

113TH CONGRESS  
1ST SESSION

# S. 1352

To reauthorize the Native American Housing Assistance and Self-Determination Act of 1996, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 24, 2013

Ms. CANTWELL (for herself, Mr. BARRASSO, Mr. JOHNSON of South Dakota, Mr. TESTER, Mr. UDALL of New Mexico, Mr. FRANKEN, Mr. BEGICH, Ms. HEITKAMP, Ms. HIRONO, and Mr. SCHATZ) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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## A BILL

To reauthorize the Native American Housing Assistance and Self-Determination Act of 1996, 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; REF-**  
4 **ERENCES.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “Native American Housing Assistance and Self-Deter-  
7 mination Reauthorization Act of 2013”.

8 (b) TABLE OF CONTENTS.—The table of contents for  
9 this Act is as follows:

Sec. 1. Short title; table of contents; references.

TITLE I—BLOCK GRANTS AND GRANT REQUIREMENTS

Sec. 101. Treatment of program income and labor standards.

Sec. 102. Environmental review.

Sec. 103. Authorization of appropriations.

TITLE II—AFFORDABLE HOUSING ACTIVITIES

Sec. 201. Low-income requirement and income targeting.

Sec. 202. Lease requirements and tenant selection.

Sec. 203. Self-determined housing activities for tribal communities.

Sec. 204. Total development cost maximum project cost.

TITLE III—COMPLIANCE, AUDITS, AND REPORTS

Sec. 301. Reports to Congress.

TITLE IV—OTHER HOUSING ASSISTANCE FOR NATIVE AMERICANS

Sec. 401. Demonstration of rental assistance for homeless or at-risk Indian veterans.

Sec. 402. 50-year leasehold interest in trust or restricted lands for housing purposes.

Sec. 403. Training and technical assistance.

Sec. 404. Preferences for projects in Indian areas.

TITLE V—MISCELLANEOUS

Sec. 501. Community-based organizations and tribally designated housing entities.

Sec. 502. Elimination of limitation on use for Cherokee Nation.

Sec. 503. Reauthorization of Native Hawaiian Homeownership Act.

Sec. 504. Matching or cost-participation requirement.

1       (c) REFERENCES.—Except as otherwise expressly  
 2 provided, wherever in this Act an amendment or repeal  
 3 is expressed in terms of an amendment to, or repeal of,  
 4 a section or other provision, the reference shall be consid-  
 5 ered to be made to a section or other provision of the Na-  
 6 tive American Housing Assistance and Self-Determination  
 7 Act of 1996 (25 U.S.C. 4101 et seq.).

1     **TITLE I—BLOCK GRANTS AND**  
2             **GRANT REQUIREMENTS**

3     **SEC. 101. TREATMENT OF PROGRAM INCOME AND LABOR**  
4             **STANDARDS.**

5     Section 104 (25 U.S.C. 4114) is amended—

6             (1) in subsection (a), by striking paragraph (1)  
7     and inserting the following:

8             “(1) **AUTHORITY TO RETAIN.**—

9                     “(A) **IN GENERAL.**—Notwithstanding any  
10     other provision of this Act, a recipient may re-  
11     tain any program income that is realized from  
12     any grant amounts under this Act if—

13                             “(i) the income was realized after the  
14     initial disbursement of the grant amounts  
15     received by the recipient; and

16                             “(ii) the recipient has agreed that the  
17     recipient will utilize the income for housing  
18     related activities in accordance with this  
19     Act.

20             “(B) **REQUIREMENTS.**—Any income that is  
21     realized by a recipient from program income  
22     shall—

23                             “(i) be considered nonprogram in-  
24     come; and

1 “(ii) have no restrictions on use.”;

2 and

3 (2) in subsection (b), by striking paragraph (3)

4 and inserting the following:

5 “(3) APPLICATION OF TRIBAL LAWS.—

6 “(A) IN GENERAL.—Paragraph (1) shall  
7 not apply to any contract or agreement for as-  
8 sistance, sale, or lease pursuant to this Act, if  
9 that contract or agreement is otherwise covered  
10 by 1 or more laws or regulations adopted by an  
11 Indian tribe that requires the payment of not  
12 less than prevailing wages, as determined by  
13 the Indian tribe.

14 “(B) WAGES.—The prevailing wages de-  
15 scribed in subparagraph (A) shall apply to the  
16 administration of all Federal funding for  
17 projects funded in part by funds authorized  
18 under this Act.”.

