

117TH CONGRESS
1ST SESSION

S. 1136

To amend the Internal Revenue Code of 1986 to reform the low-income housing credit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 15, 2021

Ms. CANTWELL (for herself, Mr. YOUNG, Mr. WYDEN, and Mr. PORTMAN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to reform the low-income housing 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Affordable Housing Credit Improvement Act of 2021”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REFORM OF STATE ALLOCATION FORMULAS

Sec. 101. Increases in State allocations.

TITLE II—REFORMS RELATING TO TENANT ELIGIBILITY

- Sec. 201. Average income test applicability to exempt facility bonds.
- Sec. 202. Codification of rules relating to increased tenant income.
- Sec. 203. Modification of student occupancy rules.
- Sec. 204. Tenant voucher payments taken into account as rent for certain purposes.
- Sec. 205. Requirement that low-income housing credit-supported housing protect victims of domestic abuse.
- Sec. 206. Clarification of general public use requirement relating to veterans, etc.

TITLE III—RULES RELATING TO CREDIT ELIGIBILITY AND DETERMINATION

- Sec. 301. Reconstruction or replacement period after casualty loss.
- Sec. 302. Modification of previous ownership rules; limitation on acquisition basis.
- Sec. 303. Certain relocation costs taken into account as rehabilitation expenditures.
- Sec. 304. Repeal of qualified census tract population cap.
- Sec. 305. Determination of community revitalization plan to be made by housing credit agency.
- Sec. 306. Prohibition of local approval and contribution requirements.
- Sec. 307. Increase in credit for certain projects designated to serve extremely low-income households.
- Sec. 308. Increase in credit for bond-financed projects designated by State agency.
- Sec. 309. Elimination of basis reduction for low-income housing properties receiving certain energy benefits.
- Sec. 310. Restriction of planned foreclosures.
- Sec. 311. Increase of population cap for difficult development areas.
- Sec. 312. Increased cost oversight and accountability.
- Sec. 313. Tax-exempt bond financing requirement.

TITLE IV—REFORMS RELATING TO NATIVE AMERICAN ASSISTANCE

- Sec. 401. Selection criteria under qualified allocation plans.
- Sec. 402. Inclusion of Indian areas as difficult development areas for purposes of certain buildings.

TITLE V—REFORMS RELATING TO RURAL ASSISTANCE

- Sec. 501. Inclusion of rural areas as difficult development areas.
- Sec. 502. Uniform income eligibility for rural projects.

TITLE VI—EXEMPT FACILITY BONDS

- Sec. 601. Revision and clarification of the treatment of refunding issues.

TITLE VII—AFFORDABLE HOUSING TAX CREDIT

- Sec. 701. Affordable housing tax credit.

1 **TITLE I—REFORM OF STATE**
2 **ALLOCATION FORMULAS**

3 **SEC. 101. INCREASES IN STATE ALLOCATIONS.**

4 (a) IN GENERAL.—Clause (ii) of section 42(h)(3)(C)
5 of the Internal Revenue Code of 1986 is amended—

6 (1) by striking “\$1.75” in subclause (I) and in-
7 serting “\$4.47 (\$3.52 in the case of calendar year
8 2021)”, and

9 (2) by striking “\$2,000,000” in subclause (II)
10 and inserting “\$5,154,965 (\$4,057,031 in the case
11 of calendar year 2021)”.

12 (b) COST-OF-LIVING ADJUSTMENT.—Subparagraph
13 (H) of section 42(h)(3) of such Code is amended—

14 (1) by striking “2002” in clause (i) and insert-
15 ing “2022”,

16 (2) by striking “the \$2,000,000 and \$1.75
17 amounts in subparagraph (C)” in clause (i) and in-
18 serting “the dollar amounts applicable to such cal-
19 endar year under subclauses (I) and (II) of subpara-
20 graph (C)(ii)”,

21 (3) by striking “2001” in clause (i)(II) and in-
22 serting “2021”,

23 (4) by striking “\$2,000,000 amount” in clause
24 (ii)(I) and inserting “amount under subparagraph
25 (C)(ii)(II)”, and

1 (5) by striking “\$1.75 amount” in clause
 2 (ii)(II) and inserting “amount under subparagraph
 3 (C)(ii)(I)”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to calendar years beginning after
 6 December 31, 2020.

7 **TITLE II—REFORMS RELATING**
 8 **TO TENANT ELIGIBILITY**

9 **SEC. 201. AVERAGE INCOME TEST APPLICABILITY TO EX-**
 10 **EMPT FACILITY BONDS.**

11 (a) IN GENERAL.—Paragraph (1) of section 142(d)
 12 of the Internal Revenue Code of 1986 is amended—

13 (1) by striking “(A) or (B)” and inserting “(A),
 14 (B), or (C)”, and

15 (2) by inserting after subparagraph (B) the fol-
 16 lowing new subparagraph:

17 “(C) AVERAGE INCOME TEST.—A project
 18 meets the requirements of this subparagraph if
 19 it meets the minimum requirements of section
 20 42(g)(1)(C).”.

21 (b) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to elections made under section
 23 142(d)(1) of the Internal Revenue Code of 1986 after
 24 March 23, 2018.

