

116TH CONGRESS
1ST SESSION

S. 1703

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

IN THE SENATE OF THE UNITED STATES

JUNE 4, 2019

Ms. CANTWELL (for herself, Mr. YOUNG, Mr. WYDEN, and Mr. ISAKSON) 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 reform the low-income housing 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Affordable Housing Credit Improvement Act of 2019”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REFORM OF STATE ALLOCATION FORMULAS

Sec. 101. Increases in State allocations.

TITLE II—REFORMS RELATING TO TENANT ELIGIBILITY

- Sec. 201. Average income test applicability to exempt facility bonds.
- Sec. 202. Codification of rules relating to increased tenant income.
- Sec. 203. Modification of student occupancy rules.
- Sec. 204. Tenant voucher payments taken into account as rent for certain purposes.
- Sec. 205. Requirement that low-income housing credit-supported housing protect victims of domestic abuse.
- Sec. 206. Clarification of general public use requirement relating to veterans, etc.

TITLE III—CREDIT RATE AND OTHER RULES RELATING TO CREDIT ELIGIBILITY AND DETERMINATION

- Sec. 301. Minimum credit rate.
- Sec. 302. Reconstruction or replacement period after casualty loss.
- Sec. 303. Modification and clarification of rights relating to building purchase.
- Sec. 304. Modification of previous ownership rules; limitation on acquisition basis.
- Sec. 305. Certain relocation costs taken into account as rehabilitation expenditures.
- Sec. 306. Repeal of qualified census tract population cap.
- Sec. 307. Determination of community revitalization plan to be made by housing credit agency.
- Sec. 308. Prohibition of local approval and contribution requirements.
- Sec. 309. Increase in credit for certain projects designated to serve extremely low-income households.
- Sec. 310. Increase in credit for bond-financed projects designated by State agency.
- Sec. 311. Elimination of basis reduction for low-income housing properties receiving certain energy benefits.
- Sec. 312. Restriction of planned foreclosures.
- Sec. 313. Increase of population cap for difficult development areas.
- Sec. 314. Increased cost oversight and accountability.

TITLE IV—REFORMS RELATING TO NATIVE AMERICAN ASSISTANCE

- Sec. 401. Selection criteria under qualified allocation plans.
- Sec. 402. Inclusion of Indian areas as difficult development areas for purposes of certain buildings.

TITLE V—REFORMS RELATING TO RURAL ASSISTANCE

- Sec. 501. Inclusion of rural areas as difficult development areas.
- Sec. 502. Uniform income eligibility for rural projects.

TITLE VI—EXEMPT FACILITY BONDS

- Sec. 601. Revision and clarification of the treatment of refunding issues.

TITLE VII—AFFORDABLE HOUSING TAX CREDIT

- Sec. 701. Affordable housing tax credit.

1 **TITLE I—REFORM OF STATE**
 2 **ALLOCATION FORMULAS**

3 **SEC. 101. INCREASES IN STATE ALLOCATIONS.**

4 (a) **PHASE-IN OF INCREASES.—**

5 (1) **IN GENERAL.—**Clause (ii) of section
 6 42(h)(3)(C) of the Internal Revenue Code of 1986
 7 is amended—

8 (A) by striking “\$1.75” in subclause (I)
 9 and inserting “the per capita dollar amount”,
 10 and

11 (B) by striking “\$2,000,000” in subclause
 12 (II) and inserting “the minimum ceiling
 13 amount”.

14 (2) **PER CAPITA DOLLAR AMOUNT; MINIMUM**
 15 **CEILING AMOUNT.—**Subparagraph (I) of section
 16 42(h)(3) of such Code is amended to read as follows:

17 “(I) **PER CAPITA DOLLAR AMOUNT; MIN-**
 18 **IMUM CEILING AMOUNT.—**For purposes of this
 19 paragraph—

20 “(i) **PER CAPITA DOLLAR AMOUNT.—**

21 The per capita dollar amount is—

22 “(I) for calendar year 2019,

23 \$2.76,

24 “(II) for calendar year 2020,

25 \$3.10,

1 “(III) for calendar year 2021,
2 \$3.49,

3 “(IV) for calendar year 2022,
4 \$3.93,

5 “(V) for calendar year 2023,
6 \$4.42, and

7 “(VI) \$4.96 thereafter.

8 “(ii) MINIMUM CEILING AMOUNT.—

9 The minimum ceiling amount is—

10 “(I) for calendar year 2019,
11 \$3,166,875,

12 “(II) for calendar year 2020,
13 \$3,565,496,

14 “(III) for calendar year 2021,
15 \$4,010,213,

16 “(IV) for calendar year 2022,
17 \$4,510,487,

18 “(V) for calendar year 2023,
19 \$5,073,171, and

20 “(VI) \$5,700,468 thereafter.”.

21 (3) MODIFICATION OF COST-OF-LIVING ADJUST-
22 MENT.—Subparagraph (H) of section 42(h)(3) of
23 such Code is amended—

24 (A) by striking “2002” in clause (i) and
25 inserting “2019”,

1 (B) by striking “the \$2,000,000 and \$1.75
2 amounts in subparagraph (C)” in clause (i) and
3 inserting “the dollar amounts applicable to such
4 calendar year under clauses (i) and (ii) of sub-
5 paragraph (I)”,

6 (C) by striking “2001” in clause (i)(II)
7 and inserting “2018”,

8 (D) by striking “\$2,000,000” in clause
9 (ii)(I) and inserting “minimum ceiling”, and

10 (E) by striking “\$1.75” in clause (ii)(II)
11 and inserting “per capita dollar”.

12 (4) EFFECTIVE DATE.—The amendments made
13 by this subsection shall apply to calendar years be-
14 ginning after December 31, 2019.

15 (b) PERMANENT INCREASES.—

16 (1) IN GENERAL.—Clause (ii) of section
17 42(h)(3)(C) of the Internal Revenue Code of 1986,
18 as amended by subsection (a)(1), is amended—

19 (A) by striking “the per capita dollar
20 amount” in subclause (I) and inserting
21 “\$4.96”, and

22 (B) by striking “the minimum ceiling
23 amount” in subclause (II) and inserting
24 “\$5,700,468”.

