The Decent, Affordable, Safe Housing for All Act

U.S. Senator Ron Wyden of Oregon

Executive Summary:

The Decent, Affordable, Safe Housing for All Act, or the DASH Act, is a sweeping reform of how our nation houses people experiencing homelessness, and addresses the crisis of housing affordability. Title I of the legislation extends a Housing Choice Voucher to all families or individuals experiencing homelessness, or who are at risk of homelessness. It also institutes important reforms to local zoning and housing development to get America building affordable housing again. Title II of the DASH Act implements innovative and impactful tax policy to more wisely invest in homeownership, rent support for low income families and construction of affordable housing nationwide.

The DASH Act will end child and family homelessness within five years by holding states accountable for wisely using the legislation's generational federal investment and ensuring that public housing agencies continue their important work administering vouchers. Continuums of care will receive funding to provide supportive services to voucher recipients as well. The DASH Act is estimated to result in over three million additional homes being built in the U.S. over the next decade. Senate Finance Committee Chairman Wyden recognizes that housing is a human right, and that the federal government can and should creatively invest in ensuring all people have a roof over their head, especially children and families.

Section by Section:

TITLE I

Sec. 1. Short title—The title "Decent, Affordable, Safe Housing for All Act" establishes from the start that housing is a human right, not a privilege, and Congress must move swiftly to address the crisis of housing affordability and homelessness.

Sec. 2. Findings—The findings provide essential context about how America's housing crisis is hurting families and the economy.

Sec. 111. Establishment of Voucher—

A) Definitions—The legislation defines someone homeless or at risk of homelessness as a person literally homeless, living in transitional housing or an emergency shelter, or fleeing domestic or gender-based violence. The definitions in the DASH Act are generally taken from existing statute, and are otherwise widely accepted by the advocacy community and on-the-ground service providers.

B) Establishment of Voucher—The legislation mandates the Secretary of the Department of Housing and Urban Development ("the Secretary") to allocate Housing Choice Vouchers ("vouchers") to eligible public housing agencies that request it, and to provide rental assistance to eligible voucher recipients. The funding stream for these vouchers will be mandatory and

permanent, and that the allocation of vouchers is phased in at 250,000 vouchers in year one and 400,000 vouchers annually thereafter until all eligible recipients hold a voucher. There is no minimum or maximum number of vouchers a public housing agency may request.

Eligible public housing agencies are those that currently administer vouchers and submit a plan to the Secretary detailing how they will administer vouchers to this population and build capacity. Eligible voucher recipients are individuals or families experiencing homelessness or at risk of homelessness with incomes under 50% of the area's median income.

The construction of the voucher for the population departs only slightly from the existing Housing Choice Voucher program, but does allow increased payment standards to incentivize lease-up and accommodate high-cost markets—up to 125% of market rent. Public housing agencies are allowed to supplement the voucher payment with their own funds if need be; these administering agencies are also required to work with continuums of care and public child welfare agencies to conduct intake of eligible recipients and provide them services.

The Secretary cannot condition receipt of a voucher on a recipient's sobriety or history of interaction with the criminal justice system (with some exceptions, like individuals on the sex offender registry). Nor can the Secretary require voucher recipients to participate in any program or service in order to receive a voucher. Under the DASH Act, the Fair Housing Act is amended to prohibit discrimination based on a person's lawful source of income.

C) Data Collection— The legislation requires annual reporting of populations served to ascertain progress towards ending homelessness.

D) Supportive Services—The legislation establishes an increased administrative fee for public housing agencies that administer vouchers in order for the agencies to hire service coordinators to conduct intake of voucher recipients and individually evaluate each recipient for relevant or necessary supportive services. While public housing agencies will administer the vouchers, continuums of care will be responsible for providing services or referrals to services for recipients. DASH authorizes $300 million for five years to fund the increased administrative fee.

