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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To provide downpayment assistance to first-generation homebuyers to address multigenerational inequities in access to homeownership and to narrow and ultimately close the racial homeownership gap in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. WATERS introduced the following bill; which was referred to the Committee on _____

A BILL

To provide downpayment assistance to first-generation homebuyers to address multigenerational inequities in access to homeownership and to narrow and ultimately close the racial homeownership gap in the United States, 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 “Downpayment Toward
5 Equity Act of 2023”.

1 **SEC. 2. FIRST-GENERATION DOWNPAYMENT ASSISTANCE**
2 **PROGRAM.**

3 (a) ESTABLISHMENT.—The Secretary of Housing
4 and Urban Development shall carry out a program under
5 this Act to provide grants to States and eligible entities
6 to provide financial assistance under this Act to first-gen-
7 eration homebuyers to assist them with acquiring owner-
8 occupied primary residences.

9 (b) ALLOCATION.—After reserving amounts as re-
10 quired under sections 6(d) and 8(b), any remaining
11 amounts made available to carry out this Act shall be allo-
12 cated as follows:

13 (1) STATES.—75 percent of such amounts shall
14 be allocated among States in accordance with a for-
15 mula established by the Secretary, which shall take
16 into consideration best available data to provide
17 more funding to States with a higher approximate
18 number of potential qualified homebuyers (as such
19 term is defined in section 10) and adjusted to reflect
20 median area home prices.

21 (2) ELIGIBLE ENTITIES.—25 percent of such
22 amounts shall be made available only to eligible enti-
23 ties on a competitive basis.

24 (c) ASSISTANCE.—Amounts from a grant under this
25 Act shall be used only to provide assistance—

26 (1) on behalf of a qualified homebuyer; and

1 (2) for—

2 (A) costs in connection with the acquisi-
3 tion, involving an eligible mortgage loan, of an
4 eligible home, including downpayment costs,
5 closing costs, and costs to reduce the rates of
6 interest on eligible mortgage loans;

7 (B) for subsidies to make shared equity
8 homes affordable to eligible homebuyers by dis-
9 counting the price for which the home will be
10 sold and to preserve the home's affordability for
11 subsequent eligible buyers; and

12 (C) for pre-occupancy home modifications
13 required to accommodate qualified homebuyers
14 or members of their household with disabilities.

15 (d) AMOUNT.—A grant of assistance under this
16 Act—

17 (1) may be provided on behalf of any qualified
18 homebuyer only once; and

19 (2) may not exceed the greater of \$20,000 or
20 10 percent of the purchase price in the case of a
21 qualified homebuyer, not to include assistance re-
22 ceived under subsection (e)(2)(C) for disability re-
23 lated home modifications, except that the Secretary
24 may increase such maximum limitation amounts for
25 qualified homebuyers who are socially and economi-

1 cally disadvantaged, except that the Secretary may
2 increase such maximum limitation amounts in the
3 case of qualified homebuyers acquiring residences lo-
4 cated in high-cost areas, as determined based on me-
5 dian home prices or prices of residences under a
6 shared equity homeownership program.

7 (e) LAYERING OF ASSISTANCE.—Assistance from
8 grant amounts under this Act may be provided on behalf
9 of a qualified homebuyer who is receiving assistance from
10 other sources, including other State, Federal, local, pri-
11 vate, public, and nonprofit sources, for acquisition of an
12 eligible home.

13 (f) STATE ADMINISTRATION.—

14 (1) IN GENERAL.—The Secretary shall require
15 that each State receiving grant amounts under this
16 Act administer the program to provide assistance
17 with such amounts through the State housing fi-
18 nance agency for the State or such other housing
19 agency of the State as the Secretary finds appro-
20 priate, except that any such agency may, at the op-
21 tion of the agency, contract with a nonprofit entity,
22 including a housing counseling agency approved by
23 the Secretary, to administer such assistance.