19 **SEC. 102. ENVIRONMENTAL REVIEW.**

20 Section 105 (25 U.S.C. 4115) is amended by striking  
21 subsection (d) and inserting the following:

22 “(d) ENVIRONMENTAL COMPLIANCE.—Notwith-  
23 standing any other provision of law or use of any other  
24 source of funding for the project, compliance with the en-  
25 vironmental review requirements of this section shall sat-

1 isfy any other applicable environmental review require-  
2 ment under any other Federal law (including regulations)  
3 required to be carried out by any agency involved in the  
4 project.”.

5 **SEC. 103. AUTHORIZATION OF APPROPRIATIONS.**

6 Section 108 (25 U.S.C. 4117) is amended by striking  
7 “2009 through 2013” and inserting “2013 through  
8 2018”.

9 **TITLE II—AFFORDABLE**  
10 **HOUSING ACTIVITIES**

11 **SEC. 201. LOW-INCOME REQUIREMENT AND INCOME TAR-**  
12 **GETING.**

13 Section 205 (25 U.S.C. 4135) is amended by striking  
14 subsection (c) and inserting the following:

15 “(c) APPLICABILITY.—

16 “(1) IN GENERAL.—The provisions of sub-  
17 section (a)(2) regarding binding commitments for  
18 the remaining useful life of property shall not apply  
19 to—

20 “(A) a family or household member who  
21 subsequently takes ownership of a homeown-  
22 ership unit; or

23 “(B) any improvement to a privately  
24 owned homeownership unit if the aggregate  
25 value of the improvement for the 5-year period

1 following completion of the improvement is less  
2 than \$10,000.

3 “(d) PURCHASE.—In the case of rental housing that  
4 is made available to a current rental tenant for conversion  
5 to a homebuyer or lease-purchase unit, the current rental  
6 tenant may purchase through a contract to purchase,  
7 lease-purchase agreement, or any other sales agreement  
8 if the unit is made available for occupancy by a family  
9 that is a low-income family at the time of initial occu-  
10 pancy.”.

11 **SEC. 202. LEASE REQUIREMENTS AND TENANT SELECTION.**

12 Section 207 (25 U.S.C. 4137) is amended by adding  
13 at the end the following:

14 “(c) NOTICE OF TERMINATION.—The notice period  
15 described in subsection (a)(3) shall apply to projects and  
16 programs funded in part by amounts authorized under  
17 this Act.”.

18 **SEC. 203. SELF-DETERMINED HOUSING ACTIVITIES FOR**  
19 **TRIBAL COMMUNITIES.**

20 Subtitle B of title II (25 U.S.C. 4145 et seq.) is re-  
21 pealed.

22 **SEC. 204. TOTAL DEVELOPMENT COST MAXIMUM PROJECT**  
23 **COST.**

24 Affordable housing (as defined in section 4 of the Na-  
25 tive American Housing Assistance and Self-Determination

1 Act of 1996 (25 U.S.C. 4103)) that is developed, acquired,  
2 or assisted under the block grant program established  
3 under section 101 of the Native American Housing Assist-  
4 ance and Self-Determination Act of 1996 (25 U.S.C.  
5 4111) shall not exceed by more than 20 percent, without  
6 prior approval of the Secretary of Housing and Urban De-  
7 velopment, the total development cost maximum cost for  
8 all housing assisted under an affordable housing activity,  
9 including development and model activities.

10 **TITLE III—COMPLIANCE,**  
11 **AUDITS, AND REPORTS**

12 **SEC. 301. REPORTS TO CONGRESS.**

13 Section 407 (25 U.S.C. 4167) is amended—

14 (1) in subsection (a), by striking “Congress”  
15 and inserting “Committee on Indian Affairs and the  
16 Committee on Banking, Housing and Urban Affairs  
17 of the Senate and the Committee on Financial Serv-  
18 ices of the House of Representatives”; and

19 (2) by adding at the end the following:

20 “(c) PUBLIC AVAILABILITY.—The report described in  
21 subsection (a) shall be made publicly available, including  
22 to recipients.”.

1 **TITLE IV—OTHER HOUSING AS-**  
 2 **SISTANCE FOR NATIVE AMER-**  
 3 **ICANS**

4 **SEC. 401. DEMONSTRATION OF RENTAL ASSISTANCE FOR**  
 5 **HOMELESS OR AT-RISK INDIAN VETERANS.**

6 Section 8(o)(19) of the United States Housing Act  
 7 of 1937 (42 U.S.C. 1437f(o)(19)) is amended by adding  
 8 at the end the following:

9 “(D) INDIAN VETERANS HOUSING RENTAL  
 10 ASSISTANCE DEMONSTRATION PROGRAM.—

11 “(i) DEFINITIONS.—In this subpara-  
 12 graph:

13 “(I) INDIAN.—The term ‘Indian’  
 14 has the meaning given the term in  
 15 section 4 of the Indian Self-Deter-  
 16 mination and Education Assistance  
 17 Act (25 U.S.C. 450b).

