in subsection (d)(2) with respect to such area is inadequate.

(C) Preference for enterprise communities and empowerment zones

With respect to the first 20 designations made under this section, a preference shall be provided to those nominated areas which are enterprise communities or empowerment zones (and are otherwise eligible for designation under this section).

(4) Limitation on designations

(A) Publication of regulations

The Secretary of Housing and Urban Development shall prescribe by regulation no later than 4 months after the date of the enactment of this section, after consultation with the officials described in paragraph (1)(B)—

- (i) the procedures for nominating an area under paragraph (1)(A),
- (ii) the parameters relating to the size and population characteristics of a renewal community, and
- (iii) the manner in which nominated areas will be evaluated based on the criteria specified in subsection (d).

(B) Time limitations

The Secretary of Housing and Urban Development may designate nominated areas as renewal communities only during the period beginning on the first day of the first month following the month in which the regulations described in subparagraph (A) are prescribed and ending on December 31, 2001.

(C) Procedural rules

The Secretary of Housing and Urban Development shall not make any designation of a nominated area as a renewal community under paragraph (2) unless—

- (i) the local governments and the States in which the nominated area is located have the authority—
 - (I) to nominate such area for designation as a renewal community,
 - (II) to make the State and local commitments described in subsection (d), and
 - (III) to provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled,

¹ So in original. The semicolon probably should be a comma.

(ii) a nomination regarding such area is submitted in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall by regulation prescribe, and

(iii) the Secretary of Housing and Urban Development determines that any information furnished is reasonably accurate.

(5) Nomination process for Indian reservations

For purposes of this subchapter, in the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be treated as being both the State and local governments with respect to such area.

(b) Period for which designation is in effect

(1) In general

Any designation of an area as a renewal community shall remain in effect during the period beginning on January 1, 2002, and ending on the earliest of—

(A) December 31, 2009,

(B) the termination date designated by the State and local governments in their nomination, or

(C) the date the Secretary of Housing and Urban Development revokes such designation.

(2) Revocation of designation

The Secretary of Housing and Urban Development may revoke the designation under this section of an area if such Secretary determines that the local government or the State in which the area is located—

(A) has modified the boundaries of the area, or

(B) is not complying substantially with, or fails to make progress in achieving, the State or local commitments, respectively, described in subsection (d).

(3) Earlier termination of certain benefits if earlier termination of designation

If the designation of an area as a renewal community terminates before December 31, 2009, the day after the date of such termination shall be substituted for “January 1, 2010” each place it appears in sections 1400F and 1400J with respect to such area.

(c) Area and eligibility requirements

(1) In general

The Secretary of Housing and Urban Development may designate a nominated area as a renewal community under subsection (a) only if the area meets the requirements of paragraphs (2) and (3) of this subsection.

(2) Area requirements

A nominated area meets the requirements of this paragraph if—

(A) the area is within the jurisdiction of one or more local governments,

(B) the boundary of the area is continuous, and

(C) the area—

(i) has a population of not more than 200,000 and at least—

(I) 4,000 if any portion of such area (other than a rural area described in sub-

section (a)(2)(B)(i)) is located within a metropolitan statistical area (within the meaning of section 143(k)(2)(B)) which has a population of 50,000 or greater, or (II) 1,000 in any other case, or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(3) Eligibility requirements

A nominated area meets the requirements of this paragraph if the State and the local governments in which it is located certify in writing (and the Secretary of Housing and Urban Development, after such review of supporting data as he deems appropriate, accepts such certification) that—

(A) the area is one of pervasive poverty, unemployment, and general distress,

(B) the unemployment rate in the area, as determined by the most recent available data, was at least 1½ times the national unemployment rate for the period to which such data relate,

(C) the poverty rate for each population census tract within the nominated area is at least 20 percent, and

(D) in the case of an urban area, at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households within the jurisdiction of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974).

(4) Consideration of other factors

The Secretary of Housing and Urban Development, in selecting any nominated area for designation as a renewal community under this section—

(A) shall take into account—

(i) the extent to which such area has a high incidence of crime, or

(ii) if such area has census tracts identified in the May 12, 1998, report of the Government Accountability Office regarding the identification of economically distressed areas, and

(B) with respect to 1 of the areas to be designated under subsection (a)(2)(B), may, in lieu of any criteria described in paragraph (3), take into account the existence of out-migration from the area.

