

109TH CONGRESS  
1ST SESSION

# H. R. 1311

To provide for the construction and renovation of child care facilities, and  
for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2005

Mrs. MCCARTHY (for herself and Ms. ROS-LEHTINEN) introduced the  
following bill; which was referred to the Committee on Financial Services

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## A BILL

To provide for the construction and renovation of child care  
facilities, 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 “Child Care Construc-  
5 tion and Renovation Act”.

6 **SEC. 2. USE OF COMMUNITY DEVELOPMENT BLOCK**  
7 **GRANTS TO ESTABLISH CHILD CARE FACILI-**  
8 **TIES.**

9 Section 105(a) of the Housing and Community De-  
10 velopment Act of 1974 (42 U.S.C. 5305(a)) is amended—

1 (1) in paragraph (24), by striking “and” at the  
2 end;

3 (2) in paragraph (25), by striking the period at  
4 the end and inserting “; and”; and

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

6 “(26) the construction and renovation of child  
7 care facilities.”.

8 **SEC. 3. INSURANCE FOR MORTGAGES ON NEW AND REHA-**  
9 **BILITATED CHILD CARE FACILITIES.**

10 Title II of the National Housing Act (12 U.S.C. 1707  
11 et seq.) is amended by adding at the end the following:

12 **“SEC. 257. MORTGAGE INSURANCE FOR CHILD CARE FA-**  
13 **CILITIES.**

14 “(a) DEFINITIONS.—In this section:

15 “(1) CHILD CARE FACILITY.—The term ‘child  
16 care facility’—

17 “(A) means a public or private facility  
18 that—

19 “(i) has as its purpose the care and  
20 development of—

21 “(I) children who are less than  
22 16 years of age; or

23 “(II) school-age children and  
24 youth during non-school hours; and

1 “(ii) is operated in accordance with all  
2 applicable State and local laws and regula-  
3 tions; and

4 “(B) does not include any facility for  
5 school-age children that is primarily for use  
6 during normal school hours.

7 “(2) EQUIPMENT.—The term ‘equipment’ in-  
8 cludes—

9 “(A) machinery, utilities, and built-in  
10 equipment, and any necessary enclosure or  
11 structure to house them; and

12 “(B) any other items necessary for the  
13 functioning of a particular facility as a child  
14 care facility, including necessary furniture,  
15 books, and curricular and program materials.

16 “(3) FIRST MORTGAGE.—The term ‘first mort-  
17 gage’—

18 “(A) means such classes of first liens as  
19 are commonly given to secure advances (includ-  
20 ing advances during construction) on, or the  
21 unpaid purchase price of, real estate under the  
22 laws of the State in which the real estate is lo-  
23 cated, together with the credit instrument or in-  
24 struments (if any) secured thereby; and

1           “(B) includes any mortgage in the form of  
2           1 or more trust mortgages or mortgage inden-  
3           tures or deeds of trust, securing notes, bonds,  
4           or other credit instruments, that, by the same  
5           instrument or by a separate instrument, creates  
6           a security interest in initial equipment, whether  
7           or not attached to the realty.

8           “(4) MORTGAGE.—The term ‘mortgage’ means  
9           a first mortgage on real estate in fee simple, or on  
10          the interest of either the lessor or lessee thereof  
11          under a lease having a period of not less than 7  
12          years to run beyond the maturity date of the mort-  
13          gage.

14          “(5) MORTGAGOR.—The term ‘mortgagor’ has  
15          the meaning given the term in section 207(a).

16          “(b) INSURANCE OF MORTGAGES.—In order to facili-  
17          tate the establishment and rehabilitation of child care fa-  
18          cilities, the Secretary may—

19                 “(1) insure a mortgage that is secured by a  
20                 property or project that is—

21                         “(A) a new child care facility, including a  
22                         new addition to an existing child care facility  
23                         (regardless of whether the existing facility is  
24                         being rehabilitated); or

1           “(B) a substantially rehabilitated child  
2           care facility, including equipment to be used in  
3           the operation of the facility; and

4           “(2) make a commitment to insure any mort-  
5           gage described in paragraph (1) before the date of  
6           execution or disbursement of the mortgage.

7           “(c) TERMS AND CONDITIONS.—

8           “(1) ELIGIBLE CHILD CARE FACILITIES.—Each  
9           mortgage insured under this section shall be secured  
10          by a child care facility for which a certification of  
11          compliance has been issued by the Secretary under  
12          section 258(c) during the 12-month period preceding  
13          the date on which the commitment to insure the  
14          mortgage is issued under this section.

