

109TH CONGRESS
1ST SESSION

H. R. 1311

To provide for the construction and renovation of child care facilities, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2005

Mrs. MCCARTHY (for herself and Ms. ROS-LEHTINEN) introduced the
following bill; which was referred to the Committee on Financial Services

A BILL

To provide for the construction and renovation of child care
facilities, 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 “Child Care Construc-
5 tion and Renovation Act”.

6 **SEC. 2. USE OF COMMUNITY DEVELOPMENT BLOCK**
7 **GRANTS TO ESTABLISH CHILD CARE FACILI-**
8 **TIES.**

9 Section 105(a) of the Housing and Community De-
10 velopment Act of 1974 (42 U.S.C. 5305(a)) is amended—

1 (1) in paragraph (24), by striking “and” at the
2 end;

3 (2) in paragraph (25), by striking the period at
4 the end and inserting “; and”; and

5 (3) by adding at the end the following:

6 “(26) the construction and renovation of child
7 care facilities.”.

8 **SEC. 3. INSURANCE FOR MORTGAGES ON NEW AND REHA-**
9 **BILITATED CHILD CARE FACILITIES.**

10 Title II of the National Housing Act (12 U.S.C. 1707
11 et seq.) is amended by adding at the end the following:

12 **“SEC. 257. MORTGAGE INSURANCE FOR CHILD CARE FA-**
13 **CILITIES.**

14 “(a) DEFINITIONS.—In this section:

15 “(1) CHILD CARE FACILITY.—The term ‘child
16 care facility’—

17 “(A) means a public or private facility
18 that—

19 “(i) has as its purpose the care and
20 development of—

21 “(I) children who are less than
22 16 years of age; or

23 “(II) school-age children and
24 youth during non-school hours; and

1 “(ii) is operated in accordance with all
2 applicable State and local laws and regula-
3 tions; and

4 “(B) does not include any facility for
5 school-age children that is primarily for use
6 during normal school hours.

7 “(2) EQUIPMENT.—The term ‘equipment’ in-
8 cludes—

9 “(A) machinery, utilities, and built-in
10 equipment, and any necessary enclosure or
11 structure to house them; and

12 “(B) any other items necessary for the
13 functioning of a particular facility as a child
14 care facility, including necessary furniture,
15 books, and curricular and program materials.

16 “(3) FIRST MORTGAGE.—The term ‘first mort-
17 gage’—

18 “(A) means such classes of first liens as
19 are commonly given to secure advances (includ-
20 ing advances during construction) on, or the
21 unpaid purchase price of, real estate under the
22 laws of the State in which the real estate is lo-
23 cated, together with the credit instrument or in-
24 struments (if any) secured thereby; and

1 “(B) includes any mortgage in the form of
2 1 or more trust mortgages or mortgage inden-
3 tures or deeds of trust, securing notes, bonds,
4 or other credit instruments, that, by the same
5 instrument or by a separate instrument, creates
6 a security interest in initial equipment, whether
7 or not attached to the realty.

8 “(4) MORTGAGE.—The term ‘mortgage’ means
9 a first mortgage on real estate in fee simple, or on
10 the interest of either the lessor or lessee thereof
11 under a lease having a period of not less than 7
12 years to run beyond the maturity date of the mort-
13 gage.

14 “(5) MORTGAGOR.—The term ‘mortgagor’ has
15 the meaning given the term in section 207(a).

16 “(b) INSURANCE OF MORTGAGES.—In order to facili-
17 tate the establishment and rehabilitation of child care fa-
18 cilities, the Secretary may—

19 “(1) insure a mortgage that is secured by a
20 property or project that is—

21 “(A) a new child care facility, including a
22 new addition to an existing child care facility
23 (regardless of whether the existing facility is
24 being rehabilitated); or

1 “(B) a substantially rehabilitated child
2 care facility, including equipment to be used in
3 the operation of the facility; and

4 “(2) make a commitment to insure any mort-
5 gage described in paragraph (1) before the date of
6 execution or disbursement of the mortgage.

7 “(c) TERMS AND CONDITIONS.—

8 “(1) ELIGIBLE CHILD CARE FACILITIES.—Each
9 mortgage insured under this section shall be secured
10 by a child care facility for which a certification of
11 compliance has been issued by the Secretary under
12 section 258(c) during the 12-month period preceding
13 the date on which the commitment to insure the
14 mortgage is issued under this section.

