

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4495
OFFERED BY MS. WATERS OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Downpayment Toward
3 Equity Act of 2022”.

**4 SEC. 2. FIRST-GENERATION DOWNPAYMENT ASSISTANCE
5 PROGRAM.**

6 (a) ESTABLISHMENT.—The Secretary of Housing
7 and Urban Development shall carry out a program under
8 this Act to provide grants to States and eligible entities
9 to provide financial assistance under this Act to first-gen-
10 eration homebuyers to assist them with acquiring owner-
11 occupied primary residences.

12 (b) ALLOCATION.—After reserving amounts as re-
13 quired under sections 6(d) and 8(b), any remaining
14 amounts made available to carry out this Act shall be allo-
15 cated as follows:

16 (1) STATES.—75 percent of such amounts shall
17 be allocated among States in accordance with a for-
18 mula established by the Secretary, which shall take

1 into consideration best available data to provide
2 more funding to States with a higher approximate
3 number of potential qualified homebuyers (as such
4 term is defined in section 10) and adjusted to reflect
5 median area home prices.

6 (2) ELIGIBLE ENTITIES.—25 percent of such
7 amounts shall be made available only to eligible enti-
8 ties on a competitive basis.

9 (c) ASSISTANCE.—Amounts from a grant under this
10 Act shall be used only to provide assistance—

11 (1) on behalf of a qualified homebuyer; and

12 (2) for—

13 (A) costs in connection with the acquisi-
14 tion, involving an eligible mortgage loan, of an
15 eligible home, including downpayment costs,
16 closing costs, and costs to reduce the rates of
17 interest on eligible mortgage loans;

18 (B) for subsidies to make shared equity
19 homes affordable to eligible homebuyers by dis-
20 counting the price for which the home will be
21 sold and to preserve the home's affordability for
22 subsequent eligible buyers; and

23 (C) for pre-occupancy home modifications
24 required to accommodate qualified homebuyers
25 or members of their household with disabilities.

1 (d) AMOUNT.—A grant of assistance under this
2 Act—

3 (1) may be provided on behalf of any qualified
4 homebuyer only once; and

5 (2) may not exceed the greater of \$20,000 or
6 10 percent of the purchase price in the case of a
7 qualified homebuyer, not to include assistance re-
8 ceived under subsection (e)(2)(C) for disability re-
9 lated home modifications, except that the Secretary
10 may increase such maximum limitation amounts for
11 qualified homebuyers who are socially and economi-
12 cally disadvantaged, except that the Secretary may
13 increase such maximum limitation amounts in the
14 case of qualified homebuyers acquiring residences lo-
15 cated in high-cost areas, as determined based on me-
16 dian home prices or prices of residences under a
17 shared equity homeownership program.

18 (e) LAYERING OF ASSISTANCE.—Assistance from
19 grant amounts under this Act may be provided on behalf
20 of a qualified homebuyer who is receiving assistance from
21 other sources, including other State, Federal, local, pri-
22 vate, public, and nonprofit sources, for acquisition of an
23 eligible home.

24 (f) STATE ADMINISTRATION.—

1 (1) IN GENERAL.—The Secretary shall require
2 that each State receiving grant amounts under this
3 Act administer the program to provide assistance
4 with such amounts through the State housing fi-
5 nance agency for the State or such other housing
6 agency of the State as the Secretary finds appro-
7 priate, except that any such agency may, at the op-
8 tion of the agency, contract with a nonprofit entity,
9 including a housing counseling agency approved by
10 the Secretary, to administer such assistance.

11 (2) AFFIRMATIVELY FURTHERING FAIR HOUS-
12 ING.—For a State to be eligible for a grant under
13 this Act, the State shall be in compliance with the
14 Secretary’s regulations implementing the require-
15 ment under section 808(e)(5) of the Fair Housing
16 Act (42 U.S.C. 3608(e)(5)) to affirmatively further
17 fair housing.

