

119TH CONGRESS
2D SESSION

S. _____

To amend the Internal Revenue Code of 1986 to enhance the low-income housing tax credit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WHITEHOUSE introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to enhance the low-income housing tax 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 “Affordable Housing
5 Construction Act”.

6 **SEC. 2. INCREASE IN STATE HOUSING CREDIT CEILING.**

7 (a) IN GENERAL.—Section 42(h)(3)(C)(ii) of the In-
8 ternal Revenue Code of 1986 is amended—

9 (1) by striking “\$1.75” in subclause (I) and in-
10 serting “\$9.79”, and

1 (2) by striking “\$2,000,000” in subclause (II)
2 and inserting “\$11,340,000”.

3 (b) INFLATION ADJUSTMENTS.—Section 42(h)(3)(H)
4 is amended—

5 (1) by striking “In the case of a calendar year
6 after 2002, the \$2,000,000 and \$1.75 amounts in
7 subparagraph (C)” in clause (i) and inserting “In
8 the case of a calendar year after 2027, the
9 \$11,340,000 and \$9.79 amounts in subparagraph
10 (C)”,

11 (2) by striking “calendar year 2001” in clause
12 (i)(II) and inserting “calendar year 2026”,

13 (3) by striking “\$2,000,000” in clause (ii)(I)
14 and inserting “\$11,340,000”, and

15 (4) by striking “\$1.75” in clause (ii)(II) and in-
16 serting “\$9.79”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to calendar years beginning after
19 December 31, 2026.

20 **SEC. 3. INCREASED CREDIT AMOUNTS AND CREDIT ALLO-**
21 **CATION SET-ASIDES FOR CERTAIN BUILD-**
22 **INGS.**

23 (a) INCREASED CREDIT AMOUNTS.—

1 (1) IN GENERAL.—Section 42(d)(5) of the In-
2 ternal Revenue Code of 1986 is amended by adding
3 at the end the following new subparagraphs:

4 “(C) INCREASE IN CREDIT FOR PRE-
5 VAILING WAGE BUILDINGS.—

6 “(i) IN GENERAL.—In the case of any
7 building which pays applicable laborers at
8 rates not less than the prevailing rates for
9 construction, alteration, or repair of a
10 similar character in the locality in which
11 such facility is located as most recently de-
12 termined by the Secretary of Labor, in ac-
13 cordance with subchapter IV of chapter 31
14 of title 40, United States Code, and which
15 is designated by the housing credit agency
16 as requiring the increase in credit under
17 this subparagraph in order for such pay-
18 ments to be financially feasible as part of
19 a qualified low-income housing project—

20 “(I) in the case of a new build-
21 ing, the eligible basis of such building
22 shall be increased by 50 percent of
23 such basis determined without regard
24 to this subparagraph and subpara-

1 graphs (B), (D), (E), (F), and (G),
2 and

3 “(II) in the case of an existing
4 building, the rehabilitation expendi-
5 tures taken into account under sub-
6 section (e) shall be increased by 50
7 percent of such expenditures deter-
8 mined without regard to this subpara-
9 graph and subparagraphs (B), (D),
10 (E), (F), and (G).

11 “(ii) APPLICABLE LABORERS.—For
12 purposes of this clause, the term ‘applica-
13 ble laborers’ means, with respect to any
14 building, any laborers employed by the tax-
15 payer, or any contractor or subcontractor,
16 in the construction, alteration, or repair of
17 the building.