15 “(2) APPROVED MORTGAGOR.—

16 “(A) IN GENERAL.—Each mortgage in-
17 sured under this section shall be executed by a
18 mortgagor approved by the Secretary.

19 “(B) REGULATION.—The Secretary may—

20 “(i) require an approved mortgagor
21 who executes a mortgage under subpara-
22 graph (A) to be regulated with respect to
23 charges and methods of financing and, if
24 the mortgagor is a corporate entity, with

1 respect to capital structure and rate of re-
2 turn; and

3 “(ii) as an aid to the regulation of any
4 mortgagor under clause (i), make such
5 contracts with and acquire for not more
6 than \$100 such stock or interest in such
7 mortgagor as the Secretary considers to be
8 necessary.

9 “(C) STOCK OR INTEREST.—Any stock or
10 interest purchased under subparagraph (B)(ii)
11 shall be—

12 “(i) paid for out of the General Insur-
13 ance Fund; and

14 “(ii) redeemed by the mortgagor at
15 par upon the termination of all obligations
16 of the Secretary under the insurance.

17 “(3) PRINCIPAL OBLIGATION.—Each mortgage
18 insured under this section shall involve a principal
19 obligation in an amount not to exceed 90 percent of
20 the estimated value of the property or project, or 95
21 percent of the estimated value of the property or
22 project in the case of a mortgagor that is a private
23 nonprofit corporation or association (as defined pur-
24 suant to section 221(d)(3)), including—

1 “(A) equipment to be used in the operation
2 of the facility when the proposed improvements
3 are completed and the equipment is installed; or

4 “(B) a solar energy system (as defined in
5 subparagraph (3) of the last paragraph of sec-
6 tion 2(a)) or residential energy conservation
7 measures (as defined in subparagraphs (A)
8 through (G) and (I) of section 210(11) of the
9 National Energy Conservation Policy Act), in
10 cases in which the Secretary determines that
11 such measures are in addition to those required
12 under the minimum property standards and will
13 be cost-effective over the life of the measure.

14 “(4) AMORTIZATION AND INTEREST.—Each
15 mortgage insured under this section shall—

16 “(A) provide for complete amortization by
17 periodic payments under such terms as the Sec-
18 retary shall prescribe;

19 “(B) have a maturity date satisfactory to
20 the Secretary, but in no event longer than 25
21 years; and

22 “(C) bear interest at such rate as may be
23 agreed upon by the mortgagor and the mort-
24 gagee, and the Secretary shall not issue any
25 regulations or establish any terms or conditions

1 that interfere with the ability of the mortgagor
2 and mortgagee to determine the interest rate.

3 “(5) RELEASE.—The Secretary may consent to
4 the release of a part or parts of the mortgaged prop-
5 erty or project from the lien of any mortgage in-
6 sured under this section upon such terms and condi-
7 tions as the Secretary may prescribe.

8 “(6) MORTGAGE INSURANCE TERMS.—Sub-
9 sections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of
10 section 207 apply to any mortgage insured under
11 this section, except that all references in such sub-
12 sections to section 207 shall be construed, for pur-
13 poses of mortgage insurance under this section, to
14 refer to this section.

15 “(d) MORTGAGE INSURANCE FOR FIRE SAFETY
16 EQUIPMENT LOANS.—

17 “(1) AUTHORITY.—The Secretary may, upon
18 such terms and conditions as the Secretary may pre-
19 scribe, make commitments to insure and insure
20 loans made by financial institutions or other ap-
21 proved mortgagees to child care facilities to provide
22 for the purchase and installation of fire safety equip-
23 ment necessary for compliance with the 1967 edition
24 of the Life Safety Code of the National Fire Protec-

1 tion Association (or any subsequent edition specified
2 by the Secretary of Health and Human Services).

3 “(2) LOAN REQUIREMENTS.—To be eligible for
4 insurance under this subsection a loan shall—

5 “(A) not exceed the estimate by the Sec-
6 retary of the reasonable cost of the equipment
7 fully installed;

8 “(B) bear interest at such rate as may be
9 agreed upon by the mortgagor and the mort-
10 gagee;

11 “(C) have a maturity date satisfactory to
12 the Secretary;

13 “(D) be made by a financial institution or
14 other mortgagee approved by the Secretary as
15 eligible for insurance under section 2 or a mort-
16 gagee approved under section 203(b)(1);

17 “(E) comply with other such terms, condi-
18 tions, and restrictions as the Secretary may
19 prescribe; and

20 “(F) be made with respect to a child care
21 facility for which a certification of compliance
22 has been issued by the Secretary under section
23 258(c) during the 12-month period preceding
24 the date on which the commitment to insure is
25 issued under this subsection.

