II

116TH CONGRESS
1ST SESSION

S. 2684

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

OCTOBER 23, 2019

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

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Housing, Opportunity, Mobility, and Equity Act of 2019''.

SEC. 2. REQUIREMENT FOR CDBG GRANTEES.

Section 104 of the Housing and Community Development Act of 1974 (42 U.S.C. 5304) is amended by adding at the end the following:

"(n) STRATEGY TO INCREASE THE AFFORDABLE HOUSING STOCK.—

"(1) IN GENERAL.—Each grantee receiving assistance under this title shall—

"(A) include in the consolidated plan required under part 91 of title 24, Code of Federal Regulations (or any successor thereto), a strategy to support new inclusive zoning policies, programs, or regulatory initiatives that create a more affordable, elastic, and diverse housing supply and thereby increase economic growth and access to jobs and housing; and

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

"(2) INCLUSIONS.—The strategy under paragraph (1) shall—

"(A) demonstrate—

"(i) transformative activities in communities that—

"(I) reduce barriers to housing development, including affordable housing; and

"(II) increase housing supply affordability and elasticity; and

"(ii) strong connections between housing, transportation, and workforce planning;

"(B) include, as appropriate, policies relating to inclusive land use, such as—

"(i) for the purpose of adding affordable units, increasing both the percentage and absolute number of affordable units—

"(I) authorizing high-density and multifamily zoning;

"(II) eliminating off-street parking requirements;

"(III) establishing density bonuses, defined as increases in permitted density of a housing development conditioned upon the inclusion of affordable housing in the development;

"(IV) streamlining or shortening permitting processes and timelines;

"(V) removing height limitations;

"(VI) establishing by-right development, defined as the elimination of discretionary review processes when zoning standards are met;

"(VII) using property tax abatements; and

"(VIII) relaxing lot size restrictions;

"(ii) prohibiting source of income discrimination;

"(iii) taxing vacant land or donating vacant land to nonprofit developers;

"(iv) allowing accessory dwelling units;

"(v) establishing development tax or value capture incentives; and

"(vi) prohibiting landlords from asking prospective tenants for their criminal history;

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

''(i) be designated as affordable for the useful life of the units;

''(ii) require that a proportion of the new housing stock in the community is at least as great as the percentage of the population of the community requiring such units in order to not be an eligible individual under section 36A of the Internal Revenue Code; and

''(iii) be accessible to the population served by the program established under this title; and

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

''(i) rural areas;

''(ii) persistent poverty counties, defined as any county with a poverty rate of not less than 20 percent, as determined in each of the 1990 and 2000 decennial censuses, 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—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

"(i) 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 1986 is amended by inserting after section 36 the following new section:

"SEC. 36A. RENT COSTS OF ELIGIBLE INDIVIDUALS.

"(a) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the excess of—

"(1) the lesser of—

"(A) the small area fair market rent (or, if the small area fair market rent is not available, the fair market rent), including the utility allowance, published by the Department of Housing and Urban Development for purposes of the housing choice voucher program under section 8(o) of the United States Housing Act of 1938 (42 U.S.C. 1437f(o))—

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

"(ii) in the case of a household comprised of more than one individual, for a residence the number of bedrooms in which would not require—

"(I) more than two members of the household of the individual to share a bedroom,

"(II) children of different genders to share a bedroom, or

"(III) a household member with a disability requiring medical equipment to share a bedroom, or

"(B) the rent paid during the taxable year by the individual (and, if married, the individual's spouse) for the principal residence of the individual, over

"(2) an amount equal to 30 percent of the adjusted gross income of the taxpayer for the taxable year.

"(b) ELIGIBLE INDIVIDUAL.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible individual' means any individual if the rent paid during the taxable year by the individual (and, if married, the individual's spouse) for the principal residence of the individual exceeds 30 percent of the adjusted gross income of the taxpayer for the taxable year.

"(2) EXCEPTIONS.—Such term shall not include any individual if—

"(A) the individual does not include on the return of tax for the taxable year such individual's taxpayer identification number and, if married, the taxpayer identification number of such individual's spouse, or

"(B) a deduction under section 151 with respect to such individual is allowable to another taxpayer for the taxable year.

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

"(4) SPECIAL RULES.—

"(A) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

"(B) MARRIED.—Marital status shall be determined under section 7703.

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

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

"(e) RECONCILIATION OF CREDIT AND ADVANCE PAYMENTS.—The amount of the credit allowed under this section for any taxable year shall be reduced (but not below zero) by the aggregate amount of any advance payments of such credit under section 7527A for such taxable year.".

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

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

"SEC. 7527A. ADVANCE PAYMENT OF RENTAL COSTS TAX CREDIT.

"(a) IN GENERAL.—Not later than 6 months after the date of the enactment of the Housing, Opportunity, Mobility, and Equity Act of 2019, the Secretary shall establish a program for making advance payments of the credit allowed under section 36A on a monthly basis (determined without regard to subsection (e) of such section) to any taxpayer who—

"(1) the Secretary has determined, in the manner provided in subsection (c), will be allowed such credit for the taxable year, and

"(2) has made an election under subsection (d).