15          “(2) APPROVED MORTGAGOR.—

16                 “(A) IN GENERAL.—Each mortgage in-  
17                 sured under this section shall be executed by a  
18                 mortgagor approved by the Secretary.

19                 “(B) REGULATION.—The Secretary may—

20                         “(i) require an approved mortgagor  
21                         who executes a mortgage under subpara-  
22                         graph (A) to be regulated with respect to  
23                         charges and methods of financing and, if  
24                         the mortgagor is a corporate entity, with

1                   respect to capital structure and rate of re-  
2                   turn; and

3                   “(ii) as an aid to the regulation of any  
4                   mortgagor under clause (i), make such  
5                   contracts with and acquire for not more  
6                   than \$100 such stock or interest in such  
7                   mortgagor as the Secretary considers to be  
8                   necessary.

9                   “(C) STOCK OR INTEREST.—Any stock or  
10                  interest purchased under subparagraph (B)(ii)  
11                  shall be—

12                  “(i) paid for out of the General Insur-  
13                  ance Fund; and

14                  “(ii) redeemed by the mortgagor at  
15                  par upon the termination of all obligations  
16                  of the Secretary under the insurance.

17                  “(3) PRINCIPAL OBLIGATION.—Each mortgage  
18                  insured under this section shall involve a principal  
19                  obligation in an amount not to exceed 90 percent of  
20                  the estimated value of the property or project, or 95  
21                  percent of the estimated value of the property or  
22                  project in the case of a mortgagor that is a private  
23                  nonprofit corporation or association (as defined pur-  
24                  suant to section 221(d)(3)), including—

1           “(A) equipment to be used in the operation  
 2           of the facility when the proposed improvements  
 3           are completed and the equipment is installed; or

4           “(B) a solar energy system (as defined in  
 5           subparagraph (3) of the last paragraph of sec-  
 6           tion 2(a)) or residential energy conservation  
 7           measures (as defined in subparagraphs (A)  
 8           through (G) and (I) of section 210(11) of the  
 9           National Energy Conservation Policy Act), in  
 10          cases in which the Secretary determines that  
 11          such measures are in addition to those required  
 12          under the minimum property standards and will  
 13          be cost-effective over the life of the measure.

14          “(4) AMORTIZATION AND INTEREST.—Each  
 15          mortgage insured under this section shall—

16               “(A) provide for complete amortization by  
 17               periodic payments under such terms as the Sec-  
 18               retary shall prescribe;

19               “(B) have a maturity date satisfactory to  
 20               the Secretary, but in no event longer than 25  
 21               years; and

22               “(C) bear interest at such rate as may be  
 23               agreed upon by the mortgagor and the mort-  
 24               gagee, and the Secretary shall not issue any  
 25               regulations or establish any terms or conditions

1           that interfere with the ability of the mortgagor  
2           and mortgagee to determine the interest rate.

3           “(5) RELEASE.—The Secretary may consent to  
4           the release of a part or parts of the mortgaged prop-  
5           erty or project from the lien of any mortgage in-  
6           sured under this section upon such terms and condi-  
7           tions as the Secretary may prescribe.

8           “(6) MORTGAGE INSURANCE TERMS.—Sub-  
9           sections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of  
10          section 207 apply to any mortgage insured under  
11          this section, except that all references in such sub-  
12          sections to section 207 shall be construed, for pur-  
13          poses of mortgage insurance under this section, to  
14          refer to this section.

15          “(d) MORTGAGE INSURANCE FOR FIRE SAFETY  
16          EQUIPMENT LOANS.—

17               “(1) AUTHORITY.—The Secretary may, upon  
18               such terms and conditions as the Secretary may pre-  
19               scribe, make commitments to insure and insure  
20               loans made by financial institutions or other ap-  
21               proved mortgagees to child care facilities to provide  
22               for the purchase and installation of fire safety equip-  
23               ment necessary for compliance with the 1967 edition  
24               of the Life Safety Code of the National Fire Protec-



tion Association (or any subsequent edition specified by the Secretary of Health and Human Services).

“(2) LOAN REQUIREMENTS.—To be eligible for insurance under this subsection a loan shall—

“(A) not exceed the estimate by the Secretary of the reasonable cost of the equipment fully installed;

“(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

“(C) have a maturity date satisfactory to the Secretary;

“(D) be made by a financial institution or other mortgagee approved by the Secretary as eligible for insurance under section 2 or a mortgagee approved under section 203(b)(1);

“(E) comply with other such terms, conditions, and restrictions as the Secretary may prescribe; and

“(F) be made with respect to a child care facility for which a certification of compliance has been issued by the Secretary under section 258(c) during the 12-month period preceding the date on which the commitment to insure is issued under this subsection.

