

117TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to provide a credit for investment in Community Development Financial Institutions.

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IN THE SENATE OF THE UNITED STATES

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Mr. WARNER (for himself, Mr. WICKER, Mrs. HYDE-SMITH, and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## A BILL

To amend the Internal Revenue Code of 1986 to provide a credit for investment in Community Development Financial Institutions.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Develop-  
5 ment Investment Tax Credit Act of 2022”.

6 **SEC. 2. COMMUNITY DEVELOPMENT FINANCIAL INSTITU-**  
7 **TION INVESTMENT TAX CREDIT.**

8 (a) IN GENERAL.—Subpart D of part IV of sub-  
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new  
2 section:

3 **“SEC. 45U. COMMUNITY DEVELOPMENT FINANCIAL INSTI-  
4 TUTION INVESTMENT TAX CREDIT.**

5 “(a) ALLOWANCE OF CREDIT.—

6 “(1) IN GENERAL.—For purposes of section 38,  
7 in the case of a taxpayer who holds a qualified  
8 CDFI investment on a credit allowance date of such  
9 investment which occurs during the taxable year, the  
10 CDFI investment credit determined under this sec-  
11 tion for such taxable year is an amount equal to the  
12 applicable percentage of the amount paid to the  
13 qualified community development financial institu-  
14 tion for such investment at its original issue.

15 “(2) APPLICABLE PERCENTAGE.—For purposes  
16 of paragraph (1)—

17 “(A) IN GENERAL.—The applicable per-  
18 centage is—

19 “(i) 3 percent with respect to the first  
20 10 credit allowance dates, and

21 “(ii) 4 percent with respect to the 10  
22 credit allowance dates following the last  
23 credit allowance date to which clause (i)  
24 applies.

1           “(B) INCREASED AMOUNT FOR CERTAIN  
2 INVESTMENTS.—In the case of a qualified  
3 CDFI investment which does not have a fixed  
4 term or duration, the applicable percentage for  
5 any credit allowance date shall be increased by  
6 one percentage point.

7           “(3) CREDIT ALLOWANCE DATE.—

8           “(A) IN GENERAL.—For purposes of para-  
9 graph (1), the term ‘credit allowance date’  
10 means, with respect to any qualified CDFI in-  
11 vestment—

12                   “(i) the date which is one year after  
13 the date on which such investment is ini-  
14 tially made, and

15                   “(ii) each of the 19 anniversary dates  
16 of such date thereafter.

17           “(B) LIMITATION.—Notwithstanding sub-  
18 paragraph (A), a date shall not be treated as a  
19 credit allowance date with respect to any quali-  
20 fied CDFI investment if such date occurs after  
21 any date on which—

22                   “(i) the financial institution in which  
23 such CDFI investment is made ceases to  
24 be a qualified community development fi-  
25 nancial institution, or

1                   “(ii) such investment is redeemed, re-  
2                   purchased, or otherwise repaid by the  
3                   qualified community development financial  
4                   institution which issued such investment.

5           “(b) QUALIFIED CDFI INVESTMENT.—For purposes  
6 of this section—

7                   “(1) IN GENERAL.—The term ‘qualified CDFI  
8                   investment’ means any investment in a qualified  
9                   community development financial institution if—

10                   “(A) such investment is acquired by the  
11                   taxpayer at its original issue (directly or  
12                   through an underwriter) solely in exchange for  
13                   cash,

14                   “(B) such investment is in the form of—

15                           “(i) non-voting stock or an equity  
16                           equivalent investment,

17                           “(ii) an interest in an entity which is  
18                           a partnership, or

19                           “(iii) an obligation described in sec-  
20                           tion 279(b)(2) which has a term of 10  
21                           years or longer,

22                   “(C) such investment has not been des-  
23                   ignated as a qualified equity investment for  
24                   purposes of section 45D, and

1           “(D) such investment is designated for  
2           purposes of this section by the qualified com-  
3           munity development financial institution.

4           Such term shall not include any investment issued  
5           by a qualified community development financial in-  
6           stitution more than 5 years after the date that such  
7           financial institution receives an allocation under sub-  
8           section (e). Any allocation not used within such 5-  
9           year period may be reallocated by the Secretary  
10          under subsection (d).

11          “(2) LIMITATION.—The maximum amount of  
12          investments issued by a qualified community devel-  
13          opment financial institution which may be des-  
14          ignated under paragraph (1)(C) by such financial in-  
15          stitution shall not exceed the portion of the limita-  
16          tion amount allocated under subsection (e) to such  
17          financial institution.

18          “(3) TREATMENT OF SUBSEQUENT PUR-  
19          CHASERS.—The term ‘qualified CDFI investment’  
20          includes any investment which would (but for para-  
21          graph (1)(A)) be a qualified CDFI investment in the  
22          hands of the taxpayer if such investment was a  
23          qualified CDFI investment in the hands of a prior  
24          holder.

1           “(4) REDEMPTIONS.—A rule similar to the rule  
2 of section 1202(e)(3) shall apply for purposes of this  
3 subsection.

4           “(5) EQUITY EQUIVALENT INVESTMENT.—For  
5 purposes of this paragraph, the term ‘equity equiva-  
6 lent investment’ means an obligation of a qualified  
7 community development financial institution  
8 which—

9           “(A) is carried as an investment on the in-  
10 vestor’s balance sheet in accordance with Gen-  
11 erally Accepted Accounting Principles,

12           “(B) is not secured by any of the assets of  
13 the qualified community development financial  
14 institution,

15           “(C) is fully subordinated to the right of  
16 repayment of all of the other creditors of the  
17 qualified community development financial in-  
18 stitution,

19           “(D) does not give the investor the right to  
20 accelerate payment unless the qualified commu-  
21 nity development financial institution ceases its  
22 normal operations,

23           “(E) carries an interest rate or dividend  
24 that is not tied to any income received by the

1 qualified community development financial in-  
2 stitution, and

3 “(F) has an indeterminate maturity.

