

[DISCUSSION DRAFT]

117TH 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

M. _____ 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 2021”.

1 **SEC. 2. DOWNPAYMENT PROGRAM.**

2 (a) ESTABLISHMENT.—The Secretary of the Treas-
3 ury shall carry out a program under this Act to provide
4 grants to States to provide financial assistance as provided
5 in this Act to first-generation homebuyers in connection
6 with downpayments made to acquire owner-occupied pri-
7 mary residences.

8 (b) FORMULA.—Amounts made available to carry out
9 this Act shall be allocated among States in accordance
10 with a formula established by the Secretary, which shall
11 take into consideration population size, median area home
12 prices, and racial disparities in homeownership rates.

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

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

16 (2) for costs in connection with the acquisition,
17 involving an eligible mortgage loan, of an eligible
18 home, including downpayment costs, closing costs,
19 and costs to reduce the rates of interest on eligible
20 mortgage loans.

21 (d) AMOUNT.—The amount of assistance provided on
22 behalf of a qualified homebuyer with grant amounts under
23 this Act may not exceed \$20,000, or \$25,000 in the case
24 of a qualified homebuyer who is a socially and economi-
25 cally disadvantaged individual.

1 (e) LAYERING OF ASSISTANCE.—Assistance from
2 grant amounts under this Act may be provided on behalf
3 of a qualified homebuyer who is receiving assistance from
4 other sources, including other State, Federal, local, pri-
5 vate, public, and nonprofit sources, for acquisition of an
6 eligible home.

7 (f) ADMINISTRATION.—

8 (1) IN GENERAL.—The Secretary shall require
9 that each State receiving grant amounts under this
10 Act administer the program to provide assistance
11 with such amounts through the State housing fi-
12 nance agency for the State or such other housing
13 agency of the State as the Secretary considers ap-
14 propriate, except that any such agency may, at the
15 option of the agency, contract with a nonprofit enti-
16 ty, including a community development financial in-
17 stitution, minority depository institution, housing
18 counseling agency, or community development credit
19 union, to administer such assistance.

20 (2) AFFIRMATIVELY FURTHERING FAIR HOUS-
21 ING.—For a State to be eligible to for a grant under
22 this section, the State housing finance agency or the
23 nonprofit entity administering such grant funds
24 shall have an adopted a plan to affirmatively fur-
25 thering fair housing that complies, as determined by

1 the Secretary, with the final rule of the Secretary
2 entitled “Affirmatively Furthering Fair Housing”,
3 as published on July 16, 2015 (80 Fed. Reg.
4 42272).

5 (3) PROHIBITION OF PRIORITY.—In selecting
6 qualified homebuyers for assistance with grant
7 amounts under this Act, a State may not provide
8 any priority or preference for homebuyers who are
9 acquiring eligible homes with a mortgage loan made,
10 insured, guaranteed, or otherwise assisted by the
11 State housing finance agency for the State or any
12 other housing agency of the State.

13 (g) REALLOCATION.—The Secretary shall reallocate
14 any grant funds under this Act allocated for a State for
15 a fiscal year that remain unused at the end of such fiscal
16 year among other States that demonstrate to the Sec-
17 retary the capacity to expend such amounts and that are
18 satisfactorily meeting the goals of the program under this
19 Act, as determined by the Secretary.

20 **SEC. 3. QUALIFIED HOMEBUYERS.**

21 Assistance from grant amounts under this Act may
22 be provided only on behalf of a homebuyer who meets all
23 of the following requirements:

24 (1) INCOME.—The homebuyer has an income
25 that does not exceed—

1 (A) 120 percent of median income for the
2 area (as determined by the Secretary of Hous-
3 ing and Urban Development) within which—

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

6 (ii) the place of residence of the home-
7 buyer is located; or

8 (B) in the case of a homebuyer acquiring
9 an eligible home that is located in a high-cost
10 area, as determined by the Secretary, 180 per-
11 cent of the median income for the area within
12 which the eligible home to be acquired using
13 such assistance is located; and

14 (2) **FIRST-TIME HOMEBUYER.**—The homebuyer
15 has not, during the 3-year period ending upon acqui-
16 sition of the eligible home to be acquired using such
17 assistance, had any present ownership interest in a
18 principal residence in any State.