1 (2) CONFORMING AMENDMENT.—Paragraph (3)
 2 of section 42(h) of such Code is amended by striking
 3 subparagraph (I), as amended by subsection (a)(2).

4 (3) COST-OF-LIVING ADJUSTMENT.—Subpara-
 5 graph (H) of section 42(h)(3) of such Code, as
 6 amended by subsection (a)(3), is amended—

7 (A) by striking “the dollar amounts appli-
 8 cable to such calendar year under clauses (i)
 9 and (ii) of subparagraph (I)” in clause (i) and
 10 inserting “the \$5,700,468 and \$4.96 amounts
 11 in subparagraph (C)”,

12 (B) by striking “minimum ceiling” in
 13 clause (ii)(I) and inserting “\$5,700,468”, and

14 (C) by striking “per capita dollar” in
 15 clause (ii)(II) and inserting “\$4.96”.

16 (4) EFFECTIVE DATE.—The amendments made
 17 by this subsection shall apply to calendar years be-
 18 ginning after December 31, 2024.

19 **TITLE II—REFORMS RELATING**
 20 **TO TENANT ELIGIBILITY**

21 **SEC. 201. AVERAGE INCOME TEST APPLICABILITY TO EX-**
 22 **EMPT FACILITY BONDS.**

23 (a) IN GENERAL.—Paragraph (1) of section 142(d)
 24 of the Internal Revenue Code of 1986 is amended—

1 (1) by striking “(A) or (B)” and inserting “(A),
2 (B), or (C)”, and

3 (2) by inserting after subparagraph (B) the fol-
4 lowing new subparagraph:

5 “(C) AVERAGE INCOME TEST.—A project
6 meets the requirements of this subparagraph if
7 it meets the minimum requirements of section
8 42(g)(1)(C).”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to elections made under section
11 142(d)(1) of the Internal Revenue Code of 1986 after
12 March 23, 2018.

13 **SEC. 202. CODIFICATION OF RULES RELATING TO IN-**
14 **CREASED TENANT INCOME.**

15 (a) IN GENERAL.—Clause (i) of section 42(g)(2)(D)
16 of the Internal Revenue Code of 1986 is amended by strik-
17 ing “clauses (ii), (iii), and (iv)” and all that follows and
18 inserting “clauses (ii), (iii), (iv), and (vi), notwithstanding
19 an increase in the income of the occupants above the in-
20 come limitation applicable under paragraph (1)—

21 “(I) a low-income unit shall con-
22 tinue to be treated as a low-income
23 unit if the income of such occupants
24 initially was 60 percent or less of area

1 median gross income and such unit
2 continues to be rent-restricted, and

3 “(II) a unit to which, at the time
4 of initial occupancy by such occu-
5 pants, any Federal, State, or local
6 government income restriction ap-
7 plied, and which subsequently becomes
8 part of a building with respect to
9 which rehabilitation expenditures are
10 taken into account under subsection
11 (e), shall be treated as a low-income
12 unit if the income of such occupants
13 initially was 60 percent or less of area
14 median gross income and does not ex-
15 ceed 120 percent of area median gross
16 income as of the date of acquisition of
17 the property by the taxpayer.”.

18 (b) EXCEPTION.—Subparagraph (D) of section
19 42(g)(2) of the Internal Revenue Code of 1986, as amend-
20 ed by this Act, is amended by adding at the end the fol-
21 lowing new clause:

22 “(vi) EXCEPTION TO RULE RELATING
23 TO INCREASED TENANT INCOME.—In the
24 case of an occupant of a low-income unit
25 who initially qualified to occupy such unit

1 by reason of paragraph (1)(C) with an in-
2 come in excess of 60 percent of area me-
3 dian gross income but not in excess of 80
4 percent of area median gross income,
5 clause (i) shall be applied for substituting
6 ‘80 percent’ for ‘60 percent’ each place it
7 appears.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2018.

11 SEC. 203. MODIFICATION OF STUDENT OCCUPANCY RULES.

12 (a) IN GENERAL.—Subparagraph (D) of section
13 42(i)(3) of the Internal Revenue Code of 1986 is amended
14 to read as follows:

15 “(D) RULES RELATING TO STUDENTS.—

16 “(i) IN GENERAL.—A unit occupied
17 solely by individuals who—

18 “(I) have not attained age 24,

19 and

20 “(II) are enrolled in a full-time
21 course of study at an institution of
22 higher education (as defined in section
23 3304(f)),

24 shall not be treated as a low-income unit.

1 “(ii) EXCEPTION FOR CERTAIN FED-
2 ERAL PROGRAMS.—In the case of a feder-
3 ally-assisted building (as defined in sub-
4 section (d)(6)(C)(i)), clause (i) shall not
5 apply to a unit all of the occupants of
6 which meet all applicable requirements
7 under the housing program described in
8 such subsection through which the building
9 is assisted, financed, or operated.

10 “(iii) OTHER EXCEPTIONS.—An indi-
11 vidual shall not be treated as described in
12 clause (i) if the individual—

13 “(I) is married,

14 “(II) is a person with disabilities
15 (as defined in section 3(b)(3)(E) of
16 the United States Housing Act of
17 1937),

18 “(III) is a veteran (as defined in
19 section 101(2) of title 38, United
20 States Code),

21 “(IV) has 1 or more qualifying
22 children (as defined in section
23 152(c)),

24 “(V) is or has been a victim or
25 threatened victim of domestic violence,

1 dating violence, sexual assault, or
2 stalking (as defined in section 40002
3 of the Violence Against Women Act of
4 1994), or

5 “(VI) meets the income limita-
6 tion applicable under subsection
7 (g)(1) to the project of which the
8 building is a part and is, or was im-
9 mediately prior to attaining the age of
10 majority—

11 “(aa) an emancipated minor
12 or in legal guardianship as deter-
13 mined by a court of competent
14 jurisdiction in the individual’s
15 State of legal residence,

16 “(bb) under the care and
17 placement responsibility of the
18 State agency responsible for ad-
19 ministering a plan under part B
20 or part E of title IV of the Social
21 Security Act, or

22 “(cc) an unaccompanied
23 youth (within the meaning of sec-
24 tion 725(6) of the McKinney-
25 Vento Homeless Assistance Act

1 (42 U.S.C. 11434a(6))) or a
2 homeless child or youth (within
3 the meaning of section 725(2) of
4 such Act (42 U.S.C.
5 11434a(2))).”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to taxable years beginning after
8 December 31, 2019.