(d) Required State and local commitments

(1) In general

The Secretary of Housing and Urban Development may designate any nominated area as a renewal community under subsection (a) only if—

(A) the local government and the State in which the area is located agree in writing that, during any period during which the area is a renewal community, such governments will follow a specified course of action which meets the requirements of paragraph (2) and is designed to reduce the various burdens borne by employers or employees in such area, and

(B) the economic growth promotion requirements of paragraph (3) are met.

(2) Course of action**(A) In general**

A course of action meets the requirements of this paragraph if such course of action is a written document, signed by a State (or local government) and neighborhood organizations, which evidences a partnership between such State or government and community-based organizations and which commits each signatory to specific and measurable goals, actions, and timetables. Such course of action shall include at least 4 of the following:

(i) A reduction of tax rates or fees applying within the renewal community.

(ii) An increase in the level of efficiency of local services within the renewal community.

(iii) Crime reduction strategies, such as crime prevention (including the provision of crime prevention services by nongovernmental entities).

(iv) Actions to reduce, remove, simplify, or streamline governmental requirements applying within the renewal community.

(v) Involvement in the program by private entities, organizations, neighborhood organizations, and community groups, particularly those in the renewal community, including a commitment from such private entities to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents from the renewal community.

(vi) The gift (or sale at below fair market value) of surplus real property (such as land, homes, and commercial or industrial structures) in the renewal community to neighborhood organizations, community development corporations, or private companies.

(B) Recognition of past efforts

For purposes of this section, in evaluating the course of action agreed to by any State or local government, the Secretary of Housing and Urban Development shall take into account the past efforts of such State or local government in reducing the various burdens borne by employers and employees in the area involved.

(3) Economic growth promotion requirements

The economic growth promotion requirements of this paragraph are met with respect to a nominated area if the local government and the State in which such area is located certify in writing that such government and State (respectively) have repealed or reduced, will not enforce, or will reduce within the nominated area at least 4 of the following:

(A) Licensing requirements for occupations that do not ordinarily require a professional degree.

(B) Zoning restrictions on home-based businesses which do not create a public nuisance.

(C) Permit requirements for street vendors who do not create a public nuisance.

(D) Zoning or other restrictions that impede the formation of schools or child care centers.

(E) Franchises or other restrictions on competition for businesses providing public services, including taxicabs, jitneys, cable television, or trash hauling.

This paragraph shall not apply to the extent that such regulation of businesses and occupations is necessary for and well-tailored to the protection of health and safety.

(e) Coordination with treatment of empowerment zones and enterprise communities

For purposes of this title, the designation under section 1391 of any area as an empowerment zone or enterprise community shall cease to be in effect as of the date that the designation of any portion of such area as a renewal community takes effect.

(f) Definitions and special rules

For purposes of this subchapter—

(1) Governments

If more than one government seeks to nominate an area as a renewal community, any reference to, or requirement of, this section shall apply to all such governments.

(2) Local government

The term “local government” means—

(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development.

(3) Application of rules relating to census tracts

The rules of section 1392(b)(4) shall apply.

(4) Census data

Population and poverty rate shall be determined by using 1990 census data.

(g) Expansion of designated area based on 2000 census**(1) In general**

At the request of all governments which nominated an area as a renewal community, the Secretary of Housing and Urban Development may expand the area of such community to include any census tract if—

(A)(i) at the time such community was nominated, such community would have met the requirements of this section using 1990 census data even if such tract had been included in such community, and

(ii) such tract has a poverty rate using 2000 census data which exceeds the poverty rate for such tract using 1990 census data, or

(B)(i) such community would be described in subparagraph (A)(i) but for the failure to meet one or more of the requirements of paragraphs (2)(C)(i), (3)(C), and (3)(D) of subsection (c) using 1990 census data,

(ii) such community, including such tract, has a population of not more than 200,000 using either 1990 census data or 2000 census data,

(iii) such tract meets the requirement of subsection (c)(3)(C) using 2000 census data, and

(iv) such tract meets the requirement of subparagraph (A)(ii).

(2) Exception for certain census tracts with low population in 1990

In the case of any census tract which did not have a poverty rate determined by the Bureau of the Census using 1990 census data, paragraph (1)(B) shall be applied without regard to clause (iv) thereof.