19 (3) **FIRST-GENERATION HOMEBUYER.**—The
20 homebuyer is—

21 (A) an individual—

22 (i) whose parents or legal guardians—

23 (I) do not own, and have not pre-
24 viously during the prospective home-

1 buyer's lifetime owned, a home in any
2 State; or

3 (II) have previously during the
4 prospective homebuyer's lifetime
5 owned a home in any State, but—

6 (aa) such home was lost due
7 to foreclosure, deed-in-lieu of
8 foreclosure, or short sale; and

9 (bb) have not, during the 3-
10 year period ending upon acqui-
11 sition of the eligible home to be ac-
12 quired using such assistance, had
13 any present ownership interest in
14 a principal residence in any
15 State; and

16 (ii) whose spouse has not, during the
17 3-year period ending upon acquisition of
18 the eligible home to be acquired using such
19 assistance, had any present ownership in-
20 terest in a principal residence in any State;
21 or

22 (B) an individual who has at any time
23 been placed in foster care.

1 **SEC. 4. ELIGIBLE HOMES.**

2 (a) IN GENERAL.—Assistance from grant amounts
3 under this Act may be provided only in connection with
4 the acquisition by a qualified homebuyer of a residential
5 property that—

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

7 (2) will be occupied by the qualified homebuyer,
8 in accordance with such assurances and commit-
9 ments as the Secretary shall require, as the primary
10 residence of the homebuyer, subject to subsection
11 (b).

12 (b) REPAYMENT OF ASSISTANCE.—

13 (1) REQUIREMENT.—The Secretary shall re-
14 quire that, if a homebuyer on behalf of whom assist-
15 ance is provided from grant amounts under this Act
16 ceases to occupy the property acquired using such
17 assistance as the primary residence of the home-
18 buyer, the homebuyer shall repay to the Secretary—

19 (A) 100 percent of the amount of such as-
20 sistance, if such failure to occupy commences
21 before the expiration of the 12-month period be-
22 ginning on the date of acquisition;

23 (B) 80 percent of the amount of such as-
24 sistance, if such failure to occupy commences
25 after the expiration of the 12-month period be-
26 ginning on such date of acquisition but before

1 the expiration of the 24-month period beginning
2 on such date of acquisition;

3 (C) 60 percent of the amount of such as-
4 sistance, if such failure to occupy commences
5 after the expiration of the 24-month period be-
6 ginning on such date of acquisition but before
7 the expiration of the 36-month period beginning
8 on such date of acquisition;

9 (D) 40 percent of the amount of such as-
10 sistance, if such failure to occupy commences
11 after the expiration of the 36-month period be-
12 ginning on such date of acquisition but before
13 the expiration of the 48-month period beginning
14 on such date of acquisition; and

15 (E) 20 percent of the amount of such as-
16 sistance, if such failure to occupy commences
17 after the expiration of the 48-month period be-
18 ginning on such date of acquisition but before
19 the expiration of the 60-month period beginning
20 on such date of acquisition.

21 (2) LIMITATION.—Notwithstanding paragraph
22 (1), if a homebuyer on behalf of whom assistance is
23 provided from grant amounts under this Act sells
24 the property acquired with such assistance before
25 the expiration of the 60-month period beginning on

1 such date of acquisition and the proceeds from such
2 sale are less than the amount the homebuyer is re-
3 quired to repay the Secretary under paragraph (1),
4 the homebuyer shall not be liable to the Secretary
5 for repayment of the amount of such shortage.

6 (c) LAND TRUSTS AND SHARED EQUITY PRO-
7 GRAMS.—Assistance from grant amounts under this Act
8 may be provided in connection with an eligible home made
9 available through a community land trust or shared equity
10 homeownership program.