9 SEC. 204. TENANT VOUCHER PAYMENTS TAKEN INTO AC-
10 COUNT AS RENT FOR CERTAIN PURPOSES.

11 (a) IN GENERAL.—Subparagraph (B) of section
12 42(g)(2) of the Internal Revenue Code of 1986 is amended
13 by adding at the end the following new sentence: “In the
14 case of a project with respect to which the taxpayer elects
15 the requirements of subparagraph (C) of paragraph (1),
16 or the portion of a project to which subsection (d)(5)(C)
17 applies, clause (i) shall not apply with respect to any ten-
18 ant-based assistance (as defined in section 8(f)(7) of the
19 United States Housing Act of 1937 (42 U.S.C.
20 1437f(f)(7))).”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to rent paid in taxable years begin-
23 ning after December 31, 2019.

1 SEC. 205. REQUIREMENT THAT LOW-INCOME HOUSING
2 CREDIT-SUPPORTED HOUSING PROTECTVIC-
3 TIMS OF DOMESTIC ABUSE.

4 (a) IN GENERAL.—Subparagraph (B) of section
5 42(h)(6) of the Internal Revenue Code of 1986 is amended
6 by striking “and” at the end of clause (v), by striking the
7 period at the end of clause (vi) and inserting “, and”, and
8 by adding at the end the following new clause:

9 “(vii) which—

10 “(I) prohibits the refusal to lease
11 to, or termination of a lease by, a per-
12 son solely on the basis of criminal ac-
13 tivity directly relating to domestic vio-
14 lence, dating violence, sexual assault,
15 or stalking that is engaged in by a
16 member of the household of the ten-
17 ant or any guest or other person
18 under the control of the tenant, if the
19 tenant or an affiliated individual of
20 the tenant is the victim or threatened
21 victim of such domestic violence, dat-
22 ing violence, sexual assault, or stalk-
23 ing, and

24 “(II) allows prospective, present,
25 or former occupants of the building

1 the right to enforce in any State court
2 the prohibition of subclause (I).”.

3 (b) BIFURCATION.—

4 (1) IN GENERAL.—Subparagraph (B) of section
5 42(h)(6) of the Internal Revenue Code of 1986, as
6 amended by subsection (a), is amended by adding at
7 the end the following new flush sentence:

8 “For purposes of clause (vii)(I), rules similar to
9 the rules of section 41411(b)(3)(B) of the Vio-
10 lence Against Women Act of 1994 shall apply
11 with respect to the owner or manager of a
12 building.”.

13 (2) EFFECT OF BIFURCATION.—Paragraph (2)
14 of section 42(g) of such Code is amended by adding
15 at the end the following new subparagraph:

16 “(F) TREATMENT OF BIFURCATION IN
17 CASES OF DOMESTIC VIOLENCE.—In any case
18 in which—

19 “(i) an occupant is evicted or removed
20 from a low-income unit because such occu-
21 pant has engaged in criminal activity di-
22 rectly relating to domestic violence, dating
23 violence, sexual assault, or stalking against
24 an affiliated individual or other individual
25 on the basis of criminal activity directly re-

1 lating to domestic violence, dating violence,
2 sexual assault, or stalking, and

3 “(ii) the lease on such unit is bifur-
4 cated as provided in the last sentence of
5 subsection (h)(6)(B),

6 then the remaining occupants of such low-in-
7 come unit shall not be treated as a new tenant
8 for purposes of this section.”.

9 (c) CLARIFICATION OF GENERAL PUBLIC USE RE-
10 QUIREMENT.—Paragraph (9) of section 42(g) of the Inter-
11 nal Revenue Code of 1986 is amended by striking “or”
12 at the end of subparagraph (B), by striking the period
13 at the end of subparagraph (C) and inserting “, or”, and
14 by adding at the end the following new subparagraph:

15 “(D) who are victims or threatened victims
16 of criminal activity directly relating to domestic
17 violence, dating violence, sexual assault, or
18 stalking.”.

19 (d) EFFECTIVE DATES.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), the amendments made by this section
22 shall apply to agreements executed or modified on or
23 after the date that is 30 days after the date of the
24 enactment of this Act.

1 (2) PUBLIC USE REQUIREMENT.—The amend-
 2 ments made by subsection (c) shall apply to build-
 3 ings placed in service before, on, or after the date
 4 of the enactment of this Act.

5 **SEC. 206. CLARIFICATION OF GENERAL PUBLIC USE RE-**
 6 **QUIREMENT RELATING TO VETERANS, ETC.**

7 (a) IN GENERAL.—Paragraph (9) of section 42(g) of
 8 the Internal Revenue Code of 1986, as amended by section
 9 205, is further amended by adding at the end the following
 10 flush language:

11 “Any veteran of the Armed Forces shall be treated
 12 as a member of a specified group under a Federal
 13 program for purposes of subparagraph (B).”.

14 (b) QUALIFIED RESIDENTIAL RENTAL PROJECTS.—
 15 Paragraph (2) of section 142(d) of the Internal Revenue
 16 Code of 1986 is amended by adding at the end the fol-
 17 lowing new subparagraph:

18 “(F) CLARIFICATION OF GENERAL PUBLIC
 19 USE REQUIREMENT.—A unit shall not fail to
 20 meet the general public use requirement solely
 21 because of occupancy restrictions or pref-
 22 erences, if such restrictions or preferences meet
 23 the general public use requirement of section
 24 42.”.