18 “(D) INCREASE IN CREDIT FOR BUILDINGS
19 POWERED BY RENEWABLE ENERGY.—

20 “(i) IN GENERAL.—In the case of any
21 building which utilizes renewable energy
22 (as defined in section 203(b)(2) of the En-
23 ergy Policy Act of 2005), and which is des-
24 ignated by the housing credit agency as re-
25 quiring the increase in credit under this

1 subparagraph in order for such renewable
2 energy use to be financially feasible as part
3 of a qualified low-income housing project—

4 “(I) in the case of a new build-
5 ing, the eligible basis of such building
6 shall be increased by the applicable
7 percentage of such basis determined
8 without regard to this subparagraph
9 and subparagraphs (B), (C), (E), (F),
10 and (G), and

11 “(II) in the case of an existing
12 building, the rehabilitation expendi-
13 tures taken into account under sub-
14 section (e) shall be increased by the
15 applicable percentage of such expendi-
16 tures determined without regard to
17 this subparagraph and subparagraphs
18 (B), (C), (E), (F), and (G).

19 “(ii) APPLICABLE PERCENTAGE.—For
20 purposes of this subparagraph, the applica-
21 ble percentage is 50 percent of the percent-
22 age of the energy utilized by such building
23 which is from renewable energy (as so de-
24 fined).

1 “(E) INCREASE IN CREDIT FOR BUILDINGS
2 NEAR PUBLIC TRANSPORTATION.—

3 “(i) IN GENERAL.—In the case of any
4 building which is located in a public trans-
5 portation zone and which is designated by
6 the housing credit agency as requiring the
7 increase in credit under this subparagraph
8 in order for such building to be financially
9 feasible as part of a qualified low-income
10 housing project—

11 “(I) in the case of a new build-
12 ing, the eligible basis of such building
13 shall be increased by 25 percent of
14 such basis determined without regard
15 to this subparagraph and subpara-
16 graphs (B), (C), (D), (F), and (G),
17 and

18 “(II) in the case of an existing
19 building, the rehabilitation expendi-
20 tures taken into account under sub-
21 section (e) shall be increased by 25
22 percent of such expenditures deter-
23 mined without regard to this subpara-
24 graph and subparagraphs (B), (C),
25 (D), (F), and (G).

1 occupancy by persons with mental, phys-
2 ical, sensory, or developmental disabilities,
3 and which is designated by the housing
4 credit agency as requiring the increase in
5 credit under this subparagraph in order for
6 such building to be financially feasible as
7 part of a qualified low-income housing
8 project—

9 “(I) in the case of a new build-
10 ing, the eligible basis of such building
11 shall be increased by the applicable
12 percentage of such basis determined
13 without regard to this subparagraph
14 and subparagraphs (B), (C), (D), (D),
15 and (G), and

16 “(II) in the case of an existing
17 building, the rehabilitation expendi-
18 tures taken into account under sub-
19 section (e) shall be increased by the
20 applicable percentage of such expendi-
21 tures determined without regard to
22 this subparagraph and subparagraphs
23 (B), (C), (D), (E), and (G).

24 “(ii) DESIGN STANDARDS.—For pur-
25 poses of clause (i), the term ‘applicable de-

sign standards’ means the principles and standards of adaptable design as detailed in the Uniform Federal Accessibility Standards, or any successor standard designated by the Secretary.

“(iii) APPLICABLE PERCENTAGE.— For purposes of this subparagraph, the term ‘applicable percentage’ means the number of percentage points (not to exceed 50 percentage points) by which—

“(I) the ratio (expressed as a percentage and rounded to the nearest percent) of the number of low-income units in the building that meet the applicable design standards for occupancy by persons with mental, physical, sensory, or developmental disabilities bears to the total number of units in the building, exceeds

“(II) 5 percentage points.

“(G) INCREASE IN CREDIT FOR BUILDINGS SERVING EXTREMELY LOW-INCOME FAMILIES.—

“(i) IN GENERAL.—In the case of any building in which 20 percent of the units

1 are occupied by extremely low-income fami-
2 lies and which is designated by the housing
3 credit agency as requiring the increase in
4 credit under this subparagraph in order for
5 such building to be financially feasible as
6 part of a qualified low-income housing
7 project—

8 “(I) in the case of a new build-
9 ing, the eligible basis of such building
10 shall be increased by 50 percent of
11 such basis determined without regard
12 to this subparagraph and subpara-
13 graphs (B), (C), (D), (E), and (F),
14 and

15 “(II) in the case of an existing
16 building, the rehabilitation expendi-
17 tures taken into account under sub-
18 section (e) shall be increased by 50
19 percent of such expenditures deter-
20 mined without regard to this subpara-
21 graph and subparagraphs (B), (C),
22 (D), (E), and (F).

