



National Council of  
State Housing Agencies

## Downpayment Toward Equity Act of 2022

*Below is a summary of the Downpayment Toward Equity Act of 2022 (H.R. 4495), which the House Financial Services Committee favorably reported on June 23. The bill was introduced by Committee Chair Maxine Waters (D-CA).*

*Updated June 23, 2022*

- Authorization:** A grant program for states to be used for down payment assistance to first-generation homebuyers.
- Funding:** Congress is authorized to appropriate \$100 billion for the program. Any funding appropriated for the program shall remain available until expended.
- Federal Administration:** The program would be administered under the jurisdiction of the Department of Housing and Urban Development (HUD). The agency would be tasked with developing uniform set of program standards that all grantees must meet.
- Of the total appropriated for the program, 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 HUD considers appropriate. Agencies receiving the funds may of their own volition contract with nonprofit entities to help administer the funds.
- 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 the

amount of potential homebuyers who would be eligible for assistance under the bill in each state and area median home prices.

HUD would reallocate any unused funding at the end of each fiscal year (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."

Treasury would be allowed to recapture funds from a grantee that does not demonstrate the capacity to distribute the funds in a timely manner; that HUD determines is distributing or planning to distribute the funds in a manner that will result in minority homebuyers not receiving assistance in proportion to their share of qualified homebuyers; or there is insufficient demand to distribute the funds.

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.

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

Grantees would also be prohibited from seeking to recoup any funds used to provide down payment assistance from the recipient.

Grantees would be able to use a portion of program funds for administrative expenses, up to a limit set by HUD.

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 never owned a home during the homebuyer’s lifetime and whose spouse has not owned a home in the last three years. Any first-time homebuyer 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 areas HUD deems to be high-cost, the income limit is increased to 140 percent of AMI for the area in which the home being purchased is located.

Assistance Limits:

Homebuyers may receive the greater \$20,000 or ten percent of the total purchase price in assistance. The act permits HUD to increase the maximum assistance amount for qualified homebuyers who qualify as a “socially and economically disadvantaged individual” and 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.” 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.

An “economically disadvantaged individual” is one who meets the bill’s income requirements.

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, other HUD mortgage insurance programs, or USDA;
- Meets the definition of a qualified mortgage;
- Is made, insured, or guaranteed for the benefit of a homebuyer who is a military veteran.

Counseling Requirements:

Homebuyers receiving assistance under this Act must complete a home purchase counseling program provided through a HUD-approved housing counseling agency. 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 five years 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, or if the homebuyer purchased the home through a shared equity program.