

117TH CONGRESS
2D SESSION

H. R. 9338

To amend the Internal Revenue Code of 1986 to require fairness and diversity in opportunity zone investment and to require minimum investment in controlled-environment agriculture.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2022

Mr. JOHNSON of Georgia (for himself, Mr. RUSH, and Ms. JACKSON LEE) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to require fairness and diversity in opportunity zone investment and to require minimum investment in controlled-environment agriculture.

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. OPPORTUNITY ZONE FAIRNESS AND INCLU-**
4 **SION.**

5 (a) IN GENERAL.—Section 1400Z–2(d) of the Inter-
6 nal Revenue Code of 1986 is amended by adding at the
7 end the following new paragraph:

1 “(4) OPPORTUNITY FUND FAIRNESS AND IN-
2 CLUSION.—

3 “(A) IN GENERAL.—A fund shall not be
4 treated as a qualified opportunity fund for pur-
5 poses of this section unless such fund—

6 “(i) meets the investment advisory
7 board requirements of subparagraph (B),

8 “(ii) meets the investment diversity
9 requirements of subparagraph (C),

10 “(iii) meets the affordable housing in-
11 vestment requirements of subparagraph
12 (D), and

13 “(iv) with respect to each investment
14 in an opportunity zone, assesses, and pre-
15 pares a written report detailing, how such
16 investment will affect different racial and
17 ethnic groups within the zone and submits
18 such report to the Committee on Ways and
19 Means of the House of Representatives,
20 the Committee on Finance of the Senate,
21 and the Joint Committee on Taxation.

22 “(B) INVESTMENT ADVISORY BOARD.—
23 The requirements of this subparagraph shall
24 not be treated as met with respect to any fund
25 unless such fund has, for each qualified oppor-

1 tunity zone within which the fund invests in
2 qualified opportunity zone property, an invest-
3 ment advisory board which—

4 “(i) is appointed by the local govern-
5 ment of the jurisdiction within which the
6 zone to which such advisory board relates
7 is located, and

8 “(ii) advises the fund in directing in-
9 vestments in the zone for the benefit of the
10 zone.

11 “(C) INVESTMENT DIVERSITY REQUIRE-
12 MENTS.—The requirements of this subpara-
13 graph shall not be treated as met with respect
14 to any fund unless—

15 “(i) at least 30 percent of the fund’s
16 qualified opportunity zone property is
17 qualified opportunity zone property with
18 respect to an opportunity zone within a
19 county, or local jurisdiction, the population
20 of which is 200,000 or less,

21 “(ii) at least 50 percent of the fund’s
22 qualified opportunity zone property con-
23 sists of interests in partnerships, and stock
24 of corporations, which are—

1 “(I) small business concerns
2 owned and controlled by women (with-
3 in the meaning of section 3(n) of the
4 Small Business Act (15 U.S.C.
5 632(n))), or

6 “(II) small business concerns
7 owned and controlled by socially and
8 economically disadvantaged individ-
9 uals under section 8(d)(3)(C) of such
10 Act (15 U.S.C. 637(d)(3)(C)), and

11 “(iii) at least 40 percent of the fund’s
12 qualified opportunity zone property con-
13 sists of—

14 “(I) stock in corporations, inter-
15 ests in a partnerships, or other prop-
16 erty, the value of each of which does
17 not exceed \$20 million, and

18 “(II) stock in corporations, or in-
19 terests in partnerships, the price-earn-
20 ings ratio of each of which is under 5.

21 “(D) AFFORDABLE HOUSING INVESTMENT
22 REQUIREMENTS.—The requirements of this
23 subparagraph shall not be treated as met with
24 respect to any fund unless in the case of any
25 investment in qualified opportunity zone prop-

erty which consists of a residential property project, at least 20 percent of the units in the project are occupied by individuals whose income is—

“(i) not more than 30 percent of area median gross income, or

“(ii) not more than 200 percent of the poverty line (as defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902)) for a family of the size involved.

“(E) INVESTMENT MEASUREMENT.—For purposes of this paragraph, percentages of qualified opportunity zone property held by a qualified opportunity fund shall be determined under rules similar to the rules of paragraph (1).

“(F) FAILURE TO MEET REQUIREMENT.—In the case of a qualified opportunity fund which fails to meet any of the requirements of this paragraph, subsection (b) shall be applied by substituting the date of such failure for ‘December 31, 2026’ in paragraph (1)(B) thereof.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall take effect on the date of the enactment
 3 of this Act.

4 **SEC. 2. CONTROLLED-ENVIRONMENT AGRICULTURE IN-**
 5 **VESTMENT REQUIREMENT FOR QUALIFIED**
 6 **OPPORTUNITY FUNDS.**

7 (a) IN GENERAL.—Section 1400Z–2(d) of the Inter-
 8 nal Revenue Code of 1986, as amended by the preceding
 9 provisions of this Act, is amended by adding at the end
 10 the following new paragraph:

11 “(5) CONTROLLED-ENVIRONMENT AGRI-
 12 CULTURE INVESTMENT REQUIREMENT.—

13 “(A) IN GENERAL.—A fund shall not be
 14 treated as a qualified opportunity fund for pur-
 15 poses of this section unless at least 5 percent
 16 of the fund’s qualified opportunity zone prop-
 17 erty is controlled-environment agriculture prop-
 18 erty.

19 “(B) CONTROLLED-ENVIRONMENT AGRI-
 20 CULTURE PROPERTY.—For purposes of this
 21 paragraph, the term ‘controlled-environment ag-
 22 riculture property’ means property used in, or
 23 stock or a partnership interest in an entity en-
 24 gaged in, the trade or business of a machine
 25 learning, computer vision, high technology-

1 based approach toward food production that op-
2 erates with digitized food safety, digitized re-
3 callability, a visual and data record of crops,
4 and significant environmental control systems
5 to ensure quality, uniformity, safety, increased
6 efficiency of resources, and reduced use of pes-
7 ticides, herbicides, and fungicides.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall take effect on January 1, 2023.

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