

118TH CONGRESS
1ST SESSION

S. 611

To amend the Internal Revenue Code of 1986 to increase the low-income housing credit for rehabilitation expenditures for buildings achieving enhanced energy performance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2023

Ms. KLOBUCHAR (for herself, Mr. VAN HOLLEN, Ms. WARREN, and Ms. 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 increase the low-income housing credit for rehabilitation expenditures for buildings achieving enhanced energy performance, 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 “Energy Efficiency for
5 Affordable Housing Act”.

1 **SEC. 2. INCREASE OF CREDIT.**

2 (a) IN GENERAL.—Paragraph (2) of section 42(e) of
3 the Internal Revenue Code of 1986 is amended by adding
4 at the end the following new subparagraph:

5 “(C) INCREASE IN CREDIT FOR BUILDINGS
6 ACHIEVING ENHANCED ENERGY PERFORM-
7 ANCE.—

8 “(i) IN GENERAL.—In the case of any
9 existing building to which subsection (b)(2)
10 does not apply which achieves enhanced
11 energy performance, the rehabilitation ex-
12 penditures taken into account under sub-
13 paragraph (A) shall be 130 percent of such
14 expenditures determined without regard to
15 this subparagraph.

16 “(ii) ENHANCED ENERGY PERFORM-
17 ANCE.—For purposes of clause (i), a build-
18 ing achieves enhanced energy performance
19 if it meets either of the following:

20 “(I) The minimum requirements
21 of an advanced building construction
22 standard which shall be determined by
23 the Secretary of Energy using pre-
24 scriptive or performance methods of
25 calculation and promulgated by the
26 Secretary of Energy within 180 days

1 of the date of the enactment of this
2 subparagraph.

3 “(II) In the case of a taxpayer
4 which elects (at such time and in such
5 manner as the Secretary may provide)
6 the application of this subclause with
7 respect to the building, a qualified ret-
8 rofit plan.

9 “(iii) DEFINITIONS.—For purposes of
10 this subparagraph—

11 “(I) QUALIFIED RETROFIT
12 PLAN.—The term ‘qualified retrofit
13 plan’ means a written plan prepared
14 and stamped by a qualified profes-
15 sional which specifies modifications to
16 a building which, in the aggregate, are
17 expected to reduce such building’s site
18 energy usage intensity by 50 percent
19 or more in comparison to the baseline
20 energy usage intensity of such build-
21 ing. Such plan shall require a quali-
22 fied professional to certify—

23 “(aa) the baseline energy
24 usage intensity of the building,

1 “(bb) that the modifications
2 are expected to reduce such
3 building’s site energy usage in-
4 tensity by 50 percent or more in
5 comparison to the baseline en-
6 ergy usage intensity of such
7 building, and

8 “(cc) as of any date fol-
9 lowing installation of building
10 modifications, that such modi-
11 fications have been installed.

12 “(II) BASELINE ENERGY USAGE
13 INTENSITY.—The term ‘baseline en-
14 ergy usage intensity’ means the site
15 energy usage intensity as of any date
16 during the 24-month period imme-
17 diately preceding the building modi-
18 fications described in the qualified ret-
19 rofit plan.

20 “(III) SITE ENERGY USAGE IN-
21 TENSITY.—The site energy usage in-
22 tensity shall be determined for the en-
23 tire building in accordance with such
24 regulations or other guidance as the
25 Secretary may provide and measured

1 in British thermal units per square
2 foot per year.

3 “(IV) QUALIFIED PROFESSIONAL.—The term ‘qualified profes-
4 sional’ means an individual who is a
5 licensed architect or a licensed engi-
6 neer or meets such other requirements
7 as the Secretary of Energy may pro-
8 vide.”.

10 (b) INCREASE FOR BUILDINGS IN HIGH-COST
11 AREAS.—Paragraph (2) of section 42(e) of the Internal
12 Revenue Code of 1986, as amended by subsection (a), is
13 further amended by adding at the end the following new
14 subparagraph:

15 “(D) SPECIAL RULE FOR BUILDINGS IN
16 HIGH-COST AREAS WHICH ACHIEVE ENHANCED
17 ENERGY PERFORMANCE.—In the case of an ex-
18 isting building to which both subparagraph (C)
19 and subsection (d)(5)(B) apply (but for this
20 subparagraph)—

21 “(i) subsection (d)(5)(B)(i)(II) shall
22 not apply, and

23 “(ii) the rehabilitation expenditures
24 taken into account under subparagraph
25 (A) shall be 160 percent of such expendi-

1 tures determined without regard to this
2 subparagraph.”.

3 (c) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendments made by this section
6 shall apply to buildings with respect to which hous-
7 ing credit dollar amounts are allocated after Decem-
8 ber 31, 2023.

9 (2) BOND-FINANCED PROJECTS.—In the case of
10 any building some portion of which, or of the land
11 on which the building is located, is financed by an
12 obligation which is described in section 42(h)(4)(A)
13 of the Internal Revenue Code of 1986, the amend-
14 ments made by this section shall apply to any such
15 building financed by such an obligation which is part
16 of an issue the issue date of which is after December
17 31, 2023.

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