1 “(3) INSURANCE REQUIREMENTS.—

2 “(A) SECTION 2.—Subsections (c), (d),  
3 and (h) of section 2 shall apply to any loan in-  
4 sured under this subsection, except that all ref-  
5 erences in such subsections to ‘this section’ or  
6 ‘this title’ shall be construed, for purposes of  
7 this subsection, to refer to this subsection.

8 “(B) SECTION 220.—Paragraphs (5), (6),  
9 (7), (9), and (10) of section 220(h) shall apply  
10 to any loan insured under this subsection, ex-  
11 cept that all references in such paragraphs to  
12 home improvement loans shall be construed, for  
13 purposes of this subsection, to refer to loans  
14 under this subsection.

15 “(e) SCHEDULES AND DEADLINES.—The Secretary  
16 shall establish schedules and deadlines for the processing  
17 and approval (or provision of notice of disapproval) of ap-  
18 plications for mortgage insurance under this section.

19 “(f) LIMITATION ON INSURANCE AUTHORITY.—

20 “(1) TERMINATION.—No mortgage may be in-  
21 sured under this section or section 223(h) after Sep-  
22 tember 30, 2007, except pursuant to a commitment  
23 to insure issued on or before such date.

24 “(2) AGGREGATE PRINCIPAL AMOUNT LIMITA-  
25 TION.—

1           “(A) IN GENERAL.—The aggregate prin-  
2           cipal amount of mortgages for which the Sec-  
3           retary enters into commitments to insure under  
4           this section or section 223(h) on or before the  
5           date described in paragraph (1) may not exceed  
6           \$2,000,000,000.

7           “(B) REPORT.—If, on the date described  
8           in paragraph (1), the aggregate insurance au-  
9           thority provided under this paragraph has not  
10          been fully used, the Secretary of the Treasury  
11          shall submit to Congress a report evaluating the  
12          need for continued mortgage insurance under  
13          this section.

14          “(g) NONDISCRIMINATION REQUIREMENT.—

15               “(1) IN GENERAL.—A child care facility receiv-  
16               ing assistance under this title may not discriminate  
17               on the basis of race, color, or national origin (to the  
18               extent provided in title VI of the Civil Rights Act of  
19               1964 (42 U.S.C. 2000d et seq.)), religion (subject to  
20               subparagraph (B)), national origin, sex (to the ex-  
21               tent provided in title IX of the Education Amend-  
22               ments of 1972 (20 U.S.C. 1681 et seq.)), or dis-  
23               ability (to the extent provided in section 504 of the  
24               Rehabilitation Act of 1973 (29 U.S.C. 794)), under

1 any program or activity receiving Federal financial  
2 assistance under this title.

3 “(2) FACILITIES OF RELIGIOUS ORGANIZA-  
4 TIONS.—The prohibition with respect to religion  
5 under paragraph (1) shall not apply to a child care  
6 facility that is controlled by, or that is closely identi-  
7 fied with, the tenets of a particular religious organi-  
8 zation, if the application of this paragraph would not  
9 be consistent with the religious tenets of such orga-  
10 nization.

11 “(h) LIABILITY INSURANCE.—A child care provider  
12 operating a child care facility assisted under this section  
13 or section 223(h) shall obtain and maintain liability insur-  
14 ance in such amounts and subject to such requirements  
15 as the Secretary considers to be appropriate.

16 “(i) SMALL PURPOSE LOANS.—

17 “(1) IN GENERAL.—To the extent that amounts  
18 are made available pursuant to subsection (l), the  
19 Secretary shall make loans, directly or indirectly, to  
20 providers of child care facilities for reconstruction or  
21 renovation of such facilities, in accordance with this  
22 subsection.

23 “(2) REQUIREMENTS.—A loan under this sub-  
24 section—

1           “(A) may be made only for a child care fa-  
2           cility that is financially and operationally viable,  
3           as determined under standards established by  
4           the Secretary;

5           “(B) may not have a term to maturity ex-  
6           ceeding 7 years;

7           “(C) shall bear interest at a rate estab-  
8           lished by the Secretary; and

9           “(D) shall be subject to such other terms  
10          and conditions as the Secretary may establish  
11          by regulation.

