

109TH CONGRESS  
2D SESSION

# H. R. 5137

To assist first-time homebuyers to attain home ownership, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2006

Mr. HASTINGS of Florida introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To assist first-time homebuyers to attain home ownership,  
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, ETC.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Workforce Housing Act of 2006”.

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

- Sec. 1. Short title, etc.
- Sec. 2. Congressional findings.
- Sec. 3. Mortgage down payment accounts.

Sec. 4. Refundable credit for contributions to mortgage down payment accounts.

Sec. 5. Amendments to American Dream Downpayment Initiative.

Sec. 6. Production of affordable home ownership housing.

1 **SEC. 2. CONGRESSIONAL FINDINGS.**

2 The Congress finds that—

3 (1) home prices have increased nationally an  
4 average 50 percent in the past five years;

5 (2) in 2005, the median price for a home in the  
6 United States was \$213,900, but only about 11 per-  
7 cent of the adult population in the country could af-  
8 ford to purchase such a home;

9 (3) as a result of such prohibitive housing costs,  
10 employers often cannot maintain or retain a pool of  
11 qualified workers to fill jobs;

12 (4) rising energy costs add to the burden that  
13 working families face when trying to purchase a  
14 home;

15 (5) in 2005, families in the United States  
16 spent, on average, \$4,300 on all energy costs (in-  
17 cluding home energy bills and gasoline), which is ap-  
18 proximately \$600 more than they spent on such  
19 costs in 2004;

20 (6) residential appliances, including heating and  
21 cooling equipment and water heaters, consume 90  
22 percent of all energy used in the residential sector  
23 in the United States;

1           (7) homes and appliances that fail to use en-  
2           ergy efficiently cost on average \$500 per year to op-  
3           erate and require over 30 percent more resources,  
4           further increasing the dependence on fossil fuels,  
5           and jeopardizing the energy security, of the United  
6           States;

7           (8) within 15 years, renewable energy could be  
8           generating enough electricity to power 40,000,000  
9           homes and offset 70 days of oil imports into the  
10          United States;

11          (9) when workers can use nearby mass transit,  
12          instead of driving to work, toxic greenhouse gases  
13          that contribute to global warming are reduced by 77  
14          pounds per person per year; and

15          (10) to ensure there is an adequate supply of  
16          workforce housing and reduce some of the negative  
17          affects of high energy demands, it is critical to pro-  
18          vide incentives for producing affordable homes that  
19          are close to transportation hubs and make the best  
20          use of efficient, renewable energy.

21 **SEC. 3. MORTGAGE DOWN PAYMENT ACCOUNTS.**

22          (a) IN GENERAL.—Part VII of subchapter B of chap-  
23          ter 1 of the Internal Revenue Code of 1986 (relating to  
24          additional itemized deductions for individuals) is amended

1 by redesignating section 224 as section 225 and by insert-  
2 ing after section 223 the following new section:

3 **“SEC. 224. MORTGAGE DOWN PAYMENT ACCOUNTS.**

4 “(a) ALLOWANCE OF DEDUCTION.—

5 “(1) IN GENERAL.—In the case of an indi-  
6 vidual, there shall be allowed as a deduction for the  
7 taxable year an amount equal to the aggregate  
8 amount paid in cash during such taxable year by the  
9 taxpayer to the mortgage down payment account of  
10 the taxpayer.

11 “(2) DOLLAR LIMITATION.—

12 “(A) IN GENERAL.—The amount allowed  
13 as a deduction under subsection (a) with re-  
14 spect to the taxpayer for any taxable year shall  
15 not exceed the applicable dollar limit.

16 “(B) APPLICABLE DOLLAR LIMIT.—

17 “(i) In the case of a taxpayer whose  
18 modified adjusted gross income for the tax-  
19 able year does not exceed 125 percent of  
20 area median income, the applicable dollar  
21 limit shall be equal to \$10,000.

22 “(ii) In the case of any other tax-  
23 payer, the applicable dollar limit shall be  
24 zero.

1           “(C) AREA MEDIAN INCOME.—For pur-  
2           poses of subparagraph (B)—

3           “(i) IN GENERAL.—The area median  
4           income means the area median income de-  
5           termined by the Secretary of Housing and  
6           Urban Development for the calendar year  
7           ending with or within the taxable year of  
8           the taxpayer.

9           “(ii) TAXPAYER RESIDING IN MORE  
10          THAN 1 AREA FOR THE TAXABLE YEAR.—  
11          In the case that the taxpayer had more  
12          than one principal residence during the  
13          taxable year, the area median income  
14          means the sum of the residing percentage  
15          of the area median income for each area in  
16          which the taxpayer had a principal resi-  
17          dence during the taxable year.

18          “(iii) RESIDING PERCENTAGE.—For  
19          purposes of clause (ii), the term ‘residing  
20          percentage’ means the ratio of the number  
21          of days that the taxpayer had his principal  
22          residence in an area bears to 365.

23          “(D) MODIFIED ADJUSTED GROSS IN-  
24          COME.—The term ‘modified adjusted gross in-  
25          come’ means the adjusted gross income of the

1 taxpayer for the taxable year increased by any  
 2 amount excluded from gross income under sec-  
 3 tion 911, 931, or 933.

4 “(3) COORDINATION WITH MORTGAGE DOWN  
 5 PAYMENT CREDIT.—No amount shall be allowed as  
 6 a deduction under paragraph (1) to the taxpayer if  
 7 a credit is allowed under section 36 for the taxable  
 8 year.

9 “(4) DEDUCTION NOT ALLOWED TO DEPEND-  
 10 ENTS.—A deduction shall not be allowed to an indi-  
 11 vidual for a taxable year under paragraph (1) if  
 12 such individual is a dependent for whom a deduction  
 13 is allowable under section 151 to another taxpayer  
 14 for any taxable year beginning in the same calendar  
 15 year in which such individual’s taxable year begins.

