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

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.
This Act may be cited as the “Downpayment Toward Equity Act of 2022”.

SEC. 2. FIRST-GENERATION DOWNPAYMENT ASSISTANCE PROGRAM.

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

(b) ALLOCATION.—After reserving amounts as required under sections 6(d) and 8(b), any remaining amounts made available to carry out this Act shall be allocated as follows:

(1) STATES.—75 percent of such amounts shall be allocated among States in accordance with a formula established by the Secretary, which shall take
into consideration best available data to provide more funding to States with a higher approximate number of potential qualified homebuyers (as such term is defined in section 10) and adjusted to reflect median area home prices.

(2) Eligible entities.—25 percent of such amounts shall be made available only to eligible entities on a competitive basis.

(e) Assistance.—Amounts from a grant under this Act shall be used only to provide assistance—

(1) on behalf of a qualified homebuyer; and

(2) for—

(A) costs in connection with the acquisition, involving an eligible mortgage loan, of an eligible home, including downpayment costs, closing costs, and costs to reduce the rates of interest on eligible mortgage loans;

(B) for subsidies to make shared equity homes affordable to eligible homebuyers by discounting the price for which the home will be sold and to preserve the home’s affordability for subsequent eligible buyers; and

(C) for pre-occupancy home modifications required to accommodate qualified homebuyers or members of their household with disabilities.
(d) **AMOUNT.**—A grant of assistance under this Act—

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

(2) may not exceed the greater of $20,000 or 10 percent of the purchase price in the case of a qualified homebuyer, not to include assistance received under subsection (e)(2)(C) for disability related home modifications, except that the Secretary may increase such maximum limitation amounts for qualified homebuyers who are socially and economically disadvantaged, except that the Secretary may increase such maximum limitation amounts in the case of qualified homebuyers acquiring residences located in high-cost areas, as determined based on median home prices or prices of residences under a shared equity homeownership program.

(e) **LAYERING OF ASSISTANCE.**—Assistance from grant amounts under this Act may be provided on behalf of a qualified homebuyer who is receiving assistance from other sources, including other State, Federal, local, private, public, and nonprofit sources, for acquisition of an eligible home.

(f) **STATE ADMINISTRATION.**—
(1) **IN GENERAL.**—The Secretary shall require that each State receiving grant amounts under this Act administer the program to provide assistance with such amounts through the State housing finance agency for the State or such other housing agency of the State as the Secretary finds appropriate, except that any such agency may, at the option of the agency, contract with a nonprofit entity, including a housing counseling agency approved by the Secretary, to administer such assistance.

(2) **AFFIRMATIVELY FURTHERING FAIR HOUSING.**—For a State to be eligible for a grant under this Act, the State shall be in compliance with the Secretary’s regulations implementing the requirement under section 808(e)(5) of the Fair Housing Act (42 U.S.C. 3608(e)(5)) to affirmatively further fair housing.

(3) **PROHIBITION OF PRIORITY OR RECOUPMENT OF FUNDS.**—In selecting qualified homebuyers for assistance with grant amounts under this Act, a State or eligible entity may not provide any priority or preference for homebuyers who are acquiring eligible homes with a mortgage loan made, insured, guaranteed, or otherwise assisted by the State housing finance agency for the State, any
other housing agency of the State, or an eligible en-
tity when applicable, nor may the State or eligible
entity seek to recoup any funds associated with the
provision of downpayment assistance to the qualified
homebuyer, whether through premium pricing or
otherwise, except as provided in subsection (g) or
otherwise authorized by the Secretary.

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

(1) a State or eligible entity—

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

(B) is distributing or plans to distribute
grant funds in a manner that results or will
predictably result in qualified homebuyers from
racial or ethnic groups that have faced historic
obstacles to homeownership failing to receive
the benefits of such funds in proportion to their
population among qualified homebuyers in the
relevant area; or
(2) there is insufficient demand among qualified eligible entities to distribute fund.

(h) **Uniformity and Program Standardization.**—The Secretary shall establish a uniform set of requirements to which each State and eligible entity receiving grant amounts under this Act shall comply.

SEC. 3. QUALIFIED HOMEBUYERS.

(a) **Requirements.**—Assistance from grant amounts under this Act may be provided only on behalf of a homebuyer who meets all of the following requirements:

(1) **Income.**—The household of the homebuyer has an income that does not exceed—

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

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

(ii) the place of residence of the homebuyer is located; or

(B) in the case of a homebuyer acquiring an eligible home that is located in a high-cost area, as determined by the Secretary, 140 percent of the median income for the area within
which the eligible home to be acquired using such assistance is located.

(2) FIRST-TIME HOMEBUYER.—The homebuyer, as self-attested by the homebuyer, is a first-time homebuyer, as such term is defined in section 104 of the Cranston Gonzalez National Affordable Housing Act (42 U.S.C. 12704), except that for the purposes of this Act the reference in such section 104 to title II shall be considered to refer to this Act, and except that ownership of heir property shall not be treated as owning a home for purposes of determining whether a borrower qualifies as a first-time homebuyer.