18 (3) PROHIBITION OF PRIORITY OR
19 RECOUPMENT OF FUNDS.—In selecting qualified
20 homebuyers for assistance with grant amounts under
21 this Act, a State or eligible entity may not provide
22 any priority or preference for homebuyers who are
23 acquiring eligible homes with a mortgage loan made,
24 insured, guaranteed, or otherwise assisted by the
25 State housing finance agency for the State, any

1 other housing agency of the State, or an eligible en-
2 tity when applicable, nor may the State or eligible
3 entity seek to recoup any funds associated with the
4 provision of downpayment assistance to the qualified
5 homebuyer, whether through premium pricing or
6 otherwise, except as provided in subsection (g) or
7 otherwise authorized by the Secretary.

8 (g) RECAPTURE AND REALLOCATION.—The Sec-
9 retary shall require changes in a grantee’s policy or dis-
10 tribution of funds or recapture any amounts remaining
11 available to a grantee, and reallocate such funds among
12 other States and eligible entities, if the Secretary deter-
13 mines in his or her sole discretion that—

14 (1) a State or eligible entity—

15 (A) has not demonstrated the capacity to
16 expend grant funds in a timely manner that
17 furthers the purposes under this Act; or

18 (B) is distributing or plans to distribute
19 grant funds in a manner that results or will
20 predictably result in qualified homebuyers from
21 racial or ethnic groups that have faced historic
22 obstacles to homeownership failing to receive
23 the benefits of such funds in proportion to their
24 population among qualified homebuyers in the
25 relevant area; or

1 (2) there is insufficient demand among qualified
2 eligible entities to distribute fund.

3 (h) UNIFORMITY AND PROGRAM STANDARDIZA-
4 TION.—The Secretary shall establish a uniform set of re-
5 quirements to which each State and eligible entity receiv-
6 ing grant amounts under this Act shall comply.

7 **SEC. 3. QUALIFIED HOMEBUYERS.**

8 (a) REQUIREMENTS.—Assistance from grant
9 amounts under this Act may be provided only on behalf
10 of a homebuyer who meets all of the following require-
11 ments:

12 (1) INCOME.—The household of the homebuyer
13 has an income that does not exceed—

14 (A) 120 percent of median income for the
15 area (as determined by the Secretary) within
16 which—

17 (i) the eligible home to be acquired
18 using such assistance is located; or

19 (ii) the place of residence of the home-
20 buyer is located; or

21 (B) in the case of a homebuyer acquiring
22 an eligible home that is located in a high-cost
23 area, as determined by the Secretary, 140 per-
24 cent of the median income for the area within

1 which the eligible home to be acquired using
2 such assistance is located.

3 (2) **FIRST-TIME HOMEBUYER.**—The homebuyer,
4 as self-attested by the homebuyer, is a first-time
5 homebuyer, as such term is defined in section 104
6 of the Cranston Gonzalez National Affordable Hous-
7 ing Act (42 U.S.C. 12704), except that for the pur-
8 poses of this Act the reference in such section 104
9 to title II shall be considered to refer to this Act,
10 and except that ownership of heir property shall not
11 be treated as owning a home for purposes of deter-
12 mining whether a borrower qualifies as a first-time
13 homebuyer.

14 (3) **FIRST-GENERATION HOMEBUYER.**—The
15 term “first-generation homebuyer” means a home-
16 buyer that is, as self-attested by the homebuyer—

17 (A) an individual—

18 (i) whose parents or legal guardians
19 do not, or did not at the time of their
20 death, to the best of the individual’s knowl-
21 edge, have any present ownership interest
22 in a residence in any State, excluding own-
23 ership of heir property or ownership of
24 chattel; and

1 (ii) whose spouse or domestic partner
2 has not, during the 3-year period ending
3 upon acquisition of the eligible home to be
4 acquired using such assistance, had any
5 present ownership interest in a residence
6 in any State, excluding ownership of heir
7 property or ownership of chattel, whether
8 the individual is a co-borrower on the loan
9 or not; or

10 (B) an individual who has at any time
11 been placed in foster care or institutional care
12 whose spouse or domestic partner has not, dur-
13 ing the 3-year period ending upon acquisition of
14 the eligible home to be acquired using such as-
15 sistance, had any ownership interest in a resi-
16 dence in any State, excluding ownership of heir
17 property or ownership of chattel, whether such
18 individuals are co-borrowers on the loan or not.

