

110TH CONGRESS
1ST SESSION

S. 1078

To amend the Internal Revenue Code of 1986 to provide incentives for employer-provided employee housing assistance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2007

Mrs. CLINTON (for herself, Mr. MARTINEZ, Mr. KENNEDY, Mr. DURBIN, Mr. LIEBERMAN, Mr. REED, and Mr. SMITH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide incentives for employer-provided employee housing assistance, 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 “Housing America’s
5 Workforce Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds the following:

1 (1) Resurgent housing markets are pricing out
2 low- and moderate-income families and are pro-
3 ducing few lower-cost units.

4 (2) In many markets, housing costs have far
5 outgrown the rate of inflation and the gap between
6 wages and housing costs is widening, pushing afford-
7 able housing beyond the reach of an increasing num-
8 ber of working families.

9 (3) Despite the lowest mortgage rates in our
10 Nation's history, millions of working families still
11 find it extremely difficult to rent or purchase a
12 home. Many workers who fill jobs that provide the
13 backbone of our communities—teachers, firefighters,
14 and police officers—often cannot afford to live in the
15 communities in which they serve.

16 (4) The United States Department of Housing
17 and Urban Development (HUD) considers housing
18 affordable when a family spends no more than 30
19 percent of its monthly income on rent and utilities.
20 Entry-level wage earners with annual incomes of up
21 to \$30,000 spending no more than 30 percent of
22 their income on rent can only afford to pay up to
23 \$750 for rent. In the high job-growth areas, such
24 rents are not readily available.

1 (5) According to a study by the Center for
2 Housing Policy in Washington, DC, the latest data
3 available shows that in 2003, approximately 5 mil-
4 lion families paid more than half of their income for
5 housing or lived in dilapidated conditions, or both,
6 despite the fact they were working full time jobs.
7 Moreover, the number of working families with crit-
8 ical housing problems has increased 67 percent be-
9 tween 1997 and 2003.

10 (6) Affordable housing is the key to creating
11 and sustaining healthy, economically vibrant commu-
12 nities.

13 (7) The lack of affordable housing across the
14 United States has been shown to cause or contribute
15 to labor shortages.

16 (8) Under employer-assisted housing (EAH)
17 programs employers provide much needed housing
18 assistance to their employees.

19 (9) EAH programs are innovative local solu-
20 tions that have increased affordable housing oppor-
21 tunities for thousands of working families across
22 America while benefitting the economy.

23 (10) According to findings of the Rutgers Uni-
24 versity American Affordable Housing Institute, em-
25 ployer-assisted housing increases productivity by re-

1 ducing commuting time as well as saves money on
2 recruitment and retention.

3 (11) The future growth of EAH programs will
4 remain dependent upon increasing individual em-
5 ployer knowledge and implementation of these pro-
6 grams.

7 (12) EAH programs will not solve the Nation's
8 housing problems but such programs do seek to ad-
9 dress the challenge from a new perspective and allow
10 the private sector to play a direct role in promoting
11 housing affordability. Additionally, EAH programs
12 can help to promote redevelopment and reinvestment
13 in distressed communities.

14 (b) PURPOSES.—The purposes of this Act are as fol-
15 lows:

16 (1) To expand affordable housing opportunities
17 to low- and moderate-income working individuals
18 and families.

19 (2) To encourage employers, counties, and mu-
20 nicipalities to invest in employer-assisted housing
21 programs.

22 **SEC. 3. TAX CREDIT FOR EMPLOYER-PROVIDED EMPLOYEE**
23 **HOUSING ASSISTANCE.**

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

1 1986 (relating to business related credits) is amended by
2 adding at the end the following new section:

3 **“SEC. 450. EMPLOYER-PROVIDED EMPLOYEE HOUSING AS-**
4 **SISTANCE.**

5 “(a) ALLOWANCE OF CREDIT.—

6 “(1) IN GENERAL.—For purposes of section 38,
7 the employer-provided employee housing assistance
8 credit determined under this section for any taxable
9 year is an amount equal to 50 percent of the quali-
10 fied housing expenses paid by the employer during
11 the taxable year if such expenses are furnished pur-
12 suant to a program described in subsection (b).