18 “(II) INDIAN LANDS.—The term  
 19 ‘Indian lands’ has the meaning given  
 20 the term in section 3 of the Native  
 21 American Business Development,  
 22 Trade Promotion, and Tourism Act of  
 23 2000 (25 U.S.C. 4302).

24 “(III) TRIBAL ORGANIZATION.—  
 25 The term ‘tribal organization’ has the



1 meaning given the term in section 4  
2 of the Indian Self-Determination and  
3 Education Assistance Act (25 U.S.C.  
4 450b).

5 “(ii) AUTHORIZATION OF PROGRAM.—  
6 The Secretary may use not more than 5  
7 percent of the amounts made available for  
8 rental assistance under this subsection to  
9 carry out a rental assistance and sup-  
10 portive housing program, in conjunction  
11 with the Secretary of Veterans Affairs, for  
12 the benefit of Indian veterans who are  
13 homeless or at-risk of homelessness and  
14 who are residing on or near Indian lands.

15 “(iii) MODEL.—The program de-  
16 scribed in clause (ii) shall be modeled on  
17 the rental assistance and supportive hous-  
18 ing program authorized under this section  
19 and applicable appropriations Acts, includ-  
20 ing administration in conjunction with the  
21 Secretary of Veterans Affairs, except that  
22 the Secretary may make necessary and ap-  
23 propriate modifications to facilitate the use  
24 of the program by Indian grant recipients  
25 to serve eligible Indian veterans.

1           “(iv) ELIGIBLE RECIPIENTS.—Rental  
2 assistance under clause (ii) shall be made  
3 available to recipients eligible to receive  
4 grants under section 101 of the Native  
5 American Housing Assistance and Self-De-  
6 termination Act of 1996 (25 U.S.C. 4111).

7           “(v) FUNDING CRITERIA.—Rental as-  
8 sistance under clause (ii) shall be awarded  
9 based on—

10                   “(I) need;

11                   “(II) administrative capacity; and

12                   “(III) any other funding criteria  
13 established by the Secretary in a no-  
14 tice published in the Federal Register  
15 after consulting with the Secretary of  
16 Veterans Affairs.

17           “(vi) ADMINISTRATION.—Rental as-  
18 sistance made available under clause (ii)  
19 shall be administered in accordance with  
20 the Native American Housing Assistance  
21 and Self-Determination Act of 1996 (25  
22 U.S.C. 4101 et seq.), except that grantees  
23 shall—

24                   “(I) submit to the Secretary, in a  
25 manner prescribed by the Secretary,

1 reports on the use of rental assistance  
2 provided under the demonstration pro-  
3 gram; and

4 “(II) provide to the Secretary in-  
5 formation specified by the Secretary  
6 to assess the effectiveness of the dem-  
7 onstration program in serving eligible  
8 veterans.

9 “(vii) CONSULTATION.—The Sec-  
10 retary, in coordination with the Secretary  
11 of Veterans Affairs, shall consult with re-  
12 cipients of grants under section 101 of the  
13 Native American Housing Assistance and  
14 Self-Determination Act of 1996 (25 U.S.C.  
15 4111) and any other appropriate tribal or-  
16 ganization on the design of the demonstra-  
17 tion program to ensure the effective deliv-  
18 ery of rental assistance and supportive  
19 services to persons eligible to receive as-  
20 sistance under this subparagraph.

21 “(viii) WAIVER.—

22 “(I) IN GENERAL.—Except as  
23 provided in subclause (II), the Sec-  
24 retary may waive or specify alter-  
25 native requirements for any provision

1 of law (including regulations) that the  
 2 Secretary administers in connection  
 3 with the use of rental assistance made  
 4 available under this subparagraph if  
 5 the Secretary finds that the waiver or  
 6 alternative requirement is necessary  
 7 for the effective delivery and adminis-  
 8 tration of rental assistance made  
 9 available under this subparagraph to  
 10 Indian veterans.

11 “(II) EXCEPTION.—The Sec-  
 12 retary shall not waive or specify alter-  
 13 native requirements under subclause  
 14 (I) for any provision of law (including  
 15 regulations) relating to labor stand-  
 16 ards or the environment.”.

17 **SEC. 402. 50-YEAR LEASEHOLD INTEREST IN TRUST OR RE-**  
 18 **STRICTED LANDS FOR HOUSING PURPOSES.**

19 Section 702(c)(1) (25 U.S.C. 4211(c)(1)) is amended  
 20 by inserting “(in effect before, on, or after the date of  
 21 enactment of this section)” after “law”.

22 **SEC. 403. TRAINING AND TECHNICAL ASSISTANCE.**

23 Section 703 (25 U.S.C. 4212) is amended by striking  
 24 “of fiscal years 2009 through 2013” and inserting “fiscal

1 year for which funds are appropriated under section  
2 108.”.