16 “(b) DEFINITIONS.—For purposes of this section—

17 “(1) MORTGAGE DOWN PAYMENT ACCOUNT.—  
 18 The term ‘mortgage down payment account’ means  
 19 a trust created or organized in the United States ex-  
 20 clusively for the purpose of paying the qualified ex-  
 21 penses of a taxpayer, but only if the written gov-  
 22 erning instrument creating the trust meets the fol-  
 23 lowing requirements:

24 “(A) No contribution will be accepted—

25 “(i) unless it is in cash, or

1 “(ii) except in the case of rollover con-  
2 tributions and contributions under section  
3 36(b)(3)(B), if such contribution would re-  
4 sult in aggregate contributions for the tax-  
5 able year exceeding the amount allowed as  
6 a deduction under subsection (a).

7 “(B) The trustee is a bank (as defined in  
8 section 408(n)) or another person who dem-  
9 onstrates to the satisfaction of the Secretary  
10 that the manner in which that person will ad-  
11 minister the trust will be consistent with the re-  
12 quirements of this section or who has so dem-  
13 onstrated with respect to any individual retire-  
14 ment plan.

15 “(C) No part of the trust assets will be in-  
16 vested in life insurance contracts.

17 “(D) The assets of the trust shall not be  
18 commingled with other property except in a  
19 common trust fund or common investment  
20 fund.

21 “(2) QUALIFIED EXPENSES.—The term ‘quali-  
22 fied expenses’ means with respect to a principal resi-  
23 dence of the taxpayer who is a first-time home-  
24 buyer—

1           “(A) the costs of acquiring, constructing,  
2           or reconstructing the residence, including any  
3           usual or reasonable settlement, financing, or  
4           other closing costs qualified acquisition costs,

5           “(B) the cost of repairing or replacing  
6           major structural components of the residence,  
7           and

8           “(C) the costs of purchasing a major appli-  
9           ances for service in the residence.

10          “(3) FIRST-TIME HOMEBUYER.—

11           “(A) IN GENERAL.—The term ‘first-time  
12           homebuyer’ means any individual if—

13                   “(i) such individual (and if married,  
14                   such individual’s spouse) had no present  
15                   ownership interest in a principal residence  
16                   during the 2-year period ending on the  
17                   date of acquisition of the principal resi-  
18                   dence to which this subsection applies, and

19                   “(ii) subsection (h) or (k) of section  
20                   1034 (as in effect on the day before the  
21                   date of the enactment of this paragraph)  
22                   did not suspend the running of any period  
23                   of time specified in section 1034 (as so in  
24                   effect) with respect to such individual on



1           the day before the end of the period speci-  
2           fied in clause (i).

3           “(B) PRINCIPAL RESIDENCE.—The term  
4           ‘principal residence’ has the same meaning as  
5           when used in section 121.

6           “(C) DATE OF ACQUISITION.—The term  
7           ‘date of acquisition’ means the date—

8                   “(i) on which a binding contract to  
9                   acquire the principal residence to which  
10                  subparagraph (A) applies is entered into,  
11                  or

12                   “(ii) on which construction or recon-  
13                  struction of such a principal residence is  
14                  commenced.

15          “(c) TAX TREATMENT OF ACCOUNT.—

16           “(1) IN GENERAL.—A mortgage down payment  
17           account shall be exempt from taxation under this  
18           subtitle. Notwithstanding the preceding sentence,  
19           the mortgage down payment account shall be subject  
20           to the taxes imposed by section 511 (relating to im-  
21           position of tax on unrelated business income of char-  
22           itable organizations).

23           “(2) ACCOUNT TERMINATIONS.—Rules similar  
24           to the rules of paragraphs (2) and (4) of section

1       408(e) shall apply to any mortgage down payment  
2       account.

3       “(d) TAX TREATMENT OF DISTRIBUTIONS.—

4               “(1) IN GENERAL.—Any distribution shall be  
5       includible in the gross income of the distributee in  
6       the manner as provided in section 72.

7               “(2) QUALIFIED DISTRIBUTIONS.—

8                       “(A) EXCLUSION.—Any qualified distribu-  
9       tion from a mortgage down payment account  
10      shall not be includible in gross income.

11                      “(B) QUALIFIED DISTRIBUTION.—For  
12      purposes of this paragraph—

13                               “(i) IN GENERAL.—The term ‘quali-  
14      fied distribution’ means any payment of  
15      distribution—

16                                       “(I) if the qualified expenses of  
17      the designated beneficiary during the  
18      taxable year are not less than the ag-  
19      gregate distributions during the tax-  
20      able year,

21                                       “(II) made on or after the date  
22      on which the individual attains age  
23      59½,

1                   “(III) made to a beneficiary (or  
2                   to the estate of the individual) on or  
3                   after the death of the individual, or

4                   “(IV) attributable to the individ-  
5                   ual’s being disabled (within the mean-  
6                   ing of section 72(m)(7).

7                   “(C) DISTRIBUTIONS IN EXCESS OF EX-  
8                   PENSES.—

9                   “(i) IN GENERAL.—If such aggregate  
10                  distributions exceed such expenses during  
11                  the taxable year, the amount otherwise in-  
12                  cludible in gross income under paragraph  
13                  (1) shall be reduced by the amount which  
14                  bears the same ratio to the amount which  
15                  would be includible in gross income under  
16                  paragraph (1) (without regard to this sub-  
17                  paragraph) as the qualified expenses bear  
18                  to such aggregate distributions.

19                  “(ii) MORTGAGE GRANT PROGRAMS,  
20                  ETC.—The amount of qualified expenses  
21                  otherwise taken into account under sub-  
22                  paragraph (B) with respect to an indi-  
23                  vidual shall be reduced by any payment for  
24                  such expenses which is excludible from

1 gross income under any law of the United  
2 States.

3 “(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT  
4 USED FOR QUALIFIED EXPENSES.—

5 “(A) IN GENERAL.—The tax imposed by  
6 this chapter for any taxable year on any tax-  
7 payer who receives a payment or distribution  
8 from a mortgage down payment account which  
9 is includible in gross income shall be increased  
10 by 10 percent of the amount which is so includ-  
11 ible.