Voucher recipients must have access to, or be able to be referred to, services including but not limited to: health care, including mental health, dental, and vision; substance use disorder treatment, including recovery, treatment, relapse prevention or medically-assisted treatment; enrollment in Medicare or Medicaid, or the Supplemental Nutrition Assistance Program, the Temporary Assistance for Needy Families, or other economic assistance programs; family self-sufficiency programs, credit or housing counseling; education services including credit recovery, and transportation to any of these services. The DASH Act authorizes such sums as are necessary through the Homeless Assistance Grants program to aid provision of these services and ensures that private nonprofits and religious organizations can receive these funds and provide these services.

E) Capacity Investment for PHAs—The legislation provides $500 million for two fiscal years in the additional administrative and capacity-building needs of public housing agencies to accomplish the housing goals under DASH. This funding is limited to public housing agencies

eligible to administer vouchers under this legislation, and is contingent on the agency submitting a plan to the Secretary detailing how they will administer vouchers to this population and build capacity using this funding. Agencies must spend at least 60 percent of their allocation within three years of receipt. The first year, beginning upon an agency's receipt of capacity-building funds, will be referred to as the "capacity-building period."

The funding will be allocated to public housing agencies through a new formula developed by the Secretary that takes into account: (1) the population of the states; (2) the rate of homelessness (per 10,000 people) in a state; (3) the rate of unsheltered families with children experiencing homelessness in the state compared to all states; and (4) the rate of homelessness in rural areas in the state compared to all states. The Secretary will ensure that no public housing agency receives more than 10 percent of the total funding, and that no state receives more than 25 percent of the total funding. The Secretary will ensure that the formula doesn't disadvantage rural public housing agencies.

F) State Accountability—States are required to ensure its public housing agencies are making progress towards housing all children, youth and families experiencing homelessness. Public housing agencies are required to report their progress towards issuing vouchers to eligible recipients to the state on a regular basis, but states are ultimately accountable to Congress for ensuring public housing agencies are making progress in housing children and families experiencing homelessness. As a result, states must also report to the Secretary their progress towards issuing vouchers to all eligible recipients.

For the accountability section, states are evenly divided into two groups: states with a rate of homelessness below 10 people per 10,000 and states with a rate above 10 people per 10,000. States in the first group must issue vouchers to 50 percent of eligible recipients within two years after the end of the year-long capacity building period, prioritizing issuance to transition-aged youth, children and families to the greatest extent possible. Within three years after the capacity-building period ends, states in the first group must have issued vouchers to 80 percent of eligible recipients, again prioritizing issuance of those vouchers to transition-aged youth, children and families. A year after that, these states are required to have issued vouchers to all people experiencing homelessness in the state.

States in the second group, with rates of homelessness above 10 people per 10,000, are required to issue vouchers to 40 percent of eligible recipients within two years after the end of the capacity building period, prioritizing issuance to transition-aged youth, children and families to the greatest extent possible. Within three years after the capacity-building period ends, states in the first group must have issued vouchers to 60 percent of eligible recipients, again prioritizing issuance of those vouchers to transition-aged youth, children and families. Within four years after the capacity-building period ends, these states are required to have issued vouchers to all people experiencing homelessness in the state.

States failing to meet these housing benchmarks will receive a warning from the Secretary and a six-month grace period. If states still fail to meet these benchmarks after the grace period, the federal share payable to them for federal-aid highway projects funded by the Highway Trust

Fund will be reduced by 5 percent. If another six months pass without meeting the benchmarks, states will see that federal share payable reduced by a further 5 percent.

States are exempted from these penalties and the grace periods while the quarterly unemployment rate of the state exceeds 6 percent. States have a six-month grace period after their unemployment rate descends beneath 6 percent to meet the benchmarks.

G) Administrative Investment for HUD—The legislation will provide $15 million a year for five years in the Department of Housing and Urban Development for its administrative needs in adapting to this new housing scheme.

