

118TH CONGRESS
2D SESSION

S. 4460

To reduce regulatory barriers to housing, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 5, 2024

Mr. FETTERMAN introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To reduce regulatory barriers to housing, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Reducing Regulatory
5 Barriers to Housing Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) As of 2021 in the United States, there was
9 an estimated housing shortage of 3,890,000 homes.

10 This housing supply shortage has resulted in a
11 record number of cost-burdened households across

1 regions and spanning the large and small cities,
2 towns, and coastal and rural communities of the
3 United States.

4 (2) Several factors contribute to the under-
5 supply of housing in the United States, particularly
6 workforce housing, including rising costs of con-
7 struction, a shortage of labor, supply chain disrup-
8 tions, and a lack of reliable funding sources.

9 (3) Regulatory barriers at the State and local
10 levels, such as zoning and land use regulations, also
11 inhibit the creation of new housing to meet local and
12 regional housing needs.

13 (4) State and local governments are proactively
14 exploring solutions for reforming regulatory barriers,
15 but additional resources, data, and models are need-
16 ed to adequately address these challenges.

17 (5) While land use regulation is the responsi-
18 bility of State and local governments, Federal sup-
19 port for necessary reforms is not a preemption of ex-
20 isting authority, and there is a need for the Federal
21 Government to provide support and assistance to
22 State and local governments that wish to undertake
23 necessary reforms in a manner that fits their com-
24 munities' needs.

1 (6) It is the policy of the United States to pro-
2 vide for fair housing throughout the country, and it
3 is in the regional and national interest to have a
4 supply of housing that is fair, affordable, adequate,
5 and near opportunity.

6 (7) Therefore, zoning ordinances or systems of
7 land use regulation that have the intent or effect of
8 restricting housing opportunities based on economic
9 status or income without interests that are substan-
10 tial, legitimate, nondiscriminatory and that outweigh
11 the regional need for housing are contrary to the re-
12 gional and national interest.

13 **SEC. 3. DEFINITIONS.**

14 In this Act:

15 (1) ASSISTANT SECRETARY.—The term “Assist-
16 ant Secretary” means the Assistant Secretary for
17 Policy Development and Research of the Depart-
18 ment of Housing and Urban Development.

19 (2) SECRETARY.—The term “Secretary” means
20 the Secretary of Housing and Urban Development.

21 **SEC. 4. LAND USE AND PLANNING.**

22 (a) IN GENERAL.—Section 4 of the Department of
23 Housing and Urban Development Act (42 U.S.C. 3533)
24 is amended by adding at the end the following:

25 “(i) LAND USE AND PLANNING.—

1 “(1) DEFINITIONS.—In this subsection:

2 “(A) AFFORDABLE HOUSING.—The term
3 ‘affordable housing’ means housing for which
4 the monthly payment is less than 30 percent of
5 the monthly income of a household.

6 “(B) LOCAL ZONING FRAMEWORK.—The
7 term ‘local zoning framework’ means the local
8 zoning codes and other ordinances, procedures,
9 and policies governing zoning and land-use at
10 the local level.

11 “(C) STATE ZONING FRAMEWORK.—The
12 term ‘State zoning framework’ means the State
13 legislation or State agency and department pro-
14 cedures enabling local planning and zoning au-
15 thorities and establishing and guiding related
16 policies and programs.

17 “(D) UNIT OF GENERAL LOCAL GOVERN-
18 MENT.—The term ‘unit of general local govern-
19 ment’—

20 “(i) has the meaning given the term
21 in section 102 of the Housing and Commu-
22 nity Development Act of 1974 (42 U.S.C.
23 5302); and

24 “(ii) includes regional planning enti-
25 ties.

1 “(2) LAND USE AND PLANNING.—The Sec-
2 retary, acting through the Assistant Secretary,
3 shall—

4 “(A) provide technical assistance upon re-
5 quest to States and localities on zoning and
6 planning to—

7 “(i) eliminate discriminatory land use
8 policies and reduce barriers to housing
9 construction, including construction of
10 housing attainable for low-income and
11 moderate-income renters and homeowners;
12 and

13 “(ii) promote sustainable and resilient
14 land development;

15 “(B) work across the Department and with
16 the Department of the Treasury, the Depart-
17 ment of Justice, the Department of Transpor-
18 tation, the Department of Agriculture, the De-
19 partment of Health and Human Services, the
20 Environmental Protection Agency, the Depart-
21 ment of Energy, the Department of the Inte-
22 rior, and the Council on Environmental Quality
23 to—