25 (c) EFFECTIVE DATES.—

1 (1) IN GENERAL.—The amendment made by
2 subsection (a) shall apply to buildings placed in serv-
3 ice before, on, or after the date of the enactment of
4 this Act.

5 (2) QUALIFIED RESIDENTIAL RENTAL
6 PROJECTS.—The amendment made by subsection (b)
7 shall apply to bonds issued before, on, or after the
8 date of the enactment of this Act.

9 **TITLE III—CREDIT RATE AND**
10 **OTHER RULES RELATING TO**
11 **CREDIT ELIGIBILITY AND DE-**
12 **TERMINATION**

13 **SEC. 301. MINIMUM CREDIT RATE.**

14 (a) IN GENERAL.—Subsection (b) of section 42 of the
15 Internal Revenue Code of 1986 is amended—

16 (1) by redesignating paragraph (3) as para-
17 graph (4), and

18 (2) by inserting after paragraph (2) the fol-
19 lowing new paragraph:

20 “(3) MINIMUM CREDIT RATE.—In the case of
21 any new or existing building to which paragraph (2)
22 does not apply and which is placed in service by the
23 taxpayer after December 31, 2018, the applicable
24 percentage shall not be less than 4 percent.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to buildings which receive alloca-
3 tions of housing credit dollar amount or, in the case of
4 projects financed by tax-exempt bonds as described in sec-
5 tion 42(h)(4) of the Internal Revenue Code of 1986, which
6 receive a determination of housing credit dollar amount,
7 after the date of the enactment of this Act.

8 SEC. 302. RECONSTRUCTION OR REPLACEMENT PERIOD
9 AFTER CASUALTY LOSS.

10 (a) IN GENERAL.—Subparagraph (E) of section
11 42(j)(4) of the Internal Revenue Code of 1986 is amended
12 by striking “a reasonable period established by the Sec-
13 retary” and inserting “a reasonable period established by
14 the applicable housing credit agency (not to exceed 25
15 months from the date on which the casualty loss arises).
16 The determination under paragraph (1) shall not be made
17 with respect to a property the basis of which is affected
18 by a casualty loss until the period described in the pre-
19 ceding sentence with respect to such property has ex-
20 pired.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to casualty losses arising after the
23 date of the enactment of this Act.

1 SEC. 303. MODIFICATION AND CLARIFICATION OF RIGHTS
2 RELATING TO BUILDING PURCHASE.

3 (a) MODIFICATION OF RIGHT OF FIRST REFUSAL.—
4 Subparagraph (A) of section 42(i)(7) of the Internal Rev-
5 enue Code of 1986 is amended by striking “a right of 1st
6 refusal” and inserting “an option”.

7 (b) CLARIFICATION WITH RESPECT TO RIGHT OF
8 FIRST REFUSAL AND PURCHASE OPTIONS.—

9 (1) PURCHASE OF PARTNERSHIP INTEREST.—

10 (A) IN GENERAL.—Subparagraph (A) of
11 section 42(i)(7) of the Internal Revenue Code of
12 1986, as amended by subsection (a), is amend-
13 ed by striking “the property” and inserting
14 “the property or all of the partnership interests
15 (other than interests of the person exercising
16 such option or a related party thereto (within
17 the meaning of section 267(b) or 707(b)(1)) re-
18 lating to the property”.

19 (B) CONFORMING AMENDMENT.—Subpara-
20 graph (B) of section 42(i)(7) of the Internal
21 Revenue Code of 1986 is amended by adding at
22 the end the following: “In the case of a pur-
23 chase of a partnership interest, the minimum
24 purchase price is an amount not less than such
25 interest’s ratable share of the amount deter-

1 mined under the first sentence of this subpara-
2 graph.”.

3 (2) PROPERTY INCLUDES ASSETS RELATING TO
4 THE BUILDING.—Paragraph (7) of section 42(i) of
5 the Internal Revenue Code of 1986 is amended by
6 adding at the end the following new subparagraph:

7 “(C) PROPERTY.—For purposes of sub-
8 paragraph (A), the term ‘property’ may include
9 all or any of the assets held for the develop-
10 ment, operation, or maintenance of a build-
11 ing.”.

12 (3) EXERCISE OF RIGHT OF FIRST REFUSAL
13 AND PURCHASE OPTIONS.—Subparagraph (A) of
14 section 42(i)(7) of the Internal Revenue Code of
15 1986, as amended by subsection (a) and paragraph
16 (1)(A), is amended by adding at the end the fol-
17 lowing: “For purposes of determining whether an
18 option, including a right of first refusal, to purchase
19 property is described in the preceding sentence—

20 “(i) such option or right of first re-
21 fusal may be exercised with or without the
22 approval of the taxpayer, and

23 “(ii) a right of first refusal may be ex-
24 ercised in response to any offer to pur-

1 chase the property, including an offer by a
2 related party.”.

3 (c) EFFECTIVE DATES.—

4 (1) MODIFICATION OF RIGHT OF FIRST RE-
5 FUSAL.—The amendment made by subsection (a)
6 shall apply to agreements entered into after the date
7 of the enactment of this Act.

8 (2) CLARIFICATION.—The amendments made
9 by subsection (b) shall apply to agreements among
10 the owners of the project (including partners, mem-
11 bers, their affiliated organizations, and designated
12 entities described in subparagraph (A)) entered into
13 before, on, or after the date of the enactment of this
14 Act.

15 (3) NO EFFECT ON AGREEMENTS.—No provi-
16 sion of this amendment shall supercede the agree-
17 ment among the parties as to the manner of execu-
18 tion or terms of a right of first refusal or option per-
19 mitted by section 42(i)(7).

20 **SEC. 304. MODIFICATION OF PREVIOUS OWNERSHIP RULES;
21 LIMITATION ON ACQUISITION BASIS.**

22 (a) IN GENERAL.—Clause (ii) of section 42(d)(2)(B)
23 of the Internal Revenue Code of 1986 is amended by in-
24 sserting “, or the taxpayer elects the application of sub-
25 paragraph (C)(ii)” after “service”.