19 (b) RELIANCE ON BORROWER ATTESTATIONS.—No
20 additional documentation beyond the borrower's attesta-
21 tion shall be required to demonstrate eligibility under
22 paragraph (3) of subsection (a), and no creditor shall be
23 subject to liability, including monetary penalties or re-
24 quirements to indemnify a Federal agency or repurchase
25 a loan that has been sold or securitized, for the provision

1 of downpayment assistance under this Act to a borrower
2 who does not meet the eligibility requirements if the cred-
3 itor does so in good faith reliance on borrower attestations
4 of eligibility required by this Act or regulation.

5 **SEC. 4. ELIGIBLE HOMES.**

6 (a) IN GENERAL.—Assistance from grant amounts
7 under this Act may be provided only in connection with
8 the acquisition by a qualified homebuyer of a residential
9 property that—

10 (1) consists of 1 to 4 dwelling units; and

11 (2) will be occupied by the qualified homebuyer,
12 in accordance with such assurances and commit-
13 ments as the Secretary shall require, as the primary
14 residence of the homebuyer, subject to section 3.

15 (b) REPAYMENT OF ASSISTANCE.—

16 (1) REQUIREMENT.—The Secretary shall re-
17 quire that, if a homebuyer to or on behalf of whom
18 assistance is provided from grant amounts under
19 this Act fails or ceases to occupy the property ac-
20 quired using such assistance as the primary resi-
21 dence of the homebuyer, except in the case of assist-
22 ance provided in connection with the purchase of a
23 principal residence through a shared equity home-
24 ownership program, the homebuyer shall repay to
25 the State or eligible entity, as applicable, in a pro-

1 portional amount of the assistance the home buyer
2 receives based on the number of years they have oc-
3 cupied the eligible home up to 5 years, except that
4 no assistance shall be repaid if the qualified home-
5 buyer occupies the eligible home as a primary resi-
6 dence for 5 years or more.

7 (2) **LIMITATION.**—Notwithstanding subpara-
8 graph (A), a homebuyer to or on behalf of whom as-
9 sistance is provided from grant amounts under this
10 Act shall not be liable to the State or eligible entity
11 for the repayment of the amount of such shortage
12 if the homebuyer fails or ceases to occupy the prop-
13 erty acquired using such assistance as the principal
14 residence of the homebuyer at least in part because
15 of a hardship, or sells the property acquired with
16 such assistance before the expiration of the 60-
17 month period beginning on such date of acquisition
18 and the capital gains from such sale to a bona fide
19 purchaser in an arm’s length transaction are less
20 than the amount the homebuyer is required to repay
21 the State or eligible entity under subparagraph (A).

22 **SEC. 5. ELIGIBLE MORTGAGE LOANS.**

23 Assistance from grant amounts under this Act may
24 be provided only in connection with the acquisition of an
25 eligible home involving a residential mortgage loan that—

1 (1) meets the underwriting requirements and
2 dollar amount limitations for acquisition by the Fed-
3 eral National Mortgage Association or the Federal
4 Home Loan Mortgage Corporation;

5 (2) is made, insured, or guaranteed under any
6 program administered by the Secretary;

7 (3) is made, insured, or guaranteed by the
8 Rural Housing Administrator of the Department of
9 Agriculture;

10 (4) is a qualified mortgage, as such term is de-
11 fined in section 129C(b)(2) of the Truth in Lending
12 Act (15 U.S.C. 1639c(b)(2)); or

13 (5) is guaranteed for the benefit of a veteran.

