

S 1330 IS

109th CONGRESS
1st Session
S. 1330

To amend the Internal Revenue Code of 1986 to provide incentives for employer-provided employee housing assistance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

June 29, 2005

Mrs. CLINTON (for herself, Mr. SMITH, Mr. MARTINEZ, Mr. REED, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide incentives for employer-provided employee housing assistance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Housing America's Workforce Act'.

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings- The Congress finds the following:

- (1) Resurgent housing markets are pricing out low- and moderate-income families and are producing few lower-cost units. Housing production has failed to keep pace with job growth, also sending housing prices sky-high.
- (2) In many markets, housing costs have far outgrown the rate of inflation and the gap between wages and housing costs is widening, pushing affordable housing beyond the reach of an increasing number of working families.
- (3) Low- and moderate-income working families--especially in 'hot market' areas--face extraordinary difficulty finding affordable housing.
- (4) Despite the lowest mortgage rates in our Nation's history and Federal investments in rental housing and homebuyer assistance, millions of working families still find it extremely difficult to rent or purchase a home.

(5) The United States Department of Housing and Urban Development (HUD) considers housing affordable when a family spends no more than 30 percent of its monthly income on rent and utilities. Entry-level wage earners with annual incomes of up to \$30,000 spending no more than 30 percent of their income on rent can afford to pay up to \$750 for rent. In the high job-growth areas, such rents are not readily available.

(6) According to a study by the Center for Housing Policy in Washington, DC, the latest data available shows that in 2003, approximately 5 million families paid more than half of their income for housing or lived in dilapidated conditions, or both. This was despite the fact they were working full time jobs. Moreover, the number of working families with critical housing problems has increased 67 percent between 1997 and 2003.

(7) Affordable housing is the key to creating and sustaining healthy, economically vibrant communities.

(8) Many workers who fill jobs that provide the backbone of our communities--teachers, firefighters, police officers, hotel and restaurant workers--often cannot afford to live in the communities in which they serve.

(9) This has led to longer commutes resulting in increased traffic and pollution, lost productivity, and family stress. High-cost housing markets also hurt the ability of our businesses to attract new talent and the ability of our cities to attract new business.

(10) The lack of affordable housing, and resulting high housing costs in major regional economies across the United States have been shown to cause or contribute to labor shortages by acting as a brake on the in-migration of new employees while spurring out-migration of both workers and employers.

(11) Both the public and private sectors have recognized employer-assisted housing (EAH) programs as a strategy that can be tailored to address regional jobs-housing imbalances, revitalize communities, and support smart growth practices.

(12) For employees working in places where housing is unaffordable or scarce, or both and for those employers operating in distressed communities or who are having difficulty recruiting and retaining workers in locales where housing is unaffordable or scarce, employer-assisted housing can be a very much desired benefit and a cost-effective business strategy; and there are millions of employees and thousands of business that fit into this category.

(13) Employer-assisted housing is an innovative local solution that has increased affordable housing opportunities for thousands of working families across America while benefitting the economy.

(14) According to findings of the Rutgers University American Affordable Housing Institute, employer-assisted housing increases productivity by reducing commuting time as well as saves money on recruitment and retention.

(15) Surveys and research on employer attitudes towards employer-assisted housing report that employers continue to have difficulty obtaining information about employer-assisted housing. As a result, firms have difficulty assessing the costs of a housing benefit program.

(16) In most parts of the country, EAH has not been actively promoted by human resources professionals, the mainstream housing industry, including lenders, builders and real estate professionals, or by the affordable housing industry, led by community-based nonprofit organizations and national intermediaries.

(17) The future growth of employer-assisted housing programs will remain dependent upon increasing individual employer knowledge of these programs.

(18) Employer-assisted housing programs promise to be another creative solution in the search for more affordable housing. EAH programs will not solve the Nation's housing problems but such programs do seek to address the challenge from a new perspective and allow the private sector to play a direct role in promoting housing affordability. Additionally, EAH programs can help to promote redevelopment and reinvestment in distressed communities.

(19) Federal tax laws, with some exception, do not currently allow employees to exclude housing assistance received from an employer from their taxable income. By excluding the housing assistance from an employees' taxable income, the employee receives the full value of the housing benefit.