1 “(3) INSURANCE REQUIREMENTS.—

2 “(A) SECTION 2.—Subsections (e), (d),
3 and (h) of section 2 shall apply to any loan in-
4 sured under this subsection, except that all ref-
5 erences in such subsections to ‘this section’ or
6 ‘this title’ shall be construed, for purposes of
7 this subsection, to refer to this subsection.

8 “(B) SECTION 220.—Paragraphs (5), (6),
9 (7), (9), and (10) of section 220(h) shall apply
10 to any loan insured under this subsection, ex-
11 cept that all references in such paragraphs to
12 home improvement loans shall be construed, for
13 purposes of this subsection, to refer to loans
14 under this subsection.

15 “(e) SCHEDULES AND DEADLINES.—The Secretary
16 shall establish schedules and deadlines for the processing
17 and approval (or provision of notice of disapproval) of ap-
18 plications for mortgage insurance under this section.

19 “(f) LIMITATION ON INSURANCE AUTHORITY.—

20 “(1) TERMINATION.—No mortgage may be in-
21 sured under this section or section 223(h) after Sep-
22 tember 30, 2007, except pursuant to a commitment
23 to insure issued on or before such date.

24 “(2) AGGREGATE PRINCIPAL AMOUNT LIMITA-
25 TION.—

1 “(A) IN GENERAL.—The aggregate prin-
2 cipal amount of mortgages for which the Sec-
3 retary enters into commitments to insure under
4 this section or section 223(h) on or before the
5 date described in paragraph (1) may not exceed
6 \$2,000,000,000.

7 “(B) REPORT.—If, on the date described
8 in paragraph (1), the aggregate insurance au-
9 thority provided under this paragraph has not
10 been fully used, the Secretary of the Treasury
11 shall submit to Congress a report evaluating the
12 need for continued mortgage insurance under
13 this section.

14 “(g) NONDISCRIMINATION REQUIREMENT.—

15 “(1) IN GENERAL.—A child care facility receiv-
16 ing assistance under this title may not discriminate
17 on the basis of race, color, or national origin (to the
18 extent provided in title VI of the Civil Rights Act of
19 1964 (42 U.S.C. 2000d et seq.)), religion (subject to
20 subparagraph (B)), national origin, sex (to the ex-
21 tent provided in title IX of the Education Amend-
22 ments of 1972 (20 U.S.C. 1681 et seq.)), or dis-
23 ability (to the extent provided in section 504 of the
24 Rehabilitation Act of 1973 (29 U.S.C. 794)), under

1 any program or activity receiving Federal financial
2 assistance under this title.

3 “(2) FACILITIES OF RELIGIOUS ORGANIZA-
4 TIONS.—The prohibition with respect to religion
5 under paragraph (1) shall not apply to a child care
6 facility that is controlled by, or that is closely identi-
7 fied with, the tenets of a particular religious organi-
8 zation, if the application of this paragraph would not
9 be consistent with the religious tenets of such orga-
10 nization.

11 “(h) LIABILITY INSURANCE.—A child care provider
12 operating a child care facility assisted under this section
13 or section 223(h) shall obtain and maintain liability insur-
14 ance in such amounts and subject to such requirements
15 as the Secretary considers to be appropriate.

16 “(i) SMALL PURPOSE LOANS.—

17 “(1) IN GENERAL.—To the extent that amounts
18 are made available pursuant to subsection (l), the
19 Secretary shall make loans, directly or indirectly, to
20 providers of child care facilities for reconstruction or
21 renovation of such facilities, in accordance with this
22 subsection.

23 “(2) REQUIREMENTS.—A loan under this sub-
24 section—

1 “(A) may be made only for a child care fa-
2 cility that is financially and operationally viable,
3 as determined under standards established by
4 the Secretary;

5 “(B) may not have a term to maturity ex-
6 ceeding 7 years;

7 “(C) shall bear interest at a rate estab-
8 lished by the Secretary; and

9 “(D) shall be subject to such other terms
10 and conditions as the Secretary may establish
11 by regulation.

12 “(3) AGGREGATE LOAN AMOUNT.—The aggre-
13 gate amount of loans under this subsection to a sin-
14 gle provider may not exceed \$30,000.

