

118TH CONGRESS
2D SESSION

S. 5196

To amend the Internal Revenue Code of 1986 to establish the New Homes Tax Credit.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2024

Mr. HEINRICH (for himself, Mr. WYDEN, Mr. WELCH, 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 establish
the New Homes Tax Credit.

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 “New Homes Tax Cred-
5 it Act”.

6 **SEC. 2. ESTABLISHMENT OF NEW HOMES TAX CREDIT.**

7 (a) IN GENERAL.—Subpart D of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 is amended by inserting after section 45AA the fol-
10 lowing new section:

1 **“SEC. 45BB. NEW HOMES TAX CREDIT.**

2 “(a) ALLOWANCE OF CREDIT.—

3 “(1) IN GENERAL.—For purposes of section 38,
 4 in the case of a taxpayer who holds a qualified eq-
 5 uity investment on a credit allowance date of such
 6 investment which occurs during the taxable year, the
 7 new homes tax credit determined under this section
 8 for such taxable year is an amount equal to the ap-
 9 plicable percentage of the amount paid to the hous-
 10 ing development entity for such investment at its
 11 original issue.

12 “(2) APPLICABLE PERCENTAGE.—For purposes
 13 of paragraph (1), the applicable percentage is—

14 “(A) 7 percent with respect to the first
 15 credit allowance date, and

16 “(B) 8 percent with respect to the remain-
 17 der of the credit allowance dates.

18 “(3) CREDIT ALLOWANCE DATE.—For purposes
 19 of paragraph (1), the term ‘credit allowance date’
 20 means, with respect to any qualified equity invest-
 21 ment—

22 “(A) the date on which such investment is
 23 initially made, and

24 “(B) each of the 4 anniversary dates of
 25 such date thereafter.

26 “(b) QUALIFIED EQUITY INVESTMENT.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion, the term ‘qualified equity investment’ means
3 any equity investment in a housing development en-
4 tity if—

5 “(A) such investment is acquired by the
6 taxpayer at its original issue (directly or
7 through an underwriter) solely in exchange for
8 cash,

9 “(B) substantially all of such cash is used
10 by the housing development entity to make
11 qualified housing investments, and

12 “(C) such investment is designated for
13 purposes of this section by the housing develop-
14 ment entity.

15 Such term shall not include any equity investment
16 issued by a housing development entity more than 5
17 years after the date that such entity receives an allo-
18 cation under subsection (e). Any allocation not used
19 within such 5-year period may be reallocated by the
20 Secretary under subsection (e).

21 “(2) SPECIAL RULES.—Rules similar to the
22 rules under paragraphs (2) through (6) of section
23 45D(b) shall apply for purposes of this section.

1 “(c) HOUSING DEVELOPMENT ENTITY.—For pur-
 2 poses of this section, the term ‘housing development enti-
 3 ty’ means any domestic corporation or partnership if—

4 “(1) one of the missions of the entity is to pro-
 5 vide funding for construction of housing for low- and
 6 moderate-income individuals, and

7 “(2) the entity is certified by the Secretary for
 8 purposes of this section as being a housing develop-
 9 ment entity.

10 “(d) OTHER DEFINITIONS.—For purposes of this
 11 section—

12 “(1) QUALIFIED HOUSING INVESTMENT.—

13 “(A) IN GENERAL.—The term ‘qualified
 14 housing investment’ means funding which is
 15 provided by a housing development entity to a
 16 qualified construction business—

17 “(i) following completion of a qualified
 18 home project by such qualified construction
 19 business, and

20 “(ii)(I) in the case of a home de-
 21 scribed in clause (i) of paragraph (3)(A),
 22 after the housing development entity has
 23 confirmed (on or before the date on which
 24 ownership of the home is transferred to the
 25 buyer) that—

1 “(aa) the home is being sold to a
2 qualified buyer, and

3 “(bb) that such buyer has been
4 provided notice with respect to the re-
5 quirements under subsection (g), or

6 “(II) in the case of a home described
7 in clause (ii) of such paragraph, after the
8 housing development entity has confirmed
9 (on or before the date on which renovation
10 of the home is completed by the qualified
11 construction business) that—

12 “(aa) the home is owned by a
13 qualified buyer, and

14 “(bb) that such buyer has been
15 provided notice with respect to the re-
16 quirements under subsection (g).