(3) Special rule for certain census tracts with low population in 2000

At the request of all governments which nominated an area as a renewal community, the Secretary of Housing and Urban Development may expand the area of such community to include any census tract if—

(A) either—

(i) such tract has no population using 2000 census data, or

(ii) no poverty rate for such tract is determined by the Bureau of the Census using 2000 census data,

(B) such tract is one of general distress, and

(C) such community, including such tract, meets the requirements of subparagraphs (A) and (B) of subsection (c)(2).

(4) Period in effect

Any expansion under this subsection shall take effect as provided in subsection (b).

(Added Pub. L. 106-554, §1(a)(7) [title I, §101(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-589; amended Pub. L. 108-357, title II, §222(a), Oct. 22, 2004, 118 Stat. 1431; Pub. L. 109-135, title IV, §412(rr)(1), Dec. 21, 2005, 119 Stat. 2640.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (a)(4)(A), is the date of enactment of Pub. L. 106-554, which was approved Dec. 21, 2000.

Section 119(b)(2) of the Housing and Community Development Act of 1974, referred to in subsec. (c)(3)(D), is classified to section 5318(b)(2) of Title 42, The Public Health and Welfare.

AMENDMENTS

2005—Subsec. (c)(4)(A)(ii). Pub. L. 109-135 substituted “Government Accountability Office” for “General Accounting Office”.

2004—Subsec. (g). Pub. L. 108-357 added subsec. (g).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title II, §222(b), Oct. 22, 2004, 118 Stat. 1432, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendments made by section 101 of the Community Renewal Tax Relief Act of 2000 [H.R. 5662, as enacted by section 1(a)(7) of Pub. L. 106-554, Dec. 21, 2000, 114 Stat. 2763, 2763A-587].”

AUDIT AND REPORT

Pub. L. 106-554, §1(a)(7) [title I, §101(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A-599, provided that: “Not later than January 31 of 2004, 2007, and 2010, the Comptroller General of the United States shall, pursuant to an audit of the renewal community program established under section 1400E of the Internal Revenue Code of 1986 (as added by subsection (a)) and the empowerment zone and enterprise community program under subchapter U of chapter 1 of such Code, report to Congress on such program and its effect on poverty, unemployment, and

economic growth within the designated renewal communities, empowerment zones, and enterprise communities.”

ADVISORY COUNCIL ON COMMUNITY RENEWAL

Pub. L. 106-554, §1(a)(7) [title I, subtitle E, part II], Dec. 21, 2000, 114 Stat. 2763, 2763A-622, as amended by Pub. L. 107-147, title IV, §417(21), Mar. 9, 2002, 116 Stat. 57; Pub. L. 108-311, title IV, §408(b)(1), Oct. 4, 2004, 118 Stat. 1192, provided that:

“SEC. 151. SHORT TITLE.

“This part may be cited as the ‘Advisory Council on Community Renewal Act’.

“SEC. 152. ESTABLISHMENT.

“There is established an advisory council to be known as the ‘Advisory Council on Community Renewal’ (in this part referred to as the ‘Advisory Council’).

“SEC. 153. DUTIES OF ADVISORY COUNCIL.

“The Advisory Council shall advise the Secretary of Housing and Urban Development (in this part referred to as the ‘Secretary’) on the designation of renewal communities pursuant to the amendment made by section 101 [adding this subchapter and amending section 469 of this title] and on the exercise of any other authority granted to the Secretary pursuant to the amendments made by this title [see Tables for classification].

“SEC. 154. MEMBERSHIP.

“(a) NUMBER AND APPOINTMENT.—The Advisory Council shall be composed of 7 members appointed by the Secretary.

“(b) CHAIRPERSON.—The Chairperson of the Advisory Council (in this part referred to as the ‘Chairperson’) shall be designated by the Secretary at the time of the appointment.

“(c) TERMS.—Each member shall be appointed for the life of the Advisory Council.

“(d) BASIC PAY.—

“(1) CHAIRPERSON.—The Chairperson shall be paid at a rate equal to the daily rate of basic pay for level III of the Executive Schedule for each day (including travel time) during which the Chairperson is engaged in the actual performance of duties vested in the Advisory Council.

“(2) OTHER MEMBERS.—Members other than the Chairperson shall each be paid at a rate equal to the daily rate of basic pay for level IV of the Executive Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Advisory Council.

“(e) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

“(f) QUORUM.—Four members of the Advisory Council shall constitute a quorum but a lesser number may hold hearings.

“(g) MEETINGS.—The Advisory Council shall meet at the call of the Secretary or the Chairperson.

