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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to establish the first-time
homebuyer refundable tax credit.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend the Internal Revenue Code of 1986 to establish
the first-time homebuyer refundable tax credit.

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 “First Home Afford-
5 ability Act”.

6 **SEC. 2. FIRST-TIME HOMEBUYER REFUNDABLE TAX CRED-**
7 **IT.**

8 (a) IN GENERAL.—Section 36 of the Internal Rev-
9 enue Code of 1986 is amended to read as follows:

1 **“SEC. 36. FIRST-TIME HOMEBUYER CREDIT.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of an eli-
3 gible individual, there shall be allowed as a credit against
4 the tax imposed by this subtitle a credit in an amount
5 equal to the applicable credit amount for the taxable year.

6 “(b) ELIGIBLE INDIVIDUAL.—For purposes of sub-
7 section (a), the term ‘eligible individual’ means, with re-
8 spect to any taxable year, an individual who is a first-
9 time homebuyer with respect to the purchase of a principal
10 residence in the United States during such taxable year
11 or any of the 4 preceding taxable years.

12 “(c) APPLICABLE CREDIT AMOUNT.—

13 “(1) IN GENERAL.—For purposes of subsection
14 (a), the term ‘applicable amount’ means, with re-
15 spect to any taxable year which occurs during the
16 credit period of an eligible individual, an amount
17 equal to—

18 “(A) 10 percent of the purchase price of
19 the primary residence described in subsection
20 (b), divided by

21 “(B) 5.

22 “(2) DOLLAR LIMITATION.—

23 “(A) IN GENERAL.—Except as otherwise
24 provided in this paragraph, the aggregate
25 amount of all credits allowed to any taxpayer

1 allowed with respect to a single purchase of a
2 primary residence shall not exceed \$25,000

3 “(B) MARRIED INDIVIDUALS FILING SEPA-
4 RATELY.—In the case of a married individual
5 filing a separate return, subparagraph (A) shall
6 be applied by substituting ‘\$12,500’ for
7 ‘\$25,000’.

8 “(C) OTHER INDIVIDUALS.—If 2 or more
9 individuals who are not married purchase a
10 principal residence, the amount of the credit al-
11 lowed under subsection (a) shall be allocated
12 among such individuals in such manner as the
13 Secretary may prescribe, except that the aggre-
14 gate amount of the credits allowed to all such
15 individuals with respect to such purchase dur-
16 ing the credit period with respect to such pur-
17 chase shall not exceed \$25,000.

18 “(3) PHASEOUT BASED ON AREA MEDIAN IN-
19 COME.—

20 “(A) IN GENERAL.—The amount allowable
21 as a credit under subsection (a) (determined
22 without regard to this paragraph) shall be re-
23 duced (but not below zero) by the amount
24 which bears the same ratio to the amount which
25 is so allowable as—

1 “(i) the excess (if any) of—

2 “(I) the modified adjusted gross
3 income of the taxpayer for the taxable
4 year in which the taxpayer makes the
5 purchase of the principal residence
6 with respect to which the credit is al-
7 lowed, over

8 “(II) 150 percent of the applica-
9 ble Area Medium Income, bears to

10 “(ii) 20 percent of the applicable Area
11 Median Income.

12 “(B) MODIFIED ADJUSTED GROSS IN-
13 COME.—For purposes of subparagraph (A), the
14 term ‘modified adjusted gross income’ means
15 the adjusted gross income of the taxpayer for
16 the taxable year increased by any amount ex-
17 cluded from gross income under section 911,
18 931, or 933.

19 “(C) APPLICABLE AREA MEDIAN IN-
20 COME.—For purposes of subparagraph (A), the
21 term ‘applicable Area Median Income’ means
22 the Area Median Income set by the Secretary of
23 Housing and Urban Development with respect
24 to—

1 “(i) the area in which the principal
2 residence is located,

3 “(ii) the size of the household of the
4 taxpayer, and

5 “(iii) the calendar year in which the
6 principal residence is purchased.

7 “(4) LIMITATION BASED ON AREA MEDIAN PUR-
8 CHASE PRICE.—

9 “(A) IN GENERAL.—The amount allowable
10 as a credit under subsection (a) (determined
11 without regard to this paragraph) shall be re-
12 duced (but not below zero) by the amount
13 which bears the same ratio to the amount which
14 is so allowable as—

15 “(i) the excess (if any) of—

16 “(I) the purchase price of the
17 principal residence, over

18 “(II) the amount which is equal
19 to 110 percent of the area median
20 purchase price, bears to

21 “(ii) the amount which is equal to 15
22 percent of the area median purchase price.