1 **SEC. 202. CODIFICATION OF RULES RELATING TO IN-**
 2 **CREASED TENANT INCOME.**

3 (a) IN GENERAL.—Clause (i) of section 42(g)(2)(D)
 4 of the Internal Revenue Code of 1986 is amended by strik-
 5 ing “clauses (ii), (iii), and (iv)” and all that follows and
 6 inserting “clauses (ii), (iii), (iv), and (vi), notwithstanding
 7 an increase in the income of the occupants above the in-
 8 come limitation applicable under paragraph (1)—

9 “(I) a low-income unit shall con-
 10 tinue to be treated as a low-income
 11 unit if the income of such occupants
 12 initially was 60 percent or less of area
 13 median gross income and such unit
 14 continues to be rent-restricted, and

15 “(II) a unit to which, at the time
 16 of initial occupancy by such occu-
 17 pants, any Federal, State, or local
 18 government income restriction ap-
 19 plied, and which subsequently becomes
 20 part of a building with respect to
 21 which rehabilitation expenditures are
 22 taken into account under subsection
 23 (e), shall be treated as a low-income
 24 unit if the income of such occupants
 25 initially was 60 percent or less of area
 26 median gross income and does not ex-

1 ceed 120 percent of area median gross
2 income as of the date of acquisition of
3 the property by the taxpayer.”.

4 (b) EXCEPTION.—Subparagraph (D) of section
5 42(g)(2) of the Internal Revenue Code of 1986, as amend-
6 ed by this Act, is further amended by adding at the end
7 the following new clause:

8 “(vi) EXCEPTION TO RULE RELATING
9 TO INCREASED TENANT INCOME.—In the
10 case of an occupant of a low-income unit
11 who initially qualified to occupy such unit
12 by reason of paragraph (1)(C) with an in-
13 come in excess of 60 percent of area me-
14 dian gross income but not in excess of 80
15 percent of area median gross income,
16 clause (i) shall be applied for substituting
17 ‘80 percent’ for ‘60 percent’ each place it
18 appears.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2020.

22 **SEC. 203. MODIFICATION OF STUDENT OCCUPANCY RULES.**

23 (a) IN GENERAL.—Subparagraph (D) of section
24 42(i)(3) of the Internal Revenue Code of 1986 is amended
25 to read as follows:

1 “(D) RULES RELATING TO STUDENTS.—

2 “(i) IN GENERAL.—A unit occupied
3 solely by individuals who—

4 “(I) have not attained age 24,
5 and

6 “(II) are enrolled in a full-time
7 course of study at an institution of
8 higher education (as defined in section
9 3304(f)),

10 shall not be treated as a low-income unit.

11 “(ii) EXCEPTION FOR CERTAIN FED-
12 ERAL PROGRAMS.—In the case of a feder-
13 ally-assisted building (as defined in sub-
14 section (d)(6)(C)(i)), clause (i) shall not
15 apply to a unit all of the occupants of
16 which meet all applicable requirements
17 under the housing program described in
18 such subsection through which the building
19 is assisted, financed, or operated.

20 “(iii) OTHER EXCEPTIONS.—An indi-
21 vidual shall not be treated as described in
22 clause (i) if the individual meets the in-
23 come limitation applicable under subsection
24 (g)(1) to the project of which the building
25 is a part and—

1 “(I) is married,

2 “(II) is a person with disabilities
3 (as defined in section 3(b)(3)(E) of
4 the United States Housing Act of
5 1937),

6 “(III) is a veteran (as defined in
7 section 101(2) of title 38, United
8 States Code),

9 “(IV) has 1 or more qualifying
10 children (as defined in section
11 152(c)),

12 “(V) is or has been a victim or
13 threatened victim of domestic violence,
14 dating violence, sexual assault, or
15 stalking (as defined in section 40002
16 of the Violence Against Women Act of
17 1994),

18 “(VI) is or has been a victim of
19 any form of human trafficking, or

20 “(VII) is, or was prior to attain-
21 ing the age of majority—

22 “(aa) an emancipated minor
23 or in legal guardianship as deter-
24 mined by a court of competent

1 jurisdiction in the individual's
2 State of legal residence,

3 “(bb) under the care and
4 placement responsibility of the
5 State agency responsible for ad-
6 ministering a plan under part B
7 or part E of title IV of the Social
8 Security Act, or

9 “(cc) an unaccompanied
10 youth (within the meaning of sec-
11 tion 725(6) of the McKinney-
12 Vento Homeless Assistance Act
13 (42 U.S.C. 11434a(6))) or a
14 homeless child or youth (within
15 the meaning of section 725(2) of
16 such Act (42 U.S.C.
17 11434a(2))).

18 For purposes of subclause (VI), an in-
19 dividual is or has been a victim of
20 human trafficking if such individual
21 was subjected to an act or practice de-
22 scribed in paragraph (11) or (12) of
23 section 103 of the Trafficking Victims
24 Protection Act of 2000.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 2021.

4 **SEC. 204. TENANT VOUCHER PAYMENTS TAKEN INTO AC-**
 5 **COUNT AS RENT FOR CERTAIN PURPOSES.**

6 (a) IN GENERAL.—Subparagraph (B) of section
 7 42(g)(2) of the Internal Revenue Code of 1986 is amended
 8 by adding at the end the following new sentence: “In the
 9 case of a project with respect to which the taxpayer elects
 10 the requirements of subparagraph (C) of paragraph (1),
 11 or the portion of a project to which subsection (d)(5)(C)
 12 applies, clause (i) shall not apply with respect to any ten-
 13 ant-based assistance (as defined in section 8(f)(7) of the
 14 United States Housing Act of 1937 (42 U.S.C.
 15 1437f(f)(7))).”.

16 (b) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to rent paid in taxable years begin-
 18 ning after December 31, 2021.

