

117TH CONGRESS
1ST SESSION

H. R. 5173

To provide for the enhancement of urban agriculture, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 3, 2021

Mr. RUSH (for himself, Ms. MOORE of Wisconsin, and Ms. KAPTUR) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To provide for the enhancement of urban agriculture, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Urban Agriculture and Community Food Security Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—URBAN AGRICULTURE CONSERVATION EASEMENT PROGRAM

Sec. 101. Establishment and purposes.

Sec. 102. Definitions.

Sec. 103. Urban agricultural land easements.

TITLE II—OTHER URBAN AGRICULTURE PROGRAMS

Sec. 201. Urban agriculture microentrepreneur assistance program.

Sec. 202. Community Food Project Grant Program.

1 **TITLE I—URBAN AGRICULTURE** 2 **CONSERVATION EASEMENT** 3 **PROGRAM**

4 **SEC. 101. ESTABLISHMENT AND PURPOSES.**

5 (a) ESTABLISHMENT.—The Secretary shall establish
6 an urban agriculture conservation easement program for
7 the conservation of eligible land, improved community food
8 security, and improved access to cropland for beginning
9 farmers or ranchers, socially disadvantaged farmers or
10 ranchers, and majority-controlled producer-based business
11 ventures through easements or other interests in land.

12 (b) PURPOSES.—The purposes of the program are
13 to—

14 (1) protect the agricultural use and future via-
15 bility, and related conservation values, of eligible
16 land by limiting nonagricultural uses of that land;

17 (2) to improve or provide affordable long-term
18 access to land for agricultural and related uses in
19 urban communities; and

20 (3) to improve community food security.

21 **SEC. 102. DEFINITIONS.**

22 In this title:

1 (1) BEGINNING FARMER OR RANCHER.—The
2 term “beginning farmer or rancher” has the mean-
3 ing given that term in section 343(a) of the Consoli-
4 dated Farm and Rural Development Act (7 U.S.C.
5 1991(a)).

6 (2) ELIGIBLE ENTITY.—The term “eligible enti-
7 ty” means—

8 (A) a State or local governmental entity or
9 an Indian Tribe; or

10 (B) an organization that is—

11 (i) organized for, and at all times
12 since the formation of the organization has
13 been operated principally for, 1 or more of
14 the conservation purposes specified in
15 clause (i), (ii), (iii), or (iv) of section
16 170(h)(4)(A) of the Internal Revenue Code
17 of 1986;

18 (ii) an organization described in sec-
19 tion 501(c)(3) of that Code that is exempt
20 from taxation under section 501(a) of that
21 Code; or

22 (iii) described in—

23 (I) paragraph (1) or (2) of sec-
24 tion 509(a) of that Code; or

1 (II) section 509(a)(3) of that
2 Code and is controlled by an organiza-
3 tion described in section 509(a)(2) of
4 that Code.

5 (3) ELIGIBLE LAND.—The term “eligible land”
6 means—

7 (A) private land—

8 (i) that is subject to a pending offer
9 for purchase of an urban agricultural land
10 easement from an eligible entity;

11 (ii) that is potentially or currently
12 physically suitable for use as cropland and
13 other attendant agricultural activities;

14 (iii) the use of which for agricultural
15 activities does not pose a threat to the
16 human health of those working the land or
17 the public, due to levels of environmental
18 contaminants on the land or in the sub-
19 surface of the land; and

20 (iv)(I) that is currently vacant;

21 (II) that is in tax delinquency;

22 (III) that is a brownfield site, as de-
23 fined in section 101(39) of the Comprehen-
24 sive Environmental Response, Compensa-

1 tion, and Liability Act of 1980 (42 U.S.C.
2 9601(39));

3 (IV) that is currently being used for
4 urban agriculture purposes; or

5 (V) the protection of which will fur-
6 ther a State or local policy consistent with
7 the purposes of the program; or

8 (B) other private land that is incidental to
9 land described in subparagraph (A), if the Sec-
10 retary determines that it is necessary for the ef-
11 ficient administration of an easement under the
12 program.

13 (4) MAJORITY-CONTROLLED PRODUCER-BASED
14 BUSINESS VENTURE.—The term “majority-controlled
15 producer-based business venture” has the meaning
16 given that term in section 210A(a)(5) of the Agricul-
17 tural Marketing Act of 1946 (7 U.S.C. 1627c(a)(5)).

18 (5) PROGRAM.—The term “program” means
19 the urban agricultural conservation easement pro-
20 gram established by this subtitle.

