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

Mr. ______ introduced the following bill; which was referred to the Committee on ______

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 Representatives 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”.

3 4 5
SEC. 2. DOWNPAYMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall carry out a program under this Act to provide grants to States to provide financial assistance as provided in this Act to first-generation homebuyers in connection with downpayments made to acquire owner-occupied primary residences.

(b) FORMULA.—Amounts made available to carry out this Act shall be allocated among States in accordance with a formula established by the Secretary, which shall take into consideration population size, median area home prices, and racial disparities in homeownership rates.

(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 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.

(d) AMOUNT.—The amount of assistance provided on behalf of a qualified homebuyer with grant amounts under this Act may not exceed $20,000, or $25,000 in the case of a qualified homebuyer who is a socially and economically disadvantaged individual.
(c) **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) **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 considers appropriate, except that any such agency may, at the option of the agency, contract with a nonprofit entity, including a community development financial institution, minority depository institution, housing counseling agency, or community development credit union, to administer such assistance.

(2) **Affirmatively Furthering Fair Housing.**—For a State to be eligible to for a grant under this section, the State housing finance agency or the nonprofit entity administering such grant funds shall have an adopted a plan to affirmatively furthering fair housing that complies, as determined by
the Secretary, with the final rule of the Secretary entitled “Affirmatively Furthering Fair Housing”, as published on July 16, 2015 (80 Fed. Reg. 42272).

(3) Prohibition of Priority.—In selecting qualified homebuyers for assistance with grant amounts under this Act, a State 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 or any other housing agency of the State.

(g) Reallocation.—The Secretary shall reallocate any grant funds under this Act allocated for a State for a fiscal year that remain unused at the end of such fiscal year among other States 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.

SEC. 3. QUALIFIED HOMEBUYERS.

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 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 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.

(3) **FIRST-GENERATION HOMEBUYER.**—The homebuyer is—

(A) an individual—

(i) whose parents or legal guardians—

(I) do not own, and have not previously during the prospective home-
buyer’s lifetime owned, a home in any State; or

(II) have previously during the prospective homebuyer’s lifetime owned a home in any State, but—

(aa) such home was lost due to foreclosure, deed-in-lieu of foreclosure, or short sale; and

(bb) have 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; and

(ii) whose spouse 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.
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 subsection (b).

(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 ceases to occupy the property acquired using such assistance as the primary residence of the homebuyer, the homebuyer shall repay to the Secretary—

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

(B) 80 percent of the amount of such assistance, if such failure to occupy commences after the expiration of the 12-month period 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 assistance, if such failure to occupy commences after the expiration of the 24-month period 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 assistance, if such failure to occupy commences after the expiration of the 36-month period 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 sells the property acquired with such assistance before the expiration of the 60-month period beginning on
such date of acquisition and the proceeds from such
sale are less than the amount the homebuyer is re-
quired 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) LAND TRUSTS AND SHARED EQUITY PRO-
GRAMS.—Assistance from grant amounts under this Act
may be provided in connection with an eligible home made
available through a community land trust or shared equity
homeownership program.

SEC. 5. ELIGIBLE MORTGAGE LOANS.

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

(1) meets the underwriting requirements and
dollar amount limitations for acquisition by the Fed-
eral 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.); or

(3) is a qualified mortgage, as such term is de-
defined in section 129C(b)(2) of the Truth in Lending
Act (15 U.S.C. 1639c(b)(2)).
SEC. 6. HOUSING COUNSELING REQUIREMENT.

(a) IN GENERAL.—Except as provided pursuant to subsection (b), 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, as the Secretary shall require, provided through a counseling agency approved by the Secretary.

(b) EXCEPTION.—The Secretary shall provide that States may waive the requirement under subsection (a) for qualified homebuyers who are highly qualified with respect to undertaking homeownership, based on clearly established underwriting criteria as the Secretary shall provide.

(c) REFERRAL UPON MORTGAGE DENIAL.—The Secretary shall require that any qualified homebuyer who has completed a counseling program referred to in subsection (a) or for whom such requirement is waived 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 counseling agency described in subsection (a) for counseling relating to such denial.
(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, the State may use not more than 5 percent for administrative costs of and training for carrying out the program of the State to provide assistance with such grant amounts.

**SEC. 8. REPORTS.**

(1) **IN GENERAL.**—For each fiscal year during which the Secretary makes grants under this Act, the Secretary shall submit a report to the Congress that shall include—

(A) demographic information regarding applicants for assistance provided pursuant to this Act, including race, ethnicity, and gender;

(B) information regarding the types of assistance provided, including downpayment assistance, assistance with closing costs, and assistance to reduce mortgage loan interest rates;

(C) information regarding properties acquired using such assistance, including location,
property value, property type, and first mortgage type and investor.

(2) CAPACITY BUILDING.—Of any amounts appropriated to carry out this Act, the Secretary shall use not more than 1 percent to assist States to develop capacity to meet the requirements under paragraph (1).

SEC. 9. COMPELLING INTEREST STUDY.

The Secretary and the Attorney General shall conduct a study to demonstrate that there is a compelling interest to grant funds for downpayment assistance to socially and economically disadvantaged individuals, as such term is defined in section 10. The Secretary shall provide States provided grant amounts under this Act an opportunity to modify their programs for assistance under this Act according to the findings of such study.

SEC. 10. DEFINITIONS.

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

(1) 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.

(2) 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.

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

(4) Qualified Homebuyer.—The term “qualified homebuyer” means a homebuyer who meets the requirements of section 3.

(5) Secretary.—The term “Secretary” means the Secretary of Housing and Urban Development.
(6) **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.

(7) **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, which social disadvantage stems from circumstances beyond their control, whose members have been subjected to racial or ethnic prejudice within United States society 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 re-
butted 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.

(B) **Economic Disadvantage.**—The individual has an income that does not exceed—

(i) 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

(ii) 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.
(8) 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, and American Samoa.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for grants under this Act such sums as may be necessary for each of fiscal years 2021 through 2030.