17 “(B) TRANSFER OF FUNDS AT CLOSING.—

18 With respect to any funding described in sub-
19 paragraph (A), such funding shall be provided
20 by the housing development entity to the quali-
21 fied construction business—

22 “(i) in the case of a home described in
23 clause (i) of paragraph (3)(A), on the date
24 on which ownership of the home is trans-
25 ferred to the qualified buyer, or

1 “(ii) in the case of a home described
 2 in clause (ii) of such paragraph, on the
 3 date on which renovation of the home is
 4 completed by the qualified construction
 5 business.

6 “(C) LIMITATION.—In the case of any
 7 home constructed or renovated as part of a
 8 qualified home project, the amount of funding
 9 provided by a housing development entity to a
 10 qualified construction business with respect to
 11 such home shall not exceed an amount equal to
 12 20 percent (or, in the case of a home renovated
 13 as part of a qualified home project, 15 percent)
 14 of the median purchase price for single-family
 15 housing in the area in which such home is lo-
 16 cated, as determined by the Secretary of Hous-
 17 ing and Urban Development for the purpose of
 18 section 1807.402(a)(2) of title 12, Code of Fed-
 19 eral Regulations (or any successor regulation).

20 “(2) QUALIFIED CONSTRUCTION BUSINESS.—
 21 The term ‘qualified construction business’ means an
 22 entity engaged in the trade or business of the con-
 23 struction or renovation of residential housing.

24 “(3) QUALIFIED HOME PROJECTS.—

1 “(A) IN GENERAL.—The term ‘qualified
2 home project’ means—

3 “(i) the construction of entry-level
4 homes which are sold to qualified buyers,
5 or

6 “(ii) the renovation of Single-family
7 housing (as such term is used in section
8 1807.402 of title 12, Code of Federal Reg-
9 ulations) which is owned by a qualified
10 buyer.

11 “(B) ENTRY-LEVEL HOMES.—The term
12 ‘entry-level home’ means any residential build-
13 ing which—

14 “(i) satisfies the requirement under
15 section 1807.402(a)(1) of title 12, Code of
16 Federal Regulations, and

17 “(ii) is designed to be purchased by a
18 first-time homebuyer (as defined in section
19 104 of the Cranston-Gonzalez National Af-
20 fordable Housing Act (42 U.S.C. 12704)).

21 “(4) QUALIFIED BUYER.—The term ‘qualified
22 buyer’ means an individual or family whose income
23 is not greater than 120 percent of area median in-
24 come.

1 “(e) NATIONAL LIMITATION ON AMOUNT OF INVEST-
2 MENTS DESIGNATED.—

3 “(1) IN GENERAL.—For each of calendar years
4 2025 through 2031, the new homes tax credit limi-
5 tation for each calendar year shall be—

6 “(A) for 2025, \$1,000,000,000,

7 “(B) for 2026 and 2027, \$1,500,000,000,

8 “(C) for 2028 and 2029, \$2,000,000,000,

9 and

10 “(D) for 2030 and 2031, \$3,500,000,000.

11 “(2) ALLOCATION OF LIMITATION.—The limita-
12 tion under paragraph (1) shall be allocated by the
13 Secretary among housing development entities se-
14 lected by the Secretary. In making allocations under
15 the preceding sentence, the Secretary shall—

16 “(A) allocate not less than 50 percent of
17 such limitation for any calendar year to housing
18 development agencies that commit to make
19 qualified housing investments to provide hous-
20 ing for individuals or families whose income is
21 not greater than 80 percent of area median in-
22 come,

23 “(B) allocate not less than 5 percent of
24 such limitation for any calendar year to housing
25 development agencies that commit to make

1 qualified housing investments to provide hous-
2 ing that is exclusively available to members of
3 an Indian tribe (as such term is defined in sec-
4 tion 4 of the Indian Self-Determination and
5 Education Assistance Act (25 U.S.C. 5304)),
6 and

7 “(C) give priority to—

8 “(i) any community development fi-
9 nancial institution (as defined in section
10 103 of the Community Development Bank-
11 ing and Financial Institutions Act of 1994
12 (12 U.S.C. 4702)) which is certified as a
13 community development financial institu-
14 tion under the Community Development
15 Banking and Financial Institutions Act of
16 1994 (12 U.S.C. 4701 et seq.),

17 “(ii) any community development
18 credit union,

19 “(iii) any housing development entity
20 with prior experience relating to other Fed-
21 eral programs designed to create affordable
22 housing for low- and moderate-income indi-
23 viduals, such as—

24 “(I) the low-income housing cred-
25 it under section 42, and

1 “(II) the HOME Investment
 2 Partnerships program under subtitle
 3 A of title II of the Cranston-Gonzalez
 4 National Affordable Housing Act (42
 5 U.S.C. 12741 et seq.), and

6 “(iv) any housing development entity
 7 which—

8 “(I) has previously worked within
 9 the community in which the proposed
 10 qualified home project is located, and

11 “(II) can demonstrate engage-
 12 ment with local officials and low-in-
 13 come individuals within such commu-
 14 nity.