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

(A) an individual—

(i) whose parents or legal guardians do not, or did not at the time of their death, to the best of the individual’s knowledge, have any present ownership interest in a residence in any State, excluding ownership of heir property or ownership of chattel; and
(ii) whose spouse or domestic partner has not, during the 3-year period ending upon acquisition of the eligible home to be acquired using such assistance, had any present ownership interest in a residence in any State, excluding ownership of heir property or ownership of chattel, whether the individual is a co-borrower on the loan or not; or

(B) an individual who has at any time been placed in foster care or institutional care whose spouse or domestic partner has not, during the 3-year period ending upon acquisition of the eligible home to be acquired using such assistance, had any ownership interest in a residence in any State, excluding ownership of heir property or ownership of chattel, whether such individuals are co-borrowers on the loan or not.

(b) RELIANCE ON BORROWER ATTESTATIONS.—No additional documentation beyond the borrower’s attestation shall be required to demonstrate eligibility under paragraph (3) of subsection (a), and no creditor shall be subject to liability, including monetary penalties or requirements to indemnify a Federal agency or repurchase a loan that has been sold or securitized, for the provision
of downpayment assistance under this Act to a borrower who does not meet the eligibility requirements if the creditor does so in good faith reliance on borrower attestations of eligibility required by this Act or regulation.

**SEC. 4. ELIGIBLE HOMES.**

(a) In General.—Assistance from grant amounts under this Act may be provided only in connection with the acquisition by a qualified homebuyer of a residential property that—

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

(2) will be occupied by the qualified homebuyer, in accordance with such assurances and commitments as the Secretary shall require, as the primary residence of the homebuyer, subject to section 3.

(b) Repayment of Assistance.—

(1) Requirement.—The Secretary shall require that, if a homebuyer to or on behalf of whom assistance is provided from grant amounts under this Act fails or ceases to occupy the property acquired using such assistance as the primary residence of the homebuyer, except in the case of assistance provided in connection with the purchase of a principal residence through a shared equity homeownership program, the homebuyer shall repay to the State or eligible entity, as applicable, in a pro-
portional amount of the assistance the home buyer
receives based on the number of years they have oc-
cupied the eligible home up to 5 years, except that
no assistance shall be repaid if the qualified home-
buyer occupies the eligible home as a primary resi-
dence for 5 years or more.

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

SEC. 5. ELIGIBLE MORTGAGE LOANS.

Assistance from grant amounts under this Act may
be provided only in connection with the acquisition of an
eligible home involving a residential mortgage loan that—
(1) meets the underwriting requirements and dollar amount limitations for acquisition by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;

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

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

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

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

SEC. 6. HOUSING COUNSELING REQUIREMENT.

(a) IN GENERAL.—Except as provided pursuant to section 3, assistance with grant amounts under this Act may not be provided on behalf of qualified homebuyer unless such homebuyer has completed a program of counseling with respect to the responsibilities and financial management involved in homeownership before entering into a sales purchase agreement or loan application, except as provided under subsection (c), as the Secretary shall require, provided through a counseling agency approved by the Secretary. Such program may be delivered in-person, virtually, by telephone, or any other method the Sec-
retary determines acceptable and shall include providing
information on fair housing rights and on the availability
of post-purchase housing counseling opportunities and in-
struction on how to file a fair housing complaint.

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

c) REFERRAL UPON MORTGAGE DENIAL.—The Sec-
retary shall require that any qualified homebuyer who has
completed a counseling program referred to in subsection
(a) or alternative requirement pursuant to subsection (b),
who receives a commitment for assistance with grant
amounts under this Act and who applies for an eligible
mortgage loan for acquisition of an eligible home and is
denied such mortgage loan, shall be referred to a coun-
seling agency described in subsection (a) for counseling
relating to such denial and for re-qualification. An eligible
homebuyer may be re-qualified at least one additional time
in a calendar year, or more as determined by the Sec-
retary.

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

SEC. 7. ADMINISTRATIVE COSTS.

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

SEC. 8. REPORTS.

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

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

(2) information regarding the types and amount
of assistance provided, including downpayment as-
assistance, assistance with closing costs, and assistance to reduce mortgage loan interest rates; and (3) information regarding properties acquired using such assistance, including location, property value, property type, and first mortgage type and investor.

All data shall be disaggregated by zip code or census tract level, whichever is most feasible, and demographic information, including race, ethnicity, and gender, and any other data points the Secretary deems appropriate especially to observe equitable outcomes to ensure the program is affirmatively furthering fair housing.