1 (b) LIMITATION ON ACQUISITION BASIS.—Subpara-
2 graph (C) of section 42(d)(2) of the Internal Revenue
3 Code of 1986 is amended—

4 (1) by striking “For purposes of subparagraph
5 (A), the adjusted basis” and inserting “For pur-
6 poses of subparagraph (A)—

7 “(i) IN GENERAL.—The adjusted
8 basis”, and

9 (2) by adding at the end the following new
10 clauses:

11 “(ii) BUILDINGS IN SERVICE WITHIN
12 PREVIOUS 10 YEARS.—If the period be-
13 tween the date of acquisition of the build-
14 ing by the taxpayer and the date the build-
15 ing was last placed in service is less than
16 10 years, the taxpayer’s basis attributable
17 to the acquisition of the building which is
18 taken into account in determining the ad-
19 justed basis shall not exceed the sum of—

20 “(I) the lowest amount paid for
21 acquisition of the building by any per-
22 son during the 10 years preceding the
23 date of the acquisition of the building
24 by the taxpayer, adjusted as provided
25 in clause (iii), and

1 “(II) the value of any capital im-
2 provements made by the person who
3 sells the building to the taxpayer
4 which are reflected in such seller’s
5 basis.

6 “(iii) ADJUSTMENT.—With respect to
7 a basis determination made in any taxable
8 year, the amount described in clause (ii)(I)
9 shall be increased by an amount equal to—

10 “(I) such amount, multiplied by
11 “(II) a cost-of-living adjustment,
12 determined in the same manner as
13 under section 1(f)(3) for the calendar
14 year in which the taxable year begins
15 by taking into account the acquisition
16 year in lieu of calendar year 1992.

17 For purposes of the preceding sentence,
18 the acquisition year is the calendar year in
19 which the lowest amount referenced in
20 clause (ii)(I) was paid for the acquisition
21 of the building.”.

22 (c) CONFORMING AMENDMENTS.—Clause (i) of sec-
23 tion 42(d)(2)(D) of the Internal Revenue Code of 1986
24 is amended—

1 (1) by striking “FOR SUBPARAGRAPH (B)” in
2 the heading, and

3 (2) by striking “subparagraph (B)(ii)” in the
4 matter preceding subclause (I) and inserting “sub-
5 paragraph (B)(ii) or (C)(ii)”.

6 (d) **MODIFICATION OF PLACED IN SERVICE RULE.**—
7 Clause (iii) of section 42(d)(2)(B) of the Internal Revenue
8 Code of 1986 is amended to read as follows:

9 “(iii) the building was not owned by
10 the taxpayer or by any person related (as
11 of the date of acquisition by the taxpayer)
12 to the taxpayer at any time during the 5-
13 year period ending on the date of acqui-
14 sition by the taxpayer, and”.

15 (e) **EFFECTIVE DATE.**—The amendments made by
16 this section shall apply to buildings placed in service after
17 December 31, 2018.

18 **SEC. 305. CERTAIN RELOCATION COSTS TAKEN INTO AC-
19 COUNT AS REHABILITATION EXPENDITURES.**

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

23 “(C) **CERTAIN RELOCATION COSTS.**—In
24 the case of a rehabilitation of a building to

1 which section 280B does not apply, costs relat-
 2 ing to the relocation of occupants, including—
 3 “(i) amounts paid to occupants,
 4 “(ii) amounts paid to third parties for
 5 services relating to such relocation, and
 6 “(iii) amounts paid for temporary
 7 housing for occupants,
 8 shall be treated as chargeable to capital account
 9 and taken into account as rehabilitation ex-
 10 penditures.”.

11 (b) **EFFECTIVE DATE.**—The amendment made by
 12 this section shall apply to expenditures paid or incurred
 13 after December 31, 2018.

14 (c) **NO INFERENCE.**—Nothing in the amendment
 15 made by this section shall be construed to create any infer-
 16 ence with respect to the treatment of relocation costs paid
 17 or incurred before December 31, 2018.

18 **SEC. 306. REPEAL OF QUALIFIED CENSUS TRACT POPU-**
 19 **LATION CAP.**

20 (a) **IN GENERAL.**—Clause (ii) of section 42(d)(5)(B)
 21 of the Internal Revenue Code of 1986 is amended—

- 22 (1) by striking subclauses (II) and (III), and
 23 (2) by striking “QUALIFIED CENSUS TRACT.—
 24 “(I) IN GENERAL.—The term”,

1 and inserting “QUALIFIED CENSUS TRACT.—The
2 term”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to designations of qualified census
5 tracts under section 42(d)(5)(B)(ii) of the Internal Rev-
6 enue Code of 1986 after December 31, 2019.

7 **SEC. 307. DETERMINATION OF COMMUNITY REVITALIZA-**
8 **TION PLAN TO BE MADE BY HOUSING CREDIT**
9 **AGENCY.**

10 (a) IN GENERAL.—Subclause (III) of section
11 42(m)(1)(B)(ii) of the Internal Revenue Code of 1986 is
12 amended by inserting “, as determined by the housing
13 credit agency according to criteria established by such
14 agency,” after “(d)(5)(B)(ii) and”.

15 (b) CRITERIA.—Paragraph (1) of section 42(m) of
16 the Internal Revenue Code of 1986 is amended by adding
17 at the end the following new subparagraph:

18 “(E) CRITERIA FOR DETERMINATION RE-
19 LATING TO CONCERTED COMMUNITY REVITAL-
20 IZATION PLAN.—For purposes of subparagraph
21 (B)(ii)(III), the criteria which shall be estab-
22 lished by a housing credit agency for deter-
23 mining whether the development of a project
24 contributes to a concerted community develop-
25 ment plan shall take into account any factors

1 the agency deems appropriate, including the ex-
 2 tent to which the proposed plan—

3 “(i) is geographically specific,

4 “(ii) outlines a clear plan for imple-
 5 mentation and goals for outcomes,

6 “(iii) includes a strategy for applying
 7 for or obtaining commitments of public or
 8 private investment (or both) in nonhousing
 9 infrastructure, amenities, or services, and

10 “(iv) demonstrates the need for com-
 11 munity revitalization.”.