13 “(2) PER EMPLOYEE LIMITATION.—

14 “(A) IN GENERAL.—The aggregate
15 amount of qualified housing expenses taken into
16 account with respect to any eligible employee
17 for any taxable year shall not exceed, when
18 added to any qualified housing expenses taken
19 into account for any preceding taxable year
20 with respect to such employee—

21 “(i) in the case of homeownership as-
22 sistance, the lesser of \$10,000 or 6 percent
23 of the purchase price of such employee’s
24 principal residence, and

1 “(ii) in the case of rental assistance,
2 \$2,000.

3 “(B) INFLATION ADJUSTMENT.—

4 “(i) IN GENERAL.—In the case of any
5 taxable year beginning after 2009, each
6 dollar amount referred to in subparagraph
7 (A) shall be increased by an amount equal
8 to—

9 “(I) such dollar amount, multi-
10 plied by

11 “(II) the cost-of-living adjust-
12 ment determined under section
13 (1)(f)(3) for the calendar year in
14 which the taxable year begins, by sub-
15 stituting ‘2008’ for ‘1992’.

16 “(ii) ROUNDING.—If any amount as
17 adjusted under clause (i) is not a multiple
18 of \$50, such amount shall be rounded to
19 the nearest multiple of \$50.

20 “(b) HOUSING ASSISTANCE PROGRAM.—For pur-
21 poses of this section, a housing assistance program is a
22 separate written plan of an employer for the exclusive ben-
23 efit of such employer’s employees to provide the qualified
24 housing expenses of such employees and which meets re-

1 requirements similar to the requirements of paragraphs (2)
 2 through (6) of section 127(b).

3 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
 4 poses of this section—

5 “(1) ELIGIBLE EMPLOYEE.—

6 “(A) IN GENERAL.—The term ‘eligible em-
 7 ployee’ means any individual—

8 “(i) employed by an employer,

9 “(ii) whose household income does not
 10 exceed 120 percent of the area median
 11 gross income (adjusted for household size)
 12 for the metropolitan statistical area (as de-
 13 fined in section 143(k)(2)(B)) in which the
 14 housing is located, and

15 “(iii) in the case of homeownership
 16 assistance, who is a qualified homebuyer.

17 If the housing with respect to such employee is
 18 located in a high housing cost area (as defined
 19 in section 143(f)(5)(C)), the income limitation
 20 under subparagraph (B) shall be adjusted (but
 21 not reduced) by the application of the rule
 22 under section 143(f)(5) by substituting ‘120
 23 percent’ for ‘115 percent’ in subparagraph
 24 (B)(I) thereof.

“(B) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term ‘eligible employee’ shall not include—

“(i) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1), and

“(ii) any 5-percent owner (as defined in section 416(i)(1)(B)).

“(2) QUALIFIED HOUSING EXPENSES.—

“(A) IN GENERAL.—The term ‘qualified housing expenses’ means rental assistance or homeownership assistance towards the lease or purchase of housing.

“(B) RENTAL ASSISTANCE.—The term ‘rental assistance’ means assistance with security deposits and rental payments.

“(C) HOMEOWNERSHIP ASSISTANCE.—The term ‘homeownership assistance’ means assistance for the purchase of a principal residence, including—

“(i) payment of qualified acquisition costs (as defined in section 72(t)(8)(C)),

“(ii) providing (or reducing the costs of) financing, including the funding of a permanent interest rate buydown,

1 “(iii) contributions to second mort-
2 gage pools or low interest loan programs
3 accessible to eligible employees,

4 “(iv) mortgage guarantee programs
5 for the repayment of any loans in default
6 that are secured by an eligible employee
7 and guaranteed by the employer,

8 “(v) contributions to Individual Devel-
9 opment Accounts (within the meaning of
10 section 404(h) of the Social Security Act)
11 which are designated exclusively for the
12 purchase of a home, and

13 “(vi) contributions to homebuyer edu-
14 cation and homeownership counseling of el-
15 igible employees.

