

117TH CONGRESS  
2D SESSION

# S. 4422

To amend the Internal Revenue Code of 1986 to increase the low-income housing credit for rehabilitation expenditures for buildings achieving enhanced energy performance, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 16, 2022

Ms. KLOBUCHAR (for herself, Mr. BOOKER, Ms. WARREN, Mr. VAN HOLLEN, Ms. DUCKWORTH, and Ms. SMITH) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to increase the low-income housing credit for rehabilitation expenditures for buildings achieving enhanced energy performance, 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 “Energy Efficiency for  
5       Affordable Housing Act”.

1 **SEC. 2. INCREASE OF CREDIT.**

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

5 “(C) INCREASE IN CREDIT FOR BUILDINGS  
 6 ACHIEVING ENHANCED ENERGY PERFORM-  
 7 ANCE.—

8 “(i) IN GENERAL.—In the case of any  
 9 existing building to which subsection (b)(2)  
 10 does not apply which achieves enhanced  
 11 energy performance, the rehabilitation ex-  
 12 penditures taken into account under sub-  
 13 paragraph (A) shall be 130 percent of such  
 14 expenditures determined without regard to  
 15 this subparagraph.

16 “(ii) ENHANCED ENERGY PERFORM-  
 17 ANCE.—For purposes of clause (i), a build-  
 18 ing achieves enhanced energy performance  
 19 if it meets either of the following:

20 “(I) The minimum requirements  
 21 of an advanced building construction  
 22 standard which shall be determined by  
 23 the Secretary of Energy using pre-  
 24 scriptive or performance methods of  
 25 calculation and promulgated by the  
 26 Secretary of Energy within 180 days

1 of the date of the enactment of this  
2 subparagraph.

3 “(II) In the case of a taxpayer  
4 which elects (at such time and in such  
5 manner as the Secretary may provide)  
6 the application of this subclause with  
7 respect to the building, a qualified ret-  
8 rofit plan.

9 “(iii) DEFINITIONS.—For purposes of  
10 this subparagraph—

11 “(I) QUALIFIED RETROFIT  
12 PLAN.—The term ‘qualified retrofit  
13 plan’ means a written plan prepared  
14 and stamped by a qualified profes-  
15 sional which specifies modifications to  
16 a building which, in the aggregate, are  
17 expected to reduce such building’s site  
18 energy usage intensity by 50 percent  
19 or more in comparison to the baseline  
20 energy usage intensity of such build-  
21 ing. Such plan shall require a quali-  
22 fied professional to certify—

23 “(aa) the baseline energy  
24 usage intensity of the building,

“(bb) that the modifications are expected to reduce such building’s site energy usage intensity by 50 percent or more in comparison to the baseline energy usage intensity of such building, and

“(cc) as of any date following installation of building modifications, that such modifications have been installed.

“(II) BASELINE ENERGY USAGE INTENSITY.—The term ‘baseline energy usage intensity’ means the site energy usage intensity as of any date during the 24-month period immediately preceding the building modifications described in the qualified retrofit plan.

“(III) SITE ENERGY USAGE INTENSITY.—The site energy usage intensity shall be determined for the entire building in accordance with such regulations or other guidance as the Secretary may provide and measured

1 in British thermal units per square  
2 foot per year.

3 “(IV) QUALIFIED PROFESSIONAL.—The term ‘qualified profes-  
4 sional’ means an individual who is a  
5 licensed architect or a licensed engi-  
6 neer or meets such other requirements  
7 as the Secretary of Energy may pro-  
8 vide.”.

10 (b) INCREASE FOR BUILDINGS IN HIGH-COST  
11 AREAS.—Paragraph (2) of section 42(e) of the Internal  
12 Revenue Code of 1986, as amended by subsection (a), is  
13 further amended by adding at the end the following new  
14 subparagraph:

15 “(D) SPECIAL RULE FOR BUILDINGS IN  
16 HIGH-COST AREAS WHICH ACHIEVE ENHANCED  
17 ENERGY PERFORMANCE.—In the case of an ex-  
18 isting building to which both subparagraph (C)  
19 and subsection (d)(5)(B) apply (but for this  
20 subparagraph)—

21 “(i) subsection (d)(5)(B)(i)(II) shall  
22 not apply, and

23 “(ii) the rehabilitation expenditures  
24 taken into account under subparagraph  
25 (A) shall be 160 percent of such expendi-

1                   tures determined without regard to this  
2                   subparagraph.”.

3           (c) EFFECTIVE DATE.—

4                   (1) IN GENERAL.—Except as provided in para-  
5           graph (2), the amendments made by this section  
6           shall apply to buildings with respect to which hous-  
7           ing credit dollar amounts are allocated after Decem-  
8           ber 31, 2021.

9                   (2) BOND-FINANCED PROJECTS.—In the case of  
10          any building some portion of which, or of the land  
11          on which the building is located, is financed by an  
12          obligation which is described in section 42(h)(4)(A)  
13          of the Internal Revenue Code of 1986, the amend-  
14          ments made by this section shall apply to any such  
15          building financed by such an obligation which is part  
16          of an issue the issue date of which is after December  
17          31, 2021.

18   **SEC. 3. COORDINATION WITH BASIS ADJUSTMENT UNDER**  
19                   **NEW ENERGY EFFICIENT HOME CREDIT.**

20           (a) IN GENERAL.—Subsection (e) of section 45L of  
21   the Internal Revenue Code of 1986 is amended by striking  
22   “any property” and inserting “any property (other than  
23   a qualified low-income building, as defined in section  
24   42(c)(2))”.

1       (b) EXTENSION OF CREDIT.—Subsection (g) of sec-  
2   tion 45L of the Internal Revenue Code of 1986 is amend-  
3   ed by striking “December 31, 2021” and inserting “De-  
4   cember 31, 2031”.

5       (c) EFFECTIVE DATE.—The amendments made by  
6   this section shall apply to qualified new energy efficient  
7   homes acquired after December 31, 2021.

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