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to allocations of housing credit dol-
 14 lar amounts made under qualified allocation plans (as de-
 15 fined in section 42(m)(1)(B) of the Internal Revenue Code
 16 of 1986) adopted after December 31, 2019.

17 **SEC. 308. PROHIBITION OF LOCAL APPROVAL AND CON-**
 18 **TRIBUTION REQUIREMENTS.**

19 (a) IN GENERAL.—Paragraph (1) of section 42(m)
 20 of the Internal Revenue Code of 1986, as amended by sec-
 21 tion 307, is further amended—

22 (1) by striking clause (ii) of subparagraph (A)
 23 and by redesignating clauses (iii) and (iv) thereof as
 24 clauses (ii) and (iii), and

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

3 “(F) LOCAL APPROVAL OR CONTRIBUTION
 4 NOT TAKEN INTO ACCOUNT.—The selection cri-
 5 teria under a qualified allocation plan shall not
 6 include consideration of—

7 “(i) any support or opposition with re-
 8 spect to the project from local or elected
 9 officials, or

10 “(ii) any local government contribu-
 11 tion to the project, except to the extent
 12 such contribution is taken into account as
 13 part of a broader consideration of the
 14 project’s ability to leverage outside funding
 15 sources, and is not prioritized over any
 16 other source of outside funding.”.

17 (b) EFFECTIVE DATE.—The amendments made by
 18 this section shall apply to allocations of housing credit dol-
 19 lar amounts made after December 31, 2019.

20 **SEC. 309. INCREASE IN CREDIT FOR CERTAIN PROJECTS**
 21 **DESIGNATED TO SERVE EXTREMELY LOW-IN-**
 22 **COME HOUSEHOLDS.**

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

1 “(C) INCREASE IN CREDIT FOR PROJECTS
2 DESIGNATED TO SERVE EXTREMELY LOW-IN-
3 COME HOUSEHOLDS.—In the case of any build-
4 ing—

5 “(i) 20 percent or more of the resi-
6 dential units in which are designated by
7 the taxpayer for occupancy by households
8 the aggregate household income of which
9 does not exceed the greater of—

10 “(I) 30 percent of area median
11 gross income, or

12 “(II) 100 percent of an amount
13 equal to the Federal poverty line
14 (within the meaning of section
15 36B(d)(3)), and

16 “(ii) which is designated by the hous-
17 ing credit agency as requiring the increase
18 in credit under this subparagraph in order
19 for such building to be financially feasible
20 as part of a qualified low-income housing
21 project,

22 subparagraph (B) shall not apply to the portion
23 of such building which is comprised of such
24 units, and the eligible basis of such portion of
25 the building shall be 150 percent of such basis

1 determined without regard to this subpara-
2 graph.”.

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 bonds as described in sec-
7 tion 42(h)(4) of the Internal Revenue Code of 1986, which
8 receive a determination of housing credit dollar amount,
9 after the date of the enactment of this Act.

10 **SEC. 310. INCREASE IN CREDIT FOR BOND-FINANCED**
11 **PROJECTS DESIGNATED BY STATE AGENCY.**

12 (a) **IN GENERAL.**—Clause (v) of section 42(d)(5)(B)
13 of the Internal Revenue Code of 1986 is amended by strik-
14 ing the second sentence.

15 (b) **TECHNICAL AMENDMENT.**—Clause (v) of section
16 42(d)(5)(B) of the Internal Revenue Code of 1986, as
17 amended by subsection (a), is further amended—

- 18 (1) by striking “STATE” in the heading, and
19 (2) by striking “State housing credit agency”
20 and inserting “housing credit agency”.

21 (c) **EFFECTIVE DATE.**—The amendments made by
22 this section shall apply to buildings which receive a deter-
23 mination of housing credit dollar amount after the date
24 of the enactment of this Act.

1 SEC. 311. ELIMINATION OF BASIS REDUCTION FOR LOW-IN-
 2 COME HOUSING PROPERTIES RECEIVING
 3 CERTAIN ENERGY BENEFITS.

4 (a) NEW ENERGY EFFICIENT HOME CREDIT.—Sub-
 5 section (e) of section 45L of the Internal Revenue Code
 6 of 1986 is amended—

7 (1) by striking “ADJUSTMENT.—For purposes”
 8 and inserting “ADJUSTMENT.—

9 “(1) IN GENERAL.—For purposes”, and

10 (2) by adding at the end the following new
 11 paragraph:

12 “(2) EXCEPTION FOR AFFORDABLE HOUSING
 13 PROPERTIES.—Paragraph (1) shall not apply for
 14 purposes of determining eligible basis under section
 15 42.”.

16 (b) ENERGY EFFICIENT COMMERCIAL BUILDINGS
 17 DEDUCTION.—Subsection (e) of section 179D of the In-
 18 ternal Revenue Code of 1986 is amended—

19 (1) by striking “REDUCTION.—For purposes”
 20 and inserting “REDUCTION.—

21 “(1) IN GENERAL.—For purposes”, and

22 (2) by adding at the end the following new
 23 paragraph:

24 “(2) EXCEPTION FOR AFFORDABLE HOUSING
 25 PROPERTIES.—Paragraph (1) shall not apply for

1 purposes of determining eligible basis under section
2 42.”.

3 (c) ENERGY CREDIT.—Paragraph (3) of section
4 50(c) of the Internal Revenue Code of 1986 is amended—

5 (1) by striking “and” at the end of subpara-
6 graph (A),

7 (2) by striking the period at the end of sub-
8 paragraph (B) and inserting “, and”, and

9 (3) by adding at the end the following new sub-
10 paragraph:

11 “(C) paragraph (1) shall not apply for pur-
12 poses of determining eligible basis under section
13 42.”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to buildings which receive alloca-
16 tions of housing credit dollar amount or, in the case of
17 projects financed by tax-exempt bonds as described in sec-
18 tion 42(h)(4) of the Internal Revenue Code of 1986, which
19 receive a determination of housing credit dollar amount,
20 after the date of the enactment of this Act.

