

118TH CONGRESS
1ST SESSION

S. 1377

To amend the Internal Revenue Code of 1986 to improve the low-income housing credit.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2023

Mr. CASEY (for himself, Ms. DUCKWORTH, Mrs. GILLIBRAND, Ms. KLOBUCHAR, and Mr. WELCH) 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 improve the low-income housing credit.

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 “Visitable Inclusive Tax
5 credits for Accessible Living (VITAL) Act”.

6 **SEC. 2. PURPOSE.**

7 The purposes of this Act are to—

8 (1) increase low-income housing tax credits to
9 increase the stock of disability-accessible and afford-
10 able housing;

1 (2) ensure that States are using the Federal
2 tax credits to construct housing that will meet the
3 needs of an aging population and currently under-
4 served populations such as households with people
5 with disabilities;

6 (3) encourage States to make sure older adults
7 and underserved populations are integrated into
8 their community and can fully participate in society;
9 and

10 (4) increase technical assistance, awareness,
11 knowledge, and understanding of the low-income
12 housing credit program and the housing needs of
13 older adults and people with disabilities.

14 **SEC. 3. FINDINGS.**

15 Congress makes the following findings:

16 (1) By 2060, 1 in every 4 Americans will be
17 over age 65, and currently, 2 in 5 adults over age
18 65 have a disability. As people age, they need struc-
19 turally safe and functional housing that accommo-
20 dates people with disabilities.

21 (2) Approximately 26 percent of people in the
22 United States have a disability, yet less than 6 per-
23 cent of the national housing supply is designed to be
24 even rudimentarily accessible.

1 (3) An accessible home offers specific features
2 or technologies such as lowered kitchen counters and
3 sinks, widened doorways, and zero-step showers.

4 (4) A lack of affordable and accessible housing
5 can relegate people with disabilities to living in insti-
6 tutional settings when they would prefer to live in a
7 community setting.

8 (5) Older adults and people with disabilities
9 prefer to remain in their homes for as long as pos-
10 sible. More than 89 percent of adults aged 65 and
11 over hope to stay in their homes as they age.

12 (6) Older adults and people with disabilities
13 must be able to run errands, work, visit family and
14 friends, and keep doctor appointments, while not al-
15 ways being able to drive. Accessible and affordable
16 public transit options and walkable and roll-able
17 neighborhoods allow older adults and people with
18 disabilities to remain independent and active in their
19 communities.

20 (7) Many older adults and people with disabil-
21 ities are experiencing an affordability crisis. Ap-
22 proximately 4,800,000 non-institutionalized people
23 with disabilities who depend on Federal monthly
24 Supplemental Security Income have incomes aver-
25 aging only about \$9,156 per year, low enough to be

1 priced out of every rental housing market in the na-
2 tion.

3 **SEC. 4. INCREASES IN STATE ALLOCATIONS.**

4 (a) IN GENERAL.—Clause (ii) of section 42(h)(3)(C)
5 of the Internal Revenue Code of 1986 is amended—

6 (1) by striking “\$1.75” in subclause (I) and in-
7 serting “\$4.47”, and

8 (2) by striking “\$2,000,000” in subclause (II)
9 and inserting “\$5,154,965”.

10 (b) COST-OF-LIVING ADJUSTMENT.—Subparagraph
11 (H) of section 42(h)(3) of the Internal Revenue Code of
12 1986 is amended—

13 (1) by striking “2002” in clause (i) and insert-
14 ing “2023”,

15 (2) by striking “the \$2,000,000 and \$1.75
16 amounts in subparagraph (C)” in clause (i) and in-
17 serting “the \$5,154,965 and \$4.47 amounts in sub-
18 paragraph (C)”,

19 (3) by striking “2001” in clause (i)(II) and in-
20 serting “2022”,

21 (4) by striking “\$2,000,000 amount” in clause
22 (ii)(I) and inserting “\$5,154,965”, and

23 (5) by striking “\$1.75 amount” in clause
24 (ii)(II) and inserting “\$4.47”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to calendar years beginning after
3 December 31, 2023.

4 **SEC. 5. TAX-EXEMPT BOND FINANCING REQUIREMENT.**

5 (a) IN GENERAL.—Subparagraph (B) of section
6 42(h)(4) of the Internal Revenue Code of 1986 is amended
7 by adding at the end the following: “In the case of build-
8 ings financed by an obligation first taken into account
9 under section 146 in calendar years beginning after 2023,
10 the preceding sentence shall be applied by substituting ‘25
11 percent’ for ‘50 percent.’”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to buildings placed in service in
14 taxable years beginning after December 31, 2023.