21 (6) SECRETARY.—The term “Secretary” means
22 the Secretary of Agriculture, acting through the Of-
23 fice of Urban Agriculture and Innovative Produc-
24 tion.

1 (7) SOCIALLY DISADVANTAGED FARMER OR
 2 RANCHER.—The term “socially disadvantaged farm-
 3 er or rancher” has the meaning given that term in
 4 section 355(e) of the Consolidated Farm and Rural
 5 Development Act (7 U.S.C. 2003(e)).

6 (8) URBAN AGRICULTURAL LAND EASEMENT.—
 7 The term “urban agricultural land easement” means
 8 an easement or other interest in eligible land that—

9 (A) is conveyed for the purpose of pro-
 10 tecting natural resources and the agricultural
 11 nature of the land in urban communities; and

12 (B) permits the landowner the right to
 13 continue agricultural production and related
 14 uses subject to an urban agricultural land ease-
 15 ment plan, as approved by the Secretary.

16 **SEC. 103. URBAN AGRICULTURAL LAND EASEMENTS.**

17 (a) AVAILABILITY OF ASSISTANCE.—The Secretary
 18 shall facilitate and provide funding for—

19 (1) the purchase by eligible entities of urban
 20 agricultural land easements in eligible land; and

21 (2) technical assistance to provide for the con-
 22 servation of natural resources pursuant to an urban
 23 agricultural land easement plan.

24 (b) COST-SHARE ASSISTANCE.—

1 (1) IN GENERAL.—The Secretary shall protect
2 the agricultural use, including grazing, and related
3 conservation and food security values of eligible land
4 through cost-share assistance to eligible entities for
5 purchasing urban agricultural land easements.

6 (2) SCOPE OF ASSISTANCE AVAILABLE.—

7 (A) FEDERAL SHARE.—An agreement de-
8 scribed in paragraph (4) shall provide for a
9 Federal share determined by the Secretary of
10 an amount not to exceed 75 percent of the fair
11 market value of the urban agricultural land
12 easement, as determined by the Secretary
13 using—

14 (i) the Uniform Standards of Profes-
15 sional Appraisal Practice;

16 (ii) an areawide market analysis or
17 survey; or

18 (iii) another industry-approved meth-
19 od.

20 (B) NON-FEDERAL SHARE.—

21 (i) IN GENERAL.—Under the agree-
22 ment, the eligible entity shall provide a
23 share that is at least 25 percent of the fair
24 market value of the urban agricultural

1 land easement in accordance with subpara-
2 graph (A).

3 (ii) SOURCE OF CONTRIBUTION.—An
4 eligible entity may include as part of its
5 share under clause (i) a charitable dona-
6 tion or qualified conservation contribution
7 (as defined by section 170(h) of the Inter-
8 nal Revenue Code of 1986) from the pri-
9 vate landowner if the eligible entity con-
10 tributes its own cash resources in an
11 amount that is at least 25 percent of the
12 amount contributed by the Secretary.

13 (C) EXCEPTION.—For purposes of sub-
14 paragraph (B)(ii), the Secretary may waive any
15 portion of the eligible entity cash contribution
16 requirement for projects of special significance,
17 subject to an increase in the private landowner
18 donation that is equal to the amount of the
19 waiver, if the donation is voluntary and the
20 property is in active agricultural production.

21 (3) EVALUATION AND RANKING OF APPLICA-
22 TIONS.—

23 (A) CRITERIA.—The Secretary shall estab-
24 lish evaluation and ranking criteria to maximize

1 the benefit of Federal investment under the
2 program.

3 (B) CONSIDERATIONS.—In establishing the
4 criteria, the Secretary shall emphasize support
5 for—

6 (i) improving community food secu-
7 rity; and

8 (ii) facilitating improved access to
9 cropland for beginning and socially dis-
10 advantaged producers and producer
11 groups.

12 (C) BIDDING DOWN.—If the Secretary de-
13 termines that 2 or more applications for cost-
14 share assistance are comparable in achieving
15 the purpose of the program, the Secretary shall
16 not assign a higher priority to any of those ap-
17 plications solely on the basis of lesser cost to
18 the program.

19 (4) AGREEMENTS WITH ELIGIBLE ENTITIES.—

20 (A) IN GENERAL.—The Secretary shall
21 enter into agreements with eligible entities to
22 stipulate the terms and conditions under which
23 the eligible entity is permitted to use cost-share
24 assistance provided under this section.