16 “(3) PRINCIPAL RESIDENCE.—The term ‘prin-
17 cipal residence’ has the same meaning as when used
18 in section 121, except such term shall not include a
19 residence with a purchase price exceeding the great-
20 er of—

21 “(A) 90 percent of the average area pur-
22 chase price applicable to the residence, or

23 “(B) 3.5 times the family income limit ap-
24 plicable to the eligible employee under para-
25 graph (1)(A)(ii).

1 “(4) QUALIFIED HOMEBUYER.—

2 “(A) IN GENERAL.—The term ‘qualified
3 homebuyer’ means any individual if such indi-
4 vidual (and if married, such individual’s spouse)
5 had no present ownership in a principal resi-
6 dence during the 3-year period ending on the
7 date of the purchase of the principal residence
8 to which this section applies.

9 “(B) ONE-TIME ONLY.—If an individual is
10 treated as a qualified homebuyer with respect to
11 any principal residence, such individual may not
12 be treated as a qualified homebuyer with re-
13 spect to any other principal residence.

14 “(5) APPLICABLE RULES.—Rules similar to the
15 rules under section 127(c)(5)(A) shall apply for the
16 purposes of this section.

17 “(d) TREATMENT OF EMPLOYERS NOT ABLE TO
18 USE ENTIRE CREDIT.—

19 “(1) ALLOWANCE OF CREDIT.—Except as oth-
20 erwise provided in this subsection, any credit allow-
21 able under subsection (a) to any employer described
22 in paragraph (2)(C) may be transferred as provided
23 in this subsection and the determination as to
24 whether the credit is allowable shall be made without
25 regard to the tax-exempt status of the employer.

1 “(2) TRANSFER OF CREDIT.—

2 “(A) IN GENERAL.—An employer described
3 in subparagraph (C) may transfer any credit to
4 which paragraph (1) applies through an assign-
5 ment to any other person. Such transfer may be
6 revoked only with the consent of the Secretary.

7 “(B) REGULATIONS.—The Secretary shall
8 prescribe such regulations as necessary to en-
9 sure that any credit described in subparagraph
10 (A) is assigned once and not reassigned by such
11 other person.

12 “(C) EMPLOYER DESCRIBED.—An em-
13 ployer is described in this subparagraph if the
14 employer is—

15 “(i) a State or political subdivision
16 thereof, the District of Columbia, a posses-
17 sion of the United States, or an agency or
18 instrumentality of any of the foregoing,

19 “(ii) an Indian tribal government
20 (within the meaning of section 7871) or
21 any agency or instrumentality thereof, or

22 “(iii) any entity exempt from taxation
23 under section 501(a).

24 “(D) TRANSFER PROCEEDS TREATED AS
25 ARISING FROM ESSENTIAL GOVERNMENT FUNC-

1 TION.—Any proceeds derived by a person de-
 2 scribed in clause (i) or (ii) of subparagraph (C)
 3 from the transfer under subparagraph (A) of
 4 any credit to which paragraph (1) applies shall
 5 be treated as arising from the exercise of an es-
 6 sential government function.

7 “(E) CREDIT NOT INCOME.—Any transfer
 8 under subparagraph (A) of any credit to which
 9 paragraph (1) applies shall not be treated as in-
 10 come for purposes of section 501(c)(12).”.

11 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
 12 NESS CREDIT.—Section 38(b) of the Internal Revenue
 13 Code of 1986 (defining current year business credit) is
 14 amended by striking “and” at the end of paragraph (30),
 15 by striking the period at the end of paragraph (31) and
 16 inserting “, plus”, and by adding at the end the following
 17 new paragraph:

18 “(32) the employer-provided employee housing
 19 assistance credit determined under section 45O(a).”.

20 (c) CONFORMING AMENDMENTS.—

21 (1) Subsection (c) of section 196 of the Internal
 22 Revenue Code of 1986 is amended by striking “and”
 23 at the end of paragraph (12), by striking the period
 24 at the end of paragraph (13) and inserting “, and”,

1 and by adding at the end the following new para-
 2 graph:

3 “(14) the employer-provided employee housing
 4 assistance credit determined under section 45O(a).”.