15 **SEC. 6. INCREASE IN CREDIT FOR PROJECTS DESIGNATED**
16 **TO SERVE HOUSEHOLDS WITH PEOPLE WITH**
17 **DISABILITIES.**

18 (a) IN GENERAL.—Paragraph (5) of section 42(d) of
19 the Internal Revenue Code of 1986 is amended by adding
20 at the end the following new subparagraph:

21 “(C) INCREASE IN CREDIT FOR PROJECTS
22 DESIGNATED TO SERVE HOUSEHOLDS WITH
23 PEOPLE WITH DISABILITIES.—

24 “(i) IN GENERAL.—In the case of any
25 building—

1 “(I) 50 percent or more of the
2 low-income units in the building are
3 units designated by the taxpayer to
4 meet the applicable design standards
5 for occupancy by persons with mental,
6 physical, sensory, or developmental
7 disabilities,

8 “(II) which is located in a census
9 block group designated by the Envi-
10 ronmental Protection Agency as
11 being—

12 “(aa) above average or bet-
13 ter in terms of walkability, or

14 “(bb) adjacent to 2 or more
15 census tracts described in item
16 (aa), and

17 “(III) which is designated by the
18 housing credit agency as requiring the
19 increase in credit under this subpara-
20 graph in order for such building to be
21 financially feasible as part of a quali-
22 fied low-income housing project,
23 subparagraph (B) shall not apply to the
24 portion of such building which is comprised
25 of such units, and the eligible basis of such

1 portion of the building shall be 130 per-
 2 cent of such basis determined without re-
 3 gard to this subparagraph.

4 “(ii) DESIGN STANDARDS.—For pur-
 5 poses of clause (i)(I), the term ‘applicable
 6 design standards’ means the principles and
 7 standards of adaptable design as detailed
 8 in the Uniform Federal Accessibility
 9 Standards, or any successor standard des-
 10 ignated by the Secretary.”.

11 (b) EFFECTIVE DATE.—The amendment made by
 12 this section shall apply to buildings which receive alloca-
 13 tions of housing credit dollar amount or, in the case of
 14 projects financed by tax-exempt obligations as described
 15 in section 42(h)(4) of the Internal Revenue Code of 1986,
 16 which are first taken into account under section 146 of
 17 such Code, after the date of the enactment of this Act.

18 **SEC. 7. REQUIREMENT FOR PROJECTS DESIGNATED TO**
 19 **SERVE HOUSEHOLDS WITH PEOPLE WITH**
 20 **DISABILITIES.**

21 (a) IN GENERAL.—Paragraph (1) of section 42(m)
 22 of the Internal Revenue Code of 1986 is amended by add-
 23 ing at the end the following new subparagraph:

1 “(E) PROJECTS DESIGNATED TO SERVE
2 HOUSEHOLDS WITH PEOPLE WITH DISABIL-
3 ITIES.—

4 “(i) IN GENERAL.—The qualified allo-
5 cation plan shall ensure that, with respect
6 to any 3-year period, the applicable per-
7 centage is not less than 40 percent.

8 “(ii) APPLICABLE PERCENTAGE.—For
9 purposes of this subparagraph, the applica-
10 ble percentage is the ratio (expressed as a
11 percentage) of—

12 “(I) the number of low-income
13 units in all projects receiving an allo-
14 cation of the housing credit dollar
15 amount during such period which
16 meet the requirements of subclause
17 (I) of subsection (d)(5)(C)(i), to

18 “(II) the aggregate number of all
19 low-income units in all projects receiv-
20 ing an allocation of the housing credit
21 dollar amount during such period.

22 “(iii) SPECIAL RULE.—For purposes
23 of clause (ii)(I), any low-income unit which
24 is part of a project which meets the re-
25 quirements of both subclause (I) and sub-

1 clause (II) of subsection (d)(5)(C)(i) shall
2 be counted twice.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to buildings which receive alloca-
5 tions of housing credit dollar amount or, in the case of
6 projects financed by tax-exempt obligations as described
7 in section 42(h)(4) of the Internal Revenue Code of 1986,
8 which are first taken into account under section 146 of
9 such Code, after the date of the enactment of this Act.

10 **SEC. 8. RESOURCE CENTERS FOR THE LOW-INCOME HOUS-**
11 **ING TAX CREDIT PROGRAM.**

12 (a) DEFINITIONS.—In this section:

13 (1) CENTER.—The term “Center” means a Re-
14 source Center established under subsection (b).

15 (2) PROGRAM.—The term “Program” means a
16 program established for allocating amount under
17 section 42(h) of the Internal Revenue Code of 1986.

