

117TH CONGRESS
2D SESSION

S. 5223

To require Community Development Block Grant and Surface Transportation Block Grant recipients to develop a strategy to support inclusive zoning policies, to allow for a credit to support housing affordability, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 8, 2022

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

A BILL

To require Community Development Block Grant and Surface Transportation Block Grant recipients to develop a strategy to support inclusive zoning policies, to allow for a credit to support housing affordability, 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 “Housing, Opportunity,
5 Mobility, and Equity Act of 2022”.

1 **SEC. 2. REQUIREMENT FOR CDBG GRANTEES.**

2 Section 104 of the Housing and Community Develop-
3 ment Act of 1974 (42 U.S.C. 5304) is amended by adding
4 at the end the following:

5 “(n) STRATEGY TO INCREASE THE AFFORDABLE
6 HOUSING STOCK.—

7 “(1) IN GENERAL.—Each grantee receiving as-
8 sistance under this title shall—

9 “(A) include in the consolidated plan re-
10 quired under part 91 of title 24, Code of Fed-
11 eral Regulations (or any successor thereto), a
12 strategy to support new inclusive zoning poli-
13 cies, programs, or regulatory initiatives that
14 create a more affordable, elastic, and diverse
15 housing supply and thereby increase economic
16 growth and access to jobs and housing; and

17 “(B) implement the strategy described in
18 subparagraph (A) and demonstrate continuous
19 progress in advancing the goals described in
20 section (2)(A), and include that implementation
21 and progress in the annual performance report
22 submitted under section 91.520 of title 24,
23 Code of Federal Regulations (or any successor
24 thereto).

25 “(2) INCLUSIONS.—The strategy under para-
26 graph (1) shall—

1 “(A) demonstrate—

2 “(i) transformative activities in com-
3 munities that—

4 “(I) reduce barriers to housing
5 development, including affordable
6 housing; and

7 “(II) increase housing supply af-
8 fordability and elasticity; and

9 “(ii) strong connections between hous-
10 ing, transportation, and workforce plan-
11 ning;

12 “(B) include, as appropriate, policies relat-
13 ing to inclusive land use, such as—

14 “(i) for the purpose of adding afford-
15 able units, increasing both the percentage
16 and absolute number of affordable units—

17 “(I) authorizing high-density and
18 multifamily zoning;

19 “(II) eliminating off-street park-
20 ing requirements;

21 “(III) establishing density bo-
22 nuses, defined as increases in per-
23 mitted density of a housing develop-
24 ment conditioned upon the inclusion

1 of affordable housing in the develop-
2 ment;

3 “(IV) streamlining or shortening
4 permitting processes and timelines;

5 “(V) removing height limitations;

6 “(VI) establishing by-right devel-
7 opment, defined as the elimination of
8 discretionary review processes when
9 zoning standards are met;

10 “(VII) using property tax abate-
11 ments; and

12 “(VIII) relaxing lot size restric-
13 tions;

14 “(ii) prohibiting source of income dis-
15 crimination;

16 “(iii) taxing vacant land or donating
17 vacant land to nonprofit developers;

18 “(iv) allowing accessory dwelling
19 units;

20 “(v) establishing development tax or
21 value capture incentives; and

22 “(vi) prohibiting landlords from ask-
23 ing prospective tenants for their criminal
24 history;

1 “(C) provide that affordable housing units
2 should, to the maximum extent practicable, and
3 unless alternate policies would result in more
4 rapid progress toward and achievement of the
5 goals described in subparagraph (A)—

6 “(i) be designated as affordable for
7 the useful life of the units;

8 “(ii) require that a proportion of the
9 new housing stock in the community is at
10 least as great as the percentage of the pop-
11 ulation of the community requiring such
12 units in order to not be an eligible indi-
13 vidual under section 36A of the Internal
14 Revenue Code; and

15 “(iii) be accessible to the population
16 served by the program established under
17 this title; and

18 “(D) where applicable, specify how the
19 strategy will increase affordable housing options
20 for individuals living in—

21 “(i) rural areas;

22 “(ii) persistent poverty counties, de-
23 fined as any county with a poverty rate of
24 not less than 20 percent, as determined in
25 each of the 1990 and 2000 decennial cen-

suses, and in the Small Area Income and Poverty Estimates by the Bureau of the Census for the most recent year for which the estimates are available; and

“(iii) high-poverty areas, defined as any census tract with a poverty rate of not less than 20 percent as measured by the 2013–2017 5-year data series available from the American Community Survey of the Bureau of the Census.”.