Sec. 112. Investment for States—

1. Housing Trust Fund—The legislation provides $10 billion in the Housing Trust Fund (HTF) for the next ten years to states to acquire, develop or rehabilitate deeply affordable housing. States will be required to commit their entire allocation to eligible activities within five years, though the construction does not have a time limit. The intent is for states to efficiently construct a sufficient supply of deeply affordable housing that cannot otherwise be built given current resources and market conditions.

Eligible activities are land acquisition and the acquisition, rehabilitation or development of rental housing that prioritizes housing for people experiencing homelessness. States must partner with public housing agencies and continuums of care to establish the project-basing of vouchers. States are not limited as to the amount of project-based developments they undertake with this funding. During the first two years in which funding is made available, priority for occupancy will go to families or youths experiencing homelessness.

The funding will be allocated to states through the existing HTF formula. However, the Secretary is instructed to, within one year of enactment, propose to Congress a new formula that takes into account: (1) the gap between supply and demand of available and affordable housing for extremely low-income renters in the state; (2) the average poverty rate over the preceding three years; (3) the average rental vacancy rate over the preceding three years; and (4) the ratio of severely cost-burdened renters in the state to the number of those renters in all states, as well as the economic impacts of the COVID-19 pandemic.

2. Capacity Investment for States—The legislation provides $65 million a year for five years for the administrative and capacity-building needs of the states to accomplish the housing goals under DASH, including using the increased Housing Trust Fund allocation to end homelessness. This capacity investment can also be used to support any public housing agencies in the state not making requisite progress towards the benchmarks states are required to meet. The funding will be allocated to states through the same formula developed by the Secretary for public housing agencies as detailed in 6, above. The Secretary will ensure that no state receives more than 10% of the total funding.

Sec. 113. Modular Construction Pilot Program— The DASH Act authorizes $10 million over five years for a pilot program to invest in innovative, cost-effective and efficient building methods to reduce the cost of developing affordable housing.

Sec. 114. Supporting Pro-Housing Development—The DASH Act invests in innovative, sustainable and proven methods to increase production of affordable housing nationwide. This effort includes authorization of programs to diversify housing development, including $10 million for prefabricated or "modular" housing projects, which cost less to build than traditional housing.

Under the DASH Act, any jurisdiction that changes its zoning and land use practices after enactment of the legislation will become eligible for a grant award depending on size of the jurisdiction; the funds may be used for any approved activity as determined by the Community Development Block Grant (CDBG) program. Cities under 80,000 residents would be awarded a maximum of $5 million while cities larger than 1 million could be awarded up to $125 million for adopting pro-housing policies. Those policies are:

- Allowing development of duplexes, triplexes and quadplexes, or other multifamily housing, in areas zoned for single-family homes;
- Allowing the subdivision of existing single family homes into multiple units;
- Issuing permitting or zoning waivers for development of accessory dwelling units (ADUs), additions to existing single family homes to create duplexes, triplexes or fourplexes, or other additions that do not require demolition of an existing home on a given lot or parcel of land;
- Incentivizing the development of single-room occupancy (SRO) multifamily housing and ADUs;
- Not using minimum lot sizes or minimum square foot requirements, and allowing increased floor area ratios;
- Incentivizing turning commercial property into residential housing;
- Eliminating or lowering parking requirements;
- Eliminating or raising height limits for development; and
- Waiting or eliminating fees for development in exchange for a larger number of units developed that would be affordable to low income people.

Jurisdictions which use the following zoning or community planning methods will be made ineligible for the bonus grant program:

- Forbidding duplexes in areas zoned for single-family homes
- Forbidding single-room occupancy development in areas zoned for multi-family homes
- Failing to reduce minimum lot size
- Forbidding accessory dwelling units ("granny flats" or "ADUs") on the premises of single-family homes
- Forbidding the conversion of commercial property into residential housing
- Forbidding development of multi-family housing in commercial areas

Sec. 115. Permanent Authorization of Appropriations for McKinney-Vento Homeless Assistance Grants—This provision permanently authorizes such sums as are necessary to provide supportive services to voucher recipients through the Homeless Assistance Grants

program, so that these necessary support services are not subject to the whims or occasionally-erratic schedule of Congressional appropriations.