24 (2) AFFIRMATIVELY FURTHERING FAIR HOUS-
25 ING.—For a State to be eligible for a grant under

1 this Act, the State shall be in compliance with the
2 Secretary's regulations implementing the require-
3 ment under section 808(e)(5) of the Fair Housing
4 Act (42 U.S.C. 3608(e)(5)) to affirmatively further
5 fair housing.

6 (3) PROHIBITION OF PRIORITY OR
7 RECOUPMENT OF FUNDS.—In selecting qualified
8 homebuyers for assistance with grant amounts under
9 this Act, a State or eligible entity may not provide
10 any priority or preference for homebuyers who are
11 acquiring eligible homes with a mortgage loan made,
12 insured, guaranteed, or otherwise assisted by the
13 State housing finance agency for the State, any
14 other housing agency of the State, or an eligible en-
15 tity when applicable, nor may the State or eligible
16 entity seek to recoup any funds associated with the
17 provision of downpayment assistance to the qualified
18 homebuyer, whether through premium pricing or
19 otherwise, except as provided in subsection (g) or
20 otherwise authorized by the Secretary.

21 (g) RECAPTURE AND REALLOCATION.—The Sec-
22 retary shall require changes in a grantee's policy or dis-
23 tribution of funds or recapture any amounts remaining
24 available to a grantee, and reallocate such funds among

1 other States and eligible entities, if the Secretary deter-
2 mines in his or her sole discretion that—

3 (1) a State or eligible entity—

4 (A) has not demonstrated the capacity to
5 expend grant funds in a timely manner that
6 furthers the purposes under this Act; or

7 (B) is distributing or plans to distribute
8 grant funds in a manner that results or will
9 predictably result in qualified homebuyers from
10 racial or ethnic groups that have faced historic
11 obstacles to homeownership failing to receive
12 the benefits of such funds in proportion to their
13 population among qualified homebuyers in the
14 relevant area; or

15 (2) there is insufficient demand among qualified
16 eligible entities to distribute fund.

17 (h) UNIFORMITY AND PROGRAM STANDARDIZA-
18 TION.—The Secretary shall establish a uniform set of re-
19 quirements to which each State and eligible entity receiv-
20 ing grant amounts under this Act shall comply.

21 **SEC. 3. QUALIFIED HOMEBUYERS.**

22 (a) REQUIREMENTS.—Assistance from grant
23 amounts under this Act may be provided only on behalf
24 of a homebuyer who meets all of the following require-
25 ments:

1 (1) INCOME.—The household of the homebuyer
2 has an income that does not exceed—

3 (A) 120 percent of median income for the
4 area (as determined by the Secretary) within
5 which—

6 (i) the eligible home to be acquired
7 using such assistance is located; or

8 (ii) the place of residence of the home-
9 buyer is located; or

10 (B) in the case of a homebuyer acquiring
11 an eligible home that is located in a high-cost
12 area, as determined by the Secretary, 140 per-
13 cent of the median income for the area within
14 which the eligible home to be acquired using
15 such assistance is located.

16 (2) FIRST-TIME HOMEBUYER.—The homebuyer,
17 as self-attested by the homebuyer, is a first-time
18 homebuyer, as such term is defined in section 104
19 of the Cranston Gonzalez National Affordable Hous-
20 ing Act (42 U.S.C. 12704), except that for the pur-
21 poses of this Act the reference in such section 104
22 to title II shall be considered to refer to this Act,
23 and except that ownership of heir property shall not
24 be treated as owning a home for purposes of deter-

1 mining whether a borrower qualifies as a first-time
2 homebuyer.