19 **SEC. 205. REQUIREMENT THAT LOW-INCOME HOUSING**
 20 **CREDIT-SUPPORTED HOUSING PROTECT VIC-**
 21 **TIMS OF DOMESTIC ABUSE.**

22 (a) IN GENERAL.—Subparagraph (B) of section
 23 42(h)(6) of the Internal Revenue Code of 1986 is amended
 24 by striking “and” at the end of clause (v), by striking the

1 period at the end of clause (vi) and inserting “, and”, and
 2 by adding at the end the following new clause:

3 “(vii) which—

4 “(I) prohibits the refusal to lease
 5 to, or termination of a lease by, a per-
 6 son solely on the basis of criminal ac-
 7 tivity directly relating to domestic vio-
 8 lence, dating violence, sexual assault,
 9 or stalking that is engaged in by a
 10 member of the household of the ten-
 11 ant or any guest or other person
 12 under the control of the tenant, if the
 13 tenant or an affiliated individual of
 14 the tenant is the victim or threatened
 15 victim of such domestic violence, dat-
 16 ing violence, sexual assault, or stalk-
 17 ing, and

18 “(II) allows prospective, present,
 19 or former occupants of the building
 20 the right to enforce in any State court
 21 the prohibition of subclause (I).”.

22 (b) BIFURCATION.—

23 (1) IN GENERAL.—Subparagraph (B) of section
 24 42(h)(6) of the Internal Revenue Code of 1986, as

1 amended by subsection (a), is further amended by
2 adding at the end the following new flush sentence:

3 “For purposes of clause (vii)(I), rules similar to
4 the rules of section 41411(b)(3)(B) of the Vio-
5 lence Against Women Act of 1994 shall apply
6 with respect to the owner or manager of a
7 building.”.

8 (2) EFFECT OF BIFURCATION.—Paragraph (2)
9 of section 42(g) of such Code is amended by adding
10 at the end the following new subparagraph:

11 “(F) TREATMENT OF BIFURCATION IN
12 CASES OF DOMESTIC VIOLENCE.—In any case
13 in which—

14 “(i) an occupant is evicted or removed
15 from a low-income unit because such occu-
16 pant has engaged in criminal activity di-
17 rectly relating to domestic violence, dating
18 violence, sexual assault, or stalking against
19 an affiliated individual or other individual
20 on the basis of criminal activity directly re-
21 lating to domestic violence, dating violence,
22 sexual assault, or stalking, and

23 “(ii) the lease on such unit is bifur-
24 cated as provided in the last sentence of
25 subsection (h)(6)(B),

1 then the remaining occupants of such low-in-
2 come unit shall not be treated as a new tenant
3 for purposes of this section.”.

4 (c) CLARIFICATION OF GENERAL PUBLIC USE RE-
5 QUIREMENT.—Paragraph (9) of section 42(g) of the Inter-
6 nal Revenue Code of 1986 is amended by striking “or”
7 at the end of subparagraph (B), by striking the period
8 at the end of subparagraph (C) and inserting “, or”, and
9 by adding at the end the following new subparagraph:

10 “(D) who are victims or threatened victims
11 of criminal activity directly relating to domestic
12 violence, dating violence, sexual assault, or
13 stalking.”.

14 (d) EFFECTIVE DATES.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the amendments made by this section
17 shall apply to agreements executed or modified on or
18 after the date that is 30 days after the date of the
19 enactment of this Act.

20 (2) PUBLIC USE REQUIREMENT.—The amend-
21 ments made by subsection (c) shall apply to build-
22 ings placed in service before, on, or after the date
23 of the enactment of this Act.

1 **SEC. 206. CLARIFICATION OF GENERAL PUBLIC USE RE-**
2 **QUIREMENT RELATING TO VETERANS, ETC.**

3 (a) **IN GENERAL.**—Paragraph (9) of section 42(g) of
4 the Internal Revenue Code of 1986, as amended by section
5 205, is further amended by adding at the end the following
6 flush language:

7 “Any veteran of the Armed Forces shall be treated
8 as a member of a specified group under a Federal
9 program for purposes of subparagraph (B).”.

10 (b) **QUALIFIED RESIDENTIAL RENTAL PROJECTS.**—
11 Paragraph (2) of section 142(d) of the Internal Revenue
12 Code of 1986 is amended by adding at the end the fol-
13 lowing new subparagraph:

14 “(F) **CLARIFICATION OF GENERAL PUBLIC**
15 **USE REQUIREMENT.**—A unit shall not fail to
16 meet the general public use requirement solely
17 because of occupancy restrictions or pref-
18 erences, if such restrictions or preferences meet
19 the general public use requirement of section
20 42.”.

21 (c) **EFFECTIVE DATES.**—

22 (1) **IN GENERAL.**—The amendment made by
23 subsection (a) shall apply to buildings placed in serv-
24 ice before, on, or after the date of the enactment of
25 this Act.

1 (2) QUALIFIED RESIDENTIAL RENTAL
2 PROJECTS.—The amendment made by subsection (b)
3 shall apply to bonds issued before, on, or after the
4 date of the enactment of this Act.

5 **TITLE III—RULES RELATING TO**
6 **CREDIT ELIGIBILITY AND DE-**
7 **TERMINATION**

8 **SEC. 301. RECONSTRUCTION OR REPLACEMENT PERIOD**
9 **AFTER CASUALTY LOSS.**

10 (a) NO RECAPTURE FOLLOWING CASUALTY LOSS.—
11 Subparagraph (E) of section 42(j)(4) of the Internal Rev-
12 enue Code of 1986 is amended to read as follows:

13 “(E) NO RECAPTURE BY REASON OF CAS-
14 UALTY LOSS.—

15 “(i) IN GENERAL.—The increase in
16 tax under this subsection shall not apply to
17 a reduction in qualified basis by reason of
18 a casualty loss to the extent such loss is
19 restored by reconstruction or replacement
20 within a reasonable period established by
21 the applicable housing credit agency, not to
22 exceed 25 months from the date on which
23 the qualified casualty loss arises.