24 “(i) coordinate efforts relating to or
25 impacting housing development; and

1 “(ii) as relevant, streamline permit-
2 ting, including by aligning the imple-
3 menting procedures of those agencies
4 under the National Environmental Policy
5 Act of 1969 (42 U.S.C. 4321 et seq.) to
6 promote housing production and transit-
7 oriented development;

8 “(C) conduct, support, and disseminate re-
9 search on local zoning and planning measures
10 to improve access to affordable housing and in-
11 crease housing supply across a range of urban,
12 suburban, exurban, and rural communities, in-
13 cluding by establishing a research program to
14 perform research, collect data, and evaluate—

15 “(i) best practices in zoning and plan-
16 ning to expand opportunities for housing
17 affordability and fair housing across a
18 range of housing types, sizes, and afford-
19 ability;

20 “(ii) the effects of land-use reform
21 measures on—

22 “(I) neighborhood, jurisdictional,
23 and regional housing conditions;

24 “(II) residential stability; and

1 “(III) access to affordable hous-
2 ing at all incomes levels;

3 “(iii) methods of community engage-
4 ment to improve the public engagement
5 process to reform land-use planning and
6 regulatory practices;

7 “(iv) systems and standards for data
8 collection; and

9 “(v) other topics related to zoning and
10 planning as determined by the Secretary;
11 and

12 “(D) develop the necessary expertise and
13 capacity within the Office to carry out this
14 paragraph; and

15 “(E) not preempt local zoning.

16 “(3) GUIDELINES ON STATE ZONING FRAME-
17 WORKS.—

18 “(A) ESTABLISHMENT.—Not later than 3
19 years after the date of enactment of this sub-
20 section, the Assistant Secretary shall publish a
21 document outlining guidelines and best prac-
22 tices for State zoning frameworks to support
23 production of adequate housing to meet the
24 needs of communities and provide housing op-

1 portunities for individuals at every income level
2 across communities.

3 “(B) CONSULTATION; PUBLIC COMMENT.—
4 During the 1-year period beginning on the date
5 of enactment of this subsection, in developing
6 the guidelines and best practices required under
7 subparagraph (A), the Assistant Secretary
8 shall—

9 “(i) publish draft guidelines in the
10 Federal Register for public comment; and

11 “(ii) establish a task force for the
12 purpose of providing consultation with the
13 Department of the draft guidelines pub-
14 lished under clause (i), the members of
15 which shall include—

16 “(I) planners and architects;

17 “(II) advocates with experience
18 in affordable housing, community de-
19 velopment efforts, and fair housing;

20 “(III) housing developers, includ-
21 ing affordable and market-rate hous-
22 ing developers, manufactured housing
23 developers, and other business inter-
24 ests;

1 “(IV) community engagement ex-
2 perts and community members im-
3 pacted by zoning decisions;

4 “(V) public housing authorities
5 and transit authorities;

6 “(VI) members of local zoning
7 and planning boards and local and re-
8 gional transportation planning organi-
9 zations;

10 “(VII) State officials responsible
11 for housing or land use, including
12 members of State zoning boards of
13 appeals; and

14 “(VIII) academic researchers.

15 “(C) CONTENTS.—The guidelines and best
16 practices required under subparagraph (A)
17 shall—

18 “(i) outline potential models for up-
19 dated State enabling legislation or State
20 agency and department procedures;

21 “(ii) include recommendations regard-
22 ing—

23 “(I) the reduction or elimination
24 of parking minimums;

1 “(II) the increase in maximum
2 floor area ratio requirements and
3 maximum building heights and the re-
4 duction in minimum lot size and set-
5 back requirements;

6 “(III) the elimination of restric-
7 tions against accessory dwelling units;

8 “(IV) increasing by-right uses,
9 including duplex, triplex, or quadplex
10 buildings, across cities or metropolitan
11 areas, including mechanisms, such as
12 proximity to transit, to determine the
13 jurisdictional level for rezoning and
14 ensures development that does not
15 disproportionately burden residents of
16 economically distressed areas;

17 “(V) provisions regarding review
18 of by-right development proposals to
19 streamline review and reduce uncer-
20 tainty, including non-discretionary,
21 ministerial review;

22 “(VI) the reduction of obstacles
23 to a range of housing types at all lev-
24 els of affordability, including manu-
25 factured and modular housing;