(b) Purposes- The purposes of this Act are as follows:

(1) To expand affordable housing opportunities to low- and moderate-income working individuals and families.

(2) To encourage employers, counties, and municipalities to invest in employer-assisted housing programs.

(3) To amend the Internal Revenue Code of 1986 to provide a tax credit to partially offset the costs of employer-assisted housing programs and to exclude from income amounts received by an employee from an employer as assistance towards the purchase of a principal residence and towards rental housing.

(4) To develop programs to publicize the employer-assisted housing concept and for outreach efforts to high-potential employers.

SEC. 3. TAX CREDIT FOR EMPLOYER-PROVIDED EMPLOYEE HOUSING ASSISTANCE.

(a) In General- Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

SEC. 45J. EMPLOYER-PROVIDED EMPLOYEE HOUSING ASSISTANCE.

`(a) Allowance of Credit-

`(1) IN GENERAL- For purposes of section 38, the employer-provided employee housing assistance credit determined under this section for any taxable year is an amount equal to 50 percent of the qualified housing expenses paid by the employer during the taxable year if such expenses are furnished pursuant to a program described in subsection (b).

`(2) PER EMPLOYEE LIMITATION-

`(A) IN GENERAL- The aggregate amount of qualified housing expenses taken into account with respect to any eligible employee for any taxable year shall not exceed, when added to any qualified housing expenses taken into account for any preceding taxable year with respect to such employee--

`(i) in the case of homeownership assistance, the lesser of \$10,000 or 6 percent of the purchase price of such employee's principal residence, and

`(ii) in the case of rental assistance, \$2,000.

`(B) INFLATION ADJUSTMENT-

`(i) IN GENERAL- In the case of any taxable year beginning after 2006, each dollar amount referred to in subparagraph (A) shall be increased by an amount equal to-

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` (I) such dollar amount, multiplied by

` (II) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting `2005' for `1992'.

`(ii) ROUNDING- If any amount as adjusted under clause (i) is not a multiple of \$50, such amount shall be rounded to the nearest multiple of \$50.

`(b) Housing Assistance Program- For purposes of this section, a housing assistance program is a separate written plan of an employer for the exclusive benefit of such employer's employees to provide the qualified housing expenses of such employees and which meets requirements similar to the requirements of paragraphs (2) through (6) of section 127(b).

`(c) Definitions and Special Rules- For purposes of this section--

`(1) ELIGIBLE EMPLOYEE- The term `eligible employee' means any individual--

`(A) employed by an employer,

`(B) whose household income does not exceed 120 percent of the area median gross income (adjusted for household size) for the area in which the housing is located, and

`(C) in the case of homeownership assistance, who is a qualified homebuyer.

If the housing with respect to such employee is located in a high housing cost area (as defined in section 143(f)(5)(C)), the income limitation under subparagraph (B) shall be adjusted (but not reduced) by the application of

the rule under section 143(f)(5) by substituting `120 percent' for `115 percent' in subparagraph (B)(I) thereof.

`(2) QUALIFIED HOUSING EXPENSES-

`(A) IN GENERAL- The term `qualified housing expenses' means rental assistance or homeownership assistance towards the lease or purchase of housing.

`(B) RENTAL ASSISTANCE- The term `rental assistance' means assistance with security deposits and rental payments.

`(C) HOMEOWNERSHIP ASSISTANCE- The term `homeownership assistance' means assistance for the purchase of a principal residence, including--

`(i) payment of qualified acquisition costs (as defined in section 72(t)(8)(C)),

`(ii) providing (or reducing the costs of) financing, including the funding of a permanent interest rate buydown,

`(iii) contributions to second mortgage pools or low interest loan programs accessible to eligible employees,

`(iv) mortgage guarantee programs for the repayment of any loans in default that are secured by an eligible employee and guaranteed by the employer,

`(v) contributions to eligible employee savings plans, including Individual Development Accounts (within the meaning of section 404(h) of the Social Security Act), designated exclusively for the purchase of a home, and

`(vi) contributions to homebuyer education and homeownership counseling of eligible employees.