15 “(3) CARRYOVER OF UNUSED LIMITATION.—If
 16 the new homes tax credit limitation for any calendar
 17 year exceeds the aggregate amount allocated under
 18 paragraph (2) for such year, such limitation for the
 19 succeeding calendar year shall be increased by the
 20 amount of such excess. No amount may be carried
 21 under the preceding sentence to any calendar year
 22 after 2036.

23 “(f) BASIS REDUCTION.—Rules similar to the rules
 24 under subsection (h) of section 45D shall apply for pur-
 25 poses of this section.

1 “(g) LIMITATION DURING INITIAL 5-YEAR PE-
2 RIOD.—

3 “(1) IN GENERAL.—

4 “(A) PRINCIPAL RESIDENCE REQUIRE-
5 MENT.—Subject to subparagraph (C), with re-
6 spect to any qualified home project for which
7 funding has been provided by a housing devel-
8 opment entity to a qualified construction busi-
9 ness pursuant to the provisions of this section,
10 the housing development entity shall ensure
11 that, during the limitation period, the home
12 with respect to which such funding has been
13 provided remains the principal residence of the
14 qualified buyer.

15 “(B) LIENS.—With respect to the require-
16 ment under subparagraph (A), the housing de-
17 velopment entity shall enforce such requirement
18 by means of the imposition of a lien on the
19 home constructed or renovated as part of the
20 qualified home project, with such lien to be re-
21 corded with the relevant local official or agency
22 designated to record liens.

23 “(C) EXCEPTION FOR MEMBERS OF THE
24 ARMED FORCES.—In the case of any home con-
25 structed or renovated as part of a qualified

1 home project, if there is a disposition of such
 2 home by the qualified buyer—

3 “(i) during the limitation period, and

4 “(ii) which is in connection with Gov-
 5 ernment orders received by such qualified
 6 buyer for qualified official extended duty
 7 service (as defined in section
 8 36(f)(4)(E)(ii)),

9 subparagraph (A) shall not apply.

10 “(2) LIMITATION PERIOD.—For purposes of
 11 this subsection, the term ‘limitation period’ means
 12 the 5-year period subsequent to—

13 “(A) in the case of a home described in
 14 clause (i) of subsection (d)(3)(A), on the date
 15 on which ownership of the home is transferred
 16 to the qualified buyer, or

17 “(B) in the case of a home described in
 18 clause (ii) of such subsection, on the date on
 19 which renovation of the home is completed by
 20 the qualified construction business.

21 “(3) REGULATIONS AND GUIDANCE.—The Sec-
 22 retary shall issue such regulations or other guidance
 23 as the Secretary determines necessary to carry out
 24 the purposes of this subsection.

25 “(h) REPORTING.—

1 “(1) IN GENERAL.—Not later than January 1,
2 2026, and annually thereafter, the Secretary shall
3 submit a report to the Committee on Banking,
4 Housing, and Urban Affairs of the Senate, the Com-
5 mittee on Financial Services of the House of Rep-
6 resentatives, the Committee on Ways and Means of
7 the House of Representatives, and the Committee on
8 Finance of the Senate, containing information re-
9 garding—

10 “(A) the size and location of qualified
11 home projects which have been financially sup-
12 ported by qualified equity investments for which
13 a credit has been allowed under this section,
14 and

15 “(B) the income of individuals and families
16 residing in homes constructed or renovated as
17 part of such qualified home projects.

18 “(2) COLLECTION OF INFORMATION.—The Sec-
19 retary shall develop a method to collect and stream-
20 line relevant data for purposes of collecting the in-
21 formation described in paragraph (1).

22 “(i) REGULATIONS.—The Secretary shall prescribe
23 such regulations as may be appropriate to carry out this
24 section.”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 38(b) of such Code is amended by
 2 striking “plus” at the end of paragraph (40), by
 3 striking the period at the end of paragraph (41) and
 4 inserting “, plus”, and by adding at the end the fol-
 5 lowing new paragraph:

6 “(42) the new homes tax credit determined
 7 under section 45BB(a).”.

8 (2) The table of sections for subpart D of part
 9 IV of subchapter A of chapter 1 of such Code is
 10 amended by inserting after the item relating to sec-
 11 tion 45AA the following new item:

“Sec. 45BB. New Homes Tax Credit.”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to investments made after Decem-
 14 ber 31, 2024.

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