- 1 “(VII) State model codes for di-
2 recting local reforms, including mech-
3 anisms to encourage adoption;
- 4 “(VIII) provisions to encourage
5 transit-oriented development, includ-
6 ing but not limited to, increased per-
7 missible units per structure and re-
8 duced minimum lot sizes near existing
9 or planned public transit stations;
- 10 “(IX) improvements to the public
11 engagement processes, including—
- 12 “(aa) meaningful access for
13 limited English proficient persons
14 and effective communication im-
15 provements for persons with dis-
16 abilities;
- 17 “(bb) leveraging of virtual
18 meeting technologies; and
- 19 “(cc) proactive outreach in
20 communities;
- 21 “(X) the elimination of or re-
22 forms to protest petition statutes;
- 23 “(XI) the standardization, reduc-
24 tion, or elimination of impact fees;

1 “(XII) the standardization of
2 building codes;

3 “(XIII) models for community
4 benefit agreements;

5 “(XIV) mechanisms to preserve
6 affordability, limit disruption of low-
7 income communities, and prevent dis-
8 placement of existing residents;

9 “(XV) a model for a State zoning
10 appeals process, which would—

11 “(aa) create a process for
12 developers or builders requesting
13 a variance, conditional use, or
14 zoning district change or other-
15 wise petitioning a local zoning or
16 planning board for a project in-
17 cluding a State-defined amount
18 of affordable housing to appeal a
19 rejection to a State body or re-
20 gional body empowered by the
21 State;

22 “(bb) establish qualifications
23 for communities to be exempted
24 from the appeals process based

1 on their available stock of afford-
2 able housing; and

3 “(cc) establish a State zon-
4 ing appeals board to consider ap-
5 peals to a variance rejection and
6 objectively evaluate petitions
7 based on the potential for envi-
8 ronmental damage and
9 infrastructural capacity;

10 “(XVI) best practices on the dis-
11 position of land owned by State gov-
12 ernments for affordable housing devel-
13 opment; and

14 “(XVII) other land use measures
15 that promote access to new housing
16 opportunities identified by the Sec-
17 retary; and

18 “(iii) consider—

19 “(I) local housing needs, includ-
20 ing ways to set and measure housing
21 goals and targets;

22 “(II) a range of affordability for
23 rental units, with a prioritization of
24 units attainable to extremely low-in-

1 come, low-income, and moderate-in-
2 come residents;

3 “(III) a range of affordability for
4 homeownership units attainable to
5 low-income and moderate-income resi-
6 dents;

7 “(IV) distinctions between States
8 providing constitutional or statutory
9 home rule authority to municipalities
10 and States operating under the Dillon
11 rule, as articulated in *Hunter v. Pitts-*
12 *burgh*, 207 U.S. 161 (1907);

13 “(V) accountability measures;

14 “(VI) the long-term cost to resi-
15 dents and businesses if more housing
16 is not constructed;

17 “(VII) barriers to individuals
18 seeking to access affordable housing
19 in growing communities and commu-
20 nities with economic opportunity;

21 “(VIII) consistency with respect
22 to fair housing and civil rights re-
23 quirements;

1 “(IX) coordination between infra-
2 structure investments and housing
3 planning;

4 “(X) statewide mechanisms to
5 preserve existing affordability over the
6 long term, including support for land
7 banks and community land trusts;

8 “(XI) guidance to States on col-
9 lecting and maintaining proactive data
10 on the current rental housing market
11 and rental registries; and

12 “(XII) other considerations, as
13 identified by the Secretary.

14 “(4) STATE ZONING FRAMEWORKS.—

15 “(A) IN GENERAL.—Not later than 180
16 days after the date on which the Assistant Sec-
17 retary receives a request from a State for tech-
18 nical assistance, the Assistant Secretary may
19 provide technical assistance to States that seek
20 to adopt a State zoning framework that incor-
21 porates, in whole or in part, the guidelines and
22 best practices described in paragraph (4).

23 “(B) GUIDANCE.—In adopting a State
24 zoning framework under subparagraph (A), the
25 Assistant Secretary shall not provide technical

1 assistance to include measures the net effect of
 2 which would promote exclusionary zoning prac-
 3 tices, restrict net production, or otherwise in-
 4 crease barriers to housing construction.

5 “(5) GUIDELINES ON LOCAL ZONING FRAME-
 6 WORKS.—

7 “(A) ESTABLISHMENT.—Not later than 3
 8 years after the date of enactment of this sub-
 9 section, the Assistant Secretary shall publish
 10 best practices for local zoning frameworks using
 11 the same public comment and consultation
 12 process described in paragraph (3)(B) with re-
 13 spect to State zoning frameworks.

