

118TH CONGRESS
2D SESSION

S. 3940

To amend the Internal Revenue Code of 1986 to provide for a first-time homebuyer credit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 14, 2024

Mr. WHITEHOUSE (for himself, Mr. HEINRICH, Mr. WELCH, Ms. SMITH, Mr. REED, Ms. BALDWIN, and Ms. ROSEN) 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 for a first-time homebuyer credit, 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 “First-Time Homebuyer
5 Tax Credit Act of 2024”.

6 **SEC. 2. FIRST-TIME HOMEBUYER REFUNDABLE TAX CRED-**
7 **IT.**

8 (a) IN GENERAL.—Section 36 of the Internal Rev-
9 enue Code of 1986 is amended to read as follows:

1 **“SEC. 36. FIRST-TIME HOMEBUYER CREDIT.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 3 dividual who is a first-time homebuyer of a principal resi-
 4 dence in the United States during a taxable year, there
 5 shall be allowed as a credit against the tax imposed by
 6 this subtitle for such taxable year an amount equal to 10
 7 percent of the purchase price of the residence.

8 “(b) LIMITATIONS.—

9 “(1) DOLLAR LIMITATION.—

10 “(A) IN GENERAL.—Except as otherwise
 11 provided in this paragraph, the credit allowed
 12 under subsection (a) shall not exceed \$15,000.

13 “(B) MARRIED INDIVIDUALS FILING SEPA-
 14 RATELY.—In the case of a married individual
 15 filing a separate return, subparagraph (A) shall
 16 be applied by substituting ‘\$7,500’ for
 17 ‘\$15,000’.

18 “(C) OTHER INDIVIDUALS.—If 2 or more
 19 individuals who are not married purchase a
 20 principal residence, the amount of the credit al-
 21 lowed under subsection (a) shall be allocated
 22 among such individuals in such manner as the
 23 Secretary may prescribe, except that the total
 24 amount of the credits allowed to all such indi-
 25 viduals shall not exceed \$15,000.

1 “(2) PHASEOUT BASED ON AREA MEDIAN IN-
2 COME.—

3 “(A) IN GENERAL.—The amount allowable
4 as a credit under subsection (a) (determined
5 without regard to this paragraph) shall be re-
6 duced (but not below zero) by the amount
7 which bears the same ratio to the amount which
8 is so allowable as—

9 “(i) the excess (if any) of—

10 “(I) the modified adjusted gross
11 income of the taxpayer for the taxable
12 year, over

13 “(II) 150 percent of the applica-
14 ble Area Medium Income, bears to

15 “(ii) 20 percent of the applicable Area
16 Median Income.

17 “(B) MODIFIED ADJUSTED GROSS IN-
18 COME.—For purposes of subparagraph (A), the
19 term ‘modified adjusted gross income’ means
20 the adjusted gross income of the taxpayer for
21 the taxable year increased by any amount ex-
22 cluded from gross income under section 911,
23 931, or 933.

24 “(C) APPLICABLE AREA MEDIAN IN-
25 COME.—For purposes of subparagraph (A), the

term ‘applicable Area Median Income’ means the Area Median Income set by the Secretary of Housing and Urban Development with respect to—

“(i) the area in which the principal residence is located,

“(ii) the size of the household of the taxpayer, and

“(iii) the calendar year in which the principal residence is purchased.

“(D) REGULATIONS AND GUIDANCE.—The Secretary, after consultation with the Secretary of Housing and Urban Development, shall issue such regulations and guidance as are necessary to carry out the purposes of this subparagraph.

“(3) LIMITATION BASED ON AREA MEDIAN PURCHASE PRICE.—

“(A) IN GENERAL.—The amount allowable as a credit under subsection (a) (determined without regard to this paragraph) shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which is so allowable as—

“(i) the excess (if any) of—

1 “(I) the purchase price of the
2 principal residence, over

3 “(II) the amount which is equal
4 to 110 percent of the area median
5 purchase price, bears to

6 “(ii) the amount which is equal to 15
7 percent of the area median purchase price.

8 “(B) AREA MEDIAN PURCHASE PRICE.—

9 For purposes of this paragraph, the term ‘area
10 median purchase price’ means the median pur-
11 chase price for a home in both the area and the
12 calendar year in which the purchase of the prin-
13 cipal residence takes place.

14 “(C) REGULATIONS AND GUIDANCE.—The
15 Secretary, after consultation with the Secretary
16 of Housing and Urban Development, shall pro-
17 mulgate such regulations and guidance as are
18 necessary to carry out the purposes of this sub-
19 paragraph, including for determining the area
20 median purchase price with respect to different
21 localities.