5 (2) The table of sections for subpart D of part
 6 IV of subchapter A of chapter 1 of such Code is
 7 amended by adding at the end the following new
 8 item:

“Sec. 45O. Employer-provided employee housing assistance.”.

9 (d) **EFFECTIVE DATE.**—The amendments made by
 10 this section shall apply to taxable years beginning after
 11 December 31, 2008.

12 **SEC. 4. EXCLUSION FROM INCOME OF EMPLOYER-PRO-**
 13 **VIDED EMPLOYEE HOUSING ASSISTANCE.**

14 (a) **IN GENERAL.**—Part III of subchapter B of chap-
 15 ter 1 of the Internal Revenue Code of 1986 (relating to
 16 items specifically excluded from gross income) is amended
 17 by inserting after section 139A the following new section:

18 **“SEC. 139B. EMPLOYEE HOUSING ASSISTANCE PROGRAMS.**

19 **“(a) EXCLUSION FROM GROSS INCOME.—**

20 **“(1) IN GENERAL.**—Gross income of an eligible
 21 employee does not include amounts paid or incurred
 22 by the employer of such employee for qualified hous-
 23 ing expenses provided to the employee if the assist-
 24 ance is furnished pursuant to a program described
 25 in subsection (b).

1 “(2) LIMITATION.—

2 “(A) IN GENERAL.—The aggregate
3 amount of qualified housing expenses which
4 may be excluded under paragraph (1) with re-
5 spect to any eligible employee for any taxable
6 year shall not exceed, when added to any quali-
7 fied housing expenses excluded in any preceding
8 taxable year with respect to such employee—

9 “(i) in the case of homeownership as-
10 sistance, the lesser of \$10,000 or 6 percent
11 of the purchase price of such employee’s
12 principal residence, and

13 “(ii) in the case of rental assistance,
14 \$2,000.

15 “(B) INFLATION ADJUSTMENT.—

16 “(i) IN GENERAL.—In the case of any
17 taxable year beginning after 2009, each
18 dollar amount referred to in subparagraph
19 (A) shall be increased by an amount equal
20 to—

21 “(I) such dollar amount, multi-
22 plied by

23 “(II) the cost-of-living adjust-
24 ment determined under section
25 (1)(f)(3) for the calendar year in

1 which the taxable year begins, by sub-
2 stituting ‘2008’ for ‘1992’.

3 “(ii) ROUNDING.—If any amount as
4 adjusted under clause (i) is not a multiple
5 of \$50, such amount shall be rounded to
6 the nearest multiple of \$50.

7 “(b) HOUSING ASSISTANCE PROGRAM.—For pur-
8 poses of this section, a housing assistance program is a
9 separate written plan of an employer for the exclusive ben-
10 efit of such employer’s employees to provide the qualified
11 housing expenses of such employees and which meets re-
12 quirements similar to the requirements of paragraphs (2)
13 through (6) of section 127(b).

14 “(c) DEFINITIONS; SPECIAL RULES.—For purposes
15 of this section—

16 “(1) IN GENERAL.—Any term used in section
17 45O which is also used in this section shall have the
18 same meaning as given such term by section 45O.

19 “(2) APPLICABLE RULES.—Rules similar to the
20 rules under section 127(c)(5)(A) shall apply for pur-
21 poses of this section.

22 “(3) BASIS ADJUSTMENT.—For purposes of
23 this subtitle, if an exclusion is allowed under sub-
24 section (a) with respect to a residence, the basis of

1 such residence shall be reduced by the amount of the
2 exclusion.”.

3 (b) REPORTING REQUIREMENTS.—Subsection (d)(1)
4 of section 6039D of the Internal Revenue Code of 1986
5 (relating to returns and records with respect to certain
6 fringe benefit plans) is amended by striking “or 137” and
7 inserting “137, or 139B”.

8 (c) CONFORMING AMENDMENTS.—

9 (1) The table of sections for part III of sub-
10 chapter B of chapter 1 of the Internal Revenue Code
11 of 1986 is amended by inserting after the item relat-
12 ing to section 139A the following new item:

“Sec. 139B. Employee housing assistance programs.”.

