



The Affordable Housing Bond Enhancement Act Section-by-Section Summary

The Affordable Housing Bond Enhancement Act, introduced by Senators Catherine Cortez Masto (D-NV) and Bill Cassidy (R-LA) and Representatives Rudy Yakym (R-IN) and Gwen Moore (D-WI), will expand the supply of affordable homes and improve access to homeownership for low and moderate-income homebuyers through simple and impactful improvements to the Mortgage Revenue Bond (MRB) and Mortgage Credit Certificate (MCC) programs.

MRBs are a type of municipal bond used by state housing finance agencies (HFAs) to finance low-interest mortgages for low- and moderate-income home buyers. Investors are willing to accept a lower rate of return for Housing Bonds than they would get on other investments because the interest on the bonds is exempt from federal income tax. The lower rate is then passed on to lower the interest rate paid by lower-income home buyers. In a typical year, as many as 90,000 families buy their first homes with MRB mortgages. In total MRBs have helped over 3.6 million working households become homebuyers. The median income of MRB loan borrowers in 2024 was 89 percent of the national median income.

In addition, HFAs can also use their MRB authority to issue Mortgage Credit Certificates (MCCs), which provide a nonrefundable federal income tax credit for part of the mortgage interest qualified home buyers pay each year. The MCC program is a flexible subsidy source, which can be adjusted depending on the incomes of different home buyers and provides a relatively constant level of benefit to first-time home buyers regardless of the spread between market and MRB rates. State HFAs have used MCCs to provide critical tax relief to more than 406,000 families.

Section 1: Title

This section provides the title of the bill, “The Affordable Housing Bond Enhancement Act,” identifies the affected sections of the tax code and provides a table of contents.

Section 2: Annual IRS Reporting on Private Activity Bond Issuance

Congress provides each state an amount of private activity bonds (PABs) of which some may be used for a variety of purposes including MRBs and MCCs.

This section requires the Internal Revenue Service (IRS) to annually report on how states used their bond authority to the tax and banking committees of the Senate and the House of Representatives. The report must include state-by-state usage of PAB and the extent to which any bond cap expires after the carryforward period. While states currently file information with

the IRS on their PAB activity (Form 8038) there is no requirement that the IRS consolidate this information and report it to Congress.

Such information on the purpose and the amount of authority used would be useful for Congress as it considers policies related to PABs. Annual IRS reporting would allow Congress to know how bond authority is being used and whether a state has unused bond cap expiring before the end of the three-year carryforward period.

Section 3: Additional Flexibility in Using Housing Bonds for Affordable Housing

This section permits states to re-designate any carryforward authority and use it for either single-family or multifamily housing during the carryforward period.

Under current law, if a state does not use all of its bond authority in the initial year in which it was received, it may carry forward unused bond authority for up to three years. To do so, the state must file Form 8328 with the IRS designating how it will use bond cap it carries forward (carryforward authority). The designation, once made, is irrevocable; if the carryforward authority is not used for the designated purpose within three years, it expires. Thus, if a state designates it will use a set portion of its carryforward authority for a specific project, and that project does not move forward, the state is unable to re-designate that carryforward authority for any other purpose, and eventually the authority expires.

Due to a variety of factors, including supply chain challenges and other market developments, it is likely that some planned projects will be delayed or cancelled. Instead of having those funds returned to Treasury, the bill permits issuing authorities to re-designate any carryforward authority and use it for either single-family or multifamily housing during the carryforward period.

Section 4: Allow MRBs to Be Used for Refinancing Loans

This section permits MRBs to be used to refinance home loans for borrowers who have incomes below 115 percent of median family income.

Federal tax law generally requires that MRB proceeds be used to finance new mortgages; thereby preventing HFAs from using MRBs to acquire or refinance existing mortgages. Some homeowners face barriers to refinancing in the current market and are thus stuck with higher rate mortgages than they would otherwise be eligible for if Congress were to provide HFAs the flexibility to use MRBs for this purpose.

Congress made a temporary exception to this rule when it passed The Housing and Economic Recovery Act of 2008 (HERA). HERA allowed MRB financing to be used to refinance mortgages through 2010, but this provision only applied to adjustable rate mortgages originated from 2002 through 2007. HFAs found this additional flexibility to be extremely helpful during the short period of time in which they had it.