21 **SEC. 312. RESTRICTION OF PLANNED FORECLOSURES.**

22 (a) IN GENERAL.—Subclause (I) of section
23 42(h)(6)(E)(i) of the Internal Revenue Code of 1986 is
24 amended to read as follows:

1 “(I) on the 61st day after the
2 taxpayer (or a successor in interest)
3 provides notice to the Secretary and
4 the housing credit agency that the
5 building has been acquired by fore-
6 closure (or instrument in lieu of fore-
7 closure) and that the taxpayer intends
8 the termination of such period, unless,
9 before such date, the Secretary or the
10 housing credit agency determines that
11 such acquisition is part of an arrange-
12 ment with the taxpayer a purpose of
13 which is to terminate such period,
14 or”.

15 (b) CONFORMING AMENDMENT.—The second sen-
16 tence of clause (i) of section 42(h)(6)(E) of the Internal
17 Revenue Code of 1986 is amended by striking “Subclause
18 (II)” and inserting “Subclauses (I) and (II)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to acquisitions by foreclosure (or
21 instrument in lieu of foreclosure) after December 31,
22 2018.

1 SEC. 313. INCREASE OF POPULATION CAP FOR DIFFICULT
2 DEVELOPMENT AREAS.

3 (a) IN GENERAL.—Subclause (II) of section
4 42(d)(5)(B)(iii) of the Internal Revenue Code of 1986 is
5 amended by striking “20 percent” and inserting “30 per-
6 cent”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to designations made under section
9 42(d)(5)(B)(iii) of the Internal Revenue Code of 1986
10 after December 31, 2019.

11 SEC. 314. INCREASED COST OVERSIGHT AND ACCOUNT-
12 ABILITY.

13 (a) IN GENERAL.—Subparagraph (C) of section
14 42(m)(1) of the Internal Revenue Code of 1986 is amend-
15 ed by striking “and” at the end of clause (ix), by striking
16 the period at the end of clause (x) and inserting “, and”,
17 and by adding at the end the following new clause:

18 “(xi) the reasonableness of the devel-
19 opment costs of the project.”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to allocations of credits under sec-
22 tion 42 of the Internal Revenue Code of 1986 made after
23 December 31, 2019.

1 **TITLE IV—REFORMS RELATING**
2 **TO NATIVE AMERICAN AS-**
3 **SISTANCE**

4 **SEC. 401. SELECTION CRITERIA UNDER QUALIFIED ALLO-**
5 **CATION PLANS.**

6 (a) **IN GENERAL.**—Subparagraph (C) of section
7 42(m)(1) of the Internal Revenue Code of 1986, as
8 amended by section 314, is amended—

9 (1) by striking “and” at the end of clause (x),
10 by striking the period at the end of clause (xi) and
11 inserting “, and”, and by adding at the end the fol-
12 lowing new clause:

13 “(xii) the affordable housing needs of
14 individuals in the State who are enrolled
15 members of a tribe with respect to an In-
16 dian tribal government.”, and

17 (2) by adding at the end the following flush
18 sentence:

19 “For purposes of clause (xii), the term ‘Indian
20 tribal government’ includes any agencies or in-
21 strumentalities of an Indian tribal government
22 and any Alaska Native regional or village cor-
23 poration, as defined in, or established pursuant
24 to, the Alaska Native Claims Settlement Act
25 (43 U.S.C. 1601 et seq.).”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to allocations of credits under sec-
3 tion 42 of the Internal Revenue Code of 1986 made after
4 December 31, 2019.

5 SEC. 402. INCLUSION OF INDIAN AREAS AS DIFFICULT DE-
6 VELOPMENT AREAS FOR PURPOSES OF CER-
7 TAIN BUILDINGS.

8 (a) IN GENERAL.—Subclause (I) of section
9 42(d)(5)(B)(iii) of the Internal Revenue Code of 1986 is
10 amended by inserting before the period the following: “,
11 and any Indian area”.

12 (b) INDIAN AREA.—Clause (iii) of section
13 42(d)(5)(B) of the Internal Revenue Code of 1986 is
14 amended by redesignating subclause (II) as subclause
15 (III) and by inserting after subclause (I) the following new
16 subclause:

17 “(II) INDIAN AREA.—For pur-
18 poses of subclause (I), the term ‘In-
19 dian area’ means any Indian area (as
20 defined in section 4(11) of the Native
21 American Housing Assistance and
22 Self Determination Act of 1996 (25
23 U.S.C. 4103(11))).”.

24 (c) ELIGIBLE BUILDINGS.—Clause (iii) of section
25 42(d)(5)(B) of the Internal Revenue Code of 1986, as

1 amended by subsection (b), is amended by adding at the
2 end the following new subclause:

3 “(IV) SPECIAL RULE FOR BUILD-
4 INGS IN INDIAN AREAS.—In the case
5 of an area which is a difficult develop-
6 ment area solely because it is an In-
7 dian area, a building shall not be
8 treated as located in such area unless
9 such building is assisted or financed
10 under the Native American Housing
11 Assistance and Self Determination
12 Act of 1996 (25 U.S.C. 4101 et seq.)
13 or the project sponsor is an Indian
14 tribe (as defined in section
15 45A(c)(6)), a tribally designated hous-
16 ing entity (as defined in section 4(22)
17 of such Act (25 U.S.C. 4103(22))), or
18 wholly owned or controlled by such an
19 Indian tribe or tribally designated
20 housing entity.”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to buildings placed in service after
23 December 31, 2019.