13 (2) Subsection (a) of section 1016 of such Code
14 (relating to adjustments to basis) is amended by
15 striking “and” at the end of paragraph (36), by
16 striking the period at the end of paragraph (37) and
17 inserting “, and”, and by adding at the end the fol-
18 lowing new paragraph:

19 “(38) in the case of a residence with respect to
20 which amounts were excluded from income under
21 section 139B, to the extent provided in section
22 139B(c)(3).”.

23 (d) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to taxable years beginning Decem-
25 ber 31, 2008.

1 **SEC. 5. GRANTS TO COVER EMPLOYER-ASSISTED HOUSING**

2 **PROGRAM COSTS.**

3 (a) GRANTS AUTHORIZED.—

4 (1) IN GENERAL.—The Secretary may award a
5 grant to an eligible entity to pay—

6 (A) the operating costs of administering an
7 employer-assisted housing program;

8 (B) for technical assistance provided by
9 the eligible entity to an employer in connection
10 with such a program; and

11 (C) for costs associated with promoting,
12 publicizing, or otherwise attempting to dis-
13 tribute information relating to such a program.

14 (2) DURATION.—Grants in an annual aggregate
15 total of not more than \$5,000,000 may be awarded
16 under this subsection during each of fiscal years
17 2008, 2009, and 2010.

18 (3) AWARD BASIS.—The Secretary shall award
19 grants under this section on a competitive basis.

20 (b) ELIGIBLE ENTITIES.—To be eligible to receive a
21 grant under this section, an entity shall demonstrate that
22 it is—

23 (1) a nonprofit housing organization with a rel-
24 evant mission and demonstrated track record in
25 housing counseling or employer-assisted housing con-
26 tracted by an employer to assist the employer in es-

1 tablishing or maintaining an employer-assisted hous-
2 ing program; or

3 (2) a city, county, town, township, parish, vil-
4 lage, hamlet, or other general purpose political sub-
5 division of a State that seeks to establish or main-
6 tain, or otherwise participate in an employer-assisted
7 housing program for its own employees.

8 (c) APPLICATION.—Each eligible entity seeking a
9 grant under this section shall submit an application to the
10 Secretary at such time, in such manner, and containing
11 such information as the Secretary may require.

12 (d) LIMITATION ON USE OF FUNDS.—A grant
13 awarded to an eligible entity under this section shall be
14 used only for the purposes described under subsection (a).

15 (e) REPORTS.—

16 (1) IN GENERAL.—Each eligible entity receiving
17 a grant under this section shall annually prepare
18 and submit to the Secretary a report that describes
19 the—

20 (A) amount of grant funds expended dur-
21 ing the year;

22 (B) total amount—

23 (i) of funds expended during the year
24 to administer an employer-assisted housing
25 program; and

1 (ii) of down payment assistance pro-
 2 vided by such a program;

3 (C) total number of employees utilizing
 4 such a program;

5 (D) number of employees utilizing such a
 6 program—

7 (i) who are time homebuyers;

8 (ii) who are previous homeowners; and

9 (iii) who live in high-cost housing
 10 areas;

11 (E) average—

12 (i) income of employees utilizing such
 13 a program;

14 (ii) age of employees utilizing such a
 15 program; and

16 (iii) cost of a home purchased under
 17 such a program;

18 (F) ethnicity of employees utilizing such a
 19 program; and

20 (G) number of housing units affected by
 21 such a program.

22 (2) CLEARINGHOUSE AND DISSEMINATION.—

23 (A) IN GENERAL.—Not later than 1 year
 24 after the date of enactment of this Act, the Sec-

retary shall establish a national clearinghouse,
including a website, designed—

(i) to provide information about employer-assisted housing programs to—

(I) Federal, State, and local government entities; and

(II) interested groups, businesses, persons, and organizations; and

(ii) to collect and disseminate the information gathered from the reports required under paragraph (1).

(B) WEBPOSTING.—The Secretary shall ensure that—

(i) each report submitted under paragraph (1) is posted to the website of the national clearinghouse established under subparagraph (A); and

(ii) the website of the Department of Housing and Urban Development provides a hyperlink to such reports on the website of the national clearinghouse.