Sec. 121. Rural Housing Reinvestment—The DASH Act invests in programs to increase and preserve the supply of available and affordable rental housing for low income Americans living in rural areas and for domestic farm laborers. These programs include the Section 504 Rural Housing Assistance program, the Section 514 Farm Labor Housing loan program, the Section 515 Rural Development program, and the Section 516 Farm Labor Housing grant program.

Sec. 122-128. Permanent Reauthorization of the Multi-Family Preservation and Revitalization (MPR) program—The DASH Act contains the Strategy and Investment in Rural Housing Act, introduced in the 117th Congress by Rep. Cindy Axne (IA-3). This legislation would require the Department of Agriculture (USDA) to implement a program for the preservation and revitalization of housing projects that are financed with USDA loans, including by restructuring existing loans. USDA must also offer to renew a property owner's contract for rental assistance payments for a term of 20 years, provided that the property owner agrees to maintain the property as decent, safe, and sanitary housing for the full term of the contract.

Additionally, USDA may provide technical assistance grants to qualified nonprofit organizations and public housing agencies to help borrowers acquire multifamily rental-housing properties in areas where there is a risk of loss of affordable housing, Further, USDA may provide rural housing vouchers for low-income households (including those not receiving rental assistance) residing in certain properties financed with or insured by USDA loans. The DASH Act authorizes $250 million for ten years to pay increased rental assistance to low income Americans in rural areas. The bill also extends existing housing protections for victims of domestic violence, dating violence, sexual assault, and stalking to victims who receive rural housing voucher assistance. These protections include protections against denial or termination of assistance or eviction.

TITLE II

Sections 201-214: Expansion of the Low-Income Housing Tax Credit

Summary: The proposed expansions below would strengthen the Low-Income Housing Tax Credit (LIHTC) to weather the economic fallout from the pandemic, by preserving and protecting current LIHTC properties, dramatically expanding production, and extending housing to those at extremely low incomes. Key provisions would expand the 9% housing credit by 50 percent to house more families; provide a 50 percent basis boost to projects that prioritize extremely low-income renters; expand the 4% credit for rural areas; reduce the tax-exempt bond financing threshold for 4% credit projects from 50% to 25% for 3 years; and preserve tens of thousands of affordable housing units by closing a key loophole. The bill draws from proposals in the Affordable Housing Credit Improvement Act of 2021 (S. 1136), the Emergency Affordable Housing Act (S. 4078), and the Save Affordable Housing Act of 2019 (S. 1956), and also includes new provisions.

Sec. 201. Extend Deadline for Rehabilitation Expenditures—The provision allows up to 3 years (compared to up to 2 years under current law), following an allocation of housing credits,

to make rehabilitation expenditures for a LIHTC project. Provision applies to buildings receiving an allocation of housing credits after December 31, 2017 and before January 1, 2023.

Sec. 202. Extend Deadline for Basis Expenditures—The provision allows up to 3 years (compared to 2 years under current law), following an allocation of housing credits, for a LIHTC building to be placed in service and remain eligible for the credits so allocated. Also allows an additional year for the taxpayer to incur costs equal to 10% of reasonably expected basis. Provision applies to buildings receiving an allocation of housing credits after December 31, 2017 and before January 1, 2023.

Sec. 203 Relax the "50% Test" for 2 years—Currently, tax-exempt bonds must comprise 50% of the financing for an affordable housing project, if they are used in conjunction with 4% housing credit bonds. This provision temporarily reduces the 50% requirement to 25%, to enable housing credit deals to unlock more 4% credits. The provision is effective for buildings financed by an obligation issued in calendar years 2021, 2022, 2023, or 2024 (and not by any previously issued obligation) and placed in service in taxable years after December 31, 2021.