12 “(B) CONTRIBUTIONS RETURNED BEFORE  
13 CERTAIN DATE.—Subparagraph (A) shall not  
14 apply to the distribution of any contribution  
15 made during a taxable year on behalf of the  
16 designated beneficiary if—

17 “(i) such distribution is made before  
18 the first day of the sixth month of the tax-  
19 able year following the taxable year, and

20 “(ii) such distribution is accompanied  
21 by the amount of net income attributable  
22 to such excess contribution.

23 Any net income described in clause (ii) shall be  
24 included in gross income for the taxable year in  
25 which such excess contribution was made.

1           “(4) ROLLOVER CONTRIBUTIONS.—Paragraph  
2           (1) shall not apply to any amount paid or distrib-  
3           uted from a mortgage down payment account to the  
4           extent that the amount received is paid, not later  
5           than the 60th day after the date of such payment  
6           or distribution, into another mortgage down pay-  
7           ment account for the taxpayer. The preceding sen-  
8           tence shall not apply to any payment or distribution  
9           if such paragraph applied to any prior payment or  
10          distribution during the 12-month period ending on  
11          the date of the payment or distribution.

12          “(e) RECAPTURE.—The Secretary shall, by regula-  
13          tions, provide for recapturing the benefit provided under  
14          this section and section 36 with respect to any property  
15          which ceases to be the principal residence of the taxpayer  
16          before the end of the 15-year period beginning on the last  
17          date on which amounts were excluded from gross income  
18          under subsection (d)(2) with respect to such property.  
19          Such regulations shall provide exceptions in the case of  
20          the divorce, disability, or death of the taxpayer.

21          “(f) COMMUNITY PROPERTY LAWS.—This section  
22          shall be applied without regard to any community property  
23          laws.

24          “(g) CUSTODIAL ACCOUNTS.—For purposes of this  
25          section, a custodial account shall be treated as a trust if

1 the assets of such account are held by a bank (as defined  
2 in section 408(n) or another person who demonstrates, to  
3 the satisfaction of the Secretary, that the manner in which  
4 he will administer the account will be consistent with the  
5 requirements of this section, and if the custodial account  
6 would, except for the fact that it is not a trust, constitute  
7 an account described in subsection (b)(1). For purposes  
8 of this title, in the case of a custodial account treated as  
9 a trust by reason of the preceding sentence, the custodian  
10 of such account shall be treated as the trustee thereof.

11 “(h) REPORTS.—The trustee of a mortgage down  
12 payment account shall make such reports regarding such  
13 account to the Secretary and to the beneficiary of the ac-  
14 count with respect to contributions, distributions, and  
15 such other matters as the Secretary may require. The re-  
16 ports required by this subsection shall be filed at such time  
17 and in such manner and furnished to such individuals at  
18 such time and in such manner as may be required.”.

19 (b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL  
20 ITEMIZES OTHER DEDUCTIONS.—Subsection (a)  
21 of section 62 of such Code is amended by inserting before  
22 the last sentence at the end the following new paragraph:

23 “(21) MORTGAGE DOWN PAYMENT ACCOUNT.—  
24 The deduction allowed by section 224.”.

25 (c) PROHIBITED TRANSACTIONS.—

1           (1) EXCEPTION FOR TAXABLE DISTRIBUTIONS  
 2 FROM MORTGAGE DOWN PAYMENT ACCOUNTS.—Sub-  
 3 section (c) of section 4975 of such Code (defining to  
 4 prohibited transaction) is amended by adding at the  
 5 end the following new paragraph:

6           “(7) SPECIAL RULE FOR MORTGAGE DOWN PAY-  
 7 MENT ACCOUNTS.—An individual for whose benefit a  
 8 mortgage down payment account is established and  
 9 any contributor to such account shall be exempt  
 10 from the tax imposed by this section with respect to  
 11 any transaction concerning such account (which  
 12 would otherwise be taxable under this section) if sec-  
 13 tion 224(d)(3) applies with respect to such trans-  
 14 action.”.

15           (2) PLAN DEFINED.—Paragraph (1) of section  
 16 4975(e) of such Code is amended by striking “or”  
 17 at the end of subparagraph (F), by striking the pe-  
 18 riod at the end of subparagraph (G) and inserting  
 19 “, or”, and by inserting after subparagraph (G) the  
 20 following new subparagraph:

21           “(H) a mortgage down payment account  
 22 described in section 224.”.

23           (d) EXCESS CONTRIBUTIONS.—

24           (1) IN GENERAL.—Section 4973(a) of such  
 25 Code relating to tax imposed) is amended by striking

1 “or” at the end of paragraph (4), by inserting “or”  
 2 at the end of paragraph (5), and by inserting after  
 3 paragraph (5) the following new paragraph:

4 “(6) a mortgage down payment account (within  
 5 the meaning of section 224(b)(1)).”.

6 (2) EXCESS CONTRIBUTIONS TO MORTGAGE  
 7 DOWN PAYMENT ACCOUNTS.—Section 4973 of such  
 8 Code (relating to tax on excess contributions to cer-  
 9 tain tax-favored accounts and annuities) is amended  
 10 by adding at the end the following new subsection:

11 “(h) EXCESS CONTRIBUTIONS TO MORTGAGE DOWN  
 12 PAYMENT ACCOUNTS.—For purposes of this section—

13 “(1) IN GENERAL.—In the case of contributions  
 14 to a mortgage down payment account, the term ‘ex-  
 15 cess contributions’ means the sum of—

16 “(A) the excess (if any) of—

17 “(i) the amount contributed for the  
 18 taxable year to the accounts (other than a  
 19 rollover contribution described in section  
 20 224(d)(4) and contributions under section  
 21 36(c), over

22 “(ii) the amount allowable as a deduc-  
 23 tion under section 224 for such contribu-  
 24 tions or as a credit under section 36 for



1           such contributions, as the case may be,  
2           and

3           “(B) the amount determined under this  
4           subsection for the preceding taxable year, re-  
5           duced by the sum of—

6                   “(i) the distributions out of the ac-  
7                   counts for the taxable year (other than  
8                   rollover distributions), and

9                   “(ii) the excess (if any) of the max-  
10                  imum amount which may be contributed to  
11                  the accounts for the taxable year over the  
12                  amount contributed to the accounts for the  
13                  taxable year.

