

118TH CONGRESS
1ST SESSION

S. 1805

To amend the Internal Revenue Code of 1986 to expand housing investment with mortgage revenue bonds, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 6, 2023

Ms. CORTEZ MASTO (for herself and Mr. CASSIDY) 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 expand housing investment with mortgage revenue bonds, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Affordable Housing Bond Enhancement Act”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
 2 sion of the Internal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents for
 4 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Reporting requirements for bond usage.
- Sec. 3. Use of carryforward bond authority.
- Sec. 4. Elimination of Refinancing Limitation for Mortgage Revenue Bonds.
- Sec. 5. Increase in financing limit for qualified home improvement loans.
- Sec. 6. Revision of recapture tax for mortgage revenue bonds.
- Sec. 7. Modifying calculation of credit for interest paid on certified indebtedness.
- Sec. 8. Extension of period for mortgage credit certificate to be in effect.
- Sec. 9. Extension of period to revoke election to issue mortgage credit certificates.
- Sec. 10. Adjustment of public notice requirement.
- Sec. 11. Elimination of lender reporting requirement.

5 **SEC. 2. REPORTING REQUIREMENTS FOR BOND USAGE.**

6 (a) IN GENERAL.—Section 146 is amended by adding
 7 at the end the following:

8 “(o) REPORTING.—Not later than December 31 of
 9 each calendar year, the Secretary shall submit a report
 10 to the Committee on Banking, Housing, and Urban Af-
 11 fairs of the Senate, the Committee on Financial Services
 12 of the House of Representatives, the Committee on Ways
 13 and Means of the House of Representatives, and the Com-
 14 mittee on Finance of the Senate, containing information,
 15 as provided to the Secretary by State and local issuing
 16 authorities, which specifies for each State—

17 “(1) the State ceiling of the State for the pre-
 18 ceding calendar year,

1 “(2) the aggregate amount of carryforwards
2 available to all issuing authorities in the State avail-
3 able as of the first day of such preceding calendar
4 year,

5 “(3) the total bond authority for such State for
6 such preceding calendar year, as represented by the
7 sum of the amounts reported under paragraphs (1)
8 and (2),

9 “(4) the aggregate amount of private activity
10 bonds issued by issuing authorities in the State dur-
11 ing such preceding calendar year for each purpose
12 described in subsection (f)(5), including—

13 “(A) the amount of such bonds that were
14 subject to the volume cap, and

15 “(B) the amount of such bonds that were
16 issued pursuant to a carryforward under sub-
17 section (f),

18 “(5) the aggregate amount of carryforwards de-
19 scribed in paragraph (2) that expired after the last
20 day of the preceding calendar year, and

21 “(6) total amount of any excess amounts de-
22 scribed in paragraph (1) of subsection (f) for the
23 preceding calendar year which issuing authorities in
24 the State did not elect to treat as a carryforward
25 under such subsection.”.

1 (b) ELECTRONIC REPORTS BY ISSUERS.—Section
2 149(e) is amended by adding at the end the following new
3 paragraph:

4 “(4) ELECTRONIC REPORTING.—Any statement
5 required under paragraph (2) shall be submitted
6 electronically.”.

7 (c) AUTHORITY TO DISCLOSE INFORMATION.—Sec-
8 tion 6103(f) is amended by adding at the end the following
9 new paragraph:

10 “(6) VOLUME CAP REPORTING.—The Secretary
11 may disclose to the committees described in section
12 146(o) the information required under such sec-
13 tion.”.

14 (d) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to calendar years beginning after
16 the date of enactment of this Act.