`(3) PRINCIPAL RESIDENCE- The term `principal residence' has the same meaning as when used in section 121, except such term shall not include a residence with a purchase price exceeding the greater of--

`(A) 90 percent of the average area purchase price applicable to the residence, or

`(B) 3.5 times the family income limit applicable to the eligible employee under paragraph (1)(B).

`(4) QUALIFIED HOMEBUYER-

`(A) IN GENERAL- The term `qualified homebuyer' means--

`(i) any first-time homebuyer, or

`(ii) any individual if such individual (and if married, such individual's spouse) had no present ownership in a principal residence located within 50 miles of the individual's employer during the 2-year period ending on the date of the purchase of the principal residence to which this section applies.

`(B) FIRST-TIME HOMEBUYER- The term `first-time homebuyer' means any individual if such individual (and if married, such individual's spouse) had no present ownership in a

principal residence during the 2-year period ending on the date of the purchase of the principal residence to which this section applies.

`(C) ONE-TIME ONLY- If an individual is treated as a qualified homebuyer with respect to any principal residence, such individual may not be treated as a qualified homebuyer with respect to any other principal residence.

`(5) APPLICABLE RULES- Rules similar to the rules under paragraphs (3), (4), and (5)(A) of section 127(c) shall apply for the purposes of this section.

`(d) Treatment of Employers Not Able to Use Entire Credit-

`(1) ALLOWANCE OF CREDIT- Except as otherwise provided in this subsection any credit allowable under subsection (a) to any employer described in paragraph (2)(C) may be transferred as provided in this subsection and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the employer.

`(2) TRANSFER OF CREDIT-

`(A) IN GENERAL- An employer described in subparagraph (C) may transfer any credit to which paragraph (1) applies through an assignment to any other person. Such transfer may be revoked only with the consent of the Secretary.

`(B) REGULATIONS- The Secretary shall prescribe such regulations as necessary to ensure that any credit described in subparagraph (A) is assigned once and not reassigned by such other person.

`(C) EMPLOYER DESCRIBED- An employer is described in this subparagraph if the employer is--

`(i) a State or political subdivision thereof, the District of Columbia, a possession of the United States, or an agency or instrumentality of any of the foregoing,

`(ii) an Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

`(iii) any entity exempt from taxation under section 501(a).

`(D) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION- Any proceeds derived by a person described in clause (i) or (ii) of subparagraph (C) from the transfer under subparagraph (A) of any credit to which paragraph (1) applies shall be treated as arising from the exercise of an essential government function.

`(E) CREDIT NOT INCOME- Any transfer under subparagraph (A) of any credit to which paragraph (1) applies shall not be treated as income for purposes of section 501(c)(12).'

(b) Credit Allowed as Part of General Business Credit- Section 38(b) of the Internal Revenue Code of 1986 (defining current year business credit) is amended by striking 'plus' at the end of paragraph (18), by striking the period at the end of

paragraph (19) and inserting ` , plus', and by adding at the end the following new paragraph:

`(20) the employer-provided employee housing assistance credit determined under section 45J(a).'

(c) Conforming Amendments-

(1) Subsection (c) of section 196 of the Internal Revenue Code of 1986 is amended by striking `and' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ` , and', and by adding at the end the following new paragraph:

`(13) the employer-provided employee housing assistance credit determined under section 45J(a).'

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

`Sec. 45J. Employer-provided employee housing assistance.'

(d) Effective Date- The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 4. EXCLUSION FROM INCOME OF EMPLOYER-PROVIDED EMPLOYEE HOUSING ASSISTANCE.

(a) In General- Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by inserting after section 139A the following new section:

`SEC. 139B. EMPLOYEE HOUSING ASSISTANCE PROGRAMS.

`(a) Exclusion From Gross Income-

`(1) IN GENERAL- Gross income of an eligible employee does not include amounts paid or incurred by the employer of such employee for qualified housing expenses provided to the employee if the assistance is furnished pursuant to a program described in subsection (b).

