

117TH CONGRESS
2D SESSION

S. 4418

To amend the Internal Revenue Code of 1986 to provide a credit for investment in Community Development Financial Institutions.

IN THE SENATE OF THE UNITED STATES

JUNE 16, 2022

Mr. WARNER (for himself, Mr. WICKER, Mrs. HYDE-SMITH, and Mr. VAN HOLLEN) 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 provide a credit for investment in Community Development Financial Institutions.

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 “Community Develop-
5 ment Investment Tax Credit Act of 2022”.

6 **SEC. 2. COMMUNITY DEVELOPMENT FINANCIAL INSTITU-**
7 **TION INVESTMENT TAX CREDIT.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new
 2 section:

3 **“SEC. 45U. COMMUNITY DEVELOPMENT FINANCIAL INSTI-**
 4 **TUTION INVESTMENT TAX CREDIT.**

5 “(a) ALLOWANCE OF CREDIT.—

6 “(1) IN GENERAL.—For purposes of section 38,
 7 in the case of a taxpayer who holds a qualified
 8 CDFI investment on a credit allowance date of such
 9 investment which occurs during the taxable year, the
 10 CDFI investment credit determined under this sec-
 11 tion for such taxable year is an amount equal to the
 12 applicable percentage of the amount paid to the
 13 qualified community development financial institu-
 14 tion for such investment at its original issue.

15 “(2) APPLICABLE PERCENTAGE.—For purposes
 16 of paragraph (1)—

17 “(A) IN GENERAL.—The applicable per-
 18 centage is—

19 “(i) 3 percent with respect to the first
 20 10 credit allowance dates, and

21 “(ii) 4 percent with respect to the 10
 22 credit allowance dates following the last
 23 credit allowance date to which clause (i)
 24 applies.

1 “(B) INCREASED AMOUNT FOR CERTAIN
 2 INVESTMENTS.—In the case of a qualified
 3 CDFI investment which does not have a fixed
 4 term or duration, the applicable percentage for
 5 any credit allowance date shall be increased by
 6 one percentage point.

7 “(3) CREDIT ALLOWANCE DATE.—

8 “(A) IN GENERAL.—For purposes of para-
 9 graph (1), the term ‘credit allowance date’
 10 means, with respect to any qualified CDFI in-
 11 vestment—

12 “(i) the date which is one year after
 13 the date on which such investment is ini-
 14 tially made, and

15 “(ii) each of the 19 anniversary dates
 16 of such date thereafter.

17 “(B) LIMITATION.—Notwithstanding sub-
 18 paragraph (A), a date shall not be treated as a
 19 credit allowance date with respect to any quali-
 20 fied CDFI investment if such date occurs after
 21 any date on which—

22 “(i) the financial institution in which
 23 such CDFI investment is made ceases to
 24 be a qualified community development fi-
 25 nancial institution, or

1 “(ii) such investment is redeemed, re-
 2 purchased, or otherwise repaid by the
 3 qualified community development financial
 4 institution which issued such investment.

5 “(b) QUALIFIED CDFI INVESTMENT.—For purposes
 6 of this section—

7 “(1) IN GENERAL.—The term ‘qualified CDFI
 8 investment’ means any investment in a qualified
 9 community development financial institution if—

10 “(A) such investment is acquired by the
 11 taxpayer at its original issue (directly or
 12 through an underwriter) solely in exchange for
 13 cash,

14 “(B) such investment is in the form of—

15 “(i) non-voting stock or an equity
 16 equivalent investment,

17 “(ii) an interest in an entity which is
 18 a partnership, or

19 “(iii) an obligation described in sec-
 20 tion 279(b)(2) which has a term of 10
 21 years or longer,

22 “(C) such investment has not been des-
 23 ignated as a qualified equity investment for
 24 purposes of section 45D, and

1 “(D) such investment is designated for
2 purposes of this section by the qualified com-
3 munity development financial institution.

4 Such term shall not include any investment issued
5 by a qualified community development financial in-
6 stitution more than 5 years after the date that such
7 financial institution receives an allocation under sub-
8 section (e). Any allocation not used within such 5-
9 year period may be reallocated by the Secretary
10 under subsection (d).

11 “(2) LIMITATION.—The maximum amount of
12 investments issued by a qualified community devel-
13 opment financial institution which may be des-
14 ignated under paragraph (1)(C) by such financial in-
15 stitution shall not exceed the portion of the limita-
16 tion amount allocated under subsection (e) to such
17 financial institution.

18 “(3) TREATMENT OF SUBSEQUENT PUR-
19 CHASERS.—The term ‘qualified CDFI investment’
20 includes any investment which would (but for para-
21 graph (1)(A)) be a qualified CDFI investment in the
22 hands of the taxpayer if such investment was a
23 qualified CDFI investment in the hands of a prior
24 holder.

1 “(4) REDEMPTIONS.—A rule similar to the rule
2 of section 1202(c)(3) shall apply for purposes of this
3 subsection.