24 “(ii) QUALIFIED CASUALTY LOSSES.—
25 In the case of a qualified casualty loss, the

1 period described in clause (i) may be ex-
2 tended, but not in excess of 12 months, if
3 the applicable housing credit agency deter-
4 mines the qualified casualty arose by rea-
5 son of an event which was not discrete to
6 the building and which made a reconstruc-
7 tion or replacement within 25 months im-
8 practical. In the event the applicable hous-
9 ing credit agency determines a period in
10 excess of 25 months is necessary for such
11 reconstruction or replacement, the compli-
12 ance period shall be increased by any such
13 additional time.

14 “(iii) APPLICATION.—The determina-
15 tion under paragraph (1) shall not be
16 made with respect to a property the basis
17 of which is affected by a qualified casualty
18 loss until the period described in clause (i)
19 (as modified by clause (ii), if applicable)
20 with respect to such property has expired.

21 “(iv) QUALIFIED CASUALTY LOSS.—
22 For purposes of this subparagraph, the
23 term ‘qualified casualty loss’ means a cas-
24 ualty loss that is the result of a Federally

1 declared disaster (as defined in section
2 165(i)(5)).”.

3 (b) QUALIFIED BASIS FOLLOWING CASUALTY
4 LOSS.—Paragraph (1) of section 42(c) of the Internal
5 Revenue Code of 1986 is amended by adding at the end
6 the following new subparagraph:

7 “(F) QUALIFIED BASIS FOLLOWING CAS-
8 UALTY LOSS.—If a casualty causes the qualified
9 basis of a building in any year to be less than
10 the qualified basis in the immediately preceding
11 year then, in the year of such casualty and each
12 succeeding year until such building or the units
13 affected by the casualty are reconstructed or re-
14 placed (but only through the last year of the pe-
15 riod permitted for reconstruction or replace-
16 ment under subsection (j)(4)(E))—

17 “(i) the qualified basis of such build-
18 ing shall be equal to the qualified basis of
19 such building as of the last day of the year
20 preceding the year in which such casualty
21 occurred,

22 “(ii) if such building is not recon-
23 structed or replaced by the expiration of
24 the applicable period for such reconstruc-
25 tion or replacement under subsection

1 (j)(4), then the recapture amount provided
2 for in subsection (j)(1) shall include the
3 amount of any credit claimed under this
4 section by reason of the application of
5 clause (i), and

6 “(iii) a building which was a qualified
7 low-income building as of the last day of
8 the year preceding the year in which such
9 casualty occurred shall not cease to be a
10 qualified low-income building solely be-
11 cause of such casualty.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to casualties occurring after the
14 date which is 25 months before the date of the enactment
15 of this Act.

16 **SEC. 302. MODIFICATION OF PREVIOUS OWNERSHIP RULES;**
17 **LIMITATION ON ACQUISITION BASIS.**

18 (a) IN GENERAL.—Clause (ii) of section 42(d)(2)(B)
19 of the Internal Revenue Code of 1986 is amended by in-
20 serting “, or the taxpayer elects the application of sub-
21 paragraph (C)(ii)” after “service”.

22 (b) LIMITATION ON ACQUISITION BASIS.—Subpara-
23 graph (C) of section 42(d)(2) of the Internal Revenue
24 Code of 1986 is amended—

1 (1) by striking “For purposes of subparagraph
2 (A), the adjusted basis” and inserting “For pur-
3 poses of subparagraph (A)—

4 “(i) IN GENERAL.—The adjusted
5 basis”, and

6 (2) by adding at the end the following new
7 clauses:

8 “(ii) BUILDINGS IN SERVICE WITHIN
9 PREVIOUS 10 YEARS.—If the period be-
10 tween the date of acquisition of the build-
11 ing by the taxpayer and the date the build-
12 ing was last placed in service is less than
13 10 years, the taxpayer’s basis attributable
14 to the acquisition of the building which is
15 taken into account in determining the ad-
16 justed basis shall not exceed the sum of—

17 “(I) the lowest amount paid for
18 acquisition of the building by any per-
19 son during the 10 years preceding the
20 date of the acquisition of the building
21 by the taxpayer, adjusted as provided
22 in clause (iii), and

23 “(II) the value of any capital im-
24 provements made by the person who
25 sells the building to the taxpayer

1 which are reflected in such seller's
2 basis.

3 “(iii) ADJUSTMENT.—With respect to
4 a basis determination made in any taxable
5 year, the amount described in clause (ii)(I)
6 shall be increased by an amount equal to—

7 “(I) such amount, multiplied by
8 “(II) a cost-of-living adjustment,
9 determined in the same manner as
10 under section 1(f)(3) for the calendar
11 year in which the taxable year begins
12 by taking into account the acquisition
13 year in lieu of calendar year 1992.

14 For purposes of the preceding sentence,
15 the acquisition year is the calendar year in
16 which the lowest amount referenced in
17 clause (ii)(I) was paid for the acquisition
18 of the building.”.

19 (c) CONFORMING AMENDMENTS.—Clause (i) of sec-
20 tion 42(d)(2)(D) of the Internal Revenue Code of 1986
21 is amended—

22 (1) by striking “FOR SUBPARAGRAPH (B)” in
23 the heading, and

1 (2) by striking “subparagraph (B)(ii)” in the
 2 matter preceding subclause (I) and inserting “sub-
 3 paragraph (B)(ii) or (C)(ii)”.

4 (d) MODIFICATION OF PLACED IN SERVICE RULE.—
 5 Clause (iii) of section 42(d)(2)(B) of the Internal Revenue
 6 Code of 1986 is amended to read as follows:

7 “(iii) the building was not owned by
 8 the taxpayer or by any person related (as
 9 of the date of acquisition by the taxpayer)
 10 to the taxpayer at any time during the 5-
 11 year period ending on the date of acqui-
 12 sition by the taxpayer, and”.