12          “(3) AGGREGATE LOAN AMOUNT.—The aggre-  
13          gate amount of loans under this subsection to a sin-  
14          gle provider may not exceed \$30,000.

15          “(j) NOTIFICATION.—The Secretary shall take such  
16          actions as may be necessary to publicize the availability  
17          of the programs for mortgage insurance under this section  
18          and section 223(h), and the loan program under sub-  
19          section (i) of this section, in a manner that ensures that  
20          information concerning such programs will be available to  
21          child care providers throughout the United States.

22          “(k) REGULATIONS.—The Secretary shall—

23                 “(1) issue any regulations necessary to carry  
24                 out this section; and

1           “(2) in carrying out paragraph (1), consult with  
 2           the Secretary of Health and Human Services with  
 3           respect to any aspects of the regulations regarding  
 4           child care facilities.

5           “(1) AUTHORIZATION OF APPROPRIATIONS.—There is  
 6           authorized to be appropriated to carry out this section  
 7           \$30,000,000 for fiscal year 2006, to remain available until  
 8           expended, of which not more than 10 percent may be used  
 9           for loans under subsection (i).”.

10   **SEC. 4. INSURANCE FOR MORTGAGES FOR ACQUISITION OR**  
 11                           **REFINANCING DEBT OF EXISTING CHILD**  
 12                           **CARE FACILITIES.**

13           (a) IN GENERAL.—Section 223 of the National  
 14           Housing Act (12 U.S.C. 1715n) is amended by adding at  
 15           the end the following:

16           “(h) MORTGAGE INSURANCE FOR PURCHASE OR RE-  
 17           FINANCING OF EXISTING CHILD CARE FACILITIES.—

18           “(1) DEFINITIONS.—In this subsection, the  
 19           terms that are defined in section 257(a) have the  
 20           same meanings as in that section.

21           “(2) AUTHORITY.—Notwithstanding any other  
 22           provision of this Act, the Secretary may insure  
 23           under any section of this title a mortgage executed  
 24           in connection with—

1           “(A) the purchase or refinancing of an ex-  
2           isting child care facility;

3           “(B) the purchase of a structure to serve  
4           as a child care facility; or

5           “(C) the refinancing of existing debt of an  
6           existing child care facility.

7           “(3) PURCHASE OF EXISTING FACILITIES AND  
8           STRUCTURES.—In the case of the purchase under  
9           this subsection of an existing child care facility or  
10          purchase of an existing structure to serve as such a  
11          facility, the Secretary shall prescribe any terms and  
12          conditions that the Secretary considers necessary to  
13          ensure that—

14               “(A) the facility or structure purchased  
15               continues to be used as a child care facility; and

16               “(B) the facility receives a certification of  
17               compliance under section 258(c).

18          “(4) REFINANCING OF EXISTING FACILITIES.—  
19          In the case of refinancing of an existing child care  
20          facility, the Secretary shall prescribe any terms and  
21          conditions that the Secretary considers necessary to  
22          ensure that—

23               “(A) the refinancing is used to lower the  
24               monthly debt service costs (taking into account

1           any fees or charges connected with such refi-  
2           nancing) of the existing facility;

3           “(B) the proceeds of any refinancing will  
4           be employed only to retire the existing indebted-  
5           ness and pay the necessary cost of refinancing  
6           on the existing facility;

7           “(C) the existing facility is economically  
8           viable; and

9           “(D) the facility receives a certification of  
10          compliance under section 258(c).

11          “(5) LIMITATION ON INSURANCE AUTHORITY.—  
12          The authority of the Secretary to enter into commit-  
13          ments to insure mortgages under this subsection is  
14          subject to section 257(f).”.

15   **SEC. 5. STUDY OF AVAILABILITY OF SECONDARY MARKETS**  
16                   **FOR MORTGAGES ON CHILD CARE FACILI-**  
17                   **TIES.**

18          (a) STUDY.—The Secretary of the Treasury shall  
19          conduct a study of the secondary mortgage markets to de-  
20          termine—

21               (1) whether such a market exists for purchase  
22               of mortgages eligible for insurance under sections  
23               223(h) and 257 of the National Housing Act (as  
24               added by this Act);



1           (2) whether such a market would affect the  
2       availability of credit available for development of  
3       child care facilities or would lower development costs  
4       of such facilities; and

5           (3) the extent to which such a market or other  
6       activities to provide credit enhancement for loans for  
7       child care facilities is needed to meet the demand for  
8       such facilities.

9       (b) REPORT.—Not later than 2 years after the date  
10   of enactment of this Act, the Secretary of the Treasury  
11   shall submit to Congress a report regarding the results  
12   of the study conducted under this section.