(b) CAPACITY BUILDING.—Of any amounts appropriated to carry out this Act, the Secretary shall use not more than 1 percent to assist States and eligible entities to develop capacity to meet the reporting requirements under subsection (a). The Secretary shall encourage States and eligible entities to consult with community-based and nonprofit organizations that have as their mission to advance fair housing and fair lending.

(c) PRIVACY REQUIREMENTS.—

(1) IN GENERAL.—Each State and eligible entity that receives a grant under this Act shall establish data privacy and security requirements for the information described in subsection (a) that—
(A) include appropriate measures to ensure that the privacy of the individuals and households is protected;

(B) provide that the information, including any personally identifiable information, is collected and used only for the purpose of submitting reports under subsection (a); and

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

(2) STATISTICAL RESEARCH.—

(A) IN GENERAL.—The Secretary—

(i) may provide full and unredacted information provided under subsection (a), including personally identifiable information, for statistical research purposes in accordance with existing law; and

(ii) may collect and make available for statistical research, at the census tract level, information collected under paragraph (1).

(B) APPLICATION OF PRIVACY REQUIREMENTS.—A recipient of information under subparagraph (A) shall establish for such informa-
tion the data privacy and security requirements described in paragraph (1).

SEC. 9. COMPELLING INTEREST STUDY.

The Secretary, in consultation with the Attorney General, shall survey and compile evidence to determine whether or not there is a sufficient history of discrimination in housing and, if so, the appropriate remedy to redress such historic discrimination. The Secretary shall make conclusions and recommendations based on the evidence and provide States and eligible entities granted awards under this Act an opportunity to modify their programs for assistance under this Act according to such recommendations.

SEC. 10. DEFINITIONS.

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

(1) AFFIRMATIVELY FURTHER FAIR HOUSING.—The term “affirmatively further fair housing” has the same meaning as defined by the Secretary to implement section 808(e)(5) of the Fair Housing Act (42 U.S.C. 3608(e)(5)).

(2) ELIGIBLE ENTITY.—The term “eligible entity” means—

(A) a minority depository institution, as such term is defined in section 308 of the Fi-
nancial Institutions Reform, Recovery, and En-
forcement Act of 1989 (12 U.S.C. 1463 note);

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

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

(D) a unit of general local government, as
such term is defined in section 102 of the
Housing and Community Development Act of

(3) ELIGIBLE HOME.—The term “eligible
home” means a residential dwelling, including a unit
in a condominium or cooperative project or a manu-
factured housing unit, that meets the requirements of section 4.

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

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

(6) **OWNERSHIP INTEREST.**—The term “ownership interest” means any ownership, excluding any interest in heir property, in—

(A) real estate in fee simple;

(B) a leasehold on real estate under a lease for not less than ninety-nine years which is renewable; or

(C) a fee interest in, or long-term leasehold interest in, real estate consisting of a one-family unit in a multifamily project, including a project in which the dwelling units are attached, or are manufactured housing units, semi-detached, or detached, and an undivided interest in the common areas and facilities which serve the project.
(7) **Qualified Homebuyer.**—The term “qualified homebuyer” means a homebuyer who meets the requirements of section 3, and includes homebuyers consisting of multiple individuals, co-purchasers, and multi-member households.

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

(9) **Shared Equity Homeownership Program.**—The term “shared equity homeownership program” means affordable homeownership preservation through a resale restriction program administered by a community land trust, other nonprofit organization, or State or local government or instrumentalities.

(10) **Socially and Economically Disadvantaged Individual.**—The term “socially and economically disadvantaged individual” means an individual who meets the following requirements:

   (A) **Social Disadvantage.**—

      (i) **In General.**—The individual is a member of a socially disadvantaged group, whose members have historically been subjected to racial or ethnic discrimination within the United States because of their
identity as members of such group without regard to their individual qualities.

(ii) PRESUMPTION; REBUTTAL.—An individual identifying as Black, Hispanic, Native American, or Asian American, or any combination thereof, shall be presumed to be socially disadvantaged for purposes of clause (i). Such presumption may be rebutted by such individual with credible evidence to the contrary.

(iii) BURDEN OF PROOF.—An individual who does not identify as described in clause (ii) shall be required to establish individual social disadvantage for purposes of clause (i) by a preponderance of the evidence.

(iv) RULES.—The Secretary may issue regulations as necessary to establish procedures for complying with this subparagraph.

(B) ECONOMIC DISADVANTAGE.—The individual has an income that meets the requirements under section 3(a).

(11) STATE.—The term “State” means any State of the United States, the District of Columbia,
the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and the tribal government of any Indian tribe, as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103).

SEC. 11. IMPLEMENTATION.

The Secretary shall have the authority to establish by notice or mortgagee letter any requirements that the Secretary determines are necessary for timely and effective implementation of the program and expenditure of funds appropriated, which requirements shall take effect upon issuance.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for grants under this Act $100,000,000,000, and any amounts appropriated pursuant to this section shall remain available until expended.