1 (B) LENGTH OF AGREEMENTS.—An agree-
2 ment shall be for a term that is—

3 (i) in the case of an eligible entity cer-
4 tified under the process described in para-
5 graph (5), a minimum of 5 years; and

6 (ii) for all other eligible entities, at
7 least 3, but not more than 5 years.

8 (C) MINIMUM TERMS AND CONDITIONS.—
9 An eligible entity shall be authorized to use its
10 own terms and conditions for urban agricultural
11 land easements so long as the Secretary deter-
12 mines such terms and conditions—

13 (i) are consistent with the purposes of
14 the program;

15 (ii) permit effective enforcement of
16 the purposes of such easements;

17 (iii) include a right of enforcement for
18 the Secretary, that may be used only if the
19 terms of the easement are not enforced by
20 the holder of the easement;

21 (iv) subject the land in which an in-
22 terest is purchased to an urban agricul-
23 tural land easement plan that describes the
24 activities which promote the long-term via-

1 bility of the land to meet the purposes for
2 which the easement was acquired; and

3 (v) do not limit the generation of
4 profit through agricultural activities on the
5 land.

6 (D) SUBSTITUTION OF QUALIFIED
7 PROJECTS.—An agreement shall allow, upon
8 mutual agreement of the parties, substitution of
9 qualified projects that are identified at the time
10 of the proposed substitution.

11 (E) EFFECT OF VIOLATION.—If a violation
12 occurs of a term or condition of an agreement
13 under this subsection—

14 (i) the Secretary may terminate the
15 agreement; and

16 (ii) the Secretary may require the eli-
17 gible entity to refund all or part of any
18 payments received by the entity under the
19 program, with interest on the payments as
20 determined appropriate by the Secretary.

21 (5) CERTIFICATION OF ELIGIBLE ENTITIES.—

22 (A) CERTIFICATION PROCESS.—The Sec-
23 retary shall establish a process under which the
24 Secretary may—

1 (i) directly certify eligible entities that
2 meet established criteria;

3 (ii) enter into long-term agreements
4 with certified eligible entities; and

5 (iii) accept proposals for cost-share
6 assistance for the purchase of urban agri-
7 cultural land easements throughout the du-
8 ration of such agreements.

9 (B) CERTIFICATION CRITERIA.—In order
10 to be certified, an eligible entity shall dem-
11 onstrate to the Secretary that the entity will
12 maintain, at a minimum, for the duration of the
13 agreement—

14 (i) a plan for administering easements
15 that is consistent with the purpose of the
16 program;

17 (ii) the capacity and resources to
18 monitor and enforce urban agricultural
19 land easements; and

20 (iii) policies and procedures to en-
21 sure—

22 (I) the long-term integrity of
23 urban agricultural land easements on
24 eligible land;

1 (II) timely completion of acquisi-
2 tions of such easements; and

3 (III) timely and complete evalua-
4 tion and reporting to the Secretary on
5 the use of funds provided under the
6 program.

7 (C) REVIEW AND REVISION.—

8 (i) REVIEW.—The Secretary shall con-
9 duct a review of eligible entities certified
10 under subparagraph (A) every three years
11 to ensure that such entities are meeting
12 the criteria established under subpara-
13 graph (B).

14 (ii) REVOCATION.—If the Secretary
15 finds that a certified eligible entity no
16 longer meets the criteria established under
17 subparagraph (B), the Secretary may—

18 (I) allow the certified eligible en-
19 tity a specified period of time, at a
20 minimum 180 days, in which to take
21 such actions as may be necessary to
22 meet the criteria; and

23 (II) revoke the certification of the
24 eligible entity, if, after the specified

1 period of time, the certified eligible
2 entity does not meet such criteria.

3 (c) METHOD OF ENROLLMENT.—The Secretary shall
4 enroll eligible land under this section through the use of—

5 (1) permanent easements; or

6 (2) easements for the maximum duration al-
7 lowed under applicable State laws.

8 (d) TECHNICAL ASSISTANCE.—The Secretary may
9 provide technical assistance, if requested, to assist in—

10 (1) compliance with the terms and conditions of
11 easements; and

12 (2) implementation of an urban agricultural
13 land easement plan.

14 (e) FUNDING.—

15 (1) MANDATORY FUNDING.—Of the funds of
16 the Commodity Credit Corporation, the Secretary
17 shall use to carry out this title \$20,000,000 for fis-
18 cal year 2022 and each fiscal year thereafter.

19 (2) AUTHORIZATION OF APPROPRIATIONS.—

20 There is authorized to be appropriated to carry out
21 this title \$20,000,000 for fiscal year 2022 and each
22 fiscal year thereafter.