1 **TITLE V—REFORMS RELATING**
2 **TO RURAL ASSISTANCE**

3 **SEC. 501. INCLUSION OF RURAL AREAS AS DIFFICULT DE-**
4 **VELOPMENT AREAS.**

5 (a) **IN GENERAL.**—Subclause (I) of section
6 42(d)(5)(B)(iii) of the Internal Revenue Code of 1986, as
7 amended by section 402, is amended by inserting “, any
8 rural area” after “median gross income”.

9 (b) **RURAL AREA.**—Clause (iii) of section
10 42(d)(5)(B) of the Internal Revenue Code of 1986, as
11 amended by section 402, is further amended by redesignig-
12 nating subclause (III) as subclause (IV) and by inserting
13 after subclause (II) the following new subclause:

14 “(III) **RURAL AREA.**—For pur-
15 poses of subclause (I), the term ‘rural
16 area’ means any non-metropolitan
17 area, or any rural area as defined by
18 section 520 of the Housing Act of
19 1949, which is identified by the quali-
20 fied allocation plan under subsection
21 (m)(1)(B).”.

22 (c) **EFFECTIVE DATE.**—The amendments made by
23 this section shall apply to buildings placed in service after
24 December 31, 2019.

1 SEC. 502. UNIFORM INCOME ELIGIBILITY FOR RURAL
2 PROJECTS.

3 (a) IN GENERAL.—Paragraph (8) of section 42(i) of
4 the Internal Revenue Code of 1986 is amended by striking
5 the second sentence.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to taxable years beginning after
8 December 31, 2018.

9 **TITLE VI—EXEMPT FACILITY**
10 **BONDS**

11 SEC. 601. REVISION AND CLARIFICATION OF THE TREAT-
12 MENT OF REFUNDING ISSUES.

13 (a) IN GENERAL.—Subparagraph (A) of section
14 146(i)(6) of the Internal Revenue Code of 1986 is amend-
15 ed to read as follows:

16 “(A) IN GENERAL.—During the 12-month
17 period beginning on the date of a repayment of
18 a loan financed by an issue 95 percent or more
19 of the net proceeds of which are used to provide
20 projects described in section 142(d), if such re-
21 payment is used to provide a new loan for any
22 project described in section 142(a)(7) or for
23 any purpose described in subsection (a)(2)(A)
24 or (b) of section 143, any bond which is issued
25 to refinance such issue shall be treated as a re-
26 funding issue. Any issue treated as a refunding

1 issue by reason of the preceding sentence shall
2 be so treated only to the extent the principal
3 amount of such refunding issue does not exceed
4 the principal amount of the bonds refunded.”.

5 (b) REMOVAL OF ONE-REFUNDING LIMIT.—Sub-
6 paragraph (B) of section 146(i)(6) of the Internal Rev-
7 enue Code of 1986 is amended—

8 (1) by striking “4 years” in clause (i) and in-
9 serting “10 years”,

10 (2) by striking “was issued” in clause (ii) and
11 inserting “is issued”,

12 (3) by redesignating clauses (i) (as so amend-
13 ed), (ii) (as so amended), and (iii) as subclauses (I),
14 (II), and (III), respectively, and by moving such sub-
15 clauses 2 ems to the right,

16 (4) by striking “LIMITATIONS.—Subparagraph
17 (A) shall apply to only one refunding of the original
18 issue and” and inserting “LIMITATIONS.—

19 “(i) IN GENERAL.—Subparagraph (A)
20 shall apply to a bond”, and

21 (5) by adding at the end the following new
22 clause:

23 “(ii) SOURCE OF LOAN REPAY-
24 MENT.—Subparagraph (A) shall not apply
25 to any repayment of a loan which is—

1 “(I) made by a repayment of an-
2 other loan, or

3 “(II) financed by an issue treated
4 as a refunding issue under subpara-
5 graph (A).”.

6 (c) CONFORMING AMENDMENT.—The heading of
7 paragraph (6) of section 146(i) of the Internal Revenue
8 Code of 1986 is amended by striking “RESIDENTIAL
9 RENTAL PROJECT BONDS AS REFUNDING BONDS IRRE-
10 SPECTIVE OF OBLIGOR” and inserting “BONDS AS RE-
11 FUNDING BONDS”.

12 (d) EFFECTIVE DATES.—

13 (1) IN GENERAL.—The amendments made by
14 subsections (a) and (c) shall apply to obligations
15 issued on or after the date of the enactment of this
16 Act.

17 (2) REMOVAL OF ONE-REFUNDING LIMIT.—The
18 amendments made by subsection (b) shall apply to
19 repayments of loans received after July 30, 2008.

20 **TITLE VII—AFFORDABLE**
21 **HOUSING TAX CREDIT**

22 **SEC. 701. AFFORDABLE HOUSING TAX CREDIT.**

23 (a) IN GENERAL.—The heading of section 42 of the
24 Internal Revenue Code of 1986 is amended by striking
25 “LOW-INCOME” and inserting “AFFORDABLE”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) Subsection (a) of section 42 of the Internal
3 Revenue Code of 1986 is amended by striking “low-
4 income” and inserting “affordable”.

5 (2) Paragraph (5) of section 38(b) of such Code
6 is amended by striking “low-income” and inserting
7 “affordable”.

8 (3) The heading of subparagraph (D) of section
9 469(i)(3) of such Code is amended by striking
10 “LOW-INCOME” and inserting “AFFORDABLE”.

11 (4) The heading of subparagraph (B) of section
12 469(i)(6) of such Code is amended by striking
13 “LOW-INCOME” and inserting “AFFORDABLE”.

14 (5) Paragraph (7) of section 772(a) of such
15 Code is amended by striking “low-income” and in-
16 serting “affordable”.

17 (6) Paragraph (5) of section 772(d) of such
18 Code is amended by striking “low-income” and in-
19 serting “affordable”.

20 (c) CLERICAL AMENDMENT.—The item relating to
21 section 42 in the table of sections for subpart D of part
22 IV of subchapter A of chapter 1 of the Internal Revenue
23 Code of 1986 is amended to read as follows:

“Sec. 42. Affordable housing credit.”

Æ