13 (e) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to buildings placed in service after
 15 December 31, 2020.

16 **SEC. 303. CERTAIN RELOCATION COSTS TAKEN INTO AC-**
 17 **COUNT AS REHABILITATION EXPENDITURES.**

18 (a) IN GENERAL.—Paragraph (2) of section 42(e) of
 19 the Internal Revenue Code of 1986 is amended by adding
 20 at the end the following new subparagraph:

21 “(C) CERTAIN RELOCATION COSTS.—In
 22 the case of a rehabilitation of a building to
 23 which section 280B does not apply, costs relat-
 24 ing to the relocation of occupants, including—

25 “(i) amounts paid to occupants,

1 “(ii) amounts paid to third parties for
 2 services relating to such relocation, and
 3 “(iii) amounts paid for temporary
 4 housing for occupants,
 5 shall be treated as chargeable to capital account
 6 and taken into account as rehabilitation ex-
 7 penditures.”.

8 (b) EFFECTIVE DATE.—The amendment made by
 9 this section shall apply to expenditures paid or incurred
 10 after December 31, 2020.

11 (c) NO INFERENCE.—Nothing in the amendment
 12 made by this section shall be construed to create any infer-
 13 ence with respect to the treatment of relocation costs paid
 14 or incurred before December 31, 2020.

15 **SEC. 304. REPEAL OF QUALIFIED CENSUS TRACT POPU-**
 16 **LATION CAP.**

17 (a) IN GENERAL.—Clause (ii) of section 42(d)(5)(B)
 18 of the Internal Revenue Code of 1986 is amended—

19 (1) by striking subclauses (II) and (III), and

20 (2) by striking “QUALIFIED CENSUS TRACT.—

21 “(I) IN GENERAL.—The term”,

22 and inserting “QUALIFIED CENSUS TRACT.—The
 23 term”.

24 (b) EFFECTIVE DATE.—The amendments made by
 25 this section shall apply to designations of qualified census

1 tracts under section 42(d)(5)(B)(ii) of the Internal Rev-
2 enue Code of 1986 after December 31, 2021.

3 **SEC. 305. DETERMINATION OF COMMUNITY REVITALIZA-**
4 **TION PLAN TO BE MADE BY HOUSING CREDIT**
5 **AGENCY.**

6 (a) IN GENERAL.—Subclause (III) of section
7 42(m)(1)(B)(ii) of the Internal Revenue Code of 1986 is
8 amended by inserting “, as determined by the housing
9 credit agency according to criteria established by such
10 agency,” after “(d)(5)(B)(ii) and”.

11 (b) CRITERIA.—Paragraph (1) of section 42(m) of
12 the Internal Revenue Code of 1986 is amended by adding
13 at the end the following new subparagraph:

14 “(E) CRITERIA FOR DETERMINATION RE-
15 LATING TO CONCERTED COMMUNITY REVITAL-
16 IZATION PLAN.—For purposes of subparagraph
17 (B)(ii)(III), the criteria which shall be estab-
18 lished by a housing credit agency for deter-
19 mining whether the development of a project
20 contributes to a concerted community develop-
21 ment plan shall take into account any factors
22 the agency deems appropriate, including the ex-
23 tent to which the proposed plan—

24 “(i) is geographically specific,

1 “(ii) outlines a clear plan for imple-
2 mentation and goals for outcomes,

3 “(iii) includes a strategy for applying
4 for or obtaining commitments of public or
5 private investment (or both) in nonhousing
6 infrastructure, amenities, or services, and

7 “(iv) demonstrates the need for com-
8 munity revitalization.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to allocations of housing credit dol-
11 lar amounts made under qualified allocation plans (as de-
12 fined in section 42(m)(1)(B) of the Internal Revenue Code
13 of 1986) adopted after December 31, 2021.

14 **SEC. 306. PROHIBITION OF LOCAL APPROVAL AND CON-**
15 **TRIBUTION REQUIREMENTS.**

16 (a) IN GENERAL.—Paragraph (1) of section 42(m)
17 of the Internal Revenue Code of 1986, as amended by sec-
18 tion 305, is further amended—

19 (1) by striking clause (ii) of subparagraph (A)
20 and by redesignating clauses (iii) and (iv) thereof as
21 clauses (ii) and (iii), and

22 (2) by adding at the end the following new sub-
23 paragraph:

24 “(F) LOCAL APPROVAL OR CONTRIBUTION
25 NOT TAKEN INTO ACCOUNT.—The selection cri-

1 teria under a qualified allocation plan shall not
2 include consideration of—

3 “(i) any support or opposition with re-
4 spect to the project from local or elected
5 officials, or

6 “(ii) any local government contribu-
7 tion to the project, except to the extent
8 such contribution is taken into account as
9 part of a broader consideration of the
10 project’s ability to leverage outside funding
11 sources, and is not prioritized over any
12 other source of outside funding.”.

13 (b) **EFFECTIVE DATE.**—The amendments made by
14 this section shall apply to allocations of housing credit dol-
15 lar amounts made under qualified allocation plans (as de-
16 fined in section 42(m)(1)(B) of the Internal Revenue Code
17 of 1986) adopted after December 31, 2021.