3 **SEC. 404. PREFERENCES FOR PROJECTS IN INDIAN AREAS.**

4 (a) IN GENERAL.—Section 42(m)(1) of the Internal  
5 Revenue Code of 1986 is amended—

6 (1) in subparagraph (B)(ii)—

7 (A) in subclause (II), by striking “and”;

8 and

9 (B) by adding at the end the following:

10 “(IV) projects which are located  
11 in an Indian area (as defined in sec-  
12 tion 4(11) of the Native American  
13 Housing Assistance and Self-Deter-  
14 mination Act of 1996 (25 U.S.C.  
15 4103(11))) and for which the entity  
16 applying to receive credit is—

17 “(aa) an Indian tribe or a  
18 tribally designated housing entity  
19 (as defined in section 4 of the  
20 Native American Housing Assist-  
21 ance and Self-Determination Act  
22 of 1996 (25 U.S.C. 4103),

23 “(bb) wholly owned or con-  
24 trolled by an Indian tribe or trib-  
25 ally designated housing entity (as

1 defined in section 4 of the Native  
2 American Housing Assistance  
3 and Self-Determination Act of  
4 1996 (25 U.S.C. 4103)), or

5 “(cc) a subrecipient of fund-  
6 ing under the Native American  
7 Housing Assistance and Self-De-  
8 termination Act of 1996 (25  
9 U.S.C. 4101 et seq.) with regard  
10 to the project for which credits  
11 would be awarded, and”;

12 (2) in subparagraph (C)—

13 (A) in clause (vi), by inserting “and In-  
14 dian” after “public”;

15 (B) by redesignating clauses (ix) and (x)  
16 as clauses (x) and (xi), respectively; and

17 (C) by inserting after clause (viii) the fol-  
18 lowing:

19 “(ix) projects described in subpara-  
20 graph (B)(ii)(IV),”; and

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

22 “(E) PREFERENCE FOR PROJECTS IN IN-  
23 DIAN AREAS.—In addition to the preference  
24 provided to projects described in subparagraph  
25 (B)(ii)(IV), for purposes of evaluating such

1 projects pursuant to a competitive application  
 2 process for allocation of housing credit dollar  
 3 amounts, a housing credit agency—

4 “(i) for purposes of any numerical  
 5 evaluation process employed by the agency,  
 6 shall increase the cumulative points or  
 7 score for such project by not less than 10  
 8 percent of the total points or credits avail-  
 9 able to any project, and

10 “(ii) shall not consider the lack of  
 11 proximity of such project to population  
 12 centers, public transportation systems, or  
 13 publicly available amenities.”.

14 (b) EFFECTIVE DATE.—The amendments made by  
 15 this section shall apply to housing credit dollar amounts  
 16 allocated by a housing credit agency after December 31,  
 17 2013.

## 18 **TITLE V—MISCELLANEOUS**

### 19 **SEC. 501. COMMUNITY-BASED ORGANIZATIONS AND TRIB-** 20 **ALLY DESIGNATED HOUSING ENTITIES.**

21 Title VII (Public Law 104–330; 110 Stat. 4048) is  
 22 amended by adding at the end the following:

1 **“SEC. 706. COMMUNITY-BASED DEVELOPMENT ORGANIZA-**  
 2 **TION.**

3 “A tribally designated housing entity shall qualify as  
 4 a community-based development organization for purposes  
 5 of the Indian Community Development Block Grant pro-  
 6 gram authorized under section 106(a) of the Housing and  
 7 Community Development Act of 1974 (42 U.S.C.  
 8 5306(a)).”.

9 **SEC. 502. ELIMINATION OF LIMITATION ON USE FOR CHER-**  
 10 **OKEE NATION.**

11 Section 801 of the Native American Housing Assist-  
 12 ance and Self-Determination Reauthorization Act of 2008  
 13 (Public Law 110–411; 122 Stat. 4334) is repealed.

14 **SEC. 503. REAUTHORIZATION OF NATIVE HAWAIIAN HOME-**  
 15 **OWNERSHIP ACT.**

16 Section 824 (25 U.S.C. 4243) is amended by striking  
 17 “2001, 2002, 2003, 2004, and 2005,” and inserting  
 18 “2014, 2015, 2016, 2017, and 2018”.

19 **SEC. 504. MATCHING OR COST-PARTICIPATION REQUIRE-**  
 20 **MENT.**

21 All funds provided under a grant made pursuant to  
 22 this Act or the amendments made by this Act may be used  
 23 for purposes of meeting matching or cost participation re-  
 24 quirements under any other Federal or non-Federal pro-  
 25 gram.

○