23 “(B) AREA MEDIAN PURCHASE PRICE.—

24 For purposes of this paragraph, the term ‘area
25 median purchase price’ means the median pur-

1 chase price for a home in both the area and the
2 calendar year in which the purchase of the prin-
3 cipal residence takes place.

4 “(C) REGULATIONS AND GUIDANCE.—The
5 Secretary, after consultation with the Secretary
6 of Housing and Urban Development, shall pro-
7 mulgate such regulations and guidance as are
8 necessary to carry out the purposes of this sub-
9 paragraph, including for determining the area
10 median purchase price with respect to different
11 localities.

12 “(D) INFLATION ADJUSTMENT.—In the
13 case of any taxable year beginning in a calendar
14 year after 2025, each of the dollar amounts in
15 paragraph (1) shall be increased by an amount
16 equal to—

17 “(i) such dollar amount, multiplied by

18 “(ii) the cost-of-living adjustment de-
19 termined under section 1(f)(3) for the cal-
20 endar year in which the taxable year be-
21 gins, determined by substituting ‘calendar
22 year 2024’ for ‘calendar year 2016’ in sub-
23 paragraph (A)(ii) thereof.

1 Any increase determined under the preceding
2 sentence shall be rounded to the nearest mul-
3 tiple of \$100.

4 “(E) AGE LIMITATION.—No credit shall be
5 allowed under subsection (a) with respect to the
6 purchase of any residence unless the taxpayer
7 has attained age 18 as of the date of such pur-
8 chase. In the case of any taxpayer who is mar-
9 ried (within the meaning of section 7703), the
10 taxpayer shall be treated as meeting the age re-
11 quirement of the preceding sentence if the tax-
12 payer or the taxpayer’s spouse meets such age
13 requirement.

14 “(5) REGULATIONS AND GUIDANCE.—The Sec-
15 retary, in consultation with the Secretary of Housing
16 and Urban Development, shall issue such regulations
17 and guidance as are necessary to carry out the pur-
18 poses of this subparagraph.

19 “(d) CREDIT PERIOD.—

20 “(1) IN GENERAL.—For purposes of this sec-
21 tion, the term ‘credit period’ means, with respect to
22 any individual, the 5 taxable year period beginning
23 with the taxable year during which such individual
24 makes a purchase described in subsection (b).

1 “(2) SPECIAL RULE FOR TEACHERS,
2 CHILDCARE WORKERS, AND FIRST RESPONDERS.—

3 “(A) IN GENERAL.—In the case of an eligi-
4 ble individual whose primary occupation during
5 the taxable year in which such individual makes
6 a purchase described in subsection (b) is first
7 responder, childcare worker, or teacher—

8 “(i) the credit period with respect to
9 such purchase shall be the taxable year in
10 which such purchase is made, and

11 “(ii) the applicable amount shall be
12 10 percent of the purchase price of the pri-
13 mary residence described in subsection (b).

14 “(B) FIRST RESPONDER.—For purposes of
15 this paragraph, the term ‘first responder’
16 means an individual who is—

17 “(i) a law enforcement officer, fire-
18 fighter, or member of a rescue squad or
19 ambulance crew (as such terms are defined
20 in section 1204 of title I of the Omnibus
21 Crime Control and Safe Streets Act of
22 1968), or

23 “(ii) a public safety telecommunicator,
24 including a 9–1–1 operator or dispatcher.

1 “(C) CHILDCARE WORKER.—For purposes
2 of this paragraph, the term ‘childcare worker’
3 means an individual—

4 “(i) who has a credential or a license
5 under State law for early childhood edu-
6 cation, and

7 “(ii) whose primary responsibility is
8 for the learning and development of chil-
9 dren in an early childhood education pro-
10 gram.

11 “(D) TEACHER.—For purposes of this
12 paragraph, the term ‘teacher’ means an indi-
13 vidual who—

14 “(i) is an elementary school or sec-
15 ondary school teacher who, as determined
16 by the State or local educational agency, is
17 a teacher of record who provides direct
18 classroom teaching (or classroom-type
19 teaching in a no classroom setting) to stu-
20 dents in an elementary or secondary
21 school, and

22 “(ii) meets applicable State certifi-
23 cation and licensure requirements, includ-
24 ing any requirements for certification ob-
25 tained through alternative routes to certifi-

1 cation, in the State in which such school is
2 located and in the subject area in which
3 the individual is the teacher of record.