14 “(B) CONTENTS.—The best practices re-
 15 quired under subparagraph (A) shall—

16 “(i) include recommendations regard-
 17 ing—

18 “(I) the simplification and stand-
 19 ardization of existing zoning codes;

20 “(II) the reduction or elimination
 21 of parking minimums;

22 “(III) the increase in maximum
 23 floor area ratio requirements and
 24 maximum building heights and the re-

1 duction in minimum lot size and set-
2 back requirements;

3 “ (IV) the elimination of restric-
4 tions against accessory dwelling units;

5 “ (V) increasing by-right uses, in-
6 cluding duplex, triplex, or quadplex
7 buildings;

8 “ (VI) the reduction of obstacles
9 to a range of housing types, including
10 manufactured and modular housing;

11 “ (VII) provisions to encourage
12 transit-oriented development, includ-
13 ing increased permissible units per
14 structure and reduced minimum lot
15 sizes near existing or planned public
16 transit stations;

17 “ (VIII) improvements to the pub-
18 lic engagement processes, including—

19 “ (aa) meaningful access for
20 limited English proficient persons
21 and effective communication im-
22 provements for persons with dis-
23 abilities;

24 “ (bb) leveraging of virtual
25 meeting technologies; and

1 “(cc) proactive outreach in
2 communities;

3 “(IX) provisions regarding review
4 of by-right development proposals to
5 streamline review and reduce uncer-
6 tainty, including non-discretionary,
7 ministerial review;

8 “(X) recommendations regarding
9 maximum review timelines;

10 “(XI) models for standardized
11 community benefit agreements;

12 “(XII) best practices on the dis-
13 position of land owned by local gov-
14 ernments and transit authorities for
15 affordable housing development;

16 “(XIII) mechanisms and incen-
17 tives to preserve affordability, limit
18 disruption of low-income communities,
19 and prevent or reduce displacement of
20 existing residents;

21 “(XIV) other regulatory reforms
22 to increase housing construction and
23 reduce housing costs; and

24 “(XV) other land use measures
25 that promote access to new housing

1 opportunities identified by the Sec-
2 retary; and

3 “(ii) consider—

4 “(I) local housing needs;

5 “(II) a range of affordability for
6 rental units, with a prioritization of
7 units attainable to extremely low-in-
8 come, low-income, and moderate-in-
9 come residents;

10 “(III) a range of affordability for
11 homeownership units attainable to
12 low- and moderate-income residents;

13 “(IV) the long-term cost to resi-
14 dents and businesses if more housing
15 is not constructed;

16 “(V) barriers to accessing afford-
17 able housing in growing communities
18 and communities with economic op-
19 portunities; and

20 “(VI) other policies or methods,
21 as identified by the Secretary.

22 “(C) TECHNICAL ASSISTANCE.—Not later
23 than 180 days after the date on which the As-
24 sistant Secretary receives a request for tech-
25 nical assistance from a local government or re-

1 regional planning entity, the Assistant Secretary
2 may provide technical assistance to those enti-
3 ties seeking to rehaul, reform, or otherwise up-
4 date local zoning frameworks in line with the
5 guidelines described in paragraph (3), including
6 assisting in hosting community engagement ses-
7 sions.

8 “(D) GUIDANCE.—In adopting a local zon-
9 ing framework in accordance with guidance
10 issued under subparagraph (A), the Assistant
11 Secretary shall not provide technical assistance
12 to a local government or a regional planning en-
13 tity to include measures the net effect of which
14 would promote exclusionary zoning practices,
15 restrict net production, or otherwise increase
16 barriers to housing construction.

17 “(6) REPORTING.—Not later than 2 years after
18 the date on which the Assistant Secretary publishes
19 the guidelines and best practices described in para-
20 graphs (3) and (5), the Assistant Secretary shall
21 submit to Congress a report describing—

22 “(A) the States that have adopted a
23 version of the guidelines and best practices, in-
24 cluding those that developed and adopted a
25 State zoning framework;

1 “(B) the localities that have adopted a
2 version of the guidelines;

3 “(C) a summary of the modifications that
4 each such State made in their State zoning
5 framework; and

6 “(D) a general summary of the types of
7 updates localities have made to their local zon-
8 ing framework.