`(2) LIMITATION-

`(A) IN GENERAL- The aggregate amount of qualified housing expenses which may be excluded under paragraph (1) with respect to any eligible employee for any taxable year shall not exceed, when added to any qualified housing expenses excluded in any preceding taxable year with respect to such employee--

`(i) in the case of homeownership assistance, the lesser of \$10,000 or 6 percent of the purchase price of such employee's principal residence, and

`(ii) in the case of rental assistance, \$2,000.

`(B) INFLATION ADJUSTMENT-

`(i) IN GENERAL- In the case of any taxable year beginning after 2006, each dollar amount referred to in

subparagraph (A) shall be increased by an amount equal to-

- `(I) such dollar amount, multiplied by
- `(II) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting `2005' for `1992'.

`(ii) ROUNDING- If any amount as adjusted under clause (i) is not a multiple of \$50, such amount shall be rounded to the nearest multiple of \$50.

`(b) Housing Assistance Program- For purposes of this section, a housing assistance program is a separate written plan of an employer for the exclusive benefit of such employer's employees to provide the qualified housing expenses of such employees and which meets requirements similar to the requirements of paragraphs (2) through (6) of section 127(b).

`(c) Definitions; Special Rules- For purposes of this section--

`(1) IN GENERAL- Any term used in section 45J which is also used in this section shall have the same meaning as given such term by section 45J.

`(2) APPLICABLE RULES- Rules similar to the rules under paragraphs (3), (4), and (5)(A) of section 127(c) shall apply for purposes of this section.

`(3) BASIS ADJUSTMENT- For purposes of this subtitle, if an exclusion is allowed under subsection (a) with respect to a residence, the basis of such residence shall be reduced by the amount of the exclusion.'

(b) Reporting Requirements- Subsection (d)(1) of section 6039D of the Internal Revenue Code of 1986 (relating to returns and records with respect to certain fringe benefit plans) is amended by striking `or 137' and inserting `137, or 139B'.

(c) Conforming Amendments-

(1) The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 139A the following new item:

`Sec. 139B. Employee housing assistance programs.'

(2) Subsection (a) of section 1016 of such Code (relating to adjustments to basis) is amended by striking `and' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting `, and', and by adding at the end the following new paragraph:

`(32) in the case of a residence with respect to which amounts were excluded from income under section 139B, to the extent provided in section 139B(c)(3).'

(d) Effective Date- The amendments made by this section shall apply to taxable years beginning December 31, 2005.

SEC. 5. GRANTS TO COVER EMPLOYER-ASSISTED HOUSING PROGRAM COSTS.

(a) Grants Authorized-

(1) IN GENERAL- The Secretary may award a grant to an eligible entity to pay--

- (A) the operating costs of administering an employer-assisted housing program;
- (B) for technical assistance provided by the eligible entity to an employer in connection with such a program; and
- (C) for costs associated with promoting, publicizing, or otherwise attempting to distribute information relating to such a program.

(2) DURATION- Grants may be awarded under this subsection during fiscal years 2006, 2007, and 2008.

(3) AWARD BASIS- The Secretary shall award grants under this section on a competitive basis.

(b) Eligible Entities- To be eligible to receive a grant under this section, an entity shall demonstrate that it is--

- (1) a nonprofit housing organization with a relevant mission and demonstrated track record in housing counseling or employer-assisted housing contracted by an employer to assist the employer in establishing or maintaining an employer-assisted housing program; or
- (2) a city, county, town, township, parish, village, hamlet, or other general purpose political subdivision of a State that seeks to establish or maintain, or otherwise participate in an employer-assisted housing program for its own employees.

(c) Application- Each eligible entity seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) Limitation on Use of Funds- A grant awarded to an eligible entity under this section shall be used only for the purposes described under subsection (a).