23 “(ii) EXTREMELY LOW-INCOME FAMI-
24 LIES.— For purposes of this subpara-
25 graph, the term ‘extremely low-income

1 families’ means families whose annual in-
2 comes do not exceed 30 percent of the area
3 median gross income, as determined in
4 consultation with the Secretary of Health
5 and Human Services.

6 “(H) LIMITATION.—Notwithstanding sub-
7 paragraphs (B), (C), (D), (E), (F), and (G)—

8 “(i) the eligible basis of any building
9 shall not exceed an amount equal to 250
10 percent of such basis determined without
11 regard to subparagraphs (B), (C), (D),
12 (E), (F), and (G), and

13 “(ii) the rehabilitation expenditures
14 taken into account under subsection (e)
15 shall not exceed 250 percent of such ex-
16 penditures determined without regard to
17 subparagraphs (B), (C), (D), (E), (F), and
18 (G).”.

19 (2) CONFORMING AMENDMENTS.—Section
20 42(d)(5)(B)(i) of such Code is amended—

21 (A) by striking “shall be 130 percent of”
22 each place it appears in subclauses (I) and (II)
23 and inserting “shall be increased by 30 percent
24 of”, and

1 (B) by striking “this subparagraph” each
2 place it appears in subclauses (I) and (II) and
3 inserting “this subparagraph and subpara-
4 graphs (B), (C), (D), (E), (F), and (G)”.

5 (3) EFFECTIVE DATE.—The amendments made
6 by this subsection shall apply to buildings placed in
7 service after the date of the enactment of this Act.

8 (b) SET-ASIDE FOR CERTAIN PROJECTS.—

9 (1) IN GENERAL.—Section 42(h) of the Internal
10 Revenue Code of 1986 is amended by adding at the
11 end the following new paragraph:

12 “(9) PORTION OF STATE CEILING SET-ASIDE
13 FOR CERTAIN PROJECTS.—

14 “(A) IN GENERAL.—Not more than two-
15 thirds of the State housing credit ceiling for
16 any State for any calendar year shall be allo-
17 cated to projects other than qualified low-in-
18 come housing projects described in subpara-
19 graphs (C), (D), (E), (F), and (G) of sub-
20 section (d)(5).

21 “(B) STATE MAY NOT OVERRIDE SET-
22 ASIDE.—Nothing in subparagraph (F) of para-
23 graph (3) shall be construed to permit a State
24 not to comply with subparagraph (A) of this
25 paragraph.”.

1 (2) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to calendar years be-
3 ginning after the date of the enactment of this Act.

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

5 (a) IN GENERAL.—Section 42(h)(4) of the Internal
6 Revenue Code of 1986 is amended—

7 (1) in subparagraph (B)(ii)(I)—

8 (A) by striking “obligations described in
9 subparagraph (A)” and inserting “qualified ob-
10 ligations”, and

11 (B) by striking “25 percent” and inserting
12 “15 percent”, and

13 (2) by adding at the end the following new sub-
14 paragraph:

15 “(C) QUALIFIED OBLIGATION.—For pur-
16 poses of subparagraph (B)(ii), the term ‘quali-
17 fied obligation’ means an obligation which is de-
18 scribed in subparagraph (A) and which is part
19 of an issue the issue date of which is before
20 January 1, 2028.”.

21 (b) EFFECTIVE DATE.—

22 (1) IN GENERAL.—The amendment made by
23 this section shall apply to buildings placed in service
24 in taxable years beginning after December 31, 2025.