17 **SEC. 3. USE OF CARRYFORWARD BOND AUTHORITY.**

18 (a) IN GENERAL.—Paragraph (3) of section 146(f)
19 is amended—

20 (1) by striking subparagraph (A) and inserting
21 the following:

22 “(A) IN GENERAL.—If any issuing author-
23 ity—

1 “(i) elects a carryforward under para-
2 graph (1) with respect to any carryforward
3 purpose,

4 “(ii) receives a carryforward under
5 paragraph (4)(B)(i) with respect to any
6 carryforward purpose, or

7 “(iii) redesignates a carryforward
8 under paragraph (4)(B)(ii) for any
9 carryforward purpose,

10 any private activity bonds issued by such au-
11 thority with respect to such purpose at any time
12 during the 3 calendar years following the cal-
13 endar year in which the carryforward arose
14 shall not be taken into account under sub-
15 section (a) to the extent the amount of such
16 bonds issued at or prior to such time does not
17 exceed the amount of the carryforward elected,
18 received, or redesignated for such purpose, as
19 reduced by any amount subsequently trans-
20 ferred to another issuing authority or redesign-
21 ated for another purpose pursuant to para-
22 graph (4)(B).”, and

23 (2) in subparagraph (B), by inserting “, or re-
24 ceived or redesignated for,” after “with respect to”.

1 (b) ELECTION.—Paragraph (4) of section 146(f) is
 2 amended to read as follows:

3 “(4) ELECTION.—

4 “(A) IN GENERAL.—Except as provided in
 5 subparagraph (B), any election under this sub-
 6 section (and any identification or specification
 7 contained therein), once made, shall be irrev-
 8 ocable.

9 “(B) EXCEPTION FOR HOUSING.—

10 “(i) TRANSFER.—In the case of any
 11 carryforward elected under paragraph (1)
 12 by an issuing authority with respect to any
 13 carryforward purpose, during the period
 14 described in paragraph (3)(A) with respect
 15 to such carryforward, such issuing author-
 16 ity may transfer such carryforward to any
 17 issuing authority within the same State
 18 that is authorized to issue qualified mort-
 19 gage bonds or exempt facility bonds de-
 20 scribed in section 142(a)(7).

21 “(ii) REDESIGNATION.—In the case of
 22 any carryforward—

23 “(I) elected under paragraph (1)
 24 by an issuing authority with respect
 25 to any carryforward purpose which

1 has not been transferred pursuant to
2 clause (i), or

3 “(II) received by an issuing au-
4 thority pursuant to clause (i) with re-
5 spect to any carryforward purpose,
6 during the period described in paragraph
7 (3)(A) with respect to such carryforward,
8 such issuing authority may redesignate
9 such carryforward to be for the purpose of
10 issuing qualified mortgage bonds or mort-
11 gage credit certificates, or for the purpose
12 of issuing exempt facility bonds described
13 in section 142(a)(7).

14 “(iii) STATE DIRECTION.—In the case
15 of a State which has enacted a law de-
16 scribed in subsection (e)(1), such State
17 may, by law, prohibit, limit, require, or
18 otherwise direct transfer or redesignation
19 by issuing authorities within such State
20 (except in the case of a constitutional
21 home rule city) pursuant to this subpara-
22 graph.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to elections made under section

1 146(f) of the Internal Revenue Code of 1986 after Decem-
2 ber 31, 2023.

3 **SEC. 4. ELIMINATION OF REFINANCING LIMITATION FOR**
4 **MORTGAGE REVENUE BONDS.**

5 (a) IN GENERAL.—Section 143(i)(1) is amended by
6 adding at the end the following:

7 “(D) EXCEPTION FOR REFINANCING FOR
8 CERTAIN MORTGAGORS.—

9 “(i) IN GENERAL.—The refinancing of
10 a mortgage on a residence of a mortgagor
11 who, as of the date of such refinancing,
12 satisfies the principal residence require-
13 ments under subsection (c)(1) and the in-
14 come requirements under subsection (f)
15 shall not be treated as the acquisition or
16 replacement of an existing mortgage for
17 purposes of subparagraph (A).

18 “(ii) SPECIAL RULE.—In applying
19 clause (i) to any refinancing—

20 “(I) subsection (d) shall not
21 apply, and

22 “(II) subsection (e) shall be ap-
23 plied by using the market value of the
24 residence at the time of refinancing in
25 lieu of the acquisition cost.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to refinancing loans made on or
 3 after the date of enactment of this Act.