9 “(7) AUTHORIZATION OF APPROPRIATIONS.—
10 There are authorized to be appropriated
11 \$10,000,000 to carry out the technical assistance in
12 paragraphs (4)(A) and (5)(C), and \$10,000,000 to
13 carry out this section, for each of fiscal years 2025
14 through 2029.”.

15 (b) ABOLISHMENT OF REGULATORY BARRIERS
16 CLEARINGHOUSE.—

17 (1) IN GENERAL.—The Regulatory Barriers
18 Clearinghouse established pursuant to section 1205
19 of the Housing and Community Development Act of
20 1992 (42 U.S.C. 12705d) is abolished.

21 (2) REPEAL.—Section 1205 of the Housing and
22 Community Development Act of 1992 (42 U.S.C.
23 12705d) is repealed.

1 **SEC. 5. QUALIFIED ALLOCATION PLANS.**

2 The selection criteria under a qualified allocation
3 plan under section 42 of the Internal Revenue Code of
4 1986) shall not include consideration of—

5 (1) any opposition with respect to the project
6 from local or elected officials; or

7 (2) any local government contribution to the
8 project, except to the extent such contribution is
9 taken into account as part of a broader consider-
10 ation of the project's ability to leverage outside
11 funding sources, and is not prioritized over any
12 other source of outside funding.

13 **SEC. 6. NATIONAL ZONING MAPPING.**

14 (a) IN GENERAL.—The Secretary shall establish a
15 grant program under which the Secretary provides fund-
16 ing to academic institutions, research collaboratives, non-
17 profit organizations, or other entities to conduct zoning-
18 district-level digitization of zoning codes.

19 (b) PRIORITY.—In awarding grants under this sec-
20 tion, the Secretary shall prioritize projects that will—

21 (1) create a plan to maintain the database for
22 such information;

23 (2) establish a portal for State entities and
24 local governments to input zoning-related informa-
25 tion;

1 (3) prioritize mapping areas whose zoning has
2 not previously been digitized;

3 (4) coordinate with State or local government
4 entities, provide a plan for long-term maintenance of
5 the database, and establish a protocol for data shar-
6 ing; and

7 (5) develop tools to test the impact of various
8 zoning and land use regulation reforms on the over-
9 all supply of new housing.

10 (c) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary to carry
12 out this section \$3,500,000 for fiscal years 2025 through
13 2027.

14 **SEC. 7. GRANTS FOR ESTABLISHING PRE-APPROVED DE-**
15 **SIGNS FOR AFFORDABLE HOUSING.**

16 (a) DEFINITIONS.—In this section:

17 (1) COVERED STRUCTURE.—The term “covered
18 structure” means—

19 (A) a low-rise or mid-rise structure with
20 between 2 and 8 dwelling units; and

21 (B) includes—

22 (i) an accessory dwelling unit;

23 (ii) a duplex;

24 (iii) a triplex;

25 (iv) a fourplex;

- 1 (v) a cottage court;
- 2 (vi) a courtyard building; and
- 3 (vii) any other structure the Secretary
- 4 considers appropriate.

5 (2) ELIGIBLE ENTITY.—The term “eligible enti-
6 ty” means a unit of general local government.

7 (b) AUTHORITY.— The Secretary may award grants
8 to eligible entities to establish and implement designs for
9 use of covered structures in the jurisdiction of the eligible
10 entity that the eligible entity preapproves as affordable
11 housing.

12 (c) SET-ASIDE FOR SMALLER OR RURAL AREAS.—
13 Of the amount made available in each fiscal year for
14 grants under this section, the Secretary shall ensure that
15 not less than 10 percent shall be used for grants to eligible
16 entities that are smaller eligible entities or are located in
17 rural areas.

18 (d) REPORTS.—The Secretary shall require eligible
19 entities receiving grants under this section to report on—

20 (1) the impacts of the activities carried out
21 using such grant amounts in improving the produc-
22 tion and supply of affordable housing;

23 (2) the pre-approved designs established and
24 implemented using such grant amounts in their com-
25 munities; and

1 (3) the impact of the activities funded with
2 grant amounts.

3 (e) AVAILABILITY OF INFORMATION.—The Secretary
4 shall—

5 (1) make publicly available information on the
6 pre-approved designs submitted by eligible entities
7 receiving grants under this section, including infor-
8 mation on the benefits of use of such designs; and

9 (2) collect, identify, and disseminate best prac-
10 tices regarding such designs to interested localities
11 and parties.

12 (f) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Secretary to carry
14 out this section \$10,000,000 for fiscal years 2025 through
15 2027.

○