1 (2) REHABILITATION EXPENDITURES TREATED
2 AS SEPARATE NEW BUILDING.—In the case of any
3 building with respect to which any expenditures are
4 treated as a separate new building under section
5 42(e) of the Internal Revenue Code of 1986, for
6 purposes of paragraph (1), both the existing building
7 and the separate new building shall be treated as
8 having been placed in service on the date such ex-
9 penditures are treated as placed in service under
10 section 42(e)(4) of such Code.

11 **SEC. 5. MODIFICATION OF EXTENDED USE PERIOD.**

12 (a) IN GENERAL.—Section 42(h)(6)(D)(ii)(II) of the
13 Internal Revenue Code of 1986 is amended by striking
14 “15 years” and inserting “35 years”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall apply to agreements entered into in tax-
17 able years beginning after the date of the enactment of
18 this Act.

19 **SEC. 6. REPEAL OF QUALIFIED CONTRACT OPTION.**

20 (a) TERMINATION OF OPTION FOR CERTAIN BUILD-
21 INGS.—

22 (1) IN GENERAL.—Subclause (II) of section
23 42(h)(6)(E)(i) of the Internal Revenue Code of 1986
24 is amended by inserting “in the case of a building
25 described in clause (iii),” before “on the last day”.

(2) BUILDINGS DESCRIBED.—Subparagraph
(E) of section 42(h)(6) of such Code is amended by
adding at the end the following new clause:

4 “(iii) BUILDINGS DESCRIBED.—A
5 building described in this clause is a build-
6 ing—

“(I) which received its allocation
of housing credit dollar amount before
January 1, 2027, or

“(II) in the case of a building any portion of which is financed as described in paragraph (4), and which received before January 1, 2027, under the rules of paragraphs (1) and (2) of subsection (m), a determination from the issuer of the tax-exempt bonds or the housing credit agency that the building would be eligible under the qualified allocation plan to receive an allocation of housing credit dollar amount or that the credits to be earned are necessary for financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period.”.

1 (b) RULES RELATING TO EXISTING PROJECTS.—
2 Subparagraph (F) of section 42(h)(6) of the Internal Rev-
3 enue Code of 1986 is amended by striking “the nonlow-
4 income portion” and all that follows and inserting “the
5 nonlow-income portion and the low-income portion of the
6 building for fair market value (determined by the housing
7 credit agency by taking into account the rent restrictions
8 required for the low-income portion of the building to con-
9 tinue to meet the standards of paragraphs (1) and (2) of
10 subsection (g)). The Secretary shall prescribe such regula-
11 tions as may be necessary or appropriate to carry out this
12 paragraph.”.

13 (c) CONFORMING AMENDMENTS.—

14 (1) Paragraph (6) of section 42(h) of the Inter-
15 nal Revenue Code of 1986 is amended by striking
16 subparagraph (G) and by redesignating subpara-
17 graphs (H), (I), (J), and (K) as subparagraphs (G),
18 (H), (I), and (J), respectively.

19 (2) Subclause (II) of section 42(h)(6)(E)(i) of
20 such Code, as amended by subsection (a), is further
21 amended by striking “subparagraph (I)” and insert-
22 ing “subparagraph (H)”.

23 (d) TECHNICAL AMENDMENT.—Subparagraph (I) of
24 section 42(h)(6) of the Internal Revenue Code of 1986,

1 as redesignated by subsection (c), is amended by striking
2 “agreement” and inserting “commitment”.

3 (e) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall take effect on the date of the enactment of this
7 Act.

8 (2) SUBSECTION (b).—The amendments made
9 by subsection (b) shall apply to buildings with re-
10 spect to which a written request described in section
11 42(h)(6)(H) of the Internal Revenue Code of 1986,
12 as redesignated by subsection (c), is submitted after
13 the date of the enactment of this Act.