**SEC. 3. REQUIREMENT FOR SURFACE TRANSPORTATION
BLOCK GRANT PROGRAM.**

Section 133 of title 23, United States Code, is amended by adding at the end the following:

“(l) IMPLEMENTATION OF AFFORDABLE HOUSING STRATEGY.—A project under this section may not be carried out unless the community in which the project is located has implemented a strategy to increase affordable housing stock as described in subsection (n) of section 104 of the Housing and Community Development Act of 1974 (42 U.S.C. 5304).”.

SEC. 4. REFUNDABLE CREDIT FOR RENT COSTS OF ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by inserting after section 36 the fol-
 2 lowing new section:

3 **“SEC. 36A. RENT COSTS OF ELIGIBLE INDIVIDUALS.**

4 “(a) IN GENERAL.—In the case of an eligible indi-
 5 vidual, there shall be allowed as a credit against the tax
 6 imposed by this subtitle for the taxable year an amount
 7 equal to the excess of—

8 “(1) the lesser of—

9 “(A) the small area fair market rent (or,
 10 if the small area fair market rent is not avail-
 11 able, the fair market rent), including the utility
 12 allowance, published by the Department of
 13 Housing and Urban Development for purposes
 14 of the housing choice voucher program under
 15 section 8(o) of the United States Housing Act
 16 of 1938 (42 U.S.C. 1437f(o))—

17 “(i) in the case of a one-individual
 18 household, for an efficiency, and

19 “(ii) in the case of a household com-
 20 prised of more than one individual, for a
 21 residence the number of bedrooms in which
 22 would not require—

23 “(I) more than two members of
 24 the household of the individual to
 25 share a bedroom,

1 “(II) children of different gen-
2 ders to share a bedroom, or

3 “(III) a household member with
4 a disability requiring medical equip-
5 ment to share a bedroom, or

6 “(B) the rent paid during the taxable year
7 by the individual (and, if married, the individ-
8 ual’s spouse) for the principal residence of the
9 individual, over

10 “(2) an amount equal to 30 percent of the ad-
11 justed gross income of the taxpayer for the taxable
12 year.

13 “(b) ELIGIBLE INDIVIDUAL.—For purposes of this
14 section—

15 “(1) IN GENERAL.—The term ‘eligible indi-
16 vidual’ means any individual if the rent paid during
17 the taxable year by the individual (and, if married,
18 the individual’s spouse) for the principal residence of
19 the individual exceeds 30 percent of the adjusted
20 gross income of the taxpayer for the taxable year.

21 “(2) EXCEPTIONS.—Such term shall not in-
22 clude any individual if—

23 “(A) the individual does not include on the
24 return of tax for the taxable year such individ-
25 ual’s taxpayer identification number and, if

1 married, the taxpayer identification number of
 2 such individual's spouse, or

3 “(B) a deduction under section 151 with
 4 respect to such individual is allowable to an-
 5 other taxpayer for the taxable year.

6 “(3) MARRIED INDIVIDUALS.—Such term shall
 7 include an individual who is married only if a joint
 8 return is filed for the taxable year.

9 “(4) SPECIAL RULES.—

10 “(A) PRINCIPAL RESIDENCE.—The term
 11 ‘principal residence’ has the same meaning as
 12 when used in section 121.

13 “(B) MARRIED.—Marital status shall be
 14 determined under section 7703.

15 “(c) RENT.—For purposes of this section, rent paid
 16 includes any amount paid for utilities of a type taken into
 17 account for purposes of determining the utility allowance
 18 under section 42(g)(2)(B)(ii).

19 “(d) COORDINATION WITH CERTAIN MEANS-TESTED
 20 PROGRAMS.—Rules similar to the rules of section 32(l)
 21 shall apply to refunds made by reason of this section.

22 “(e) RECONCILIATION OF CREDIT AND ADVANCE
 23 PAYMENTS.—The amount of the credit allowed under this
 24 section for any taxable year shall be reduced (but not
 25 below zero) by the aggregate amount of any advance pay-

1 ments of such credit under section 7527B for such taxable
 2 year.”.

3 (b) ADVANCE PAYMENT OF RENTAL COSTS TAX
 4 CREDIT.—

5 (1) IN GENERAL.—Chapter 77 of the Internal
 6 Revenue Code of 1986 is amended by inserting after
 7 section 7527A the following new section:

8 **“SEC. 7527B. ADVANCE PAYMENT OF RENTAL COSTS TAX**
 9 **CREDIT.**

10 “(a) IN GENERAL.—Not later than 6 months after
 11 the date of the enactment of the Housing, Opportunity,
 12 Mobility, and Equity Act of 2022, the Secretary shall es-
 13 tablish a program for making advance payments of the
 14 credit allowed under section 36A on a monthly basis (de-
 15 termined without regard to subsection (e) of such section)
 16 to any taxpayer who—

17 “(1) the Secretary has determined, in the man-
 18 ner provided in subsection (c), will be allowed such
 19 credit for the taxable year, and

20 “(2) has made an election under subsection (d).

