To provide downpayment assistance to first-generation homebuyers to address multigenerational inequities in access to homeownership and to narrow and ultimately close the racial homeownership gap in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2021

Ms. Waters (for herself, Mr. Green of Texas, Ms. Pressley, Mr. García of Illinois, Ms. García of Texas, Mrs. Axne, Mr. Cleaver, Ms. Velázquez, Mr. Lawson of Florida, Ms. Ocasio-Cortez, Ms. Tlaib, Mr. Torres of New York, Ms. Williams of Georgia, Mr. Auchincloss, Mr. Lieu, Ms. Lee of California, Mr. Sires, Ms. Clarke of New York, Mr. Evans, Mr. Espaillat, Ms. Moore of Wisconsin, Mr. Blumenauer, Ms. Norton, Mr. Bowman, Ms. Ross, Ms. Schakowsky, Ms. Sánchez, and Mr. Vicente González of Texas) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To provide downpayment assistance to first-generation homebuyers to address multigenerational inequities in access to homeownership and to narrow and ultimately close the racial homeownership gap in the United States, and for other purposes.

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

This Act may be cited as the “Downpayment Toward Equity Act of 2021”.

SEC. 2. FIRST-GENERATION DOWNPAYMENT ASSISTANCE DOWNPAYMENT 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—

(A) adult population size (excluding existing homeowners);

(B) median area home prices; and

(C) racial disparities in homeownership rates.
(2) ELIGIBLE ENTITIES.—25 percent of such amounts shall be made available only to eligible entities on a competitive basis.

(c) 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 $20,000, or $25,000 in the case of a qualified homebuyer who is a socially and economically disadvantaged individual, 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 HOUS-
ing.—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 require-
ment under section 808(c)(5) of the Fair Housing
Act (42 U.S.C. 3608(c)(5)) to affirmatively further
fair housing.

(3) PROHIBITION OF PRIORITY.—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 home-
buyers who are acquiring eligible homes with a mort-
gage 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 entity when applicable.

(g) REALLOCATION OF STATE AMOUNTS.—The Sec-

etary shall reallocate any grant funds under this Act allo-
cated for a fiscal year that remain unused at the end of
such fiscal year among States and eligible entities that
demonstrate to the Secretary the capacity to expend such
amounts and that are satisfactorily meeting the goals of
the program under this Act, as determined by the Secretary.

(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, 180 percent of the median income for the area within
which the eligible home to be acquired using
such assistance is located; and

(2) **First-time homebuyer.**—The homebuyer,
as self-attested by the homebuyer, is a first-time
homebuyer, as such term is defined in section 92.2
of the Secretary’s regulations (24 C.F.R. 92.2), ex-
cept that for purposes of this subsection the ref-
ERENCE in such section 92.2 to the American Dream
Downpayment Initiative shall be considered to refer
to the program under this Act.

(3) **First-generation homebuyer.**—The
homebuyer is, as self-attested by the homebuyer—

(A) an individual—

(i) whose parents or legal guardians
do not have any present residential owner-
ship interest in any State; and

(ii) whose spouse, or domestic part-
er, and each member of whose household
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 principal
residence in any State; or

(B) an individual who has at any time
been placed in foster care.
(b) Reliance on Borrower Attestations.—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 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 is pro-
vided in connection with the purchase of a primary
residence through a shared equity homeownership
program, the homebuyer shall repay to the Sec-
retary—

(A) 100 percent of the amount of such as-
sistance, if such failure to occupy commences
before the expiration of the 12-month period be-
beginning on the date of acquisition;

(B) 80 percent of the amount of such as-
sistance, if such failure to occupy commences
after the expiration of the 12-month period be-
beginning on such date of acquisition but before
the expiration of the 24-month period beginning
on such date of acquisition;

(C) 60 percent of the amount of such as-
sistance, if such failure to occupy commences
after the expiration of the 24-month period be-
beginning on such date of acquisition but before
the expiration of the 36-month period beginning
on such date of acquisition;

(D) 40 percent of the amount of such as-
sistance, if such failure to occupy commences
after the expiration of the 36-month period be-
beginning on such date of acquisition but before
the expiration of the 48-month period beginning on such date of acquisition; and

(E) 20 percent of the amount of such assistance, if such failure to occupy commences after the expiration of the 48-month period beginning on such date of acquisition but before the expiration of the 60-month period beginning on such date of acquisition.