22 “(4) INFLATION ADJUSTMENT.—In the case of
23 any taxable year beginning in a calendar year after
24 2024, each of the dollar amounts in paragraph (1)
25 shall be increased by an amount equal to—

1 “(A) such dollar amount, multiplied by

2 “(B) the cost-of-living adjustment deter-
 3 mined under section 1(f)(3) for the calendar
 4 year in which the taxable year begins, deter-
 5 mined by substituting ‘calendar year 2023’ for
 6 ‘calendar year 2016’ in subparagraph (A)(ii)
 7 thereof.

8 Any increase determined under the preceding sen-
 9 tence shall be rounded to the nearest multiple of
 10 \$100.

11 “(5) AGE LIMITATION.—No credit shall be al-
 12 lowed under subsection (a) with respect to the pur-
 13 chase of any residence unless the taxpayer has at-
 14 tained age 18 as of the date of such purchase. In
 15 the case of any taxpayer who is married (within the
 16 meaning of section 7703), the taxpayer shall be
 17 treated as meeting the age requirement of the pre-
 18 ceding sentence if the taxpayer or the taxpayer’s
 19 spouse meets such age requirement.

20 “(c) DEFINITIONS.—For purposes of this section—

21 “(1) FIRST-TIME HOMEBUYER.—The term
 22 ‘first-time homebuyer’ means any individual if such
 23 individual (and if married, such individual’s
 24 spouse)—

1 “(A) has no present ownership interest in
 2 any residence during the 3-year period ending
 3 on the date of the purchase of the principal res-
 4 idence to which this section applies, and

5 “(B) has not taken the credit in any other
 6 taxable year.

7 “(2) PRINCIPAL RESIDENCE.—The term ‘prin-
 8 cipal residence’ has the same meaning as when used
 9 in section 121.

10 “(3) PURCHASE.—

11 “(A) IN GENERAL.—The term ‘purchase’
 12 means any acquisition, but only if—

13 “(i) the property is not acquired from
 14 a person related to the person acquiring
 15 such property (or, if married, such individ-
 16 ual’s spouse),

17 “(ii) the acquisition is financed
 18 through a federally backed mortgage loan
 19 (as defined in section 4022 of the CARES
 20 Act), and

21 “(iii) the basis of the property in the
 22 hands of the person acquiring such prop-
 23 erty is not determined—

24 “(I) in whole or in part by ref-
 25 erence to the adjusted basis of such

1 property in the hands of the person
2 from whom acquired, or

3 “(II) under section 1014(a) (re-
4 lating to property acquired from a de-
5 cedent).

6 “(B) CONSTRUCTION.—A residence which
7 is constructed by the taxpayer shall be treated
8 as purchased by the taxpayer on the date the
9 taxpayer first occupies such residence.

10 “(4) PURCHASE PRICE.—The term ‘purchase
11 price’ means the adjusted basis of the principal resi-
12 dence on the date such residence is purchased.

13 “(5) RELATED PERSONS.—A person shall be
14 treated as related to another person if the relation-
15 ship between such persons would result in the dis-
16 allowance of losses under section 267 or 707(b).

17 “(d) EXCEPTIONS.—No credit under subsection (a)
18 shall be allowed to any taxpayer for any taxable year with
19 respect to the purchase of a residence if—

20 “(1) the taxpayer disposes of such residence (or
21 such residence ceases to be the principal residence of
22 the taxpayer (and, if married, the taxpayer’s
23 spouse)) before the close of such taxable year,

1 “(2) a deduction under section 151 with respect
2 to such taxpayer is allowable to another taxpayer for
3 such taxable year, or

4 “(3) the taxpayer fails to attach to the return
5 of tax for such taxable year a properly executed copy
6 of the settlement statement used to complete such
7 purchase.

8 “(e) REPORTING.—If the Secretary requires informa-
9 tion reporting under section 6045 by a person described
10 in subsection (e)(2) thereof to verify the eligibility of tax-
11 payers for the credit allowable by this section, the excep-
12 tion provided by section 6045(e) shall not apply.

13 “(f) RECAPTURE OF CREDIT.—

14 “(1) IN GENERAL.—Except as otherwise pro-
15 vided in this subsection, if, during any taxable year
16 before the close of the recapture period, a taxpayer
17 disposes of the principal residence with respect to
18 which a credit was allowed under subsection (a) (or
19 such residence ceases to be the principal residence of
20 the taxpayer), the tax imposed by this chapter for
21 such taxable year shall be increased by the recover-
22 able amount determined in paragraph (2).

23 “(2) RECOVERABLE AMOUNT.—For purposes of
24 paragraph (1), the recoverable amount is the prod-
25 uct of—

1 “(A) 25 percent of the amount of the cred-
2 it allowed under subsection (a), multiplied by

3 “(B) the number of taxable years remain-
4 ing in the recapture period as of the beginning
5 of the taxable year in which the taxpayer dis-
6 poses of the principal residence.