3 (3) FIRST-GENERATION HOMEBUYER.—The
4 term “first-generation homebuyer” means a home-
5 buyer that is, as self-attested by the homebuyer—

6 (A) an individual—

7 (i) whose parents or legal guardians
8 do not, or did not at the time of their
9 death, to the best of the individual’s knowl-
10 edge, have any present ownership interest
11 in a residence in any State, excluding own-
12 ership of heir property or ownership of
13 chattel; and

14 (ii) whose spouse or domestic partner
15 has not, during the 3-year period ending
16 upon acquisition of the eligible home to be
17 acquired using such assistance, had any
18 present ownership interest in a residence
19 in any State, excluding ownership of heir
20 property or ownership of chattel, whether
21 the individual is a co-borrower on the loan
22 or not; or

23 (B) an individual who has at any time
24 been placed in foster care or institutional care
25 whose spouse or domestic partner has not, dur-

1 ing the 3-year period ending upon acquisition of
2 the eligible home to be acquired using such as-
3 sistance, had any ownership interest in a resi-
4 dence in any State, excluding ownership of heir
5 property or ownership of chattel, whether such
6 individuals are co-borrowers on the loan or not.

7 (b) **RELIANCE ON BORROWER ATTESTATIONS.**—No
8 additional documentation beyond the borrower’s attesta-
9 tion shall be required to demonstrate eligibility under
10 paragraph (3) of subsection (a), and no creditor shall be
11 subject to liability, including monetary penalties or re-
12 quirements to indemnify a Federal agency or repurchase
13 a loan that has been sold or securitized, for the provision
14 of downpayment assistance under this Act to a borrower
15 who does not meet the eligibility requirements if the cred-
16 itor does so in good faith reliance on borrower attestations
17 of eligibility required by this Act or regulation.

18 **SEC. 4. ELIGIBLE HOMES.**

19 (a) **IN GENERAL.**—Assistance from grant amounts
20 under this Act may be provided only in connection with
21 the acquisition by a qualified homebuyer of a residential
22 property that—

23 (1) consists of 1 to 4 dwelling units; and

24 (2) will be occupied by the qualified homebuyer,

25 in accordance with such assurances and commit-

1 ments as the Secretary shall require, as the primary
2 residence of the homebuyer, subject to section 3.

3 (b) REPAYMENT OF ASSISTANCE.—

4 (1) REQUIREMENT.—The Secretary shall re-
5 quire that, if a homebuyer to or on behalf of whom
6 assistance is provided from grant amounts under
7 this Act fails or ceases to occupy the property ac-
8 quired using such assistance as the primary resi-
9 dence of the homebuyer, except in the case of assist-
10 ance provided in connection with the purchase of a
11 principal residence through a shared equity home-
12 ownership program, the homebuyer shall repay to
13 the State or eligible entity, as applicable, in a pro-
14 portional amount of the assistance the homebuyer
15 receives based on the number of years they have oc-
16 cupied the eligible home up to 5 years, except that
17 no assistance shall be repaid if the qualified home-
18 buyer occupies the eligible home as a primary resi-
19 dence for 5 years or more.

20 (2) LIMITATION.—Notwithstanding subpara-
21 graph (A), a homebuyer to or on behalf of whom as-
22 sistance is provided from grant amounts under this
23 Act shall not be liable to the State or eligible entity
24 for the repayment of the amount of such shortage
25 if the homebuyer fails or ceases to occupy the prop-

1 erty acquired using such assistance as the principal
2 residence of the homebuyer at least in part because
3 of a hardship, or sells the property acquired with
4 such assistance before the expiration of the 60-
5 month period beginning on such date of acquisition
6 and the capital gains from such sale to a bona fide
7 purchaser in an arm's length transaction are less
8 than the amount the homebuyer is required to repay
9 the State or eligible entity under subparagraph (A).

10 **SEC. 5. ELIGIBLE MORTGAGE LOANS.**

11 Assistance from grant amounts under this Act may
12 be provided only in connection with the acquisition of an
13 eligible home involving a residential mortgage loan that—

14 (1) meets the underwriting requirements and
15 dollar amount limitations for acquisition by the Fed-
16 eral National Mortgage Association or the Federal
17 Home Loan Mortgage Corporation;

18 (2) is made, insured, or guaranteed under any
19 program administered by the Secretary;

20 (3) is made, insured, or guaranteed by the
21 Rural Housing Administrator of the Department of
22 Agriculture;

23 (4) is a qualified mortgage, as such term is de-
24 fined in section 129C(b)(2) of the Truth in Lending
25 Act (15 U.S.C. 1639c(b)(2)); or

1 (5) is guaranteed for the benefit of a veteran.