Sec. 204. Expand the 9% Credit—The provision makes permanent the 12.5% expansion in the 9% housing credit passed in 2018 and increases the 9% housing credit and the small state minimum by 50 percent on top of this. The provision phases in this increase over 2021 and 2022, then indexes amounts to inflation. The provision is effective for calendar years after December 31, 2020.

Sec. 205. 50% Basis Boost for Projects Serving Extremely Low-Income Households and 10% Set-Aside—The provision provides a 50% basis boost for LIHTC buildings that designate at least 20% of their occupied units for extremely low-income tenants and limit rent to no more than 30% of the greater of: 30% of area median income or the federal poverty line. The provision is funded by a set-aside equal to 10% of a state's housing credit allocation (and the set-aside is in addition to this allocation). The provision applies to LIHTC buildings receiving either the 9% or the 4% housing credit after the date of enactment.

Sec. 206. Inclusion of Indian Areas as Difficult Development Areas—The provision modifies the definition of a Difficult Development Area (DDA) to automatically include projects located in an Indian area, making these projects eligible for the 30 percent basis boost. (The DDA inclusion is limited to buildings that were assisted or financed under the Native American Housing Assistance and Self Determination Act of 1996, or, the project sponsor is a qualifying Indian tribe.) This provision would allow these projects to receive more housing credit equity than would otherwise be available to them. The provision applies to buildings placed in service after December 31, 2021.

Sec. 207. Inclusion of Rural Areas as Difficult Development Areas—The provision gives states the ability to provide up to a 30 percent basis boost to properties in rural areas if needed for financial feasibility, by qualifying rural areas as Difficult Development Areas. Rural areas are defined as any nonmetropolitan counties or any rural areas designated in a state's qualified action plan and defined by Section 520 of the Housing Act of 1949. This would allow these

developments to receive more housing credit equity than would otherwise be available to them. The provision applies to buildings placed in service after December 31, 2021.

Sec. 208. Increase in Credit for Bond-Financed Projects Designated by Housing Credit Agency—The provision allows states to provide up to a 30 percent basis boost for 4% credit projects that are financed with tax-exempt bonds if necessary for financial feasibility, providing parity between 4% credit bond-financed developments and funded by 9% credits. The provision applies to buildings that receive housing credits after the date of enactment.

Sec. 209. Repeal Qualified Contracts to Preserve LIHTC Affordable Housing—LIHTC properties must ordinarily remain affordable for 30 years. However, the "Qualified Contracts" loophole allows LIHTC operators to sell their properties after 15 years to private developers who will rent units at market rate. This loophole results in the loss of at least 10,000 affordable housing units per year. This provision eliminates the qualified contract option for taxpayers receiving LIHTC credits after December 31, 2021. For taxpayers who received LIHTC credits before January 1, 2021 and who submit a written request for a qualified contract after the date of enactment, the provision repeals the current inflation adjustment formula – requiring instead a fair market value purchase price that must factor in current rent-restricted units.

Sec. 210. Modification and Clarification of Rights Relating to Building Purchase—The provision would (a) clarify that the existing right of first refusal (ROFR) may be exercised at the minimum purchase price – by effectively converting that right to an option – without the need for a bona fide offer by a third party or approval from the investor/limited partner. (The provision also clarifies that the ROFR can be exercised either through a purchase of the real estate or the partnership interests). The provision would also (b) clarify that the reference to "property" in section 42(i)(7) is not limited to the real estate buildings but may also include assets of the partnership such as personal property, good will, and any on- or off-site land improvements, as well as operating, replacement and other reserves. Finally, the provision (c) changes the minimum purchase price from outstanding debt and taxes to just outstanding debt. The amendments made in (a) apply to agreements entered into or amended after the date of enactment. The amendments made in (b) and (c) apply to agreements entered into before, on, or after the date of enactment. However, none of the amendments made by this provision is intended to supersede express language in any agreement with respect to the terms of a ROFR in effect on the date of enactment.