"(b) AMOUNT OF ADVANCE PAYMENT.—

"(1) IN GENERAL.—For purposes of subsection (a), the amount of the monthly advance payment of the credit provided to a taxpayer during the applicable period shall be equal to the lesser of—

"(A) an amount equal to—

"(i) the amount of the credit which the Secretary has estimated, in the manner provided in subsection (c), will be allowed to such taxpayer under section 36A for the taxable year ending in such applicable period, divided by

"(ii) 12, or

"(B) such other amount as is elected by the taxpayer.

"(2) APPLICABLE PERIOD.—For purposes of this section, the term 'applicable period' means the 12-month period from the month of July of the taxable year through the month of June of the subsequent taxable year.

"(c) MANNER OF DETERMINING ELIGIBILITY.—The Secretary shall determine eligibility for the credit under section 36A, and the estimated amount of such credit, based on the taxpayer's adjusted gross income for the preceding taxable year, the mean fair market rental amount with respect to the individual for such preceding year, and the rent paid during such preceding year by the individual (and, if married, the individual's spouse) for the principal residence of the individual. Any terms used in this subsection which are also used in section 36A shall have the same meaning as when used in such section.

"(d) ELECTION OF ADVANCE PAYMENT.—A taxpayer may elect to receive an advance payment of the credit allowed under section 36A for any taxable year by including such election on a timely filed return for the preceding taxable year.

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

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

(c) CLERICAL AMENDMENTS.—

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

"Sec. 36A. Rent costs of eligible individuals.".

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

"Sec. 7527A. Advance payment of rental costs tax credit.".

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

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

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

SEC. 5. REFUND TO RAINY DAY SAVINGS PROGRAM.

(a) IN GENERAL.—Not later than December 31, 2019, the Secretary of the Treasury or the Secretary's delegate (referred to in this section as the "Secretary") shall establish and implement a program (referred to in this section as the "Refund to Rainy Day Savings Program") to allow a participating taxpayer, pursuant to the requirements established under this section, to defer payment on

20 percent of the amount which would otherwise be refunded to such taxpayer as an overpayment (as described in section 6401 of the Internal Revenue Code of 1986).

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

(c) RAINY DAY FUND.—

(1) IN GENERAL.—The Secretary shall establish a fund, in such manner as the Secretary determines to be appropriate, to be known as the "Rainy Day Fund", consisting of any amounts described in subsection (a) on which payment has been deferred by participating taxpayers.

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

(3) DISBURSEMENTS FROM FUND.—

(A) IN GENERAL.—On the date that is 180 days after receipt of the individual income tax return of a participating taxpayer, the amounts in the Rainy Day Fund shall be made available to the Secretary to distribute to such taxpayer in an amount equal to the amount deferred by such taxpayer under subsection (a) and any interest accrued on such amount (as determined under paragraph (4)).

(B) DISTRIBUTED TO BANK ACCOUNT.—The amounts described in subparagraph (A) shall be distributed to the bank account identified by the participating taxpayer under subsection (d)(3).

(4) INTEREST ACCRUED.—The amount of interest accrued on the amount deferred by a participating taxpayer under subsection (a) shall be determined by the Secretary, in coordination with the Bureau of the Fiscal Service of the Department of the Treasury, based upon the return on the investment of such amounts under paragraph (2).

(5) EARLY WITHDRAWAL.—

(A) IN GENERAL.—On any date during the period between the date which is 30 days after receipt by the Secretary of the individual income tax return of the participating taxpayer and October 15 of the applicable year, such taxpayer may elect to terminate the deferral of the amount described under subsection (a) and receive a distribution from the Rainy Day Fund equal to such amount and any interest which has accrued on such amount up to that date.

(B) COMPLETE WITHDRAWAL.—A participating taxpayer making an election under subparagraph (A) must terminate deferral of the full amount described under subsection (a), and such amount shall be distributed to the bank account identified by the participating taxpayer under subsection (d)(3).

(d) PARTICIPATING TAXPAYER.—For purposes of this section, the term ''participating taxpayer'' means a taxpayer who—

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

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

(3) provides the Secretary with a bank account number and any other financial information deemed necessary by the Secretary for purposes of paragraphs (3)(B) and (5)(B) of subsection (c).

(e) FORMS.—The Secretary shall ensure that the election to defer payment of the amount described in subsection (a) may be claimed on Forms 1040, 1040A, and 1040EZ.

(f) IMPLEMENTATION.—

(1) EDUCATIONAL MATERIALS AND OUTREACH.—The Secretary shall—

(A) design educational materials for taxpayers regarding financial savings and the Refund to Rainy Day Savings Program;

(B) publicly disseminate and distribute such materials during the first calendar quarter of each calendar year and following disbursement of amounts described in subsection (c)(3); and

(C) engage in outreach regarding the Refund to Rainy Day Savings Program to the Volunteer Income Tax Assistance program and paid tax preparers.

(2) INFORMATION FOR PARTICIPATING TAXPAYERS.—The Secretary shall ensure that a partici-

pating taxpayer is able to electronically verify the status of the amount deferred by such taxpayer under subsection (a), including any interest accrued on such amount and the status of any distribution.

(3) FEDERALLY FUNDED BENEFITS.—Any amounts described in subsection (a) which are distributed to a participating taxpayer, including any interest accrued on such amount, shall be treated in the same manner as any refund made to such taxpayer under section 32 of the Internal Revenue Code of 1986 for purposes of determining the eligibility of such taxpayer for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

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