



National Council of
State Housing Agencies

Downpayment Toward Equity Act of 2021

Below is a summary of the “Downpayment Toward Equity Act of 2021,” which was released by House Financial Services Committee Chair Maxine Waters (D-CA) on July 15, 2021. A version of the bill was also included in Waters’ “Housing is Infrastructure Act,” which was also introduced on July 15, 2021.

Updated July 16, 2021

- Authorization:** A grant program for states to be used for down payment assistance to first-generation homebuyers.
- Funding:** Authorizes \$100 billion to remain available until expended. The version included in the “Housing is Infrastructure Act” would authorize \$10 billion in funding for FYs 2021 through 2030.
- Federal Administration:** The program would be administered under the jurisdiction of the Department of Housing and Urban Development (HUD). Of the total appropriated each year, HUD must use at least five percent to support housing counseling activities.
- State Administration:** Any state receiving grants under this Act must administer the funds through its state housing finance agency (HFA) or another state housing agency Treasury considers appropriate. Agencies receiving the funds may of their own volition contract with nonprofit entities to help administer the funds.

In awarding grants through this program, grantees would be prohibited from giving priority to homebuyers purchasing their homes through HFAs or other state agency lending programs.

For a state to be eligible for funding under this Act, its HFA or other administering entity must have adopted a plan for affirmatively further fair housing that Treasury determines is compliance with HUD’s 2015 [Affirmatively Furthering Fair Housing rule](#).

Grant Formula: 75 percent of the funds appropriated each FY will be allocated by HUD to the states based on a formula that takes into account each state's population, median area home prices, and racial disparities in homeownership.

HUD would reallocate any unused funding at the end of each FY to states that demonstrate the capacity to use the money and that Treasury determines are meeting the program's goals.

HUD will award 25 percent of funds appropriated each FY to "Eligible Entities" on a competitive basis. "Eligible Entities" include Community Development Financial Institutions (CDFIs), Minority Depository Institutions, and other nonprofit, mission-driven entities that HUD determines target "services to minority and low-income populations and provides services in neighborhoods having high concentrations of minority and low-income populations."

Use of Funds & Admin: Funds may be used for:

- Assistance to help eligible homebuyers purchase a home, either through down payment assistance, closing costs assistance, or payments to reduce the interest rate on the mortgage. Assistance may be provided to homebuyers receiving assistance from other sources, including other federal, state, and local programs and private and nonprofit sources;
- Subsidies to make shared equity homes affordable to eligible homebuyers by discounting the price for which the home will be sold; and
- Funding for pre-occupation home modifications to accommodate eligible homebuyers or members of their household with disabilities.

Grantees may use no more than five percent of their grant amount for administrative and training costs.

Eligible Recipients: Funds under this Act may be provided to first-time homebuyers who meet income requirements and qualify as what the Act terms "first-generation" homebuyers.

"First-time homebuyers" are those who have not owned a home in the prior three years.

A “First-Generation Homebuyer” is any individual whose parents or guardians don’t currently own a home during the homebuyer’s lifetime and whose spouse has not owned a home in the last three years. Any individual who lived in foster care also qualifies as a first-generation homebuyer.

Regarding income, homebuyers must have an income at or below 120 percent of area median income (AMI) for either the area where the home being purchased is located or the area where the homebuyer’s place of residence is located. For homebuyers purchasing homes in high-cost areas, the income limit is increased to 180 percent of AMI for the area in which the home being purchased is located.

Assistance Limits:

Homebuyers may receive up to \$20,000 in assistance, or \$25,000 in assistance for homebuyers who qualify as a “socially and economically disadvantaged individual.” The Act permits HUD to increase the maximum assistance amount for qualified homebuyers purchasing residences located in high-cost areas.

The Act defines “socially disadvantaged individuals” as “those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.” An “economically disadvantaged individual” is one who meets the bill’s income requirements.

Any individual identifying as black, Hispanic, Asian American, Native American, or any combination thereof, will be presumed to meet this definition. Any individual who does not identify as such will have to prove by a preponderance of evidence that they are socially disadvantaged.

Eligible Mortgages:

Funds for the program can be used to assist in the purchase of any homes bought with a mortgage that

- Is eligible for purchase by Fannie Mae or Freddie Mac;
- Is insured by either FHA, VA or USDA;
- Meets the definition of a qualified mortgage;
- Is guaranteed under Section 184

Counseling Requirements:

Homebuyers receiving assistance under this Act must complete a home purchase counseling program provided through a HUD-

approved housing counseling agency. Counseling delivered virtually is permitted. If a homebuyer is unable to complete a housing counseling program within 30 days because of counselor capacity issues, states may permit the homebuyer to complete their homebuyer education online or through another alternative channel (and also make them aware of post-purchase counseling options).

Any individual who receives a commitment for assistance under the program but whose mortgage application is denied shall be referred to a HUD-approved counseling agency for home purchase counseling.

Repayment of Assistance: Homebuyers receiving assistance under this Act would be required to pay back all assistance they received if they stop occupying their home less than a year after purchase. The amount the homebuyer would be required to pay back would decrease 20 percent for each year they live in the home, and there would be no penalty after five years. The penalty would be waived should the homebuyer sell the home and realize a gain on sale less than the amount they are required to repay.

If a homebuyer repays assistance received through a Community Land Trust or shared equity program, the repaid assistance shall remain with the program to help keep the home affordable for the next buyer.