14           “(2) SPECIAL RULES.—For purposes of para-  
15           graph (1), the following contributions shall not be  
16           taken into account:

17                   “(A) Any contribution which is distributed  
18                   out of the mortgage down payment account in  
19                   a distribution to which section 224(d)(3)(B) ap-  
20                   plies.

21                   “(B) Any rollover contribution.”.

22           (e) PENALTY ON FAILURE TO REPORT.—Paragraph  
23           (2) of section 6693(a) of such Code (relating to provisions)  
24           is amended by striking “and” at the end of subparagraph  
25           (D), by striking the period at the end of subparagraph

1 (E) and inserting “, and”, and by inserting after subpara-  
 2 graph (E) the following new subparagraph:

3 “(F) section 224(g) (relating to mortgage  
 4 down payment accounts).”.

5 (f) CONFORMING AMENDMENTS.—

6 (1) Section 26(b)(2) of such Code is amended  
 7 by striking “and” at the end of subparagraph S, by  
 8 striking the period at the end of subparagraph (T)  
 9 and inserting “, and”, and by inserting after sub-  
 10 paragraph (T) the following new subparagraph:

11 “(U) section 224(d)(3) (relating to additional  
 12 tax for distributions not used for qualified ex-  
 13 penses).”.

14 (2) Section 72(t)(8)(C) of such Code is amend-  
 15 ed by inserting at the end the following new sen-  
 16 tence: “Such costs shall not include any amount  
 17 taken into account under section 224.”.

18 (g) CLERICAL AMENDMENTS.—The table of sections  
 19 for part VII of subchapter B of chapter 1 of such Code  
 20 is amended by redesignating the item relating to section  
 21 224 as an item relating to section 225 and by inserting  
 22 after the item relating to section 223 the following new  
 23 item:

“Sec. 224. Mortgage down payment accounts.”.

1 (h) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2006.

4 **SEC. 4. REFUNDABLE CREDIT FOR CONTRIBUTIONS TO**  
5 **MORTGAGE DOWN PAYMENT ACCOUNTS.**

6 (a) IN GENERAL.—Subpart C of part IV of sub-  
7 chapter A of chapter 1 of the Internal Revenue Code of  
8 1986 is amended by redesignating section 36 as section  
9 37 and by inserting after section 35 the following new sec-  
10 tion:

11 **“SEC. 36. CONTRIBUTIONS TO MORTGAGE DOWN PAYMENT**  
12 **ACCOUNTS.**

13 “(a) GENERAL RULE.—In the case of an individual,  
14 there shall be allowed as a credit against the tax imposed  
15 by this chapter an amount equal to the amount contrib-  
16 uted by the individual to any mortgage down payment ac-  
17 count of the taxpayer.

18 “(b) LIMITATION BASED ON MODIFIED ADJUSTED  
19 GROSS INCOME.—

20 “(1) IN GENERAL.—The amount allowed as a  
21 credit under subsection (a) with respect to the tax-  
22 payer for any taxable year shall not exceed the appli-  
23 cable dollar limit.

24 “(2) APPLICABLE DOLLAR LIMIT.—

1           “(A) IN GENERAL.—In the case of a tax-  
2           payer whose modified adjusted gross income for  
3           the taxable year does not exceed 100 percent of  
4           area median income, the applicable dollar limit  
5           shall be equal to \$2,500 (\$5,000 in the case of  
6           a joint return).

7           “(B) NO CREDIT FOR INCOMES IN EXCESS  
8           OF LIMIT.—In the case of any other taxpayer,  
9           the applicable dollar limit shall be zero.

10          “(3) AREA MEDIAN INCOME.—For purposes of  
11          paragraph (2)—

12               “(A) IN GENERAL.—The area median in-  
13               come means the area median income deter-  
14               mined by the Secretary of Housing and Urban  
15               Development for the calendar year ending with  
16               or within the taxable year of the taxpayer.

17               “(B) TAXPAYER RESIDING IN MORE THAN  
18               1 AREA FOR THE TAXABLE YEAR.—In the case  
19               that the taxpayer had more than one principal  
20               residence during the taxable year, the area me-  
21               dian income means the sum of the residing per-  
22               centage of the area median income for each  
23               area in which the taxpayer had a principal resi-  
24               dence during the taxable year.

1           “(C) RESIDING PERCENTAGE.—For pur-  
2           poses of subparagraph (B), the term ‘residing  
3           percentage’ means the ratio of the number of  
4           days that the taxpayer had his principal resi-  
5           dence in an area bears to 365.

6           “(4) MODIFIED ADJUSTED GROSS INCOME.—  
7           For purposes of this subsection, the term ‘modified  
8           adjusted gross income’ means the adjusted gross in-  
9           come of the taxpayer for the taxable year increased  
10          by any amount excluded from gross income under  
11          section 911, 931, or 933.

12          “(c) ONE-TIME FEDERAL MATCH.—

13               “(1) IN GENERAL.—In the case of a taxpayer  
14               for whom an election is in effect under this sub-  
15               section for any taxable year, the amount allowed as  
16               a credit under subsection (a) shall be increased by  
17               \$500.

18               “(2) COMPLETION OF HOME OWNERSHIP COUN-  
19               SELING COURSE.—A individual may not make an  
20               election under this subsection unless the individual  
21               (and if married, such individual’s spouse) has com-  
22               pleted the home ownership counseling under a pro-  
23               gram that meets the requirements under section  
24               271(c)(2)(C) of the Cranston-Gonzalez National Af-  
25               fordable Housing Act.

1           “(3) ELECTION APPLIES ONLY TO 1 TAXABLE  
 2       YEAR.—An election to have paragraph (1) apply  
 3       with respect to any eligible individual may not be  
 4       made for any taxable year if such an election is in  
 5       effect with respect to such individual for any other  
 6       prior taxable year.