18 **SEC. 307. INCREASE IN CREDIT FOR CERTAIN PROJECTS**
19 **DESIGNATED TO SERVE EXTREMELY LOW-IN-**
20 **COME HOUSEHOLDS.**

21 (a) **IN GENERAL.**—Paragraph (5) of section 42(d) of
22 the Internal Revenue Code of 1986 is amended by adding
23 at the end the following new subparagraph:

24 “(C) **INCREASE IN CREDIT FOR PROJECTS**
25 **DESIGNATED TO SERVE EXTREMELY LOW-IN-**

1 COME HOUSEHOLDS.—In the case of any build-
2 ing—

3 “(i) 20 percent or more of the resi-
4 dential units in which are designated by
5 the taxpayer for occupancy by households
6 the aggregate household income of which
7 does not exceed the greater of—

8 “(I) 30 percent of area median
9 gross income, or

10 “(II) 100 percent of an amount
11 equal to the Federal poverty line
12 (within the meaning of section
13 36B(d)(3)), and

14 “(ii) which is designated by the hous-
15 ing credit agency as requiring the increase
16 in credit under this subparagraph in order
17 for such building to be financially feasible
18 as part of a qualified low-income housing
19 project,

20 subparagraph (B) shall not apply to the portion
21 of such building which is comprised of such
22 units, and the eligible basis of such portion of
23 the building shall be 150 percent of such basis
24 determined without regard to this subpara-
25 graph.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to buildings which receive alloca-
 3 tions of housing credit dollar amount or, in the case of
 4 projects financed by tax-exempt obligations as described
 5 in section 42(h)(4) of the Internal Revenue Code of 1986,
 6 which are first taken into account under section 146 of
 7 such Code, after the date of the enactment of this Act.

8 **SEC. 308. INCREASE IN CREDIT FOR BOND-FINANCED**
 9 **PROJECTS DESIGNATED BY STATE AGENCY.**

10 (a) IN GENERAL.—Clause (v) of section 42(d)(5)(B)
 11 of the Internal Revenue Code of 1986 is amended by strik-
 12 ing the second sentence.

13 (b) TECHNICAL AMENDMENT.—Clause (v) of section
 14 42(d)(5)(B) of the Internal Revenue Code of 1986, as
 15 amended by subsection (a), is further amended—

16 (1) by striking “STATE” in the heading, and

17 (2) by striking “State housing credit agency”
 18 and inserting “housing credit agency”.

19 (c) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to buildings which receive a deter-
 21 mination of housing credit dollar amount after the date
 22 of the enactment of this Act.

1 **SEC. 309. ELIMINATION OF BASIS REDUCTION FOR LOW-IN-**
2 **COME HOUSING PROPERTIES RECEIVING**
3 **CERTAIN ENERGY BENEFITS.**

4 (a) **NEW ENERGY EFFICIENT HOME CREDIT.**—Sub-
5 section (e) of section 45L of the Internal Revenue Code
6 of 1986 is amended—

7 (1) by striking “**ADJUSTMENT.**—For purposes”
8 and inserting “**ADJUSTMENT.**—

9 “(1) **IN GENERAL.**—For purposes”, and

10 (2) by adding at the end the following new
11 paragraph:

12 “(2) **EXCEPTION FOR AFFORDABLE HOUSING**
13 **PROPERTIES.**—Paragraph (1) shall not apply for
14 purposes of determining eligible basis under section
15 42.”.

16 (b) **ENERGY EFFICIENT COMMERCIAL BUILDINGS**
17 **DEDUCTION.**—Subsection (e) of section 179D of the In-
18 ternal Revenue Code of 1986 is amended—

19 (1) by striking “**REDUCTION.**—For purposes”
20 and inserting “**REDUCTION.**—

21 “(1) **IN GENERAL.**—For purposes”, and

22 (2) by adding at the end the following new
23 paragraph:

24 “(2) **EXCEPTION FOR AFFORDABLE HOUSING**
25 **PROPERTIES.**—Paragraph (1) shall not apply for

1 purposes of determining eligible basis under section
2 42.”.

3 (c) ENERGY CREDIT.—Paragraph (3) of section
4 50(c) of the Internal Revenue Code of 1986 is amended—

5 (1) by striking “and” at the end of subpara-
6 graph (A),

7 (2) by striking the period at the end of sub-
8 paragraph (B) and inserting “, and”, and

9 (3) by adding at the end the following new sub-
10 paragraph:

11 “(C) paragraph (1) shall not apply for pur-
12 poses of determining eligible basis under section
13 42.”.

14 (d) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to buildings which receive alloca-
16 tions of housing credit dollar amount or, in the case of
17 projects financed by tax-exempt obligations as described
18 in section 42(h)(4) of the Internal Revenue Code of 1986,
19 which are first taken into account under section 146 of
20 such Code, after the date of the enactment of this Act.

21 **SEC. 310. RESTRICTION OF PLANNED FORECLOSURES.**

22 (a) IN GENERAL.—Subclause (I) of section
23 42(h)(6)(E)(i) of the Internal Revenue Code of 1986 is
24 amended to read as follows:

1 “(I) on the 61st day after the
2 taxpayer (or a successor in interest)
3 provides notice to the Secretary and
4 the housing credit agency that the
5 building has been acquired by fore-
6 closure (or instrument in lieu of fore-
7 closure) and that the taxpayer intends
8 the termination of such period, unless,
9 before such date, the Secretary or the
10 housing credit agency determines that
11 such acquisition is part of an arrange-
12 ment with the taxpayer a purpose of
13 which is to terminate such period,
14 or”.

15 (b) CONFORMING AMENDMENT.—The second sen-
16 tence of clause (i) of section 42(h)(6)(E) of the Internal
17 Revenue Code of 1986 is amended by striking “Subclause
18 (II)” and inserting “Subclauses (I) and (II)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to acquisitions by foreclosure (or
21 instrument in lieu of foreclosure) after December 31,
22 2020.