Sec. 211. Prohibition of Local Approval and Contribution Requirements—This provision removes the requirement for state housing agencies to notify local or elected officials about the location of a proposed building. The provision further bars a state's qualified action plan from prioritizing local support (including contributions) or opposition regarding an application for a LIHTC project. The provision applies to allocations of housing credits made after December 31, 2021.

Sec. 212. Adjustment of Credit to Provide Relief During COVID-19 Outbreak—The COVID-19 outbreak has halted construction and lease-up on many LIHTC projects, delaying the receipt of housing credits, and putting the feasibility of such housing projects at risk. This provision allows the taxpayer to elect to receive a first year credit equal to 150 percent of the

allowable amount, to be reduced pro rata in subsequent years. Eligible LIHTC buildings are those that have (1) a first year in the credit period ending between July 1, 2020 and July 1, 2022 and (2) pandemic-related construction or leasing delays that have occurred since January 31, 2020, (requiring certification by the taxpayer to the housing credit agency).

Sec. 213. Credit for Low-Income Housing Supportive Services—The provision provides a 50 percent basis boost to LIHTC buildings that dedicate space to providing qualifying supportive services. Qualifying supportive services include health services (including mental health services), coordination of tenant benefits, job training, financial counseling, resident engagement services, or services aimed at helping tenants retain permanent housing and promoting economic self-sufficiency. These supportive services must be maintained throughout the extended use period of the building. The taxpayer must maintain a certification for the supportive services provided (recertified at least once every 5 years) and must report annually to the housing credit agency on expenditures and outcomes. The provision applies to buildings which receive allocations of housing credits (or are financed by tax-exempt bond obligations) after the date of enactment.

Sec. 214. Study of Tax Incentives for the Conversion of Commercial Property to Affordable Housing—Requires the Department of Treasury, the Department of Housing and Urban Development, the Department of Agriculture, and the Office of Management and Budget to produce a cost-benefit analysis within 6 months of the date of enactment of providing tax incentives (such as the non-recognition of capital gains) to taxpayers who sell vacant or under-utilized commercial real estate to State, local, or tribal housing finance agencies for conversion to affordable rental housing, including shelters for the homeless.

Sec. 215. Renter's Tax Credit—The Renter's Tax Credit establishes a refundable credit (under new tax code section 36C) claimable by taxpayers who own and operate affordable housing. Eligible tenants are those with gross monthly family incomes at or below 30 percent of area median or at or below the federal poverty line, whichever amount is greater. For each eligible unit, the credit is calculated as 110% (up to 120% for low poverty neighborhoods) of the difference between market rent and 30% of a tenant's gross family income. Rent includes utility allowances, where applicable. The goal of this new tax credit program is to insure that extremely low-income renters do not have to pay more than 30% of their gross income in monthly rent and utilities, while providing owners of rental housing a financial incentive to participate. The total annual credit for a taxpayer equals the number of months of reduced rent for a given taxable year times the number of eligible units, summed across all the buildings that the taxpayer owns. The taxpayer can be for-profit or nonprofit and claim the full refundable credit. The taxpayer must periodically re-certify tenant incomes to the state and adjust rent reductions which affect the amount of credit the taxpayer receives each year. Taxpayers cannot evict tenants (except for good cause) to house credit-eligible tenants, and must also comply with the Fair Housing Act and other federal and state housing laws.

The Treasury Secretary allocates credits (called "credit ceiling") to States. The Secretary will allocate credits each year to states based on population, with a ramp-up period culminating in $12.150 billion per year ($36.75 per capita in 2023), adjusted annually for inflation. Each participating state is guaranteed to receive a minimum amount of credit that also ramps up,

reaching $42 million per year by 2023. A state's unused credit ceiling for a given year is returned to the national pool for reallocation to states that have used their credit ceiling. States in turn allocate their ceiling, according to a state plan, to participating taxpayers who have signed a binding rent reduction agreement that spans all of their qualifying buildings and eligible tenants. The allocation to taxpayers is for a credit period that can be up to 15 years, although the taxpayer will claim credits for each year. Each state will establish a reserve to allow transfers of credit ceiling between taxpayers who over-estimated their credit needs for a credit period and taxpayers who underestimated. The bill requires reporting and compliance monitoring for taxpayers and states. The bill also provides the Secretary with regulation authority to develop coordination rules with LIHTC properties. The effective date of the provision is taxable years beginning after December 31, 2020.