4 **SEC. 5. INCREASE IN FINANCING LIMIT FOR QUALIFIED**
 5 **HOME IMPROVEMENT LOANS.**

6 (a) INCREASE IN FINANCING LIMIT.—Paragraph (4)
 7 of section 143(k) is amended by striking “\$15,000” and
 8 inserting “\$50,000”.

9 (b) INFLATION ADJUSTMENT.—Paragraph (4) of sec-
 10 tion 143(k), as amended by subsection (a), is amended—

11 (1) by redesignating subparagraphs (A) and
 12 (B) as clauses (i) and (ii), respectively, and by mov-
 13 ing such clauses (as so redesignated) 2 ems to the
 14 right,

15 (2) by striking “The term” and inserting the
 16 following:

17 “(A) IN GENERAL.—The term”, and

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

19 “(B) INFLATION ADJUSTMENT.—

20 “(i) IN GENERAL.—In the case of any
 21 calendar year beginning after 2024, the
 22 \$50,000 amount in subparagraph (A) shall
 23 be increased by an amount equal to—

24 “(I) such dollar amount, multi-
 25 plied by

1 “(II) the cost-of-living adjust-
2 ment determined under section 1(f)(3)
3 for such calendar year, determined by
4 substituting ‘2023’ for ‘2016’ in sub-
5 paragraph (A)(ii) thereof.

6 “(ii) ROUNDING.—If any increase
7 under clause (i) is not a multiple of \$100,
8 such increase shall be rounded to the near-
9 est multiple of \$100.”.

10 (c) EFFECTIVE DATES.—The amendments made by
11 this section shall apply to loans made after the last day
12 of the calendar year which includes the date of the enact-
13 ment of this Act.

14 **SEC. 6. REVISION OF RECAPTURE TAX FOR MORTGAGE**
15 **REVENUE BONDS.**

16 (a) IN GENERAL.—Subparagraph (C) of section
17 143(m)(4) is amended to read as follows:

18 “(C) HOLDING PERIOD PERCENTAGE.—

19 “(i) IN GENERAL.—The term ‘holding
20 period percentage’ means the percentage
21 determined in accordance with the fol-
22 lowing table:

“If the disposition occurs during a year after the testing date which is: The holding period percentage is:

The 1st such year	20
The 2nd such year	40
The 3rd such year	60

“If the disposition occurs during a year after the testing date which is: The holding period percentage is:”

The 4th such year	80
The 5th such year	100.

1 “(ii) RETIREMENTS OF INDEBTED-
 2 NESS.—If the Federally-subsidized indebt-
 3 edness is completely repaid during any
 4 year of the 4-year period beginning on the
 5 testing date, the holding period percentage
 6 for succeeding years shall be zero.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 143(m)(2)(B) is amended by strik-
 9 ing “9 years” and inserting “5 years”.

10 (2) Section 143(m)(7)(B)(ii) is amended by
 11 striking “9-year period” and inserting “5-year pe-
 12 riod”.

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to taxable years beginning after
 15 December 31, 2024.

16 **SEC. 7. MODIFYING CALCULATION OF CREDIT FOR INTER-**
 17 **EST PAID ON CERTIFIED INDEBTEDNESS.**

18 (a) IN GENERAL.—Section 25 is amended—

19 (1) in subsection (a)—

20 (A) in paragraph (1), by striking subpara-
 21 graph (B) and inserting the following:

1 “(B) the certified indebtedness amount on
2 which interest was paid or accrued by the tax-
3 payer during the taxable year.”, and

4 (B) in paragraph (2)—

5 (i) in the heading, by striking
6 “WHERE CREDIT RATE EXCEEDS 20 PER-
7 CENT”, and

8 (ii) in subparagraph (A), by striking
9 “If the certificate credit rate exceeds 20
10 percent, the” and inserting “The”, and

11 (2) in subsection (d)—

12 (A) by striking paragraph (1) and insert-
13 ing the following:

14 “(1) IN GENERAL.—

15 “(A) CERTIFICATE CREDIT RATE.—The
16 certificate credit rate specified in any mortgage
17 credit certificate shall not be less than 1 per-
18 cent or more than 5 percent.