(e) Reports-

(1) IN GENERAL- Each eligible entity receiving a grant under this section shall annually prepare and submit to the Secretary a report that describes the--

- (A) amount of grant funds expended during the year;
- (B) total amount--
 - (i) of funds expended during the year to administer an employer-assisted housing program; and
 - (ii) of down payment assistance provided by such a program;
- (C) total number of employees utilizing such a program;
- (D) number of employees utilizing such a program--
 - (i) who are time homebuyers;
 - (ii) who are previous homeowners; and
 - (iii) who live in high-cost housing areas;
- (E) average--
 - (i) income of employees utilizing such a program;
 - (ii) age of employees utilizing such a program; and

- (iii) cost of a home purchased under such a program;
 - (F) ethnicity of employees utilizing such a program; and
 - (G) number of housing units affected by such a program.
- (2) CLEARINGHOUSE AND DISSEMINATION-
- (A) IN GENERAL- Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a national clearinghouse, including a website, designed--
 - (i) to provide information about employer-assisted housing programs to--
 - (I) Federal, State, and local government entities; and
 - (II) interested groups, businesses, persons, and organizations; and
 - (ii) to collect and disseminate the information gathered from the reports required under paragraph (1).
 - (B) WEBPOSTING- The Secretary shall ensure that--
 - (i) each report submitted under paragraph (1) is posted to the website of the national clearinghouse established under subparagraph (A); and
 - (ii) the website of the Department of Housing and Urban Development provides a hyperlink to such reports on the website of the national clearinghouse.
- (f) Definitions- As used in this section:
- (1) SECRETARY- The term `Secretary' means the Secretary of Housing and Urban Development.
 - (2) NONPROFIT HOUSING ORGANIZATION- The term `nonprofit housing organization' means any organization that--
 - (A) the Internal Revenue Service has ruled is exempt from income taxation under paragraphs (3), (4), or (5) of section 501(c) of the Internal Revenue Code of 1986; and
 - (B) has as its stated purpose to produce, maintain, operate, or promote affordable housing.
- (g) Authorization of Appropriations- There are authorized to be appropriated \$5,000,000 for each of fiscal years 2006, 2007, and 2008 to carry out this section, which shall remain available until expended.

SEC. 6. EVALUATION OF EMPLOYER-ASSISTED HOUSING PROGRAMS.

- (a) In General- A study of employer-assisted programs shall be carried out in accordance with subsection (b) for the purposes of evaluating the effects of the tax benefits provided under sections 3 and 4 and the grant program established under section 5 on--
 - (1) such programs; and
 - (2) the private sector resources leveraged to further fund such programs.
- (b) National Evaluation-

(1) IN GENERAL- The Comptroller General of the United States (in this section referred to as the `Comptroller General') shall conduct the study required under subsection (a).

(2) REQUIREMENTS- The study required under subsection (a) shall include an analysis and summary of--

(A) the total number of--

(i) employers participating in employer-assisted housing programs;

(ii) States that have enacted employer-assisted housing program legislation; and

(iii) States considering enacting such legislation;

(B) the extent to which Federal funds are being used to support employer-assisted housing programs;

(C) the size and nature of existing Federal, State, and private employer-assisted housing programs;

(D) the types of assistance offered to employees under employer-assisted housing programs;

(E) the distribution of employers offering employer-assisted housing programs, including a review of the--

(i) geographic distribution of such employers;

(ii) industry distribution of such employers; and

(iii) size distribution of such employers;

(F) the extent to which employer-assisted housing programs are located in `high-cost' housing markets;

(G) the extent to which employers are able to, and have made, use of the tax benefits provided under this Act;

(H) the information contained in the reports submitted under section 5(e);

(I) any other information that the Comptroller General determines would be relevant and helpful to the Secretary of Housing and Urban Development (in this section referred to as the `Secretary') in evaluating the effects of the tax benefits provided under sections 3 and 4 and the grant program established under section 5.

(c) Consultation- In conducting the study required under subsection (a), the Comptroller General shall consult with--

(1) appropriate Federal, State, and local government entities; and

(2) interested groups, businesses, persons, universities, and organizations.

(d) Report-

(1) INTERIM REPORT- Not later than January 1, 2008, the Comptroller General shall submit to the Secretary an interim report on the findings of the study required under subsection (a).

(2) FINAL REPORT- Not later than December 31, 2009, the Comptroller General shall submit to the Secretary a final report that describes--

(A) the findings of the study required under subsection (a); and

(B) any conclusions and recommendations of such study.

(e) Authorization of Appropriations- There are authorized to be appropriated \$1,000,000 to carry out this section.

END