(2) LIMITATION.—Notwithstanding paragraph (1), if a homebuyer on behalf of whom assistance is provided from grant amounts under this Act experiences an unforeseen hardship, such as death or military deployment, 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 are less than the amount the homebuyer is required to repay the Secretary under paragraph (1), the homebuyer shall not be liable to the Secretary for repayment of the amount of such shortage.

(c) COMMUNITY LAND TRUSTS AND SHARED EQUITY HOMEOWNERSHIP PROGRAMS.—If assistance from grant amounts under this Act are provided in connection with an eligible home made available through a community land trust or shared equity homeownership program, such as-
sistance shall remain in the community land trust or shared equity property upon transfer of the property to keep the home affordable to the next eligible community land trust or shared equity homebuyer.

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 title II of the National Housing Act (12 U.S.C. 1707 et seq.) or title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.);

(3) 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));

(4) is made, insured, or guaranteed under chapter 37 of title 38, United States Code; or

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 virtually, by telephone, or any other method the Secretary determines acceptable and shall include providing information on fair housing rights and on the availability of post-purchase housing counseling opportunities and instruction 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 homebuyer to complete alternative homebuyer education to fulfill the requirement under subsection (a), including homebuyer education that is provided through an online platform, 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.**

Of any grant amounts under this Act received by a
State or eligible entity, the State or eligible entity may
use not more than 5 percent for administrative costs of
and training for carrying out the program of the State
or eligible entity to provide assistance with such grant amounts.

**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 applicants for and recipients of assistance provided pursuant to this Act, including race, ethnicity, and gender;
2. information regarding the types and amount of assistance provided, including downpayment assistance, assistance with closing costs, and assistance to reduce mortgage loan interest rates;
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 espe-
cially 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 informa-
tion, for statistical research purposes in ac-
cordance with existing law; and

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

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

SEC. 9. COMPELLING INTEREST STUDY.

The Secretary and the Attorney General shall survey
and compile evidence to determine whether or not there
is a sufficient history of discrimination in housing and the
appropriate remedy to redress such historic discrimina-
tion. The Secretary shall make conclusions and rec-
ommendations 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) COMMUNITY LAND TRUST.—The term “community land trust” means a nonprofit organization or State or local governments or instrumentalities that—

(A) use a ground lease or deed covenant with an affordability period of at least 30 years or more to—

(i) make homeownership units affordable to households; and

(ii) stipulate a preemptive option to purchase the affordable homeownership units so that the affordability of the units is preserved for successive income-eligible households; and
(B) monitor properties to ensure affordability is preserved.

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

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

(B) a community development financial institution, 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 and provides services in neighborhoods having high concentrations of minority and low-income populations; and

(C) any other nonprofit, mission-driven entity that the Secretary finds targets services to minority and low-income populations and provides services in neighborhoods having high concentrations of minority and low-income populations.
(4) **Eligible Home.**—The term “eligible home” means a residential dwelling, including a unit in a condominium or cooperative project or a manufactured housing unit, that meets the requirements of section 4.

(5) **Eligible Mortgage Loan.**—The term “eligible mortgage loan” means a residential mortgage loan that meets the requirements of section 5.

(6) **Qualified Homebuyer.**—The term “qualified homebuyer” means a homebuyer who meets the requirements of section 3, and includes homebuyers consisting of multiple individuals, copurchasers, and multi-member households.

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

(8) **Shared Equity Homeownership Program.**—

(A) **In General.**—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.
(B) AFFORDABILITY REQUIREMENTS.—Any such program under subparagraph (A) shall—

(i) provide affordable homeownership opportunities to households; and

(ii) utilize a ground lease, deed restriction, subordinate loan, or similar legal mechanism that includes provisions ensuring that the program shall—

(I) maintain the homeownership unit as affordable for subsequent very low-, low-, or moderate-income families for an affordability term of at least 30 years after recordation;

(II) apply a resale formula that limits the homeowner’s proceeds upon resale; and

(III) provide the program administrator or such administrator’s assignee a preemptive option to purchase the homeownership unit from the homeowner at resale.

(9) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUAL.—The term “socially and eco-
nominically 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).

(10) **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. REGULATIONS.**

The Secretary shall issue any regulations necessary to implement this Act.

**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.