13   **SEC. 6. TECHNICAL AND FINANCIAL ASSISTANCE GRANTS.**

14       (a) DEFINITIONS.—In this section:

15           (1) CHILD CARE FACILITY.—The term “child  
16       care facility” has the meaning given that term in  
17       section 257(a) of the National Housing Act, as  
18       added by section 3.

19           (2) ELIGIBLE INTERMEDIARY.—The term “eli-  
20       gible intermediary” means a intermediary organiza-  
21       tion that—

22                (A) is described in section 501(c)(3) of the  
23       Internal Revenue Code of 1986;

24                (B) is exempt from taxation under section  
25       501(a) of such Code; and

1 (C) has demonstrated experience in—

2 (i) financing the construction and ren-  
3 ovation of physical facilities;

4 (ii) providing technical and financial  
5 assistance to child care providers or other  
6 similar entities;

7 (iii) working with businesses (whether  
8 small or large); and

9 (iv) securing private sources for cap-  
10 ital financing; and

11 (3) ELIGIBLE RECIPIENT.—The term “eligible  
12 recipient” means any—

13 (A) existing or start-up center-based or  
14 home-based child care provider; and

15 (B) organization in the process of estab-  
16 lishing a center-based or home-based child care  
17 program or otherwise seeking to provide child  
18 care services.

19 (4) EQUIPMENT.—The term “equipment” has  
20 the meaning given that term in section 257(a) of the  
21 National Housing Act, as added by section 3.

22 (b) GRANT AUTHORITY.—The Secretary of Housing  
23 and Urban Development, in consultation with the Sec-  
24 retary of Health and Human Services, may award grants  
25 on a competitive basis in accordance with this section to

1 eligible intermediaries for use in accordance with sub-  
2 sections (e) and (f).

3 (c) APPLICATIONS.—To be eligible to receive a grant  
4 under this section an eligible intermediary shall submit to  
5 the Secretary an application, in such form and containing  
6 such information as the Secretary may require.

7 (d) PRIORITY.—In awarding grants under this sec-  
8 tion the Secretary shall give a priority to applicants under  
9 subsection (c) that serve low-income or rural areas.

10 (e) USE OF FUNDS.—

11 (1) REVOLVING LOAN FUND.—Each eligible  
12 intermediary that receives a grant under this section  
13 shall deposit the grant amount into a child care re-  
14 volving loan fund established by the eligible inter-  
15 mediary.

16 (2) ELIGIBLE ASSISTANCE.—Subject to sub-  
17 section (f), from amounts deposited into the revolv-  
18 ing loan fund under paragraph (1), each eligible  
19 intermediary shall provide to eligible recipients—

20 (A) financial assistance (in the form of  
21 loans, grants, investments, guarantees, interest  
22 subsidies, and other appropriate forms of assist-  
23 ance) for the construction of new child care fa-  
24 cilities, child care facility planning, and acquisi-

tion or improvement of child care facilities or equipment; and

(B) technical assistance in obtaining public or private financing for such construction, planning, acquisition, and improvement, including developing and implementing financing resources, options, and plans for such eligible recipients.

(3) LOAN REPAYMENTS AND INVESTMENT PROCEEDS.—Any amount received by an eligible intermediary from an eligible recipient in the form of loan principal repayment or investment proceeds shall be deposited into the child care revolving fund of the eligible intermediary for redistribution to other eligible recipients in accordance with this section.

(f) ALLOCATION OF FUNDS.—Of the amounts distributed from the revolving loan fund of an eligible intermediary under subsection (e)(2) in each fiscal year—

(1) not less than 50 percent shall be used for financial assistance pursuant to subparagraph (A) of subsection (e)(2), except that the amount made available to any eligible recipient under this paragraph may not exceed 40 percent of the total costs incurred by that eligible recipient in connection with

1 the construction, planning, acquisition, or improve-  
2 ment assisted; and

3 (2) the amount remaining after distribution  
4 under paragraph (1), shall be used to provide tech-  
5 nical assistance pursuant to subparagraph (B) of  
6 subsection (e)(2).

7 (g) DAVIS BACON ACT.—The Act of March 3, 1931  
8 (popularly known as the Davis-Bacon Act) shall apply to  
9 actions taken under this Act.

10 (h) AUTHORIZATION OF APPROPRIATIONS.—There is  
11 authorized to be appropriated to carry out this section  
12 \$10,000,000 for each of fiscal years 2006 through 2010.

○