Allowing MRBs to fund refinancing loans will allow HFAs to better utilize their MRB programs to address their states' unique housing needs. It will also open up a low-cost option for low- and moderate-income homeowners who are in need of assistance. This will help prevent avoidable foreclosures that can cause irreparable harm to borrowers and weaken neighborhoods. It will also put HFAs in a better position to help mitigate the impact of any future market downturns.

Section 5: Increase Financing Limit for Qualified Home Improvement Loans

This section increases the MRB home improvement loan limit to \$75,000. The limit is currently \$15,000, which was set in 1980; \$15,000 adjusted for inflation since then is \$50,000. This section adjusts the loan limit by inflation in future years.

States can use MRBs to help finance home improvement loans for critical repairs and/or energy efficiency upgrades. The \$15,000 limit was established in 1980 and has not been increased since. Over that time, inflation has caused prices to increase nearly 200 percent. Consequently, many of the critical repairs the program was intended to support are now too expensive to qualify for MRB financing. Due to this limit, states are unable to use MRBs for this purpose in practice.

MRB home improvement loans would help working families whose homes need repair to remain livable, as well as homeowners whose homes require substantial upgrades to remain accessible for them to age in place. MRBs would support energy-efficiency upgrades that help working families save money each month through lower utility costs and could be an important tool states could use to help owners fix homes damaged in natural disasters.

Section 6: Revise the Recapture Tax for MRBs and MCCs

This section reduces the time that a recapture tax could be assessed from nine years to five years.

Under current law, if a borrower receives an MRB-financed mortgage or Mortgage Credit Certificate (MCC) and sells their home within the first nine years of owning it, the lower-income homeowner may have to pay a "recapture tax." This tax, which is above and beyond capital gains tax, applies to lower-income MRB borrowers or MCC recipients whose income has increased since becoming a homeowner if the owner has a capital gain from their home sale. The recapture tax penalty is often at a higher rate than the actual advantage the owner gained by getting an MRB loan or an MCC. The tax is essentially unenforceable, needlessly complicates our tax system, and unfairly penalizes lower-income home buyers.

Section 7: Simplify the MCC Calculation

This section would change the MCC benefit calculation to a simple percentage of the original loan balance. Currently, a borrower's MCC benefit for each year is determined by calculating their interest expenses for the year and then applying that amount to the rate of their credit. This can be confusing for borrowers, as they must be able to calculate their MCC benefit each

year as part of their tax preparation. In many instances, borrowers must get outside tax expertise in order to undertake the calculation.

This section would also allow HFAs to adjust the rate of credit a homeowner receives from their MCC each year, allowing homeowners to claim a larger credit during the first years of the mortgage, when interest payments are highest.

Section 8: Extend the Mortgage Credit Calculation Expiration Deadline

This section extends the MCC expiration period to four years, rather than two, to allow states to more fully utilize their MCC authority and assist more borrowers.

After an issuer converts MRB authority to MCC authority, it has two years to use the MCC authority before it expires. This time period is too short for some issuers, especially those that convert a considerable amount of bond volume cap to MCCs. In addition, economic circumstances often change rapidly, so allowing issuers more time to use their MCC authority lets them adapt to economic changes brought about by the pandemic, a disaster, or market developments.

Section 9: Extend the MCC Revocation Period

This section extends the revocation period to the end of the calendar year following the year in which the state initially converted MRB authority to MCC authority, to facilitate program planning and flexibility in managing the agency's bond volume cap.

States can reconvert MCC authority back to MRB authority but must do so within the calendar year in which the election to convert that authority to MCCs was made. The current time limitation is too short for some issuers to change their MCC election if the program is either over- or under-subscribed. This flexibility will permit states to respond to unexpected market developments, including pandemics, disasters, and economic downturns.

Section 10: Adjust Outdated MCC Public Notice Requirements

This section reduces the public notice requirement from 90 days to 30 days. Currently, before issuing MCCs, issuers must provide 90 days' public notice of their intention to do so. MCC issuers typically receive little, if any, public comment on these notices. This long notice period hinders MCC issuers' efforts to convert unused bond authority to MCCs before it expires.

Section 11: Eliminate Burdensome MCC Reporting Requirements

When a mortgage borrower receives an MCC, the lender of the underlying mortgage must report annually to the IRS certain information about the loan. Lenders find this reporting requirement burdensome, and it reduces their interest in participating in MCC programs.