7           “(4) TAXPAYER MUST NOT HAVE DEFICI-  
 8       CIENCY.—Under regulations prescribed by the Sec-  
 9       retary, an election under this subsection shall not be  
 10      effective for any taxable year for which the taxpayer  
 11      has unpaid tax or a deficiency.

12      “(d) DEPOSIT OF CREDIT AMOUNTS IN MORTGAGE  
 13      DOWN PAYMENT ACCOUNT.—

14           “(1) IN GENERAL.—Notwithstanding any other  
 15      provision of this title—

16           “(A) no amount shall be allowed as a cred-  
 17      it under this section unless the taxpayer des-  
 18      ignates a mortgage down payment account into  
 19      which such credit can be contributed, and

20           “(B) the entire amount of the credit al-  
 21      lowed under this section shall be treated as an  
 22      overpayment described in section 6401(b).

23           “(2) CREDIT DEPOSITED INTO ACCOUNT.—The  
 24      Secretary shall deposit by electronic funds transfer  
 25      into such designated mortgage down payment ac-

1 count the amount treated as an overpayment under  
2 paragraph (1)(B).

3 “(3) JOINT RETURNS.—In the case of a pay-  
4 ment under this subsection with respect to a joint  
5 return, half of such payment shall be treated as hav-  
6 ing been made to each individual filing such return.

7 “(e) CREDIT NOT ALLOWED TO DEPENDENTS.—A  
8 credit shall not be allowed to an individual for a taxable  
9 year under subsection (a) if such individual is a dependent  
10 for whom a deduction is allowable under section 151 to  
11 another taxpayer for any taxable year beginning in the  
12 same calendar year in which such individual’s taxable year  
13 begins.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Section 72(t)(8)(C) of such Code is amend-  
16 ed by inserting “or 36” before the period at the end.

17 (2) Paragraph (2) of section 1324(b) of title  
18 31, United States Code, is amended by inserting be-  
19 fore the period “, or from section 36 of such Code”.

20 (3) The table of sections for subpart C of part  
21 IV of chapter 1 of the Internal Revenue Code of  
22 1986 is amended by redesignating the item relating  
23 to section 36 as an item relating to section 37 and  
24 by inserting before the item relating to section 37  
25 the following new item:

“Sec. 36. Contributions to mortgage down payment accounts.”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to contributions made in taxable  
3 years beginning after December 31, 2006.

4 **SEC. 5. AMENDMENTS TO AMERICAN DREAM DOWNPAY-**  
5 **MENT INITIATIVE.**

6       (a) HOME OWNERSHIP COUNSELING REQUIRE-  
7 MENT.—Section 271(c) of the Cranston-Gonzalez Na-  
8 tional Affordable Housing Act (42 U.S.C. 12821(c)) is  
9 amended—

10           (1) in paragraph (1), by adding at the end the  
11 following new subparagraph:

12               “(C) HOME OWNERSHIP COUNSELING.—  
13 Providing home ownership counseling that  
14 meets the requirements of paragraph (2)(C) for  
15 families who are provided downpayment assist-  
16 ance under this section.”.

17           (2) in paragraph (2), by adding at the end the  
18 following new subparagraph:

19               “(C) HOME OWNERSHIP COUNSELING RE-  
20 QUIREMENT.—Downpayment assistance under  
21 this section may not be provided under this sec-  
22 tion on behalf of a family unless the family has  
23 completed a program of counseling with respect  
24 to the responsibilities and financial manage-  
25 ment involved in home ownership that is ap-



1           proved by the Secretary and includes counseling  
2           regarding strategies to save money, qualifying  
3           for a mortgage loan, methods to avoid preda-  
4           tory lenders and foreclosure, and, where appro-  
5           priate by region, any requirements and costs re-  
6           garding obtaining flood or other disaster-spe-  
7           cific insurance coverage.”.

8           (b) AMOUNT AND USE OF DOWNPAYMENT ASSIST-  
9   ANCE.—Section 271(c) of the Cranston-Gonzalez National  
10   Affordable Housing Act (42 U.S.C. 12821(c)) is amend-  
11   ed—

12           (1) in paragraph (1)(A), by inserting after the  
13           period at the end the following: “Such assistance  
14           may be used to pay the principal obligation of a  
15           mortgage loan, taxes, insurance, service charges, ap-  
16           praisal, and any other fees in connection with acqui-  
17           sition of a principal residence.”; and

18           (2) in paragraph (2)(A)—

19                   (A) in clause (i), by striking “6 percent”  
20                   and inserting “10 percent”; and

21                   (B) in clause (ii), by striking “\$10,000”  
22                   and inserting “\$15,000”.

23           (c) PRIORITY FOR CERTAIN POPULATIONS.—Section  
24   271(c)(2) of the Cranston-Gonzalez National Affordable  
25   Housing Act (42 U.S.C. 12821(c)(2)), as amended by the

1 preceding provisions of this section, is further amended  
2 by adding at the end the following new subparagraph:

3           “(D) AUTHORITY FOR JURISDICTION TO  
4           PROVIDE PRIORITY FOR CERTAIN POPU-  
5           LATIONS.—In providing assistance with  
6           amounts from a grant under this section, a par-  
7           ticipating jurisdiction may, in the discretion of  
8           the jurisdiction, provide priority for such assist-  
9           ance to certain categories of eligible low-income  
10          families, who may include elderly persons, mem-  
11          bers of the Armed Forces, teachers, first re-  
12          sponders, other service workers, persons dis-  
13          placed by natural disasters or governmental ac-  
14          tions, nurses or other health care providers, or  
15          any other categories of eligible low-income fami-  
16          lies that the participating jurisdiction considers  
17          appropriate.”.