14 **SEC. 6. HOUSING COUNSELING REQUIREMENT.**

15 (a) IN GENERAL.—Except as provided pursuant to
16 section 3, assistance with grant amounts under this Act
17 may not be provided on behalf of qualified homebuyer un-
18 less such homebuyer has completed a program of coun-
19 seling with respect to the responsibilities and financial
20 management involved in homeownership before entering
21 into a sales purchase agreement or loan application, except
22 as provided under subsection (c), as the Secretary shall
23 require, provided through a counseling agency approved
24 by the Secretary. Such program may be delivered in-per-
25 son, virtually, by telephone, or any other method the Sec-

1 retary determines acceptable and shall include providing
2 information on fair housing rights and on the availability
3 of post-purchase housing counseling opportunities and in-
4 struction on how to file a fair housing complaint.

5 (b) ALTERNATIVE REQUIREMENT.—The Secretary
6 shall provide that if a qualified homebuyer is unable to
7 complete the requirement under subsection (a) within 30
8 days due to housing counseling agency capacity issues, a
9 State or eligible entity may allow such qualified home-
10 buyer to complete alternative homebuyer education to ful-
11 fill the requirement under subsection (a), including home-
12 buyer education that is provided through an online plat-
13 form, and such qualified homebuyer shall be made aware
14 of the availability of post-purchase housing counseling op-
15 portunities.

16 (c) REFERRAL UPON MORTGAGE DENIAL.—The Sec-
17 retary shall require that any qualified homebuyer who has
18 completed a counseling program referred to in subsection
19 (a) or alternative requirement pursuant to subsection (b),
20 who receives a commitment for assistance with grant
21 amounts under this Act and who applies for an eligible
22 mortgage loan for acquisition of an eligible home and is
23 denied such mortgage loan, shall be referred to a coun-
24 seling agency described in subsection (a) for counseling
25 relating to such denial and for re-qualification. An eligible

1 homebuyer may be re-qualified at least one additional time
2 in a calendar year, or more as determined by the Sec-
3 retary.

4 (d) FUNDING.—Of any amounts appropriated to
5 carry out this Act, the Secretary shall use not less than
6 5 percent for costs of providing counseling referred to in
7 subsection (a).

8 **SEC. 7. ADMINISTRATIVE COSTS.**

9 States and eligible entities receiving grant amounts
10 under this Act may use a portion of such amounts for
11 administrative costs up to the limit specified by the Sec-
12 retary.

13 **SEC. 8. REPORTS.**

14 (a) IN GENERAL.—For each fiscal year during which
15 the Secretary makes grants under this Act, the Secretary
16 shall submit to the Congress, and make publicly available
17 online in an easily accessible location on the website of
18 the Department, a report that shall include—

19 (1) demographic information regarding appli-
20 cants for and recipients of assistance provided pur-
21 suant to this Act, including race, ethnicity, and gen-
22 der;

23 (2) information regarding the types and amount
24 of assistance provided, including downpayment as-

1 sistance, assistance with closing costs, and assist-
2 ance to reduce mortgage loan interest rates; and

3 (3) information regarding properties acquired
4 using such assistance, including location, property
5 value, property type, and first mortgage type and in-
6 vestor.

7 All data shall be disaggregated by zip code or census tract
8 level, whichever is most feasible, and demographic infor-
9 mation, including race, ethnicity, and gender, and any
10 other data points the Secretary deems appropriate espe-
11 cially to observe equitable outcomes to ensure the program
12 is affirmatively furthering fair housing.

13 (b) CAPACITY BUILDING.—Of any amounts appro-
14 priated to carry out this Act, the Secretary shall use not
15 more than 1 percent to assist States and eligible entities
16 to develop capacity to meet the reporting requirements
17 under subsection (a). The Secretary shall encourage
18 States and eligible entities to consult with community-
19 based and nonprofit organizations that have as their mis-
20 sion to advance fair housing and fair lending.