2 **SEC. 6. HOUSING COUNSELING REQUIREMENT.**

3 (a) IN GENERAL.—Except as provided pursuant to
4 section 3, assistance with grant amounts under this Act
5 may not be provided on behalf of qualified homebuyer un-
6 less such homebuyer has completed a program of coun-
7 seling with respect to the responsibilities and financial
8 management involved in homeownership before entering
9 into a sales purchase agreement or loan application, except
10 as provided under subsection (c), as the Secretary shall
11 require, provided through a counseling agency approved
12 by the Secretary. Such program may be delivered in-per-
13 son, virtually, by telephone, or any other method the Sec-
14 retary determines acceptable and shall include providing
15 information on fair housing rights and on the availability
16 of post-purchase housing counseling opportunities and in-
17 struction on how to file a fair housing complaint.

18 (b) ALTERNATIVE REQUIREMENT.—The Secretary
19 shall provide that if a qualified homebuyer is unable to
20 complete the requirement under subsection (a) within 30
21 days due to housing counseling agency capacity issues, a
22 State or eligible entity may allow such qualified home-
23 buyer to complete alternative homebuyer education to ful-
24 fill the requirement under subsection (a), including home-
25 buyer education that is provided through an online plat-

1 form, and such qualified homebuyer shall be made aware
2 of the availability of post-purchase housing counseling op-
3 portunities.

4 (c) REFERRAL UPON MORTGAGE DENIAL.—The Sec-
5 retary shall require that any qualified homebuyer who has
6 completed a counseling program referred to in subsection
7 (a) or alternative requirement pursuant to subsection (b),
8 who receives a commitment for assistance with grant
9 amounts under this Act and who applies for an eligible
10 mortgage loan for acquisition of an eligible home and is
11 denied such mortgage loan, shall be referred to a coun-
12 seling agency described in subsection (a) for counseling
13 relating to such denial and for re-qualification. An eligible
14 homebuyer may be re-qualified at least one additional time
15 in a calendar year, or more as determined by the Sec-
16 retary.

17 (d) FUNDING.—Of any amounts appropriated to
18 carry out this Act, the Secretary shall use not less than
19 5 percent for costs of providing counseling referred to in
20 subsection (a).

21 **SEC. 7. ADMINISTRATIVE COSTS.**

22 States and eligible entities receiving grant amounts
23 under this Act may use a portion of such amounts for
24 administrative costs up to the limit specified by the Sec-
25 retary.

1 **SEC. 8. REPORTS.**

2 (a) IN GENERAL.—For each fiscal year during which
3 the Secretary makes grants under this Act, the Secretary
4 shall submit to the Congress, and make publicly available
5 online in an easily accessible location on the website of
6 the Department, a report that shall include—

7 (1) demographic information regarding appli-
8 cants for and recipients of assistance provided pur-
9 suant to this Act, including race, ethnicity, and gen-
10 der;

11 (2) information regarding the types and amount
12 of assistance provided, including downpayment as-
13 sistance, assistance with closing costs, and assist-
14 ance to reduce mortgage loan interest rates; and

15 (3) information regarding properties acquired
16 using such assistance, including location, property
17 value, property type, and first mortgage type and in-
18 vestor.

19 All data shall be disaggregated by zip code or census tract
20 level, whichever is most feasible, and demographic infor-
21 mation, including race, ethnicity, and gender, and any
22 other data points the Secretary deems appropriate espe-
23 cially to observe equitable outcomes to ensure the program
24 is affirmatively furthering fair housing.