4 “(5) EQUITY EQUIVALENT INVESTMENT.—For
5 purposes of this paragraph, the term ‘equity equiva-
6 lent investment’ means an obligation of a qualified
7 community development financial institution
8 which—

9 “(A) is carried as an investment on the in-
10 vestor’s balance sheet in accordance with Gen-
11 erally Accepted Accounting Principles,

12 “(B) is not secured by any of the assets of
13 the qualified community development financial
14 institution,

15 “(C) is fully subordinated to the right of
16 repayment of all of the other creditors of the
17 qualified community development financial in-
18 stitution,

19 “(D) does not give the investor the right to
20 accelerate payment unless the qualified commu-
21 nity development financial institution ceases its
22 normal operations,

23 “(E) carries an interest rate or dividend
24 that is not tied to any income received by the

1 qualified community development financial in-
2 stitution, and

3 “(F) has an indeterminate maturity.

4 “(c) QUALIFIED COMMUNITY DEVELOPMENT FINAN-
5 CIAL INSTITUTION.—For purposes of this section, the
6 term ‘qualified community development financial institu-
7 tion’ means—

8 “(1) any community development financial in-
9 stitution (as defined in section 103 of the Commu-
10 nity Development Banking and Financial Institu-
11 tions Act of 1994 (12 U.S.C. 4702)),

12 “(2) any partnership in which a community de-
13 velopment financial institution (as so defined) owns,
14 directly or indirectly, 50 percent or more of the cap-
15 ital interest or the profits interest, or

16 “(3) any partnership that is controlled, for pur-
17 poses of section 482, or any investment vehicle the
18 investment activities of which are otherwise substan-
19 tially entirely managed and directed, by one or more
20 community development financial institutions (as so
21 defined).

22 “(d) NATIONAL LIMITATION ON AMOUNT OF INVEST-
23 MENTS DESIGNATED.—

“(1) IN GENERAL.—There is an investment tax credit limitation for each calendar year. Such a limitation is—

“(A) \$1,000,000,000 for 2022,

“(B) \$1,500,000,000 for 2023, and

“(C) \$2,000,000,000 for each year thereafter.

“(2) INFLATION ADJUSTMENT.—

“(A) IN GENERAL.—In the case of any calendar year after 2024, the \$2,000,000,000 in paragraph (1)(C) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2023’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

“(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of \$1,000,000, such increase shall be rounded to the nearest multiple of \$1,000,000.

“(3) ALLOCATION OF LIMITATION.—

1 “(A) IN GENERAL.—The limitation under
2 paragraph (1) shall be allocated by the Sec-
3 retary among qualified community development
4 financial institutions selected by the Secretary
5 based on the following criteria:

6 “(i) Financial and compliance per-
7 formance.

8 “(ii) Demonstrated ability to attract
9 private capital.

10 “(iii) The diversity of business model
11 types.

12 “(iv) The diversity of population den-
13 sity served.

14 “(v) Impact generation capacity.

15 “(vi) The information contained in the
16 investment plan described in subparagraph
17 (B).

18 “(vii) Whether the investment term
19 will exceed 10 years.

20 “(B) REQUIREMENT TO PROVIDE AN IN-
21 VESTMENT PLAN.—An application submitted to
22 the Secretary under subparagraph (A) shall in-
23 clude a plan that describes how the qualified
24 community development financial institution
25 will expand or maintain its lending and invest-

1 ing activity in its target market as a result of
2 qualified CDFI investments.

3 “(4) CARRYOVER OF UNUSED LIMITATION.—If
4 the new investment tax credit limitation for any cal-
5 endar year exceeds the aggregate amount allocated
6 under paragraph (2) for such year, such limitation
7 for the succeeding calendar year shall be increased
8 by the amount of such excess.

9 “(e) REGULATIONS.—The Secretary shall prescribe
10 such regulations as may be appropriate to carry out this
11 section, including regulations—

12 “(1) which limit the credit for investments
13 which are directly or indirectly subsidized by other
14 Federal tax benefits (including the credit under sec-
15 tion 42 and the exclusion from gross income under
16 section 103),

17 “(2) which prevent the abuse of the purposes of
18 this section,

19 “(3) which impose appropriate reporting re-
20 quirements, and

21 “(4) which apply the provisions of this section
22 to newly formed entities.”.

23 (b) PART OF GENERAL BUSINESS CREDIT.—Section
24 38(b) of such Code is amended by striking “plus” at the
25 end of paragraph (32), by striking the period at the end

1 of paragraph (33) and inserting “, plus”, and by adding
 2 at the end the following new paragraph:

3 “(34) the CDFI investment credit determined
 4 under section 45U(a).”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Section 45D(b)(1) of the Internal Revenue
 7 Code of 1986 is amended by striking “and” at the
 8 end of subparagraph (B), by striking the period at
 9 the end of subparagraph (C) and inserting “, and”,
 10 and by adding at the end the following new subpara-
 11 graph:

12 “(D) such investment has not been des-
 13 ignated as a qualified CDFI investment for
 14 purposes of section 45U.”.

15 (2) The table of sections for subpart D of part
 16 IV of subchapter A of chapter 1 of such Code is
 17 amended by adding at the end the following new
 18 item:

“45U. Community development financial institution investment tax credit.”.

19 (d) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to investments made after the date
 21 of the enactment of this Act.

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