18 (b) ESTABLISHMENT.—Each State housing finance
19 agency shall establish and operate a Resource Center for
20 the Low-Income Housing Tax Credit Program to support
21 new applicants and recipients for the Program in the State
22 by—

23 (1) providing potential applicants and recipients
24 with information and technical assistance to effec-
25 tively prepare and submit a Program application;

1 (2) ensuring that all interested and eligible en-
2 tities have the tools to apply for the Program;

3 (3) prioritizing providing assistance to nonprofit
4 and first-time developers applying for the Program;

5 (4) identifying potential barriers to preparing
6 and submitting a successful application for the Pro-
7 gram;

8 (5) prioritizing providing assistance to devel-
9 opers dedicated to serving communities who have
10 faced a history of housing discrimination; and

11 (6) proposing streamlined solutions to those
12 barriers that the State and each locality within the
13 State can adopt.

14 (c) OPERATING STANDARDS AND REPORTING RE-
15 QUIREMENTS.—Each State housing finance agency shall
16 develop and issue operating standards and reporting re-
17 quirements for the Center established by the agency.

18 (d) SET ASIDE.—There is authorized to be appro-
19 priated \$8,250,000 for fiscal year 2024 and each fiscal
20 year thereafter to carry out this section, of which
21 \$150,000 shall be allocated each fiscal year to each State
22 housing finance agency located in—

23 (1) a State of the United States;

24 (2) the District of Columbia; or

25 (3) a territory of the United States.

1 **SEC. 9. NATIONAL LOW-INCOME HOUSING TAX CREDIT AD-**
2 **VISORY COUNCIL.**

3 (a) DEFINITIONS.—In this section:

4 (1) COUNCIL.—The term “Council” means the
5 National Low-Income Housing Tax Credit Advisory
6 Council established under subsection (b).

7 (2) COVERED PROPERTY.—The term “covered
8 property” means a building receiving an allocation of
9 credit under section 42 of the Internal Revenue
10 Code of 1986.

11 (b) ESTABLISHMENT.—There is established a Na-
12 tional Low-Income Housing Tax Credit Advisory Council.

13 (c) MEMBERSHIP.—

14 (1) SELECTION; CHAIR.—The Council shall be
15 comprised of members selected by a designee jointly
16 selected by the Secretary of Housing and Urban De-
17 velopment and the Secretary of the Treasury, who
18 shall serve as chair of the Council.

19 (2) MEMBERS.—The Council shall be composed
20 of not less than 1 representative from each of the
21 following groups:

22 (A) Community-based organizations that
23 support individuals with disabilities living in
24 covered properties.

1 (B) Community-based organizations that
2 support older adults living in covered prop-
3 erties.

4 (C) Community-based organizations that
5 support veterans living in covered properties.

6 (D) Community-based organizations that
7 support families and children living in covered
8 properties.

9 (E) A multi-State not-for-profit housing
10 developer.

11 (F) A multi-State for-profit housing devel-
12 oper.

13 (G) Investors or syndicators of funds to
14 which credits allocated under section 42 of the
15 Internal Revenue Code of 1986 are sold.

16 (H) The research community.

17 (I) State housing finance agencies.

18 (J) Community-based organizations that
19 support individuals protected from discrimina-
20 tion under the Fair Housing Act (42 U.S.C.
21 3601 et seq.).

22 (3) QUALIFICATIONS.—The members of the
23 Council shall—

24 (A) have a lived experience as part of the
25 group they represent; and

1 (B) represent a diversity of—

2 (i) educational and professional back-
3 grounds;

4 (ii) racial, ethnic, gender, and lin-
5 guistic identities;

6 (iii) disabilities, including intellectual
7 disabilities;

8 (iv) ages; and

9 (v) geographic locations.

10 (4) DURATION.—Each member of the Council
11 shall be appointed for a period of 3 years and may
12 be re-appointed for an additional term.

13 (d) DUTIES.—The Council shall provide best practice
14 recommendations and resources to State housing finance
15 agencies, developers, investors, and consumers related to
16 national trends in the development of affordable housing
17 under section 42 of the Internal Revenue Code of 1986.

18 (e) REPORT.—

19 (1) IN GENERAL.—The Council shall submit to
20 each State housing finance agency and the Secretary
21 of Housing and Urban Development a report, which
22 shall be submitted not less frequently than once
23 every 3 years, with final recommendations on best
24 practices to—

1 (A) fulfill the mission of the credits allo-
2 cated under section 42 of the Internal Revenue
3 Code of 1986;

4 (B) serve the needs of individuals with dis-
5 abilities and older adults; and

6 (C) study the effects of factors such as
7 zoning, land use requirements, location, and
8 cost of affordable housing developments.

9 (2) PUBLIC AVAILABILITY.—Upon receiving a
10 report submitted under paragraph (1), the Secretary
11 of Housing and Urban Development shall make the
12 report available to the public.

13 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
14 authorized to be appropriated \$15,000,000 for fiscal year
15 2024 and each fiscal year thereafter to carry out this sec-
16 tion, which amounts shall be provided to the Council to
17 cover the costs of travel and the necessary operations of
18 the Council.

○