4 “(e) DEFINITIONS.—For purposes of this section—

5 “(1) FIRST-TIME HOMEBUYER.—The term
6 ‘first-time homebuyer’ means any individual if such
7 individual (and if married, such individual’s
8 spouse)—

9 “(A) has no present ownership interest in
10 any residence during the 3-year period ending
11 on the date of the purchase of the principal res-
12 idence to which this section applies, and

13 “(B) has not taken the credit under this
14 section in any other taxable year.

15 “(2) PRINCIPAL RESIDENCE.—The term ‘prin-
16 cipal residence’ has the same meaning as when used
17 in section 121.

18 “(3) PURCHASE.—

19 “(A) IN GENERAL.—The term ‘purchase’
20 means any acquisition, but only if—

21 “(i) the property is not acquired from
22 a person related to the person acquiring
23 such property (or, if married, such individ-
24 ual’s spouse),

1 “(ii) the acquisition is financed
2 through a federally backed mortgage loan
3 (as defined in section 4022 of the CARES
4 Act), and

5 “(iii) the basis of the property in the
6 hands of the person acquiring such prop-
7 erty is not determined—

8 “(I) in whole or in part by ref-
9 erence to the adjusted basis of such
10 property in the hands of the person
11 from whom acquired, or

12 “(II) under section 1014(a) (re-
13 lating to property acquired from a de-
14 cedent).

15 “(B) CONSTRUCTION.—A residence which
16 is constructed by the taxpayer shall be treated
17 as purchased by the taxpayer on the date the
18 taxpayer first occupies such residence.

19 “(4) PURCHASE PRICE.—The term ‘purchase
20 price’ means the adjusted basis of the principal resi-
21 dence on the date such residence is purchased.

22 “(5) RELATED PERSONS.—A person shall be
23 treated as related to another person if the relation-
24 ship between such persons would result in the dis-
25 allowance of losses under section 267 or 707(b).

1 “(f) EXCEPTIONS.—No credit under subsection (a)
2 shall be allowed to any taxpayer for any taxable year with
3 respect to the purchase of a residence if—

4 “(1) the taxpayer disposes of such residence (or
5 such residence ceases to be the principal residence of
6 the taxpayer (and, if married, the taxpayer’s
7 spouse)) before the close of such taxable year,

8 “(2) a deduction under section 151 with respect
9 to such taxpayer is allowable to another taxpayer for
10 such taxable year, or

11 “(3) the taxpayer fails to attach to the return
12 of tax for such taxable year a properly executed copy
13 of the settlement statement used to complete such
14 purchase.

15 “(g) REPORTING.—If the Secretary requires informa-
16 tion reporting under section 6045 by a person described
17 in subsection (e)(2) thereof to verify the eligibility of tax-
18 payers for the credit allowable by this section, the excep-
19 tion provided by section 6045(e)(5) shall not apply.

20 “(h) RECAPTURE OF CREDIT.—

21 “(1) IN GENERAL.—Except as otherwise pro-
22 vided in this subsection, if, during any taxable year
23 during the credit period, a taxpayer disposes of the
24 principal residence with respect to which a credit
25 was allowed under subsection (a) (or such residence

1 ceases to be the principal residence of the taxpayer),
2 the tax imposed by this chapter for such taxable
3 year shall be increased by the recoverable amount
4 determined in paragraph (2).

5 “(2) RECOVERABLE AMOUNT.—For purposes of
6 paragraph (1), the recoverable amount is the prod-
7 uct of—

8 “(A) 25 percent of the amount of the cred-
9 it allowed under subsection (a) in all taxable
10 years with respect to the same purchase, multi-
11 plied by

12 “(B) the number of taxable years remain-
13 ing in the recapture period as of the beginning
14 of the taxable year in which the taxpayer dis-
15 poses of the principal residence.

16 “(3) LIMITATION BASED ON GAIN.—In the case
17 of the sale of the principal residence to a person who
18 is not related to the taxpayer, the increase in tax de-
19 termined under paragraph (1) shall not exceed the
20 amount of gain (if any) on such sale. Solely for pur-
21 poses of the preceding sentence, the adjusted basis
22 of such residence shall be reduced by the amount of
23 the credit allowed under subsection (a).