25 (b) CAPACITY BUILDING.—Of any amounts appro-
26 priated to carry out this Act, the Secretary shall use not

1 more than 1 percent to assist States and eligible entities
2 to develop capacity to meet the reporting requirements
3 under subsection (a). The Secretary shall encourage
4 States and eligible entities to consult with community-
5 based and nonprofit organizations that have as their mis-
6 sion to advance fair housing and fair lending.

7 (c) PRIVACY REQUIREMENTS.—

8 (1) IN GENERAL.—Each State and eligible enti-
9 ty that receives a grant under this Act shall estab-
10 lish data privacy and security requirements for the
11 information described in subsection (a) that—

12 (A) include appropriate measures to ensure
13 that the privacy of the individuals and house-
14 holds is protected;

15 (B) provide that the information, including
16 any personally identifiable information, is col-
17 lected and used only for the purpose of submit-
18 ting reports under subsection (a); and

19 (C) provide confidentiality protections for
20 data collected about any individuals who are
21 survivors of intimate partner violence, sexual
22 assault, or stalking.

23 (2) STATISTICAL RESEARCH.—

24 (A) IN GENERAL.—The Secretary—

1 (i) may provide full and unredacted
2 information provided under subsection (a),
3 including personally identifiable informa-
4 tion, for statistical research purposes in ac-
5 cordance with existing law; and

6 (ii) may collect and make available for
7 statistical research, at the census tract
8 level, information collected under para-
9 graph (1).

10 (B) APPLICATION OF PRIVACY REQUIRE-
11 MENTS.—A recipient of information under sub-
12 paragraph (A) shall establish for such informa-
13 tion the data privacy and security requirements
14 described in paragraph (1).

15 **SEC. 9. COMPELLING INTEREST STUDY.**

16 The Secretary, in consultation with the Attorney
17 General, shall survey and compile evidence to determine
18 whether or not there is a sufficient history of discrimina-
19 tion in housing and, if so, the appropriate remedy to re-
20 dress such historic discrimination. The Secretary shall
21 make conclusions and recommendations based on the evi-
22 dence and provide States and eligible entities granted
23 awards under this Act an opportunity to modify their pro-
24 grams for assistance under this Act according to such rec-
25 ommendations.

1 **SEC. 10. DEFINITIONS.**

2 For purposes of this Act, the following definitions
3 shall apply:

4 (1) **AFFIRMATIVELY FURTHER FAIR HOUS-**
5 **ING.**—The term “affirmatively further fair housing”
6 has the same meaning as defined by the Secretary
7 to implement section 808(e)(5) of the Fair Housing
8 Act (42 U.S.C. 3608(e)(5)).

9 (2) **ELIGIBLE ENTITY.**—The term “eligible enti-
10 ty” means—

11 (A) a minority depository institution, as
12 such term is defined in section 308 of the Fi-
13 nancial Institutions Reform, Recovery, and En-
14 forcement Act of 1989 (12 U.S.C. 1463 note);

15 (B) a community development financial in-
16 stitution, as such term is defined in section 103
17 of the Riegle Community Development and
18 Regulatory Improvement Act of 1994 (12
19 U.S.C. 4702), that is certified by the Secretary
20 of the Treasury and targets services to minority
21 and low-income populations or provides services
22 in neighborhoods having high concentrations of
23 minority and low-income populations;

24 (C) any other nonprofit, mission-driven en-
25 tity that the Secretary finds has a track record
26 of providing assistance to homeowners, targets

1 services to minority and low-income popu-
2 lations, or provides services in neighborhoods
3 having high concentrations of minority and low-
4 income population; and

5 (D) a unit of general local government, as
6 such term is defined in section 102 of the
7 Housing and Community Development Act of
8 1974 (42 U.S.C. 5302).

9 (3) ELIGIBLE HOME.—The term “eligible
10 home” means a residential dwelling, including a unit
11 in a condominium or cooperative project or a manu-
12 factured housing unit, that meets the requirements
13 of section 4.