11 **SEC. 5. ELIGIBLE MORTGAGE LOANS.**

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

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

19 (2) is made, insured, or guaranteed under title
20 II of the National Housing Act (12 U.S.C. 1707 et
21 seq.) or title V of the Housing Act of 1949 (42
22 U.S.C. 1471 et seq.); or

23 (3) 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)).

1 **SEC. 6. HOUSING COUNSELING REQUIREMENT.**

2 (a) IN GENERAL.—Except as provided pursuant to
3 subsection (b), assistance with grant amounts under this
4 Act may not be provided on behalf of qualified homebuyer
5 unless such homebuyer has completed a program of coun-
6 seling with respect to the responsibilities and financial
7 management involved in homeownership, as the Secretary
8 shall require, provided through a counseling agency ap-
9 proved by the Secretary of Housing and Urban Develop-
10 ment.

11 (b) EXCEPTION.—The Secretary shall provide that
12 States may waive the requirement under subsection (a)
13 for qualified homebuyers who are highly qualified with re-
14 spect to undertaking homeownership, based on clearly es-
15 tablished underwriting criteria as the Secretary shall pro-
16 vide.

17 (c) REFERRAL UPON MORTGAGE DENIAL.—The Sec-
18 retary shall require that any qualified homebuyer who has
19 completed a counseling program referred to in subsection
20 (a) or for whom such requirement is waived pursuant to
21 subsection (b), who receives a commitment for assistance
22 with grant amounts under this Act, and who applies for
23 an eligible mortgage loan for acquisition of an eligible
24 home and is denied such mortgage loan shall be referred
25 to a counseling agency described in subsection (a) for
26 counseling relating to such denial.

1 (d) FUNDING.—Of any amounts appropriated to
2 carry out this Act, the Secretary shall use not less than
3 5 percent for costs of providing counseling referred to in
4 subsection (a).

5 **SEC. 7. ADMINISTRATIVE COSTS.**

6 Of any grant amounts under this Act received by a
7 State, the State may use not more than 5 percent for ad-
8 ministrative costs of and training for carrying out the pro-
9 gram of the State to provide assistance with such grant
10 amounts.

11 **SEC. 8. REPORTS.**

12 (1) IN GENERAL.—For each fiscal year during
13 which the Secretary makes grants under this Act,
14 the Secretary shall submit a report to the Congress
15 that shall include—

16 (A) demographic information regarding ap-
17 plicants for assistance provided pursuant to this
18 Act, including race, ethnicity, and gender;

19 (B) information regarding the types of as-
20 sistance provided, including downpayment as-
21 sistance, assistance with closing costs, and as-
22 sistance to reduce mortgage loan interest rates;

23 (C) information regarding properties ac-
24 quired using such assistance, including location,

1 property value, property type, and first mort-
2 gage type and investor.

3 (2) CAPACITY BUILDING.—Of any amounts ap-
4 propriated to carry out this Act, the Secretary shall
5 use not more than 1 percent to assist States to de-
6 velop capacity to meet the requirements under para-
7 graph (1).

8 **SEC. 9. COMPELLING INTEREST STUDY.**

9 The Secretary of Housing and Urban Development
10 and the Attorney General shall conduct a study to dem-
11 onstrate that there is a compelling interest to grant funds
12 for downpayment assistance to socially and economically
13 disadvantaged individuals, as such term is defined in sec-
14 tion 10. The Secretary of the Treasury shall provide
15 States provided grant amounts under this Act an oppor-
16 tunity to modify their programs for assistance under this
17 Act according to the findings of such study.

18 **SEC. 10. DEFINITIONS.**

19 For purposes of this Act, the following definitions
20 shall apply:

21 (1) COMMUNITY LAND TRUST.—The term
22 “community land trust” means a nonprofit organi-
23 zation or State or local governments or instrumen-
24 talities that—

1 (A) use a ground lease or deed covenant
2 with an affordability period of at least 30 years
3 or more to—

4 (i) make homeownership units afford-
5 able to households; and

6 (ii) stipulate a preemptive option to
7 purchase the affordable homeownership
8 units so that the affordability of the units
9 is preserved for successive income-eligible
10 households; and

11 (B) monitor properties to ensure afford-
12 ability is preserved.

