

118TH CONGRESS
2D SESSION

S. 5156

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

SEPTEMBER 24, 2024

Mr. WHITEHOUSE (for himself and Mr. REED) 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 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 2025, the
9 \$16,542,968 and \$9.79 amounts in subparagraph
10 (C)”,

11 (2) by striking “calendar year 2001” in clause
12 (i)(II) and inserting “calendar year 2024”,

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, 2024.

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-

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

“(II) in the case of an existing
building, the rehabilitation expenditures taken into account under subsection (e) shall be increased by 50 percent of such expenditures determined without regard to this subparagraph and subparagraphs (B), (D), (E), (F), and (G).

“(ii) APPLICABLE LABORERS.—For purposes of this clause, the term ‘applicable laborers’ means, with respect to any building, any laborers employed by the taxpayer, or any contractor or subcontractor, in the construction, alteration, or repair of the building.

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

“(i) IN GENERAL.—In the case of any building which utilizes renewable energy (as defined in section 203(b)(2) of the Energy Policy Act of 2005), and which is designated by the housing credit agency as requiring 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 “(ii) PUBLIC TRANSPORTATION
2 ZONE.—For purposes of this subpara-
3 graph, a building is located in a public
4 transportation zone if—

5 “(I) the building is within one-
6 half mile of an existing commuter rail,
7 light rail, or subway station,

8 “(II) the building is within one-
9 quarter mile of one or more existing
10 public bus stops, or

11 “(III) the building is located in a
12 census tract—

13 “(aa) designated by the Ad-
14 ministrators of the Environmental
15 Protection Agency as having
16 above average walkability, or

17 “(bb) which is adjacent to 2
18 or more such census tracts de-
19 scribed in item (aa).

20 “(F) INCREASE IN CREDIT FOR BUILDINGS
21 SERVING HOUSEHOLDS WITH PEOPLE WITH
22 DISABILITIES.—

23 “(i) IN GENERAL.—In the case of any
24 building which has low-income units that
25 meet the applicable design standards for

occupancy by persons with mental, physical, sensory, or developmental disabilities, and which is designated by the housing credit agency as requiring the increase in credit under this subparagraph in order for such building to be financially feasible as part of a qualified low-income housing project—

“(I) in the case of a new building, the eligible basis of such building shall be increased by the applicable percentage of such basis determined without regard to this subparagraph and subparagraphs (B), (C), (D), (D), and (G), and

“(II) in the case of an existing building, the rehabilitation expenditures taken into account under subsection (e) shall be increased by the applicable percentage of such expenditures determined without regard to this subparagraph and subparagraphs (B), (C), (D), (E), and (G).

“(ii) DESIGN STANDARDS.—For purposes 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 by striking subpara-
 7 graph (B) and inserting the following:

8 “(B) SPECIAL RULE WHERE MINIMUM
 9 PERCENT OF BUILDINGS IS FINANCED WITH
 10 TAX-EXEMPT BONDS SUBJECT TO VOLUME
 11 CAP.—For purposes of subparagraph (A), para-
 12 graph (1) shall not apply to any portion of the
 13 credit allowable under subsection (a) with re-
 14 spect to a building if—

15 “(i) 50 percent or more of the aggre-
 16 gate basis of such building and the land on
 17 which the building is located is financed by
 18 1 or more obligations described in subpara-
 19 graph (A), or

20 “(ii)(I) 15 percent or more of the ag-
 21 gregate basis of such building and the land
 22 on which the building is located is financed
 23 by 1 or more qualified obligations, and

24 “(II) 1 or more of such qualified
 25 obligations—

1 “(aa) are part of an issue
 2 the issue date of which is after
 3 December 31, 2023, and

4 “(bb) provide the financing
 5 for not less than 5 percent of the
 6 aggregate basis of such building
 7 and the land on which the build-
 8 ing is located.

9 “(C) QUALIFIED OBLIGATION.—For pur-
 10 poses of subparagraph (B)(ii), the term ‘quali-
 11 fied obligation’ means an obligation which is de-
 12 scribed in subparagraph (A) and which is part
 13 of an issue the issue date of which is before
 14 January 1, 2026.”.

15 (b) EFFECTIVE DATE.—

16 (1) IN GENERAL.—The amendment made by
 17 this section shall apply to buildings placed in service
 18 in taxable years beginning after December 31, 2023.

19 (2) REHABILITATION EXPENDITURES TREATED
 20 AS SEPARATE NEW BUILDING.—In the case of any
 21 building with respect to which any expenditures are
 22 treated as a separate new building under section
 23 42(e) of the Internal Revenue Code of 1986, for
 24 purposes of paragraph (1), both the existing building
 25 and the separate new building shall be treated as

1 having been placed in service on the date such ex-
2 penditures are treated as placed in service under
3 section 42(e)(4) of such Code.

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

5 (a) IN GENERAL.—Section 42(h)(6)(D)(ii)(II) of the
6 Internal Revenue Code of 1986 is amended by striking
7 “15 years” and inserting “35 years”.
8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to agreements entered into in tax-
10 able years beginning after the date of the enactment of
11 this Act.

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