1 **TITLE II—OTHER URBAN**
2 **AGRICULTURE PROGRAMS**

3 **SEC. 201. URBAN AGRICULTURE MICROENTREPRENEUR AS-**
4 **SISTANCE PROGRAM.**

5 (a) DEFINITIONS.—In this section:

6 (1) INDIAN TRIBE.—The term “Indian tribe”
7 has the meaning given the term in section 4 of the
8 Indian Self-Determination and Education Assistance
9 Act (25 U.S.C. 450b).

10 (2) MICROENTREPRENEUR.—The term “micro-
11 entrepreneur” means an owner and operator, or pro-
12 spective owner and operator, of an urban agri-
13 culture-related microenterprise who is unable to ob-
14 tain sufficient training, technical assistance, or cred-
15 it other than under this section, as determined by
16 the Secretary.

17 (3) MICROENTERPRISE DEVELOPMENT ORGANI-
18 ZATION.—The term “microenterprise development
19 organization” means an organization that—

20 (A) is—

21 (i) a nonprofit entity;

22 (ii) an Indian tribe, if the tribal gov-
23 ernment of which certifies to the Secretary
24 that—

1 (I) no microenterprise develop-
2 ment organization serves the Indian
3 tribe; and

4 (II) there is no urban microentre-
5 preneur assistance program under the
6 jurisdiction of the Indian tribe; or

7 (iii) a public institution of higher edu-
8 cation;

9 (B) provides training and technical assist-
10 ance to microentrepreneurs;

11 (C) facilitates access to capital or another
12 service described in subsection (b) for urban
13 microenterprises; and

14 (D) has a demonstrated record of deliv-
15 ering services to microentrepreneurs, or an ef-
16 fective plan to develop a program to deliver
17 services to microentrepreneurs, as determined
18 by the Secretary.

19 (4) MICROLOAN.—The term “microloan” means
20 a business loan of not more than \$75,000 that is
21 provided to a microenterprise.

22 (5) PROGRAM.—The term “program” means
23 the urban agriculture microentrepreneur assistance
24 program established under subsection (b).

1 (6) URBAN AGRICULTURE MICROENTER-
2 PRISE.—The term “urban agriculture microenter-
3 prise” means an entity that—

4 (A) is—

5 (i) a sole proprietorship located in a
6 urban area as defined by the Census Bu-
7 reau; or

8 (ii) a business entity with not more
9 than 10 full-time equivalent employees lo-
10 cated in a urban area; and

11 (B) is engaged in agriculture production
12 and attendant activities, such as harvesting,
13 packing, and minimal processing.

14 (b) URBAN AGRICULTURE MICROENTREPRENEUR
15 ASSISTANCE PROGRAM.—

16 (1) ESTABLISHMENT.—The Secretary shall es-
17 tablish an urban agriculture microentrepreneur as-
18 sistance program to provide loans and grants to sup-
19 port microentrepreneurs in the development and on-
20 going success of urban agriculture microenterprises.

21 (2) PURPOSE.—The purpose of the program
22 shall be to provide microentrepreneurs with—

23 (A) the skills necessary to establish new
24 urban agriculture microenterprises; and

1 (B) continuing technical and financial as-
2 sistance related to the successful operation of
3 urban agriculture microenterprises.

4 (3) LOANS.—

5 (A) IN GENERAL.—The Secretary shall
6 make loans to microenterprise development or-
7 ganizations for the purpose of providing fixed
8 interest rate microloans to microentrepreneurs
9 for startup and growing urban agriculture
10 microenterprises.

11 (B) LOAN TERMS.—A loan made by the
12 Secretary to a microenterprise development or-
13 ganization under this paragraph shall—

14 (i) be for a term not to exceed 20
15 years; and

16 (ii) bear interest at a rate of at least
17 1 percent per year.

18 (C) LOAN LOSS RESERVE FUND.—The
19 Secretary shall require each microenterprise de-
20 velopment organization that receives a loan
21 under this paragraph to—

22 (i) establish a loan loss reserve fund;
23 and

24 (ii) maintain the reserve fund in an
25 amount equal to at least 5 percent of the

1 outstanding balance of the loans owed by
2 the organization, until all obligations owed
3 to the Secretary under this paragraph are
4 repaid.

5 (D) DEFERRAL OF INTEREST AND PRIN-
6 CIPAL.—The Secretary may permit the deferral
7 of payments on principal and interest due on a
8 loan to a microenterprise development organiza-
9 tion made under this paragraph for a 2-year pe-
10 riod beginning on the date the loan is made.