7 “(3) LIMITATION BASED ON GAIN.—In the case
8 of the sale of the principal residence to a person who
9 is not related to the taxpayer, the increase in tax de-
10 termined under paragraph (1) shall not exceed the
11 amount of gain (if any) on such sale. Solely for pur-
12 poses of the preceding sentence, the adjusted basis
13 of such residence shall be reduced by the amount of
14 the credit allowed under subsection (a).

15 “(4) EXCEPTIONS.—

16 “(A) DEATH OF A TAXPAYER.—Paragraph
17 (1) shall not apply to any taxable year ending
18 after the date of the taxpayer’s death.

19 “(B) INVOLUNTARY CONVERSION.—Para-
20 graph (1) shall not apply in the case of a resi-
21 dence which is compulsorily or involuntarily
22 converted (within the meaning of section
23 1033(a)) if the taxpayer acquires a new prin-
24 cipal residence during the 2-year period begin-
25 ning on the date of the disposition or cessation

1 referred to in paragraph (1). Paragraph (1)
2 shall apply to such new principal residence dur-
3 ing the recapture period in the same manner as
4 if such new principal residence were the con-
5 verted residence.

6 “(C) TRANSFERS BETWEEN SPOUSES OR
7 INCIDENT TO DIVORCE.—In the case of a trans-
8 fer of a residence to which section 1041(a) ap-
9 plies—

10 “(i) paragraph (1) shall not apply to
11 such transfer, and

12 “(ii) in the case of taxable years end-
13 ing after such transfer, paragraph (1) shall
14 apply to the transferee in the same manner
15 as if such transferee were the transferor
16 (and shall not apply to the transferor).

17 “(D) SPECIAL RULE FOR MEMBERS OF
18 THE ARMED FORCES, ETC.—

19 “(i) IN GENERAL.—In the case of the
20 disposition of a principal residence by an
21 individual (or a cessation referred to in
22 paragraph (1)) after December 31, 2021,
23 in connection with Government orders re-
24 ceived by such individual, or such individ-
25 ual’s spouse, for qualified official extended

1 duty service, paragraph (1) and subsection
2 (d)(2) shall not apply to such disposition
3 (or cessation).

4 “(ii) QUALIFIED OFFICIAL EXTENDED
5 DUTY SERVICE.—For purposes of this sec-
6 tion, the term ‘qualified official extended
7 duty service’ means service on qualified of-
8 ficial extended duty as—

9 “(I) a member of the uniformed
10 services,

11 “(II) a member of the Foreign
12 Service of the United States, or

13 “(III) an employee of the intel-
14 ligence community.

15 “(iii) DEFINITIONS.—Any term used
16 in this subparagraph which is also used in
17 paragraph (9) of section 121(d) shall have
18 the same meaning as when used in such
19 paragraph.

20 “(E) DISPOSITION OF RESIDENCE IN CON-
21 NECTION WITH CHANGE OF EMPLOYMENT.—In
22 the case of the disposition of a principal resi-
23 dence by an individual (or a cessation referred
24 to in paragraph (1)) after December 31, 2021
25 in connection with a change of employment

1 which meets the conditions described in section
2 217(c), paragraph (1) shall not apply to such
3 disposition (or cessation).

4 “(5) JOINT RETURNS.—In the case of a credit
5 allowed under subsection (a) with respect to a joint
6 return, half of such credit shall be treated as having
7 been allowed to each individual filing such return for
8 purposes of this subsection.

9 “(6) RETURN REQUIREMENT.—If the tax im-
10 posed by this chapter for the taxable year is in-
11 creased under this subsection, the taxpayer shall,
12 notwithstanding section 6012, be required to file a
13 return with respect to the taxes imposed under this
14 subtitle.

15 “(7) RECAPTURE PERIOD.—For purposes of
16 this subsection, the term ‘recapture period’ means
17 the 4 taxable years beginning with the taxable year
18 in which the purchase of the principal residence for
19 which a credit is allowed under subsection (a) was
20 made.

21 “(g) ELECTION TO TREAT PURCHASE IN PRIOR
22 YEAR.—In the case of a purchase of a principal residence
23 after December 31, 2022, a taxpayer may elect to treat
24 such purchase as made on December 31 of the calendar

1 year preceding such purchase for purposes of this section
2 (other than subsections (b)(4), (c), and (h)).

3 “(h) TRANSFER OF CREDIT.—

4 “(1) IN GENERAL.—Subject to such regulations
5 and other guidance as the Secretary determines nec-
6 essary, a taxpayer may elect that the credit which
7 would (but for this subsection) be allowed to such
8 taxpayer with respect to the purchase of a principal
9 residence shall be allowed to the mortgage lender
10 with respect to such purchase and not to such tax-
11 payer.