19 “(B) ANNUAL RATE.—With respect to any
20 mortgage credit certificate, the issuing author-
21 ity may elect to specify a different annual cer-
22 tificate credit rate for each year of the term of
23 the mortgage.”, and

24 (B) in paragraph (2)—

1 (i) in the heading, by striking “CER-
 2 TIFICATE CREDIT RATES” and inserting
 3 “AMOUNT OF CREDIT CERTIFICATES”, and
 4 (ii) in subparagraph (A)(ii), by insert-
 5 ing “average annual” before “certificate
 6 credit rate”.

7 (b) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to mortgage credit certificates
 9 issued on or after the first day of the second calendar year
 10 that begins after the date of the enactment of this Act.

11 **SEC. 8. EXTENSION OF PERIOD FOR MORTGAGE CREDIT**
 12 **CERTIFICATE TO BE IN EFFECT.**

13 (a) IN GENERAL.—Section 25(e)(3)(B) is amended
 14 by striking “second” and inserting “fourth”.

15 (b) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to mortgage credit certificates with
 17 respect to which the limitation under section 25(d)(2)(A)
 18 of the Internal Revenue Code of 1986 is determined by
 19 reference to nonissued bond amounts (as defined in section
 20 25(d)(2)(B) of such Code) relating to calendar years after
 21 December 31, 2022.

22 **SEC. 9. EXTENSION OF PERIOD TO REVOKE ELECTION TO**
 23 **ISSUE MORTGAGE CREDIT CERTIFICATES.**

24 (a) IN GENERAL.—Section 25(c)(2) is amended by
 25 adding at the end the following:

1 “(C) REVOCATION OF ELECTION TO ISSUE
2 MORTGAGE CREDIT CERTIFICATES.—

3 “(i) IN GENERAL.—For purposes of
4 any election made by an issuing authority
5 under subparagraph (A)(ii) during any cal-
6 endar year, such issuing authority may
7 subsequently elect to reduce the nonissued
8 bond amount (as defined in subsection
9 (d)(2)(B)) for such calendar year, provided
10 that such election is made not later than
11 the end of the succeeding calendar year.

12 “(ii) COORDINATION WITH PRIVATE
13 ACTIVITY BOND CARRYFORWARD LIMITA-
14 TION.—Under rules established by the Sec-
15 retary, nothing in clause (i) shall be con-
16 strued to permit an issuing authority to
17 issue bonds under section 146(f)(3) for a
18 calendar year after the close of the period
19 prescribed for issuing such bonds under
20 such section.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to elections made by an issuing
23 authority under section 25(e)(2)(A)(ii) of the Internal
24 Revenue Code of 1986 after December 31, 2023.

1 **SEC. 10. ADJUSTMENT OF PUBLIC NOTICE REQUIREMENT.**

2 (a) IN GENERAL.—Section 25(e)(5) is amended by
3 striking “90 days” and inserting “30 days”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to notices provided after December
6 31, 2023.

7 **SEC. 11. ELIMINATION OF LENDER REPORTING REQUIRE-**
8 **MENT.**

9 (a) IN GENERAL.—Section 25(g) is amended—

10 (1) by striking “each person who makes a loan
11 which is a certified indebtedness amount under any
12 mortgage credit certificate” and inserting “each per-
13 son who issues a mortgage credit certificate”, and

14 (2) by striking the second sentence thereof.

15 (b) CONFORMING AMENDMENTS.—Section 6709(c) is
16 amended by striking “In the case of any report required
17 under the second sentence of section 25(g), the” and in-
18 serting “The”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on the date of enactment of
21 this Act.

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