“SEC. 155. POWERS OF ADVISORY COUNCIL.

“(a) HEARINGS AND SESSIONS.—The Advisory Council may, for the purpose of carrying out this part, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Advisory Council considers appropriate. The Advisory Council may administer oaths or affirmations to witnesses appearing before it.

“(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Advisory Council may, if authorized by the Advisory Council, take any action which the Advisory Council is authorized to take by this section.

“(c) OBTAINING OFFICIAL DATA.—The Advisory Council may secure directly from any department or agency of the United States information necessary to enable it

to carry out this part. Upon request of the Chairperson of the Advisory Council, the head of that department or agency shall furnish that information to the Advisory Council.

“SEC. 156. REPORTS.

“(a) ANNUAL REPORTS.—The Advisory Council shall submit to the Secretary an annual report for each fiscal year.

“(b) INTERIM REPORTS.—The Advisory Council may submit to the Secretary such interim reports as the Advisory Council considers appropriate.

“(c) FINAL REPORT.—The Advisory Council shall transmit a final report to the Secretary not later than September 30, 2003. The final report shall contain a detailed statement of the findings and conclusions of the Advisory Council, together with any recommendations for legislative or administrative action that the Advisory Council considers appropriate.

“SEC. 157. TERMINATION.

“(a) IN GENERAL.—The Advisory Council shall terminate 30 days after submitting its final report under section 156(c).

“(b) EXTENSION.—Notwithstanding subsection (a), the Secretary may postpone the termination of the Advisory Council for a period not to exceed 3 years after the Advisory Council submits its final report under section 156(c).

“SEC. 158. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

“The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Council.

“SEC. 159. RESOURCES.

“The Secretary shall provide to the Advisory Council appropriate resources so that the Advisory Council may carry out its duties and functions under this part.

“SEC. 160. EFFECTIVE DATE.

“This part shall be effective 30 days after the date of its enactment [Dec. 21, 2000].”

PART II—RENEWAL COMMUNITY CAPITAL GAIN; RENEWAL COMMUNITY BUSINESS

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| Sec. | |
| 1400F. | Renewal community capital gain. |
| 1400G. | Renewal community business defined. |

§ 1400F. Renewal community capital gain

(a) General rule

Gross income does not include any qualified capital gain from the sale or exchange of a qualified community asset held for more than 5 years.

(b) Qualified community asset

For purposes of this section—

(1) In general

The term “qualified community asset” means—

- (A) any qualified community stock,
- (B) any qualified community partnership interest, and
- (C) any qualified community business property.

(2) Qualified community stock

(A) In general

Except as provided in subparagraph (B), the term “qualified community stock” means any stock in a domestic corporation if—

- (i) such stock is acquired by the taxpayer after December 31, 2001, and before

January 1, 2010, at its original issue (directly or through an underwriter) from the corporation solely in exchange for cash,

(ii) as of the time such stock was issued, such corporation was a renewal community business (or, in the case of a new corporation, such corporation was being organized for purposes of being a renewal community business), and

(iii) during substantially all of the taxpayer’s holding period for such stock, such corporation qualified as a renewal community business.

(B) Redemptions

A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

(3) Qualified community partnership interest

The term “qualified community partnership interest” means any capital or profits interest in a domestic partnership if—

(A) such interest is acquired by the taxpayer after December 31, 2001, and before January 1, 2010, from the partnership solely in exchange for cash,

(B) as of the time such interest was acquired, such partnership was a renewal community business (or, in the case of a new partnership, such partnership was being organized for purposes of being a renewal community business), and

(C) during substantially all of the taxpayer’s holding period for such interest, such partnership qualified as a renewal community business.

A rule similar to the rule of paragraph (2)(B) shall apply for purposes of this paragraph.

(4) Qualified community business property

(A) In general

The term “qualified community business property” means tangible property if—

(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after December 31, 2001, and before January 1, 2010,

(ii) the original use of such property in the renewal community commences with the taxpayer, and

(iii) during substantially all of the taxpayer’s holding period for such property, substantially all of the use of such property was in a renewal community business of the taxpayer.

(B) Special rule for substantial improvements

The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as satisfied with respect to—

(i) property which is substantially improved by the taxpayer before January 1, 2010, and

(ii) any land on which such property is located.

The determination of whether a property is substantially improved shall be made under clause (ii) of section 1400B(b)(4)(B), except that “December 31, 2001” shall be sub-