4 “(c) QUALIFIED COMMUNITY DEVELOPMENT FINAN-  
5 CIAL INSTITUTION.—For purposes of this section, the  
6 term ‘qualified community development financial institu-  
7 tion’ means—

8 “(1) any community development financial in-  
9 stitution (as defined in section 103 of the Commu-  
10 nity Development Banking and Financial Institu-  
11 tions Act of 1994 (12 U.S.C. 4702)),

12 “(2) any partnership in which a community de-  
13 velopment financial institution (as so defined) owns,  
14 directly or indirectly, 50 percent or more of the cap-  
15 ital interest or the profits interest, or

16 “(3) any partnership that is controlled, for pur-  
17 poses of section 482, or any investment vehicle the  
18 investment activities of which are otherwise substan-  
19 tially entirely managed and directed, by one or more  
20 community development financial institutions (as so  
21 defined).

22 “(d) NATIONAL LIMITATION ON AMOUNT OF INVEST-  
23 MENTS DESIGNATED.—

1           “(1) IN GENERAL.—There is an investment tax  
2 credit limitation for each calendar year. Such a limi-  
3 tation is—

4                   “(A) \$1,000,000,000 for 2022,

5                   “(B) \$1,500,000,000 for 2023, and

6                   “(C) \$2,000,000,000 for each year there-  
7 after.

8           “(2) INFLATION ADJUSTMENT.—

9                   “(A) IN GENERAL.—In the case of any cal-  
10 endar year after 2024, the \$2,000,000,000 in  
11 paragraph (1)(C) shall be increased by an  
12 amount equal to—

13                           “(i) such dollar amount, multiplied by

14                           “(ii) the cost-of-living adjustment de-  
15 termined under section 1(f)(3) for the cal-  
16 endar year in which the taxable year be-  
17 gins, determined by substituting ‘calendar  
18 year 2023’ for ‘calendar year 2016’ in sub-  
19 paragraph (A)(ii) thereof.

20                   “(B) ROUNDING.—If any increase deter-  
21 mined under subparagraph (A) is not a multiple  
22 of \$1,000,000, such increase shall be rounded  
23 to the nearest multiple of \$1,000,000.

24           “(3) ALLOCATION OF LIMITATION.—



1           “(A) IN GENERAL.—The limitation under  
2 paragraph (1) shall be allocated by the Sec-  
3 retary among qualified community development  
4 financial institutions selected by the Secretary  
5 based on the following criteria:

6           “(i) Financial and compliance per-  
7 formance.

8           “(ii) Demonstrated ability to attract  
9 private capital.

10          “(iii) The diversity of business model  
11 types.

12          “(iv) The diversity of population den-  
13 sity served.

14          “(v) Impact generation capacity.

15          “(vi) The information contained in the  
16 investment plan described in subparagraph  
17 (B).

18          “(vii) Whether the investment term  
19 will exceed 10 years.

20          “(B) REQUIREMENT TO PROVIDE AN IN-  
21 VESTMENT PLAN.—An application submitted to  
22 the Secretary under subparagraph (A) shall in-  
23 clude a plan that describes how the qualified  
24 community development financial institution  
25 will expand or maintain its lending and invest-

1           ing activity in its target market as a result of  
2           qualified CDFI investments.

3           “(4) CARRYOVER OF UNUSED LIMITATION.—If  
4           the new investment tax credit limitation for any cal-  
5           endar year exceeds the aggregate amount allocated  
6           under paragraph (2) for such year, such limitation  
7           for the succeeding calendar year shall be increased  
8           by the amount of such excess.

9           “(e) REGULATIONS.—The Secretary shall prescribe  
10          such regulations as may be appropriate to carry out this  
11          section, including regulations—

12                 “(1) which limit the credit for investments  
13                 which are directly or indirectly subsidized by other  
14                 Federal tax benefits (including the credit under sec-  
15                 tion 42 and the exclusion from gross income under  
16                 section 103),

17                 “(2) which prevent the abuse of the purposes of  
18                 this section,

19                 “(3) which impose appropriate reporting re-  
20                 quirements, and

21                 “(4) which apply the provisions of this section  
22                 to newly formed entities.”.

23          (b) PART OF GENERAL BUSINESS CREDIT.—Section  
24          38(b) of such Code is amended by striking “plus” at the  
25          end of paragraph (32), by striking the period at the end

1 of paragraph (33) and inserting “, plus”, and by adding  
2 at the end the following new paragraph:

3 “(34) the CDFI investment credit determined  
4 under section 45U(a).”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Section 45D(b)(1) of the Internal Revenue  
7 Code of 1986 is amended by striking “and” at the  
8 end of subparagraph (B), by striking the period at  
9 the end of subparagraph (C) and inserting “, and”,  
10 and by adding at the end the following new subpara-  
11 graph:

12 “(D) such investment has not been des-  
13 igned as a qualified CDFI investment for  
14 purposes of section 45U.”.

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

“45U. Community development financial institution investment tax credit.”.

19 (d) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to investments made after the date  
21 of the enactment of this Act.