24 “(4) EXCEPTIONS.—

1 “(A) DEATH OF A TAXPAYER.—Paragraph
2 (1) shall not apply to any taxable year ending
3 after the date of the taxpayer’s death.

4 “(B) INVOLUNTARY CONVERSION.—Para-
5 graph (1) shall not apply in the case of a resi-
6 dence which is compulsorily or involuntarily
7 converted (within the meaning of section
8 1033(a)) if the taxpayer acquires a new prin-
9 cipal residence during the 2-year period begin-
10 ning on the date of the disposition or cessation
11 referred to in paragraph (1). Paragraph (1)
12 shall apply to such new principal residence dur-
13 ing the recapture period in the same manner as
14 if such new principal residence were the con-
15 verted residence.

16 “(C) TRANSFERS BETWEEN SPOUSES OR
17 INCIDENT TO DIVORCE.—In the case of a trans-
18 fer of a residence to which section 1041(a) ap-
19 plies—

20 “(i) paragraph (1) shall not apply to
21 such transfer, and

22 “(ii) in the case of taxable years end-
23 ing after such transfer, paragraph (1) shall
24 apply to the transferee in the same manner

1 as if such transferee were the transferor
2 (and shall not apply to the transferor).

3 “(D) SPECIAL RULE FOR MEMBERS OF
4 THE ARMED FORCES, ETC.—

5 “(i) IN GENERAL.—In the case of the
6 disposition of a principal residence by an
7 individual (or a cessation referred to in
8 paragraph (1)) after December 31, 2022,
9 in connection with Government orders re-
10 ceived by such individual, or such individ-
11 ual’s spouse, for qualified official extended
12 duty service, paragraph (1) and subsection
13 (d)(2) shall not apply to such disposition
14 (or cessation).

15 “(ii) QUALIFIED OFFICIAL EXTENDED
16 DUTY SERVICE.—For purposes of this sec-
17 tion, the term ‘qualified official extended
18 duty service’ means service on qualified of-
19 ficial extended duty as—

20 “(I) a member of the uniformed
21 services,

22 “(II) a member of the Foreign
23 Service of the United States, or

24 “(III) an employee of the intel-
25 ligence community.

1 “(iii) DEFINITIONS.—Any term used
2 in this subparagraph which is also used in
3 paragraph (9) of section 121(d) shall have
4 the same meaning as when used in such
5 paragraph.

6 “(E) DISPOSITION OF RESIDENCE IN CON-
7 NECTION WITH CHANGE OF EMPLOYMENT.—In
8 the case of the disposition of a principal resi-
9 dence by an individual (or a cessation referred
10 to in paragraph (1)) after December 31, 2022,
11 in connection with a change of employment
12 which meets the conditions described in section
13 217(c), paragraph (1) shall not apply to such
14 disposition (or cessation).

15 “(5) JOINT RETURNS.—In the case of a credit
16 allowed under subsection (a) with respect to a joint
17 return, half of such credit shall be treated as having
18 been allowed to each individual filing such return for
19 purposes of this subsection.

20 “(6) RETURN REQUIREMENT.—If the tax im-
21 posed by this chapter for the taxable year is in-
22 creased under this subsection, the taxpayer shall,
23 notwithstanding section 6012, be required to file a
24 return with respect to the taxes imposed under this
25 subtitle.

1 “(i) TRANSFER OF CREDIT.—

2 “(1) IN GENERAL.—Subject to such regulations
3 and other guidance as the Secretary determines nec-
4 essary, a taxpayer may elect that the credit which
5 would (but for this subsection) be allowed to such
6 taxpayer with respect to the purchase of a principal
7 residence in the taxable year in which the taxpayer
8 makes such purchase shall be allowed to the mort-
9 gage lender with respect to such purchase and not
10 to such taxpayer.

11 “(2) ELIGIBLE ENTITY.—For purposes of this
12 subsection, the term ‘eligible entity’ means, with re-
13 spect to the purchase of the principal residence for
14 which the credit is allowed under subsection (a), the
15 mortgage lender which provides the mortgage to the
16 taxpayer and has—

17 “(A) registered with the Secretary for pur-
18 poses of this paragraph, at such time, and in
19 such form and manner, as the Secretary may
20 prescribe,

21 “(B) prior to the election described in
22 paragraph (1) and not later than at the time of
23 such purchase, disclosed to the taxpayer making
24 such purchase—

1 “(i) the value of the credit allowed
2 under subsection (a), and

3 “(ii) the amount provided by the
4 mortgage lender to such taxpayer as a con-
5 dition of the election described in para-
6 graph (1).