Sec. 216. Middle Income Housing Tax Credit (MIHTC)—A new Middle Income Housing Tax Credit (MIHTC) would continue where the very successful LIHTC program leaves off, by providing a tax credit to developers and operators to provide affordable housing to tenants between 60 percent and 100 percent of area median income. The Treasury Department would allocate tax credits to States based on population. For 2021, the allocation would be $1 per capita with a $1.14 million small state minimum. An additional 5 cents per capita above this allocation would be reserved for middle-income housing developed in rural areas. State housing finance agencies would then allocate the tax credits to developers through a competitive process. The tax credits would be provided to developers over a 15-year compliance period. The credit amount would equal 50 percent of the present value of the qualifying costs, or 5 percent a year on an undiscounted basis. However, state housing agencies would only allocate so much credit as makes a housing project feasible.

To qualify for the credit, a rental property would need to meet two affordability standards: 1) a property would have to include a minimum percentage of affordable units; and 2) rents for those units could not exceed maximum amounts based on average incomes in the area. Specifically, at least 60 percent of the property's units must be occupied by individuals with incomes of 100 percent or less of Area Median Gross Income (AMGI). Furthermore, tenants' rents must not exceed 30 percent of 100 percent of AMGI. The affordability restrictions would remain in place for up to 15 years after the compliance period. Credits are discontinued to the developer if a project fails to meet these income/rent requirements.

MIHTC may be used in combination with LIHTC. However, taxpayers must make an irrevocable election on a building-by-building basis to use one credit or the other. The eligible basis for using LIHTC cannot include the MIHTC basis and vice versa. Specifically, the provision allows 5% MIHTC to be used in conjunction with 9% LIHTC. The provision allows a 2% MIHTC to be combined with 4% LIHTC financed by tax exempt bonds.

While geared to incentivizing the construction of affordable housing for middle-income families, MIHTC also includes protections for low-income affordable housing. A state's unused MIHTC allocation would get added to the state's existing LIHTC allocation after one year. If still unused after a second year, the state's MIHTC allocation would go back to the national LIHTC allocation pool. The effective date for this provision is taxable years ending after the date of enactment.

Sec. 217. Neighborhood Homes Investment Act (NHIA)—The NHIA establishes new code section 42B, providing a state-administered tax subsidy to builders of affordable homes for homeownership. Treasury will allocate to states (including DC and U.S. possessions) the greater of $6 per capita or $8 million (indexed to inflation after 2022). The state housing agency in turn will provide developers with tax credits to build or substantially rehabilitate residences as part of larger housing projects in qualifying census tracts.

The tax credits are worth up to 35 percent of the qualified development cost (with some adjustments) or 80 percent of the national median sale price for a new home, whichever is less. The housing agency, however, will allocate to each qualifying residence no more than is necessary to make the property financially stable. Qualified development costs include costs and fees relating to construction, substantial rehabilitation, demolition, or environmental remediation, and in the case of an affordable sale, the adjusted basis of buildings and land, determined at acquisition. Qualified residences and projects must be completed within five years to retain allocated credits, otherwise the sums have to be repaid by the developer to the housing agency.

Qualified residences and projects must be built or rehabilitated in qualifying census tracts. Such census tracts will have lower median incomes, higher poverty rates, and home values at or below area medians. Specifically, a qualified census tract must satisfy one or more of the following sets of characteristics:

(1) the census tract has a median gross income under 80 percent of the area median, a poverty rate not less than 130 percent of the area poverty rate, and a median value for owner-occupied housing under the area median value;

(2) the census tract is located in a city with at least 50,000 people, a poverty rate of at least 150 percent of the area poverty rate, a median income under the area median, and a median home value under 80 percent of the area median value; or

(3) the census tract is located in a nonmetropolitan county and has a median income below the area median and has been designated by the NHIA credit agency under this clause. While there is a preference in the provision for tracts located in urban areas (cities with populations of 50,000 or more), 20 percent of a state's allocation may be spent on qualifying residence/projects in nonmetropolitan census tracts or rehabilitating affected residences in census tracts that have been declared disaster areas by the President in the past three years.