1 **SEC. 311. INCREASE OF POPULATION CAP FOR DIFFICULT**
2 **DEVELOPMENT AREAS.**

3 (a) IN GENERAL.—Subclause (II) of section
4 42(d)(5)(B)(iii) of the Internal Revenue Code of 1986 is
5 amended by striking “20 percent” and inserting “30 per-
6 cent”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to designations made under section
9 42(d)(5)(B)(iii) of the Internal Revenue Code of 1986
10 after December 31, 2021.

11 **SEC. 312. INCREASED COST OVERSIGHT AND ACCOUNT-**
12 **ABILITY.**

13 (a) IN GENERAL.—Subparagraph (C) of section
14 42(m)(1) of the Internal Revenue Code of 1986 is amend-
15 ed by striking “and” at the end of clause (ix), by striking
16 the period at the end of clause (x) and inserting “, and”,
17 and by adding at the end the following new clause:

18 “(xi) the reasonableness of the devel-
19 opment costs of the project.”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to allocations of credits under sec-
22 tion 42 of the Internal Revenue Code of 1986 made after
23 December 31, 2021.

24 **SEC. 313. TAX-EXEMPT BOND FINANCING REQUIREMENT.**

25 (a) IN GENERAL.—Subparagraph (B) of section
26 42(h)(4) of the Internal Revenue Code of 1986 is amended

1 by adding at the end the following new sentence: “In the
 2 case of buildings financed by an obligation first taken into
 3 account under section 146 in calendar years beginning
 4 after the date of the enactment of the Affordable Housing
 5 Credit Improvement Act of 2021, the preceding sentence
 6 shall be applied by substituting ‘25 percent’ for ‘50 per-
 7 cent’.”.

8 (b) EFFECTIVE DATE.—The amendment made by
 9 this section shall apply to buildings placed in service in
 10 taxable years beginning after December 31, 2020.

11 **TITLE IV—REFORMS RELATING**
 12 **TO NATIVE AMERICAN AS-**
 13 **SISTANCE**

14 **SEC. 401. SELECTION CRITERIA UNDER QUALIFIED ALLO-**
 15 **CATION PLANS.**

16 (a) IN GENERAL.—Subparagraph (C) of section
 17 42(m)(1) of the Internal Revenue Code of 1986, as
 18 amended by section 312, is further amended by striking
 19 “and” at the end of clause (x), by striking the period at
 20 the end of clause (xi) and inserting “, and”, and by adding
 21 at the end the following new clause:

22 “(xii) the affordable housing needs of
 23 individuals in the State who are—

24 “(I) enrolled members of a tribe
 25 with respect to an Indian tribal gov-

1 ernment (including any agencies or in-
2 strumentalities of an Indian tribal
3 government and any Alaska Native re-
4 gional or village corporation, as de-
5 fined in, or established pursuant to,
6 the Alaska Native Claims Settlement
7 Act (43 U.S.C. 1601 et seq.), or
8 “(II) described in section 801(9)
9 of the Native American Housing As-
10 sistance and Self-Determination Act
11 of 1996 (25 U.S.C. 4221(9)).”.

12 (b) **EFFECTIVE DATE.**—The amendments made by
13 this section shall apply to allocations of credits under sec-
14 tion 42 of the Internal Revenue Code of 1986 made after
15 December 31, 2021.

16 **SEC. 402. INCLUSION OF INDIAN AREAS AS DIFFICULT DE-**
17 **VELOPMENT AREAS FOR PURPOSES OF CER-**
18 **TAIN BUILDINGS.**

19 (a) **IN GENERAL.**—Subclause (I) of section
20 42(d)(5)(B)(iii) of the Internal Revenue Code of 1986 is
21 amended by inserting before the period the following: “,
22 and any Indian area”.

23 (b) **INDIAN AREA.**—Clause (iii) of section
24 42(d)(5)(B) of the Internal Revenue Code of 1986 is
25 amended by redesignating subclause (II) as subclause

1 (III) and by inserting after subclause (I) the following new
2 subclause:

3 “(II) INDIAN AREA.—For pur-
4 poses of subclause (I), the term ‘In-
5 dian area’ means any Indian area (as
6 defined in section 4(11) of the Native
7 American Housing Assistance and
8 Self Determination Act of 1996 (25
9 U.S.C. 4103(11))) and any housing
10 area (as defined in section 801(5) of
11 such Act (25 U.S.C. 4221(5))).”.

12 (c) ELIGIBLE BUILDINGS.—Clause (iii) of section
13 42(d)(5)(B) of the Internal Revenue Code of 1986, as
14 amended by subsection (b), is further amended by adding
15 at the end the following new subclause:

16 “(IV) SPECIAL RULE FOR BUILD-
17 INGS IN INDIAN AREAS.—In the case
18 of an area which is a difficult develop-
19 ment area solely because it is an In-
20 dian area, a building shall not be
21 treated as located in such area unless
22 such building is assisted or financed
23 under the Native American Housing
24 Assistance and Self Determination
25 Act of 1996 (25 U.S.C. 4101 et seq.)

1 or the project sponsor is an Indian
2 tribe (as defined in section
3 45A(c)(6)), a tribally designated hous-
4 ing entity (as defined in section 4(22)
5 of such Act (25 U.S.C. 4103(22))), or
6 wholly owned or controlled by such an
7 Indian tribe or tribally designated
8 housing entity.”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to buildings placed in service after
11 December 31, 2021.

12 **TITLE V—REFORMS RELATING**
13 **TO RURAL ASSISTANCE**

14 **SEC. 501. INCLUSION OF RURAL AREAS AS DIFFICULT DE-**
15 **VELOPMENT AREAS.**

16 (a) IN GENERAL.—Subclause (I) of section
17 42(d)(5)(B)(iii) of the Internal Revenue Code of 1986, as
18 amended by section 402, is further amended by inserting
19 “, any rural area” after “median gross income”.