13 (2) ELIGIBLE HOME.—The term “eligible
14 home” means a residential dwelling, including a unit
15 in a condominium or cooperative project or a manu-
16 factured housing unit, that meets the requirements
17 of section 4.

18 (3) ELIGIBLE MORTGAGE LOAN.—The term “el-
19 igible mortgage loan” means a residential mortgage
20 loan that meets the requirements of section 5.

21 (4) QUALIFIED HOMEBUYER.—The term
22 “qualified homebuyer” means a homebuyer who
23 meets the requirements of section 3.

24 (5) SECRETARY.—The term “Secretary” means
25 the Secretary of the Treasury.

1 (6) SHARED EQUITY HOMEOWNERSHIP PRO-
2 GRAM.—

3 (A) IN GENERAL.—The term “shared eq-
4 uity homeownership program” means affordable
5 homeownership preservation through a resale
6 restriction program administered by a commu-
7 nity land trust, other nonprofit organization, or
8 State or local government or instrumentalities.

9 (B) AFFORDABILITY REQUIREMENTS.—
10 Any such program under subparagraph (A)
11 shall—

12 (i) provide affordable homeownership
13 opportunities to households; and

14 (ii) utilize a ground lease, deed re-
15 striction, subordinate loan, or similar legal
16 mechanism that includes provisions ensur-
17 ing that the program shall—

18 (I) maintain the homeownership
19 unit as affordable for subsequent very
20 low-, low-, or moderate-income fami-
21 lies for an affordability term of at
22 least 30 years after recordation;

23 (II) apply a resale formula that
24 limits the homeowner’s proceeds upon
25 resale; and

1 (III) provide the program admin-
2 istrator or such administrator’s as-
3 signee a preemptive option to pur-
4 chase the homeownership unit from
5 the homeowner at resale.

6 (7) SOCIALLY AND ECONOMICALLY DISADVAN-
7 TAGED INDIVIDUAL.—The term “socially and eco-
8 nomically disadvantaged individual” means an indi-
9 vidual who meets the following requirements:

10 (A) SOCIAL DISADVANTAGE.—

11 (i) IN GENERAL.—The individual is a
12 member of a socially disadvantaged group,
13 which social disadvantage stems from cir-
14 cumstances beyond their control, whose
15 members have been subjected to racial or
16 ethnic prejudice within United States soci-
17 ety because of their identity as members of
18 such group without regard to their indi-
19 vidual qualities.

20 (ii) PRESUMPTION; REBUTTAL.—An
21 individual identifying as Black, Hispanic,
22 Native American, or Asian American, or
23 any combination thereof, shall be presumed
24 to be socially disadvantaged for purposes
25 of clause (i). Such presumption may be re-

1 butted with credible evidence to the con-
2 trary.

3 (iii) BURDEN OF PROOF.—An indi-
4 vidual who does not identify as described
5 in clause (ii) shall be required to establish
6 individual social disadvantage for purposes
7 of clause (i) by a preponderance of the evi-
8 dence.

9 (B) ECONOMIC DISADVANTAGE.—The indi-
10 vidual has an income that does not exceed—

11 (i) 120 percent of median income for
12 the area (as determined by the Secretary
13 of Housing and Urban Development) with-
14 in which—

15 (I) the eligible home to be ac-
16 quired using such assistance is lo-
17 cated; or

18 (II) the place of residence of the
19 homebuyer is located; or

20 (ii) in the case of a homebuyer acquir-
21 ing an eligible home that is located in a
22 high-cost area, as determined by the Sec-
23 retary, 180 percent of the median income
24 for the area within which the eligible home

1 to be acquired using such assistance is lo-
2 cated.

3 (8) STATE.—The term “State” means any
4 State of the United States, the District of Columbia,
5 the Commonwealth of Puerto Rico, the United
6 States Virgin Islands, Guam, the Commonwealth of
7 the Northern Mariana Islands, and American
8 Samoa.

9 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

10 There is authorized to be appropriated for grants
11 under this Act such sums as may be necessary for each
12 of fiscal years 2021 through 2030.