7 “(C) not later than at the time of such
8 purchase, made payment to such taxpayer
9 (whether in cash or in the form of a partial
10 payment or down payment for the purchase of
11 such principal residence) in an amount equal to
12 the credit otherwise allowable to such taxpayer,
13 and

14 “(D) with respect to any incentive other-
15 wise available for taking a mortgage for which
16 a credit is allowed under this section, including
17 any incentive in the form of a rebate or dis-
18 count provided by the mortgage lender, ensured
19 that—

20 “(i) the availability or use of such in-
21 centive shall not limit the ability of a tax-
22 payer to make an election described in
23 paragraph (1), and

24 “(ii) such election shall not limit the
25 value or use of such incentive.

1 “(3) TIMING.—An election described in para-
2 graph (1) shall be made by the taxpayer not later
3 than the date on which the purchase of the principal
4 residence with respect to which the credit under sub-
5 section (a) is allowed is made.

6 “(4) REVOCATION OF REGISTRATION.—Upon
7 determination by the Secretary that a mortgage
8 lender has failed to comply with the requirements
9 described in paragraph (2), the Secretary may re-
10 voke the registration (as described in subparagraph
11 (A) of such paragraph) of such mortgage lender.

12 “(5) TAX TREATMENT OF PAYMENTS.—With
13 respect to any payment described in paragraph
14 (2)(C), such payment—

15 “(A) shall not be includible in the gross in-
16 come of the taxpayer, and

17 “(B) with respect to the mortgage lender,
18 shall not be deductible under this title.

19 “(6) ADVANCE PAYMENT TO MORTGAGE LEND-
20 ERS.—

21 “(A) IN GENERAL.—The Secretary shall
22 establish a program to make advance payments
23 to any eligible entity in an amount equal to the
24 cumulative amount of the credits allowed under
25 subsection (a) with respect to any mortgages

1 issued by such entity for which an election de-
2 scribed in paragraph (1) has been made.

3 “(B) EXCESSIVE PAYMENTS.—Rules simi-
4 lar to the rules of section 6417(d)(6) shall
5 apply for purposes of this paragraph.

6 “(C) TREATMENT OF ADVANCE PAY-
7 MENTS.—For purposes of section 1324 of title
8 31, United States Code, the payments under
9 subparagraph (A) shall be treated in the same
10 manner as a refund due from a credit provision
11 referred to in subsection (b)(2) of such section.

12 “(7) RECAPTURE.—In the case of any taxpayer
13 who has made an election described in paragraph (1)
14 with respect to the purchase of a principal residence
15 and received a payment described in paragraph
16 (2)(C) from an eligible entity, such principal resi-
17 dence shall be treated as a principal residence with
18 respect to which a credit was allowed under sub-
19 section (a) for purposes of subsection (f).”.

20 (b) CERTAIN ERRORS WITH RESPECT TO FIRST-
21 TIME HOMEBUYER TAX CREDIT TREATED AS MATHE-
22 MATICAL OR CLERICAL ERRORS.—Paragraph (2) of sec-
23 tion 6213(g) of the Internal Revenue Code of 1986, as
24 amended by Public Law 119–21, is amended by striking
25 “and” at the end of subparagraph (Z), by striking the pe-

1 riod at the end of subparagraph (AA) and inserting “,
2 and”, and by inserting after subparagraph (AA) the fol-
3 lowing new subparagraph:

4 “(BB) an entry on a return claiming the
5 credit under section 36 if—

6 “(i) the Secretary obtains information
7 from the person issuing the TIN of the
8 taxpayer that indicates that the taxpayer
9 does not meet the age requirement of sec-
10 tion 36(b)(4),

11 “(ii) information provided to the Sec-
12 retary by the taxpayer on an income tax
13 return for at least one of the 2 preceding
14 taxable years is inconsistent with eligibility
15 for such credit, or

16 “(iii) the taxpayer fails to attach to
17 the return the form described in section
18 36(f)(3).”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply with respect to principal residences
21 purchased after the date of the enactment of this Act.