20 (b) RURAL AREA.—Clause (iii) of section
21 42(d)(5)(B) of the Internal Revenue Code of 1986, as
22 amended by section 402, is further amended by redesignig-
23 nating subclause (III) as subclause (IV) and by inserting
24 after subclause (II) the following new subclause:

1 “(III) RURAL AREA.—For pur-
2 poses of subclause (I), the term ‘rural
3 area’ means any non-metropolitan
4 area, or any rural area as defined by
5 section 520 of the Housing Act of
6 1949, which is identified by the quali-
7 fied allocation plan under subsection
8 (m)(1)(B).”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to buildings placed in service after
11 December 31, 2021.

12 **SEC. 502. UNIFORM INCOME ELIGIBILITY FOR RURAL**
13 **PROJECTS.**

14 (a) IN GENERAL.—Paragraph (8) of section 42(i) of
15 the Internal Revenue Code of 1986 is amended by striking
16 the second sentence.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall apply to taxable years beginning after
19 December 31, 2020.

1 **TITLE VI—EXEMPT FACILITY**
2 **BONDS**

3 **SEC. 601. REVISION AND CLARIFICATION OF THE TREAT-**
4 **MENT OF REFUNDING ISSUES.**

5 (a) IN GENERAL.—Subparagraph (A) of section
6 146(i)(6) of the Internal Revenue Code of 1986 is amend-
7 ed to read as follows:

8 “(A) IN GENERAL.—During the 12-month
9 period beginning on the date of a repayment of
10 a loan financed by an issue 95 percent or more
11 of the net proceeds of which are used to provide
12 projects described in section 142(d), if such re-
13 payment is used to provide a new loan for any
14 project described in section 142(a)(7) or for
15 any purpose described in subsection (a)(2)(A)
16 or (b) of section 143, any bond which is issued
17 to refinance such issue shall be treated as a re-
18 funding issue. Any issue treated as a refunding
19 issue by reason of the preceding sentence shall
20 be so treated only to the extent the principal
21 amount of such refunding issue does not exceed
22 the principal amount of the bonds refunded.”.

23 (b) REMOVAL OF ONE-REFUNDING LIMIT.—Sub-
24 paragraph (B) of section 146(i)(6) of the Internal Rev-
25 enue Code of 1986 is amended—

1 (1) by striking “4 years” in clause (i) and in-
2 serting “10 years”,

3 (2) by striking “was issued” in clause (ii) and
4 inserting “is issued”,

5 (3) by redesignating clauses (i) (as so amend-
6 ed), (ii) (as so amended), and (iii) as subclauses (I),
7 (II), and (III), respectively, and by moving such sub-
8 clauses 2 ems to the right,

9 (4) by striking “LIMITATIONS.—Subparagraph
10 (A) shall apply to only one refunding of the original
11 issue and” and inserting “LIMITATIONS.—

12 “(i) IN GENERAL.—Subparagraph (A)
13 shall apply to a bond”, and

14 (5) by adding at the end the following new
15 clause:

16 “(ii) SOURCE OF LOAN REPAY-
17 MENT.—Subparagraph (A) shall not apply
18 to any repayment of a loan which is—

19 “(I) made by a repayment of an-
20 other loan, or

21 “(II) financed by an issue treated
22 as a refunding issue under subpara-
23 graph (A).”.

24 (c) CONFORMING AMENDMENT.—The heading of
25 paragraph (6) of section 146(i) of the Internal Revenue

1 Code of 1986 is amended by striking “RESIDENTIAL
 2 RENTAL PROJECT BONDS AS REFUNDING BONDS IRRE-
 3 SPECTIVE OF OBLIGOR” and inserting “BONDS AS RE-
 4 FUNDING BONDS”.

5 (d) EFFECTIVE DATES.—

6 (1) IN GENERAL.—The amendments made by
 7 subsections (a) and (c) shall apply to obligations
 8 issued on or after the date of the enactment of this
 9 Act.

10 (2) REMOVAL OF ONE-REFUNDING LIMIT.—The
 11 amendments made by subsection (b) shall apply to
 12 repayments of loans received after July 30, 2008.

13 **TITLE VII—AFFORDABLE** 14 **HOUSING TAX CREDIT**

15 **SEC. 701. AFFORDABLE HOUSING TAX CREDIT.**

16 (a) IN GENERAL.—The heading of section 42 of the
 17 Internal Revenue Code of 1986 is amended by striking
 18 “**LOW-INCOME**” and inserting “**AFFORDABLE**”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Subsection (a) of section 42 of the Internal
 21 Revenue Code of 1986 is amended by striking “low-
 22 income” and inserting “affordable”.

23 (2) Paragraph (5) of section 38(b) of such Code
 24 is amended by striking “low-income” and inserting
 25 “affordable”.

1 (3) The heading of subparagraph (D) of section
2 469(i)(3) of such Code is amended by striking
3 “LOW-INCOME” and inserting “AFFORDABLE”.

4 (4) The heading of subparagraph (B) of section
5 469(i)(6) of such Code is amended by striking
6 “LOW-INCOME” and inserting “AFFORDABLE”.

7 (5) Paragraph (7) of section 772(a) of such
8 Code is amended by striking “low-income” and in-
9 serting “affordable”.

10 (6) Paragraph (5) of section 772(d) of such
11 Code is amended by striking “low-income” and in-
12 serting “affordable”.

13 (c) CLERICAL AMENDMENT.—The item relating to
14 section 42 in the table of sections for subpart D of part
15 IV of subchapter A of chapter 1 of the Internal Revenue
16 Code of 1986 is amended to read as follows:

“Sec. 42. Affordable housing credit.”.

○