A qualified homeowner is an individual who owns and uses a qualified residence as a principal residence and whose income is 140 percent or less of the area median. Homeowners who resell their homes within five years must repay a significant portion of their gains to the state housing agency while homeowners who convert their homes to rental units will be denied tax deductions for their rental-related expenses.

The state housing agency must establish a qualified action plan (QAP) in which it sets forth the selection criteria for prioritizing allocation of NHIA credits (such as the need for new or rehabilitated owner-occupied housing or the expected contribution of the project to

neighborhood stability). The housing agency must provide the Secretary of Treasury annual reports with statistics on the homes built with the credit, including census tract, sales price or rehabilitation cost, and value of credits allocated to it. The housing agency must also set forth guidelines for noncompliance and alert the Department of Treasury for any instances of noncompliance. The amendments made by this section shall apply to calendar years ending after December 31, 2021.

Sec. 218. First-time Homebuyer Refundable Credit—The proposed $15,000 down payment tax credit is fully refundable and is equal to 20 percent of the purchase price of a home, reaching its maximum at $75,000 of home price. The credit phases out above 110 percent of conforming loan limits ($603,000 in Oregon) over a range of $100,000 of home price. The credit also phases out above $100,000 of modified adjusted gross income for single filers ($200,000 for joint filers), over a range of $50,000 of such income. The credit is not available to taxpayers who are nonresident aliens, under age 18, or can be claimed as a dependent by another taxpayer. The credit is not available to married couples filing separate. The credit amount is indexed for inflation starting after 2022. The taxpayer's basis in the property is reduced by the amount of the credit received.

A first-time homebuyer is any person or married couple acquiring a principal residence in the United States for the first time, who has not claimed any credit or deduction under Title 26 for homeownership in the past. The taxpayer must attest under penalty of perjury that they have not owned a principal residence before, and the residence was not acquired from a person related to either the taxpayer or the taxpayer's spouse. A principal residence has the same meaning as in IRC section 121. A qualifying home purchase does not include a purchase from a relative of either spouse. Also, a residence constructed by the taxpayer is treated as purchased by the taxpayer on the date that the taxpayer first occupies the residence.

No credit is allowed to a taxpayer who sells a home before the close of the taxable year of purchase, or if the home ceases to be the principal residence within that year. In general, selling the home in the first year following the year of purchase will also result in 100 percent recapture of the tax credit from the taxpayer. Selling the home in the second year will result in 80 percent recapture, selling in the third year will result in 60 percent recapture, and so on, until 0 percent recapture in year 6. However, there is no recapture in the event of the following circumstances: death of the taxpayer or the taxpayer's spouse; divorce of the taxpayer; involuntary conversion of the home; relocation of duty station for taxpayer or spouse if members of the U.S. armed services or U.S. foreign service; change of employment of the taxpayer or taxpayer's spouse; and loss of employment, adverse health conditions, or other unforeseen circumstances specified by the Secretary.

A credit will only be allowed if the taxpayer includes the following information on the tax return: (1) the individual's (and spouse's) social security numbers, (2) the street address (not including a post office box) of the home, (3) the purchase price of the home, (4) the date of purchase of the home, (5) the closing disclosure for the purchase (if the purchase is financed by a mortgage). Also, the Secretary may require broker reporting to verify the eligibility of the taxpayer for the credit. The IRS can deny the credit in case of missing social security numbers, ineligible age, or

missing documentation. The IRS will maintain records of tax returns and return information in the individual master files of any taxpayer who claimed the first-time homebuyer credit.