21 “(b) AMOUNT OF ADVANCE PAYMENT.—

22 “(1) IN GENERAL.—For purposes of subsection
 23 (a), the amount of the monthly advance payment of
 24 the credit provided to a taxpayer during the applica-
 25 ble period shall be equal to the lesser of—

1 “(A) an amount equal to—

2 “(i) the amount of the credit which
3 the Secretary has estimated, in the manner
4 provided in subsection (c), will be allowed
5 to such taxpayer under section 36A for the
6 taxable year ending in such applicable pe-
7 riod, divided by

8 “(ii) 12, or

9 “(B) such other amount as is elected by
10 the taxpayer.

11 “(2) APPLICABLE PERIOD.—For purposes of
12 this section, the term ‘applicable period’ means the
13 12-month period from the month of July of the tax-
14 able year through the month of June of the subse-
15 quent taxable year.

16 “(c) MANNER OF DETERMINING ELIGIBILITY.—The
17 Secretary shall determine eligibility for the credit under
18 section 36A, and the estimated amount of such credit,
19 based on the taxpayer’s adjusted gross income for the pre-
20 ceding taxable year, the mean fair market rental amount
21 with respect to the individual for such preceding year, and
22 the rent paid during such preceding year by the individual
23 (and, if married, the individual’s spouse) for the principal
24 residence of the individual. Any terms used in this sub-

1 section which are also used in section 36A shall have the
 2 same meaning as when used in such section.

3 “(d) ELECTION OF ADVANCE PAYMENT.—A taxpayer
 4 may elect to receive an advance payment of the credit al-
 5 lowed under section 36A for any taxable year by including
 6 such election on a timely filed return for the preceding
 7 taxable year.

8 “(e) INTERNAL REVENUE SERVICE NOTIFICATION.—
 9 The Internal Revenue Service shall take such steps as may
 10 be appropriate to ensure that taxpayers who are eligible
 11 to receive the credit under section 36A are aware of the
 12 availability of the advance payment of such credit under
 13 this section.

14 “(f) AUTHORITY.—The Secretary may prescribe such
 15 regulations or other guidance as may be appropriate or
 16 necessary for the purposes of carrying out this section.”.

17 (c) CLERICAL AMENDMENTS.—

18 (1) The table of sections for subpart C of part
 19 IV of subchapter A of chapter 1 of the Internal Rev-
 20 enue Code of 1986 is amended by inserting after the
 21 item relating to section 36 the following new item:

“Sec. 36A. Rent costs of eligible individuals.”.

22 (2) The table of sections for chapter 77 of such
 23 Code is amended by inserting after the item relating
 24 to section 7527A the following new item:

“Sec. 7527B. Advance payment of rental costs tax credit.”.

1 (d) CONFORMING AMENDMENT.—Section
 2 6211(b)(4)(A) of the Internal Revenue Code of 1986 is
 3 amended by inserting “, 36A” after “36”.

4 (e) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to taxable years beginning after
 6 the date of the enactment of this Act.

7 (f) REPORT.—Not later than 2 years after the date
 8 of the enactment of this Act, the Secretary of the Treasury
 9 shall submit to Congress a report on the credit allowed
 10 under section 36A of the Internal Revenue Code of 1986
 11 (as added by subsection (a)) and the advance payment of
 12 such credit under section 7527A of such Code (as added
 13 by subsection (b)), including on whether taxpayers are
 14 fraudulently claiming such credit or advance payments.

15 **SEC. 5. REFUND TO RAINY DAY SAVINGS PROGRAM.**

16 (a) IN GENERAL.—Not later than December 31,
 17 2022, the Secretary of the Treasury or the Secretary’s del-
 18 egate (referred to in this section as the “Secretary”) shall
 19 establish and implement a program (referred to in this
 20 section as the “Refund to Rainy Day Savings Program”)
 21 to allow a participating taxpayer, pursuant to the require-
 22 ments established under this section, to defer payment on
 23 20 percent of the amount which would otherwise be re-
 24 funded to such taxpayer as an overpayment (as described
 25 in section 6401 of the Internal Revenue Code of 1986).

1 (b) PERIOD OF DEFERRAL.—Except as provided
2 under subsection (c)(5), a participating taxpayer may elect
3 to defer payment of the amount described in subsection
4 (a) and have such amount deposited in the Rainy Day
5 Fund (as described in subsection (c)).

6 (c) RAINY DAY FUND.—

7 (1) IN GENERAL.—The Secretary shall establish
8 a fund, in such manner as the Secretary determines
9 to be appropriate, to be known as the “Rainy Day
10 Fund”, consisting of any amounts described in sub-
11 section (a) on which payment has been deferred by
12 participating taxpayers.