15 “(j) NOTIFICATION.—The Secretary shall take such
16 actions as may be necessary to publicize the availability
17 of the programs for mortgage insurance under this section
18 and section 223(h), and the loan program under sub-
19 section (i) of this section, in a manner that ensures that
20 information concerning such programs will be available to
21 child care providers throughout the United States.

22 “(k) REGULATIONS.—The Secretary shall—

23 “(1) issue any regulations necessary to carry
24 out this section; and

1 “(2) in carrying out paragraph (1), consult with
2 the Secretary of Health and Human Services with
3 respect to any aspects of the regulations regarding
4 child care facilities.

5 “(1) AUTHORIZATION OF APPROPRIATIONS.—There is
6 authorized to be appropriated to carry out this section
7 \$30,000,000 for fiscal year 2006, to remain available until
8 expended, of which not more than 10 percent may be used
9 for loans under subsection (i).”.

10 **SEC. 4. INSURANCE FOR MORTGAGES FOR ACQUISITION OR**
11 **REFINANCING DEBT OF EXISTING CHILD**
12 **CARE FACILITIES.**

13 (a) IN GENERAL.—Section 223 of the National
14 Housing Act (12 U.S.C. 1715n) is amended by adding at
15 the end the following:

16 “(h) MORTGAGE INSURANCE FOR PURCHASE OR RE-
17 FINANCING OF EXISTING CHILD CARE FACILITIES.—

18 “(1) DEFINITIONS.—In this subsection, the
19 terms that are defined in section 257(a) have the
20 same meanings as in that section.

21 “(2) AUTHORITY.—Notwithstanding any other
22 provision of this Act, the Secretary may insure
23 under any section of this title a mortgage executed
24 in connection with—

1 “(A) the purchase or refinancing of an ex-
2 isting child care facility;

3 “(B) the purchase of a structure to serve
4 as a child care facility; or

5 “(C) the refinancing of existing debt of an
6 existing child care facility.

7 “(3) PURCHASE OF EXISTING FACILITIES AND
8 STRUCTURES.—In the case of the purchase under
9 this subsection of an existing child care facility or
10 purchase of an existing structure to serve as such a
11 facility, the Secretary shall prescribe any terms and
12 conditions that the Secretary considers necessary to
13 ensure that—

14 “(A) the facility or structure purchased
15 continues to be used as a child care facility; and

16 “(B) the facility receives a certification of
17 compliance under section 258(c).

18 “(4) REFINANCING OF EXISTING FACILITIES.—
19 In the case of refinancing of an existing child care
20 facility, the Secretary shall prescribe any terms and
21 conditions that the Secretary considers necessary to
22 ensure that—

23 “(A) the refinancing is used to lower the
24 monthly debt service costs (taking into account

1 any fees or charges connected with such refi-
2 nancing) of the existing facility;

3 “(B) the proceeds of any refinancing will
4 be employed only to retire the existing indebted-
5 ness and pay the necessary cost of refinancing
6 on the existing facility;

7 “(C) the existing facility is economically
8 viable; and

9 “(D) the facility receives a certification of
10 compliance under section 258(c).

11 “(5) LIMITATION ON INSURANCE AUTHORITY.—
12 The authority of the Secretary to enter into commit-
13 ments to insure mortgages under this subsection is
14 subject to section 257(f).”.

15 **SEC. 5. STUDY OF AVAILABILITY OF SECONDARY MARKETS**
16 **FOR MORTGAGES ON CHILD CARE FACILI-**
17 **TIES.**

18 (a) STUDY.—The Secretary of the Treasury shall
19 conduct a study of the secondary mortgage markets to de-
20 termine—

21 (1) whether such a market exists for purchase
22 of mortgages eligible for insurance under sections
23 223(h) and 257 of the National Housing Act (as
24 added by this Act);

1 (2) whether such a market would affect the
2 availability of credit available for development of
3 child care facilities or would lower development costs
4 of such facilities; and

5 (3) the extent to which such a market or other
6 activities to provide credit enhancement for loans for
7 child care facilities is needed to meet the demand for
8 such facilities.

9 (b) REPORT.—Not later than 2 years after the date
10 of enactment of this Act, the Secretary of the Treasury
11 shall submit to Congress a report regarding the results
12 of the study conducted under this section.