18          (d) DEFINITION OF FIRST-TIME HOMEBUYER.—Sec-  
19          tion 271(a) of the Cranston-Gonzalez National Affordable  
20          Housing Act (42 U.S.C. 12821(a)) is amended—

21               (1) by redesignating paragraphs (2) through  
22               (4) as paragraphs (2) through (5), respectively; and  
23               (2) by inserting after paragraph (1) the fol-  
24          lowing new paragraph:

1           “(2) FIRST-TIME HOMEBUYER.—The term  
 2           ‘first-time homebuyer’ has the meaning given such  
 3           term in paragraph (14) of section 104, except that  
 4           an individual may not be excluded from consider-  
 5           ation as a first-time homebuyer under such para-  
 6           graph on the basis that the individual—

7                   “(A) owns or owned a home with, or re-  
 8                   sided in a home owned by, a spouse, former  
 9                   spouse, or other person if such individual no  
 10                  longer resides in such home and was a victim  
 11                  of domestic abuse (as such term is defined in  
 12                  section 40002 of the Violence Against Women  
 13                  Act of 1994 (42 U.S.C. 13925)) from such  
 14                  spouse, former spouse, or other person; or

15                  “(B) owns or owned, as a principal resi-  
 16                  dence during the 3-year period referred to in  
 17                  such paragraph, a home from which such per-  
 18                  son is displaced as a result of a government ac-  
 19                  tion other than eviction from public housing as-  
 20                  sisted under title I of the United States Hous-  
 21                  ing Act of 1937 (42 U.S.C. 1437 et seq.).”.

22           (e) PERIOD OF AFFORDABILITY.—Paragraph (2) of  
 23           section 271(f) of the Cranston-Gonzalez National Afford-  
 24           able Housing Act (42 U.S.C. 12821) is amended by insert-  
 25           ing before the period at the end the following: “, except

1 that any housing purchased with downpayment assistance  
2 under this section shall meet the affordability require-  
3 ments under section 215(b) and the regulations issued  
4 under such section for a minimum period of 15 years, re-  
5 gardless of the amount of such downpayment assistance  
6 provided”.

7 (f) REPORT.—Subsection (h) of section 271 of the  
8 Cranston-Gonzalez National Affordable Housing Act (42  
9 U.S.C. 12821) is amended—

10 (1) by striking “June 30, 2006” and inserting  
11 “June 30 of each year ”; and

12 (2) by adding after and below paragraph (2)  
13 the following:

14 “The report under this subsection shall include informa-  
15 tion regarding the quality and quantity of housing pur-  
16 chased using assistance made available under this section,  
17 the amount of assistance provided per family, the incomes  
18 of the families assisted, the amount of time that low-in-  
19 come families assisted under this section continue to reside  
20 in housing purchased with such assistance, the quality of  
21 home ownership counseling provided in connection with  
22 such assistance, the types of priorities established by par-  
23 ticipating jurisdictions pursuant to subsection (c)(2)(D),  
24 and the benefits to such jurisdictions resulting from estab-  
25 lishing such priorities.”.

1 (g) AUTHORIZATION OF APPROPRIATIONS.—Sub-  
 2 section (k) of section 271 of the Cranston-Gonzalez Na-  
 3 tional Affordable Housing Act (42 U.S.C. 12821(k)) is  
 4 amended by striking “2007” and inserting the following:  
 5 “2006 and \$200,000,000 for each of fiscal years 2007  
 6 through 2014”.

7 **SEC. 6. PRODUCTION OF AFFORDABLE HOME OWNERSHIP**  
 8 **HOUSING.**

9 (a) PROGRAM AUTHORITY.—The Secretary of Hous-  
 10 ing and Urban Development shall carry out a program to  
 11 make grants to units of general local government to pro-  
 12 vide financial assistance to developers for the production  
 13 of housing for home ownership that meets the require-  
 14 ments of this section and is affordable to low- and mod-  
 15 erate-income families.

16 (b) GRANT AND ASSISTANCE AMOUNTS.—The Sec-  
 17 retary shall establish limitations—

18 (1) regarding the amount of a grant that may  
 19 be made under this section to a unit of general local  
 20 government; and

21 (2) the portion of the total development costs of  
 22 housing to be constructed using such grant amounts  
 23 that may be funded with such grant amounts.

24 (c) AFFORDABLE DWELLING UNITS.—Amounts from  
 25 a grant under this Act may be used only for costs involved

1 in the development of housing of which not less than 25  
2 percent of the single-family dwelling units are affordable  
3 dwelling units that meet the following requirements:

4 (1) HOME OWNERSHIP.—Such affordable dwell-  
5 ing units shall be made available only for purchase  
6 by the occupying family, which may include owner-  
7 ship of a one-family unit in a condominium project  
8 and an undivided interest in the common areas or a  
9 membership interest and occupancy agreement in co-  
10 operative housing project, and may not be made  
11 available for rental.

12 (2) LOW- AND MODERATE-INCOME LIMITA-  
13 TIONS; PRINCIPAL RESIDENCE.—Such affordable  
14 dwelling units shall be available for purchase by a  
15 family who is a first-time homebuyer, for use only as  
16 the principal residence of such family, as follows:

17 (A) LOW-INCOME UNITS.—Not less than  
18 15 percent shall be available for purchase only  
19 by low-income families.

20 (B) MODERATE-INCOME UNITS.—Not less  
21 than 10 percent shall be available for purchase  
22 only by moderate-income families.

23 (3) AFFORDABILITY.—Such affordable dwelling  
24 units shall be made available for purchase at an ini-  
25 tial purchase price that does not exceed such per-

1       centage of the median purchase price for the area in  
2       which the housing is located, as the grantee unit of  
3       general local government shall provide, with adjust-  
4       ments based on the size of the dwelling unit as the  
5       unit of general local government considers appro-  
6       priate.

7           (4) RESALE RESTRICTIONS.—Such affordable  
8       dwelling units shall be subject to resale and recap-  
9       ture restrictions that are established by the grantee  
10      unit of general local government and determined by  
11      the Secretary to comply with the requirements for  
12      such restrictions under section 215(b)(3) of the  
13      Cranston-Gonzalez National Affordable Housing Act  
14      (42 U.S.C. 12745(b)(3)).