14 (4) ELIGIBLE MORTGAGE LOAN.—The term “el-
15 igible mortgage loan” means a residential mortgage
16 loan that meets the requirements of section 5.

17 (5) HEIR PROPERTY.—The term “heir prop-
18 erty” means residential property for which title
19 passed by operation of law through intestacy and is
20 held by two or more heirs as tenants in common.

21 (6) OWNERSHIP INTEREST.—The term “owner-
22 ship interest” means any ownership, excluding any
23 interest in heir property, in—

24 (A) real estate in fee simple;

1 (B) a leasehold on real estate under a lease
2 for not less than ninety-nine years which is re-
3 newable; or

4 (C) a fee interest in, or long-term leasehold
5 interest in, real estate consisting of a one-family
6 unit in a multifamily project, including a
7 project in which the dwelling units are attached,
8 or are manufactured housing units, semi-de-
9 tached, or detached, and an undivided interest
10 in the common areas and facilities which serve
11 the project.

12 (7) QUALIFIED HOMEBUYER.—The term
13 “qualified homebuyer” means a homebuyer who
14 meets the requirements of section 3, and includes
15 homebuyers consisting of multiple individuals, co-
16 purchasers, and multi-member households.

17 (8) SECRETARY.—The term “Secretary” means
18 the Secretary of Housing and Urban Development.

19 (9) SHARED EQUITY HOMEOWNERSHIP PRO-
20 GRAM.—The term “shared equity homeownership
21 program” means affordable homeownership preser-
22 vation through a resale restriction program adminis-
23 tered by a community land trust, other nonprofit or-
24 ganization, or State or local government or instru-
25 mentalities.

1 (10) SOCIALLY AND ECONOMICALLY DISADVAN-
2 TAGED INDIVIDUAL.—The term “socially and eco-
3 nomicallly disadvantaged individual” means an indi-
4 vidual who meets the following requirements:

5 (A) SOCIAL DISADVANTAGE.—

6 (i) IN GENERAL.—The individual is a
7 member of a socially disadvantaged group,
8 whose members have historically been sub-
9 jected to racial or ethnic discrimination
10 within the United States because of their
11 identity as members of such group without
12 regard to their individual qualities.

13 (ii) PRESUMPTION; REBUTTAL.—An
14 individual identifying as Black, Hispanic,
15 Native American, or Asian American, or
16 any combination thereof, shall be presumed
17 to be socially disadvantaged for purposes
18 of clause (i). Such presumption may be re-
19 butted with credible evidence to the con-
20 trary.

21 (iii) BURDEN OF PROOF.—An indi-
22 vidual who does not identify as described
23 in clause (ii) shall be required to establish
24 individual social disadvantage for purposes

1 of clause (i) by a preponderance of the evi-
2 dence.

3 (iv) RULES.—The Secretary may
4 issue regulations as necessary to establish
5 procedures for complying with this sub-
6 paragraph.

7 (B) ECONOMIC DISADVANTAGE.—The indi-
8 vidual has an income that meets the require-
9 ments under section 3(a).

10 (11) STATE.—The term “State” means any
11 State of the United States, the District of Columbia,
12 the Commonwealth of Puerto Rico, the United
13 States Virgin Islands, Guam, the Commonwealth of
14 the Northern Mariana Islands, American Samoa,
15 and the tribal government of any Indian tribe, as
16 such term is defined in section 4 of the Native
17 American Housing Assistance and Self-Determina-
18 tion Act of 1996 (25 U.S.C. 4103).

19 **SEC. 11. IMPLEMENTATION.**

20 The Secretary shall have the authority to establish
21 by notice or mortgagee letter any requirements that the
22 Secretary determines are necessary for timely and effec-
23 tive implementation of the program and expenditure of
24 funds appropriated, which requirements shall take effect
25 upon issuance.

1 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

2 There is authorized to be appropriated for grants
3 under this Act \$100,000,000,000, and any amounts ap-
4 propriated pursuant to this section shall remain available
5 until expended.