21 (c) PRIVACY REQUIREMENTS.—

22 (1) IN GENERAL.—Each State and eligible enti-
23 ty that receives a grant under this Act shall estab-
24 lish data privacy and security requirements for the
25 information described in subsection (a) that—

1 (A) include appropriate measures to ensure
2 that the privacy of the individuals and house-
3 holds is protected;

4 (B) provide that the information, including
5 any personally identifiable information, is col-
6 lected and used only for the purpose of submit-
7 ting reports under subsection (a); and

8 (C) provide confidentiality protections for
9 data collected about any individuals who are
10 survivors of intimate partner violence, sexual
11 assault, or stalking.

12 (2) STATISTICAL RESEARCH.—

13 (A) IN GENERAL.—The Secretary—

14 (i) may provide full and unredacted
15 information provided under subsection (a),
16 including personally identifiable informa-
17 tion, for statistical research purposes in ac-
18 cordance with existing law; and

19 (ii) may collect and make available for
20 statistical research, at the census tract
21 level, information collected under para-
22 graph (1).

23 (B) APPLICATION OF PRIVACY REQUIRE-
24 MENTS.—A recipient of information under sub-
25 paragraph (A) shall establish for such informa-

1 tion the data privacy and security requirements
2 described in paragraph (1).

3 **SEC. 9. COMPELLING INTEREST STUDY.**

4 The Secretary, in consultation with the Attorney
5 General, shall survey and compile evidence to determine
6 whether or not there is a sufficient history of discrimina-
7 tion in housing and, if so, the appropriate remedy to re-
8 dress such historic discrimination. The Secretary shall
9 make conclusions and recommendations based on the evi-
10 dence and provide States and eligible entities granted
11 awards under this Act an opportunity to modify their pro-
12 grams for assistance under this Act according to such rec-
13 ommendations.

14 **SEC. 10. DEFINITIONS.**

15 For purposes of this Act, the following definitions
16 shall apply:

17 (1) **AFFIRMATIVELY FURTHER FAIR HOUS-**
18 **ING.**—The term “affirmatively further fair housing”
19 has the same meaning as defined by the Secretary
20 to implement section 808(e)(5) of the Fair Housing
21 Act (42 U.S.C. 3608(e)(5)).

22 (2) **ELIGIBLE ENTITY.**—The term “eligible enti-
23 ty” means—

24 (A) a minority depository institution, as
25 such term is defined in section 308 of the Fi-

1 nancial Institutions Reform, Recovery, and En-
2 forcement Act of 1989 (12 U.S.C. 1463 note);

3 (B) a community development financial in-
4 stitution, as such term is defined in section 103
5 of the Riegle Community Development and
6 Regulatory Improvement Act of 1994 (12
7 U.S.C. 4702), that is certified by the Secretary
8 of the Treasury and targets services to minority
9 and low-income populations or provides services
10 in neighborhoods having high concentrations of
11 minority and low-income populations;

12 (C) any other nonprofit, mission-driven en-
13 tity that the Secretary finds has a track record
14 of providing assistance to homeowners, targets
15 services to minority and low-income popu-
16 lations, or provides services in neighborhoods
17 having high concentrations of minority and low-
18 income population; and

19 (D) a unit of general local government, as
20 such term is defined in section 102 of the
21 Housing and Community Development Act of
22 1974 (42 U.S.C. 5302).

23 (3) **ELIGIBLE HOME.**—The term “eligible
24 home” means a residential dwelling, including a unit
25 in a condominium or cooperative project or a manu-

1 factured housing unit, that meets the requirements
2 of section 4.

3 (4) ELIGIBLE MORTGAGE LOAN.—The term “el-
4 ible mortgage loan” means a residential mortgage
5 loan that meets the requirements of section 5.