15          (5) PRIORITY FOR CERTAIN POPULATIONS.—  
16      The grantee unit of general local government may  
17      require that priority be given, among prospective  
18      purchasers of such affordable dwelling units, to cer-  
19      tain categories of low- and moderate-income families  
20      otherwise eligible to purchase such dwelling units,  
21      who may include elderly persons, members of the  
22      Armed Forces, teachers, first responders, other serv-  
23      ice workers, persons displaced by natural disasters  
24      or governmental actions, nurses or other health care  
25      providers, or any other categories of eligible low-in-

1       come families that the unit of general local govern-  
2       ment considers appropriate.

3           (6) LOCATION.—Except as provided in sub-  
4       section (d), such affordable dwelling units shall be  
5       located together with and among the other dwelling  
6       units developed using amounts from a grant under  
7       this section.

8           (d) INCREASE IN AFFORDABLE UNITS FOR FLEXI-  
9       BILITY IN LOCATION.—A unit of general local government  
10      may provide that the affordable dwelling units developed  
11      using amounts from a grant under this section are located  
12      at a site separate from the site of other dwelling units  
13      developed using such grant amounts, but only if the unit  
14      of general local government requires that the percentage  
15      of affordable dwelling units developed using such grant  
16      amounts is greater than the percentage specified in sub-  
17      section (c).

18          (e) MIXED INCOME REQUIREMENTS.—Any housing  
19      constructed in whole or in part with amounts from a grant  
20      under this Act to a unit of general local government shall  
21      meet such requirements regarding income eligibility as  
22      such unit shall establish to ensure that the families pur-  
23      chasing such housing include a broad range of incomes.

24          (f) CODE COMPLIANCE.—All dwelling units in any  
25      housing constructed in whole or in part with amounts from



1 a grant under this Act shall comply with all applicable  
2 Federal, State, and local law, regulations, and require-  
3 ments relating to housing construction, quality, and safe-  
4 ty, including any requirements regarding earthquake- or  
5 windstorm-resistant construction.

6 (g) COST LIMITS.—

7 (1) IN GENERAL.—Each unit of general local  
8 government that receives a grant under this section  
9 shall establish limitations on the amount of grant  
10 funds that may be invested in housing constructed  
11 with such funds on a per unit basis. Such limits may  
12 be established on a market-by-market basis, with ad-  
13 justments made for the number of bedrooms in a  
14 dwelling unit, and shall reflect the actual cost of new  
15 construction of housing that complies with sub-  
16 section (f). Adjustments of such cost limitations may  
17 be made over time to reflect inflation.

18 (2) CRITERIA.— The Secretary shall ensure  
19 that the cost limitations established by each unit of  
20 general local government—

21 (A) provide for development of nonluxury  
22 housing with appropriate amenities;

23 (B) facilitate compliance with the mixed-  
24 income requirement under subsection (e).

1       (h) DEVELOPMENT INCENTIVES.—The Secretary  
2 may not make a grant under this section to a unit of gen-  
3 eral local government unless the Secretary determines that  
4 such unit has provided one or both of the following incen-  
5 tives with respect to any housing to be produced in whole  
6 or in part with such grant amounts:

7           (1) EXCESS DENSITY.—The unit of general  
8 local government has provided, for such housing,  
9 such exceptions to any requirements regarding the  
10 density of housing or dwelling units located in an  
11 area, so as to encourage the production of affordable  
12 dwelling units.

13          (2) REGULATORY FLEXIBILITY.—The unit of  
14 general local government has provided—

15           (A) with respect to such housing, excep-  
16 tions to existing regulatory requirements re-  
17 garding housing location and construction de-  
18 signed to encourage the production of afford-  
19 able dwelling units, which may include pro-  
20 viding for expedited obtaining of construction  
21 permits, reduced parking requirements, reduced  
22 setbacks from streets, narrower streets, and  
23 other reduced development restrictions; and

24           (B) financial incentives designed to encour-  
25 age the production of affordable dwelling units,

1           which may include reduced permit fees, pro-  
2           viding subsidized construction loans, availability  
3           of publicly owned lands at reduced prices, pro-  
4           viding mortgage financing for low- and mod-  
5           erate-income families purchasing such housing,  
6           and tax exemptions for such families pur-  
7           chasing such housing.

8           (i) INCENTIVES.—

9           (1) IN GENERAL.—Notwithstanding the limita-  
10          tion under subsection (b)(2) on the portion of the  
11          development costs of housing to be constructed using  
12          grant amounts under this section that may be fund-  
13          ed with such grant amounts, each unit of general  
14          local government that receives a grant under this  
15          section shall provide the following incentives:

16               (A) TRANSPORTATION.—The unit of gen-  
17               eral local government shall provide that the por-  
18               tion of the development costs of any housing  
19               that may be so funded shall be increased by  
20               such percentage as the unit of general local gov-  
21               ernment considers appropriate, subject to para-  
22               graph (2), if the unit of general local govern-  
23               ment determines that such housing is located  
24               within one-third of a mile of a mass transpor-  
25               tation station (including any subway, rail, bus,

1 or other commuter transportation system sta-  
2 tion) providing service during peak use periods  
3 on weekdays not less than every 15 minutes.

4 (B) ENERGY EFFICIENCY.—The unit of  
5 general local government shall provide that the  
6 portion of the development costs of any housing  
7 that may be so funded shall be increased by  
8 such percentage as the unit of general local gov-  
9 ernment considers appropriate, subject to para-  
10 graph (2), if the unit of general local govern-  
11 ment determines that such housing complies  
12 with—

13 (i) the standards established under  
14 the Energy Star Program under section  
15 324A of the Energy Policy and Conserva-  
16 tion Act (42 U.S.C. 6294a); and

17 (ii) the requirements to be eligible for  
18 a deduction under section 179D of the In-  
19 ternal Revenue Code of 1986 (relating to  
20 energy efficient commercial buildings), ex-  
21 cept that, for purposes of this paragraph,  
22 subsection (c) of such section shall be ap-  
23 plied—

24 (I) in the case of any housing  
25 that is single-family housing, multi-

1 family housing of three or fewer sto-  
2 ries above grade, or modular housing,  
3 by substituting Standard 90.2–2004  
4 of the American Society of Heating,  
5 Refridgerating, and Air Conditioning  
6 Engineers and the Illuminating Engi-  
7 neering Society of North America for  
8 Standard 90.1–2001, each place such  
9 standard appears; and

10 (II) in the case of any multi-  
11 family housing of four stories or more  
12 above grade, by substituting Standard  
13 90.1–2004 of the American Society of  
14 Heating, Refridgerating, and Air Con-  
15 ditioning Engineers and the Illu-  
16 minating Engineering Society of  
17 North America for Standard 90.1–  
18 2001, each place such standard ap-  
19 pears.