13 **SEC. 6. TECHNICAL AND FINANCIAL ASSISTANCE GRANTS.**

14 (a) DEFINITIONS.—In this section:

15 (1) CHILD CARE FACILITY.—The term “child
16 care facility” has the meaning given that term in
17 section 257(a) of the National Housing Act, as
18 added by section 3.

19 (2) ELIGIBLE INTERMEDIARY.—The term “eli-
20 gible intermediary” means a intermediary organiza-
21 tion that—

22 (A) is described in section 501(c)(3) of the
23 Internal Revenue Code of 1986;

24 (B) is exempt from taxation under section
25 501(a) of such Code; and

1 (C) has demonstrated experience in—

2 (i) financing the construction and ren-
3 ovation of physical facilities;

4 (ii) providing technical and financial
5 assistance to child care providers or other
6 similar entities;

7 (iii) working with businesses (whether
8 small or large); and

9 (iv) securing private sources for cap-
10 ital financing; and

11 (3) ELIGIBLE RECIPIENT.—The term “eligible
12 recipient” means any—

13 (A) existing or start-up center-based or
14 home-based child care provider; and

15 (B) organization in the process of estab-
16 lishing a center-based or home-based child care
17 program or otherwise seeking to provide child
18 care services.

19 (4) EQUIPMENT.—The term “equipment” has
20 the meaning given that term in section 257(a) of the
21 National Housing Act, as added by section 3.

22 (b) GRANT AUTHORITY.—The Secretary of Housing
23 and Urban Development, in consultation with the Sec-
24 retary of Health and Human Services, may award grants
25 on a competitive basis in accordance with this section to

1 eligible intermediaries for use in accordance with sub-
2 sections (e) and (f).

3 (c) APPLICATIONS.—To be eligible to receive a grant
4 under this section an eligible intermediary shall submit to
5 the Secretary an application, in such form and containing
6 such information as the Secretary may require.

7 (d) PRIORITY.—In awarding grants under this sec-
8 tion the Secretary shall give a priority to applicants under
9 subsection (c) that serve low-income or rural areas.

10 (e) USE OF FUNDS.—

11 (1) REVOLVING LOAN FUND.—Each eligible
12 intermediary that receives a grant under this section
13 shall deposit the grant amount into a child care re-
14 volving loan fund established by the eligible inter-
15 mediary.

16 (2) ELIGIBLE ASSISTANCE.—Subject to sub-
17 section (f), from amounts deposited into the revolv-
18 ing loan fund under paragraph (1), each eligible
19 intermediary shall provide to eligible recipients—

20 (A) financial assistance (in the form of
21 loans, grants, investments, guarantees, interest
22 subsidies, and other appropriate forms of assist-
23 ance) for the construction of new child care fa-
24 cilities, child care facility planning, and acquisi-

1 tion or improvement of child care facilities or
2 equipment; and

3 (B) technical assistance in obtaining public
4 or private financing for such construction, plan-
5 ning, acquisition, and improvement, including
6 developing and implementing financing re-
7 sources, options, and plans for such eligible re-
8 cipients.

9 (3) LOAN REPAYMENTS AND INVESTMENT PRO-
10 CEEDS.—Any amount received by an eligible inter-
11 mediary from an eligible recipient in the form of
12 loan principal repayment or investment proceeds
13 shall be deposited into the child care revolving fund
14 of the eligible intermediary for redistribution to
15 other eligible recipients in accordance with this sec-
16 tion.

17 (f) ALLOCATION OF FUNDS.—Of the amounts dis-
18 tributed from the revolving loan fund of an eligible inter-
19 mediary under subsection (e)(2) in each fiscal year—

20 (1) not less than 50 percent shall be used for
21 financial assistance pursuant to subparagraph (A) of
22 subsection (e)(2), except that the amount made
23 available to any eligible recipient under this para-
24 graph may not exceed 40 percent of the total costs
25 incurred by that eligible recipient in connection with

1 the construction, planning, acquisition, or improve-
2 ment assisted; and

3 (2) the amount remaining after distribution
4 under paragraph (1), shall be used to provide tech-
5 nical assistance pursuant to subparagraph (B) of
6 subsection (e)(2).

7 (g) DAVIS BACON ACT.—The Act of March 3, 1931
8 (popularly known as the Davis-Bacon Act) shall apply to
9 actions taken under this Act.

10 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
11 authorized to be appropriated to carry out this section
12 \$10,000,000 for each of fiscal years 2006 through 2010.

○