12 “(2) ELIGIBLE ENTITY.—For purposes of this
13 subsection, the term ‘eligible entity’ means, with re-
14 spect to the purchase of the principal residence for
15 which the credit is allowed under subsection (a), the
16 mortgage lender which provides the mortgage to the
17 taxpayer and has—

18 “(A) registered with the Secretary for pur-
19 poses of this paragraph, at such time, and in
20 such form and manner, as the Secretary may
21 prescribe,

22 “(B) prior to the election described in
23 paragraph (1) and not later than at the time of
24 such purchase, disclosed to the taxpayer making
25 such purchase—

1 “(i) the value of the credit allowed
2 under subsection (a), and

3 “(ii) the amount provided by the
4 mortgage lender to such taxpayer as a con-
5 dition of the election described in para-
6 graph (1).

7 “(C) not later than at the time of such
8 purchase, made payment to such taxpayer
9 (whether in cash or in the form of a partial
10 payment or down payment for the purchase of
11 such principal residence) in an amount equal to
12 the credit otherwise allowable to such taxpayer,
13 and

14 “(D) with respect to any incentive other-
15 wise available for taking a mortgage for which
16 a credit is allowed under this section, including
17 any incentive in the form of a rebate or dis-
18 count provided by the mortgage lender, ensured
19 that—

20 “(i) the availability or use of such in-
21 centive shall not limit the ability of a tax-
22 payer to make an election described in
23 paragraph (1), and

24 “(ii) such election shall not limit the
25 value or use of such incentive.

1 “(3) TIMING.—An election described in para-
 2 graph (1) shall be made by the taxpayer not later
 3 than the date on which the purchase of the principal
 4 residence with respect to which the credit under sub-
 5 section (a) is allowed is made.

6 “(4) REVOCATION OF REGISTRATION.—Upon
 7 determination by the Secretary that a mortgage
 8 lender has failed to comply with the requirements
 9 described in paragraph (2), the Secretary may re-
 10 voke the registration (as described in subparagraph
 11 (A) of such paragraph) of such mortgage lender.

12 “(5) TAX TREATMENT OF PAYMENTS.—With
 13 respect to any payment described in paragraph
 14 (2)(C), such payment—

15 “(A) shall not be includible in the gross in-
 16 come of the taxpayer, and

17 “(B) with respect to the mortgage lender,
 18 shall not be deductible under this title.

19 “(6) ADVANCE PAYMENT TO MORTGAGE LEND-
 20 ERS.—

21 “(A) IN GENERAL.—The Secretary shall
 22 establish a program to make advance payments
 23 to any eligible entity in an amount equal to the
 24 cumulative amount of the credits allowed under
 25 subsection (a) with respect to any mortgages

1 issued by such entity for which an election de-
2 scribed in paragraph (1) has been made.

3 “(B) EXCESSIVE PAYMENTS.—Rules simi-
4 lar to the rules of section 6417(d)(6) shall
5 apply for purposes of this paragraph.

6 “(C) TREATMENT OF ADVANCE PAY-
7 MENTS.—For purposes of section 1324 of title
8 31, United States Code, the payments under
9 subparagraph (A) shall be treated in the same
10 manner as a refund due from a credit provision
11 referred to in subsection (b)(2) of such section.

12 “(7) RECAPTURE.—In the case of any taxpayer
13 who has made an election described in paragraph (1)
14 with respect to the purchase of a principal residence
15 and received a payment described in paragraph
16 (2)(C) from an eligible entity, such principal resi-
17 dence shall be treated as a principal residence with
18 respect to which a credit was allowed under sub-
19 section (a) for purposes of subsection (f).”.

20 (b) CERTAIN ERRORS WITH RESPECT TO FIRST-
21 TIME HOMEBUYER TAX CREDIT TREATED AS MATHE-
22 MATICAL OR CLERICAL ERRORS.—Paragraph (2) of sec-
23 tion 6213(g) of the Internal Revenue Code of 1986 is
24 amended by striking “and” at the end of subparagraph
25 (U), by striking the period at the end of subparagraph

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

3 “(W) an entry on a return claiming the
 4 credit under section 36 if—

5 “(i) the Secretary obtains information
 6 from the person issuing the TIN of the
 7 taxpayer that indicates that the taxpayer
 8 does not meet the age requirement of sec-
 9 tion 36(b)(4),

10 “(ii) information provided to the Sec-
 11 retary by the taxpayer on an income tax
 12 return for at least one of the 2 preceding
 13 taxable years is inconsistent with eligibility
 14 for such credit, or

15 “(iii) the taxpayer fails to attach to
 16 the return the form described in section
 17 36(d)(3).”.

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply with respect to principal residences
 20 purchased after the date of the enactment of this Act.

○