20 (C) SOLAR ENERGY.—The unit of general  
21 local government shall provide that the portion  
22 of the development costs of any housing that  
23 may be so funded shall be increased by such  
24 percentage as the unit of general local govern-  
25 ment considers appropriate, subject to para-

1 graph (2), if the unit of general local govern-  
2 ment determines that such housing complies  
3 with the requirements under section 48(a) of  
4 the Internal Revenue Code of 1986 for an en-  
5 ergy credit, including by use of a passive, ac-  
6 tive, or thermal solar energy system.

7 (2) PERCENTAGE LIMITATION.—The aggregate  
8 increase for any housing by reason of the operation  
9 of subparagraphs (A) through (C) of paragraph (1)  
10 may not in any case exceed 15 percent.

11 (j) HOME OWNERSHIP COUNSELING.—Amounts from  
12 a grant under this section may not be used for the develop-  
13 ment of any housing unless the unit of general local gov-  
14 ernment ensures, in accordance with such requirements as  
15 the Secretary shall establish—

16 (1) that an affordable dwelling unit in such  
17 housing will not be sold to a low- or moderate-in-  
18 come family unless the family has completed home  
19 ownership counseling under a program that meets  
20 the requirements under section 271(c)(2)(C) of the  
21 Cranston-Gonzalez National Affordable Housing Act  
22 (42 U.S.C. 12821(c)(2)(C)); and

23 (2) that participation in such a program of  
24 home ownership counseling will be made available to

1 each such family at cost to such family not exceed-  
2 ing \$25.

3 (k) REPORTING.—

4 (1) TO SECRETARY.—Each unit of general local  
5 government that receives a grant under this section  
6 shall submit to the Secretary such reports as the  
7 Secretary shall require to determine the uses of  
8 grant amounts provided under this section and the  
9 effectiveness of such uses. Such reports shall contain  
10 such information as the Secretary considers nec-  
11 essary to determine—

12 (A) the quality and quantity of dwelling  
13 units and affordable dwelling units developed by  
14 a unit of general local government using grant  
15 amounts under this section;

16 (B) the amount of time taken to develop  
17 such dwelling units;

18 (C) the number of low- and moderate-in-  
19 come families who have purchased such dwell-  
20 ing units;

21 (D) the amount of time that such families  
22 continue to reside in such dwelling units;

23 (E) any benefits to employers and to com-  
24 munities resulting from the development of  
25 such housing that is eligible for the incentive

1 under subsection (g)(1), including benefits re-  
2 lating to reducing pollution and motor vehicle  
3 traffic;

4 (F) any benefits to communities resulting  
5 from the development of any such housing that  
6 is eligible for the incentive under subsection  
7 (g)(2); and

8 (G) the effects that provision of home own-  
9 ership opportunities in such housing has had on  
10 the tax revenues of units of general local gov-  
11 ernment.

12 (2) TO CONGRESS.—The Secretary shall submit  
13 a report to the Congress not less than annually re-  
14 garding the program under this section. Such report  
15 shall aggregate and summarize, for the entire pro-  
16 gram, the information submitted in reports to the  
17 Secretary pursuant to paragraph (1).

18 (l) DEFINITIONS.—For purposes of this section, the  
19 following definitions shall apply:

20 (1) AFFORDABLE DWELLING UNIT.—The term  
21 “affordable dwelling unit” means a dwelling unit  
22 produced in whole or in part with amounts from a  
23 grant under this section that meets the requirements  
24 of subsection (c).



1           (2) DEVELOPMENT COSTS.—The term “devel-  
2       opment costs” means, with respect to housing to be  
3       produced with amounts from a grant under this sec-  
4       tion, costs incurred for any or all undertakings nec-  
5       essary for planning, land acquisition, demolition,  
6       construction, or equipment, including any necessary  
7       financing, and in otherwise carrying out the develop-  
8       ment of such housing, as determined by the Sec-  
9       retary.

10          (3) LOW-INCOME FAMILY.—The term “low-in-  
11       come family” means a family whose income does not  
12       exceed 80 percent of the median income for the  
13       area, as determined by the Secretary with adjust-  
14       ments for smaller and larger families, except that  
15       the Secretary may establish income ceilings higher  
16       or lower than 80 percent of the median for the area  
17       on the basis of the Secretary’s findings that such  
18       variations are necessary because of prevailing levels  
19       of construction costs or unusually high or low family  
20       incomes.

21          (4) MODERATE-INCOME FAMILY.—The term  
22       “moderate-income family” means a family who is  
23       not a low-income family and whose income does not  
24       exceed 125 percent of the median income for the  
25       area, as determined by the Secretary with adjust-

1       ments for smaller and larger families, except that  
2       the Secretary may establish income ceilings higher  
3       or lower than 125 percent of the median for the area  
4       on the basis of the Secretary’s findings that such  
5       variations are necessary because of prevailing levels  
6       of construction costs or unusually high or low family  
7       incomes.

8           (5) UNIT OF GENERAL LOCAL GOVERNMENT.—  
9       The term “unit of general local government” has the  
10      meaning given such term in section 104 of the Cran-  
11      ston-Gonzalez National Affordable Housing Act (42  
12      U.S.C. 12704).

13          (6) SECRETARY.—The term “Secretary” means  
14      the Secretary of Housing and Urban Development.

15          (m) AUTHORIZATION OF APPROPRIATIONS.—There is  
16      authorized to be appropriated to the Secretary for grants  
17      under this section \$125,000,000 for each of fiscal years  
18      2007 through 2014.

19          (n) REGULATIONS.—The Secretary may issue any  
20      regulations necessary to carry out this section.

○