(f) DEFINITIONS.—As used in this section:

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

1 (2) NONPROFIT HOUSING ORGANIZATION.—The
 2 term “nonprofit housing organization” means any
 3 organization that—

4 (A) the Internal Revenue Service has ruled
 5 is exempt from income taxation under para-
 6 graphs (3), (4), or (5) of section 501(c) of the
 7 Internal Revenue Code of 1986; and

8 (B) has as its stated purpose to produce,
 9 maintain, operate, or promote affordable hous-
 10 ing.

11 (g) AUTHORIZATION OF APPROPRIATIONS.—There
 12 are authorized to be appropriated \$5,000,000 for each of
 13 fiscal years 2008, 2009, and 2010 to carry out this sec-
 14 tion.

15 **SEC. 6. EVALUATION OF EMPLOYER-ASSISTED HOUSING**
 16 **PROGRAMS.**

17 (a) IN GENERAL.—A study of employer-assisted pro-
 18 grams shall be carried out in accordance with subsection
 19 (b) for the purposes of evaluating the effects of the tax
 20 benefits provided under sections 3 and 4 and the grant
 21 program established under section 5 on—

22 (1) such programs; and

23 (2) the private sector resources leveraged to
 24 further fund such programs.

25 (b) NATIONAL EVALUATION.—

1 (1) IN GENERAL.—The Comptroller General of
2 the United States (in this section referred to as the
3 “Comptroller General”) shall conduct the study re-
4 quired under subsection (a).

5 (2) REQUIREMENTS.—The study required
6 under subsection (a) shall include an analysis and
7 summary of—

8 (A) the total number of—

9 (i) employers participating in em-
10 ployer-assisted housing programs;

11 (ii) States that have enacted em-
12 ployer-assisted housing program legisla-
13 tion; and

14 (iii) States considering enacting such
15 legislation;

16 (B) the extent to which Federal funds are
17 being used to support employer-assisted housing
18 programs;

19 (C) the size and nature of existing Federal,
20 State, and private employer-assisted housing
21 programs;

22 (D) the types of assistance offered to em-
23 ployees under employer-assisted housing pro-
24 grams;

1 (E) the distribution of employers offering
2 employer-assisted housing programs, including
3 a review of the—

4 (i) geographic distribution of such em-
5 ployers;

6 (ii) industry distribution of such em-
7 ployers; and

8 (iii) size distribution of such employ-
9 ers;

10 (F) the extent to which employer-assisted
11 housing programs are located in “high-cost”
12 housing markets;

13 (G) the extent to which employers are able
14 to, and have made, use of the tax benefits pro-
15 vided under this Act;

16 (H) the information contained in the re-
17 ports submitted under section 5(e);

18 (I) any other information that the Comp-
19 troller General determines would be relevant
20 and helpful to the Secretary of Housing and
21 Urban Development (in this section referred to
22 as the “Secretary”) in evaluating the effects of
23 the tax benefits provided under sections 3 and
24 4 and the grant program established under sec-
25 tion 5.

1 (c) CONSULTATION.—In conducting the study re-
 2 quired under subsection (a), the Comptroller General shall
 3 consult with—

4 (1) appropriate Federal, State, and local gov-
 5 ernment entities; and

6 (2) interested groups, businesses, persons, uni-
 7 versities, and organizations.

8 (d) REPORT.—

9 (1) INTERIM REPORT.—Not later than January
 10 1, 2011, the Comptroller General shall submit to the
 11 Secretary an interim report on the findings of the
 12 study required under subsection (a).

13 (2) FINAL REPORT.—Not later than December
 14 31, 2012, the Comptroller General shall submit to
 15 the Secretary a final report that describes—

16 (A) the findings of the study required
 17 under subsection (a); and

18 (B) any conclusions and recommendations
 19 of such study.

20 (e) AUTHORIZATION OF APPROPRIATIONS.—There
 21 are authorized to be appropriated \$1,000,000 to carry out
 22 this section.

○