6 (5) HEIR PROPERTY.—The term “heir prop-
7 erty” means residential property for which title
8 passed by operation of law through intestacy and is
9 held by two or more heirs as tenants in common.

10 (6) OWNERSHIP INTEREST.—The term “owner-
11 ship interest” means any ownership, excluding any
12 interest in heir property, in—

13 (A) real estate in fee simple;

14 (B) a leasehold on real estate under a lease
15 for not less than ninety-nine years which is re-
16 newable; or

17 (C) a fee interest in, or long-term leasehold
18 interest in, real estate consisting of a one-family
19 unit in a multifamily project, including a
20 project in which the dwelling units are attached,
21 or are manufactured housing units, semi-de-
22 tached, or detached, and an undivided interest
23 in the common areas and facilities which serve
24 the project.

1 (7) QUALIFIED HOMEBUYER.—The term
2 “qualified homebuyer” means a homebuyer who
3 meets the requirements of section 3, and includes
4 homebuyers consisting of multiple individuals, co-
5 purchasers, and multi-member households.

6 (8) SECRETARY.—The term “Secretary” means
7 the Secretary of Housing and Urban Development.

8 (9) SHARED EQUITY HOMEOWNERSHIP PRO-
9 GRAM.—The term “shared equity homeownership
10 program” means affordable homeownership preser-
11 vation through a resale restriction program adminis-
12 tered by a community land trust, other nonprofit or-
13 ganization, or State or local government or instru-
14 mentalities.

15 (10) SOCIALLY AND ECONOMICALLY DISADVAN-
16 TAGED INDIVIDUAL.—The term “socially and eco-
17 nomically disadvantaged individual” means an indi-
18 vidual who meets the following requirements:

19 (A) SOCIAL DISADVANTAGE.—

20 (i) IN GENERAL.—The individual is a
21 member of a socially disadvantaged group,
22 whose members have historically been sub-
23 jected to racial or ethnic discrimination
24 within the United States because of their

1 identity as members of such group without
2 regard to their individual qualities.

3 (ii) PRESUMPTION; REBUTTAL.—An
4 individual identifying as Black, Hispanic,
5 Native American, or Asian American, or
6 any combination thereof, shall be presumed
7 to be socially disadvantaged for purposes
8 of clause (i). Such presumption may be re-
9 butted by such individual with credible evi-
10 dence to the contrary.

11 (iii) BURDEN OF PROOF.—An indi-
12 vidual who does not identify as described
13 in clause (ii) shall be required to establish
14 individual social disadvantage for purposes
15 of clause (i) by a preponderance of the evi-
16 dence.

17 (iv) RULES.—The Secretary may
18 issue regulations as necessary to establish
19 procedures for complying with this sub-
20 paragraph.

21 (B) ECONOMIC DISADVANTAGE.—The indi-
22 vidual has an income that meets the require-
23 ments under section 3(a).

24 (11) STATE.—The term “State” means any
25 State of the United States, the District of Columbia,

1 the Commonwealth of Puerto Rico, the United
2 States Virgin Islands, Guam, the Commonwealth of
3 the Northern Mariana Islands, American Samoa,
4 and the tribal government of any Indian tribe, as
5 such term is defined in section 4 of the Native
6 American Housing Assistance and Self-Determina-
7 tion Act of 1996 (25 U.S.C. 4103).

8 **SEC. 11. IMPLEMENTATION.**

9 The Secretary shall have the authority to establish
10 by notice or mortgagee letter any requirements that the
11 Secretary determines are necessary for timely and effec-
12 tive implementation of the program and expenditure of
13 funds appropriated, which requirements shall take effect
14 upon issuance.

15 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

16 There is authorized to be appropriated for grants
17 under this Act \$100,000,000,000, and any amounts ap-
18 propriated pursuant to this section shall remain available
19 until expended.