11 (4) GRANTS.—

12 (A) GRANTS TO SUPPORT URBAN AGRI-
13 CULTURE MICROENTERPRISE DEVELOPMENT.—

14 (i) IN GENERAL.—The Secretary shall
15 make grants to microenterprise develop-
16 ment organizations to—

17 (I) provide training, operational
18 support, business planning, and mar-
19 ket development assistance, and other
20 related services to urban agriculture
21 microentrepreneurs; and

22 (II) carry out such other projects
23 and activities as the Secretary deter-
24 mines appropriate to further the pur-
25 poses of the program.

1 (ii) SELECTION.—In making grants
2 under clause (i), the Secretary shall—

3 (I) place an emphasis on micro-
4 enterprise development organizations
5 that serve microentrepreneurs that
6 are located in areas of concentrated
7 poverty with limited access to fresh lo-
8 cally or regionally grown foods, as de-
9 termined by the Secretary; and

10 (II) ensure, to the maximum ex-
11 tent practicable, that grant recipients
12 include microenterprise development
13 organizations—

14 (aa) of varying sizes; and

15 (bb) that serve racially and
16 ethnically diverse populations.

17 (B) GRANTS TO ASSIST MICROENTRE-
18 PRENEURS.—

19 (i) IN GENERAL.—The Secretary shall
20 make grants to microenterprise develop-
21 ment organizations to provide marketing,
22 management, and other technical assist-
23 ance to microentrepreneurs that received
24 or are seeking a loan from the organization
25 under paragraph (3).

1 (ii) MAXIMUM AMOUNT OF GRANT.—A
2 microenterprise development organization
3 shall be eligible to receive an annual grant
4 under this subparagraph in an amount
5 equal to not more than 25 percent of the
6 total outstanding balance of microloans
7 made by the organization under paragraph
8 (3), as of the date the grant is awarded.

9 (C) ADMINISTRATIVE EXPENSES.—Not
10 more than 10 percent of a grant received by a
11 microenterprise development organization for a
12 fiscal year under this paragraph may be used to
13 pay administrative expenses.

14 (c) ADMINISTRATION.—

15 (1) COST SHARE.—

16 (A) FEDERAL SHARE.—Subject to sub-
17 paragraph (B), the Federal share of the cost of
18 a project funded under this section shall not ex-
19 ceed 75 percent.

20 (B) MATCHING REQUIREMENT.—As a con-
21 dition of any grant made under this subpara-
22 graph, the Secretary shall require the microen-
23 terprise development organization to match not
24 less than 15 percent of the total amount of the

1 grant in the form of matching funds, indirect
2 costs, or in-kind goods or services.

3 (C) FORM OF NON-FEDERAL SHARE.—The
4 non-Federal share of the cost of a project fund-
5 ed under this section may be provided—

6 (i) in cash, including through fees,
7 grants (including community development
8 block grants provided by the Department
9 of Housing and Urban Development), and
10 gifts; or

11 (ii) in the form of in-kind contribu-
12 tions.

13 (2) OVERSIGHT.—At a minimum, not later than
14 December 1 of each fiscal year, a microenterprise
15 development organization that receives a loan or
16 grant under this section shall be required to ensure
17 that assistance provided under this section is used
18 for the purposes for which the loan or grant was
19 made.

20 (d) FUNDING.—

21 (1) MANDATORY FUNDING.—Of the funds of
22 the Commodity Credit Corporation, the Secretary
23 shall use to carry out this section \$3,000,000 for fis-
24 cal year 2022 and each fiscal year thereafter, which
25 shall remain available until expended.

1 (2) DISCRETIONARY FUNDING.—In addition to
2 amounts made available under paragraph (1), there
3 are authorized to be appropriated to carry out this
4 section \$10,000,000 for fiscal year 2022 and each
5 fiscal year thereafter.

6 **SEC. 202. COMMUNITY FOOD PROJECT GRANT PROGRAM.**

7 Section 25(b)(2) of the Food and Nutrition Act of
8 2008 (7 U.S.C. 2034(b)(2)) is amended—

9 (1) in subparagraph (C), by striking “and” at
10 the end;

11 (2) in subparagraph (D), by striking “and each
12 fiscal year thereafter.” and inserting “; and”; and

13 (3) by adding at the end the following:

14 “(E) \$15,000,000 for fiscal year 2022 and
15 each fiscal year thereafter.”.

○