13 (2) INVESTMENT.—Any amounts deposited in
14 the Rainy Day Fund shall be invested by the Sec-
15 retary, in coordination with the Bureau of the Fiscal
16 Service of the Department of the Treasury, in
17 United States Treasury bills issued under chapter
18 31 of title 31, United States Code, with maturities
19 suitable for the needs of the Fund and selected so
20 as to provide the highest return on investment for
21 participating taxpayers.

22 (3) DISBURSEMENTS FROM FUND.—

23 (A) IN GENERAL.—On the date that is 180
24 days after receipt of the individual income tax
25 return of a participating taxpayer, the amounts

1 in the Rainy Day Fund shall be made available
 2 to the Secretary to distribute to such taxpayer
 3 in an amount equal to the amount deferred by
 4 such taxpayer under subsection (a) and any in-
 5 terest accrued on such amount (as determined
 6 under paragraph (4)).

7 (B) DISTRIBUTED TO BANK ACCOUNT.—

8 The amounts described in subparagraph (A)
 9 shall be distributed to the bank account identi-
 10 fied by the participating taxpayer under sub-
 11 section (d)(3).

12 (4) INTEREST ACCRUED.—The amount of inter-
 13 est accrued on the amount deferred by a partici-
 14 pating taxpayer under subsection (a) shall be deter-
 15 mined by the Secretary, in coordination with the Bu-
 16 reau of the Fiscal Service of the Department of the
 17 Treasury, based upon the return on the investment
 18 of such amounts under paragraph (2).

19 (5) EARLY WITHDRAWAL.—

20 (A) IN GENERAL.—On any date during the
 21 period between the date which is 30 days after
 22 receipt by the Secretary of the individual in-
 23 come tax return of the participating taxpayer
 24 and October 15 of the applicable year, such tax-
 25 payer may elect to terminate the deferral of the

1 amount described under subsection (a) and re-
 2 ceive a distribution from the Rainy Day Fund
 3 equal to such amount and any interest which
 4 has accrued on such amount up to that date.

5 (B) COMPLETE WITHDRAWAL.—A partici-
 6 pating taxpayer making an election under sub-
 7 paragraph (A) must terminate deferral of the
 8 full amount described under subsection (a), and
 9 such amount shall be distributed to the bank
 10 account identified by the participating taxpayer
 11 under subsection (d)(3).

12 (d) PARTICIPATING TAXPAYER.—For purposes of
 13 this section, the term “participating taxpayer” means a
 14 taxpayer who—

15 (1) has not requested or received an extension
 16 of the time for payment of taxes for such taxable
 17 year under section 6161 of the Internal Revenue
 18 Code of 1986;

19 (2) prior to the due date for filing the return
 20 of tax for such taxable year, elects to participate in
 21 the Refund to Rainy Day Savings Program; and

22 (3) provides the Secretary with a bank account
 23 number and any other financial information deemed
 24 necessary by the Secretary for purposes of para-
 25 graphs (3)(B) and (5)(B) of subsection (c).

1 (e) FORMS.—The Secretary shall ensure that the
 2 election to defer payment of the amount described in sub-
 3 section (a) may be claimed on Forms 1040, 1040A, and
 4 1040EZ.

5 (f) IMPLEMENTATION.—

6 (1) EDUCATIONAL MATERIALS AND OUT-
 7 REACH.—The Secretary shall—

8 (A) design educational materials for tax-
 9 payers regarding financial savings and the Re-
 10 fund to Rainy Day Savings Program;

11 (B) publicly disseminate and distribute
 12 such materials during the first calendar quarter
 13 of each calendar year and following disburse-
 14 ment of amounts described in subsection (c)(3);
 15 and

16 (C) engage in outreach regarding the Re-
 17 fund to Rainy Day Savings Program to the Vol-
 18 unteer Income Tax Assistance program and
 19 paid tax preparers.

20 (2) INFORMATION FOR PARTICIPATING TAX-
 21 PAYERS.—The Secretary shall ensure that a partici-
 22 pating taxpayer is able to electronically verify the
 23 status of the amount deferred by such taxpayer
 24 under subsection (a), including any interest accrued
 25 on such amount and the status of any distribution.

1 (3) FEDERALLY FUNDED BENEFITS.—Any
2 amounts described in subsection (a) which are dis-
3 tributed to a participating taxpayer, including any
4 interest accrued on such amount, shall be treated in
5 the same manner as any refund made to such tax-
6 payer under section 32 of the Internal Revenue Code
7 of 1986 for purposes of determining the eligibility of
8 such taxpayer for benefits or assistance, or the
9 amount or extent of benefits or assistance, under
10 any Federal program or under any State or local
11 program financed in whole or in part with Federal
12 funds.

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