

118TH CONGRESS
1ST SESSION

H. R. 1837

To amend the Internal Revenue Code of 1986 to reinstate advance refunding bonds.

IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2023

Mr. KUSTOFF (for himself, Mr. RUPPERSBERGER, Mr. BARR, Mr. FITZPATRICK, Mr. GARBARINO, Mr. KILDEE, Mr. KILMER, and Ms. MOORE of Wisconsin) 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 reinstate advance refunding bonds.

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 “Investing in Our Com-
5 munities Act”.

6 **SEC. 2. TREATMENT OF ADVANCE REFUNDING BONDS.**

7 (a) IN GENERAL.—Section 149(d) of the Internal
8 Revenue Code of 1986 is amended—

1 (1) in paragraph (1), by striking “to advance
2 refund another bond” and inserting “as part of an
3 issue described in paragraph (2), (3), or (4)”;

4 (2) by redesignating paragraphs (2) and (3) as
5 paragraphs (6) and (7), respectively; and

6 (3) by inserting after paragraph (1) the fol-
7 lowing new paragraphs:

8 “(2) CERTAIN PRIVATE ACTIVITY BONDS.—An
9 issue is described in this paragraph if any bond
10 (issued as part of such issue) is issued to advance
11 refund a private activity bond (other than a qualified
12 501(c)(3) bond).

13 “(3) OTHER BONDS.—

14 “(A) IN GENERAL.—An issue is described
15 in this paragraph if any bond (issued as part of
16 such issue), hereinafter in this paragraph re-
17 ferred to as the ‘refunding bond’, is issued to
18 advance refund a bond unless—

19 “(i) the refunding bond is only—

20 “(I) the 1st advance refunding of
21 the original bond if the original bond
22 is issued after 1985, or

23 “(II) the 1st or 2nd advance re-
24 funding of the original bond if the
25 original bond was issued before 1986,

1 “(ii) in the case of refunded bonds
2 issued before 1986, the refunded bond is
3 redeemed not later than the earliest date
4 on which such bond may be redeemed at
5 par or at a premium of 3 percent or less,

6 “(iii) in the case of refunded bonds
7 issued after 1985, the refunded bond is re-
8 deemed not later than the earliest date on
9 which such bond may be redeemed,

10 “(iv) the initial temporary period
11 under section 148(c) ends—

12 “(I) with respect to the proceeds
13 of the refunding bond not later than
14 30 days after the date of issue of such
15 bond, and

16 “(II) with respect to the proceeds
17 of the refunded bond on the date of
18 issue of the refunding bond, and

19 “(v) in the case of refunded bonds to
20 which section 148(e) did not apply, on and
21 after the date of issue of the refunding
22 bond, the amount of proceeds of the re-
23 funded bond invested in higher yielding in-
24 vestments (as defined in section 148(b))
25 which are nonpurpose investments (as de-

1 fined in section 148(f)(6)(A)) does not ex-
2 ceed—

3 “(I) the amount so invested as
4 part of a reasonably required reserve
5 or replacement fund or during an al-
6 lowable temporary period, and

7 “(II) the amount which is equal
8 to the lesser of 5 percent of the pro-
9 ceeds of the issue of which the re-
10 funded bond is a part or \$100,000 (to
11 the extent such amount is allocable to
12 the refunded bond).

13 “(B) SPECIAL RULES FOR REDEMP-
14 TIONS.—

15 “(i) ISSUER MUST REDEEM ONLY IF
16 DEBT SERVICE SAVINGS.—Clauses (ii) and
17 (iii) of subparagraph (A) shall apply only
18 if the issuer may realize present value debt
19 service savings (determined without regard
20 to administrative expenses) in connection
21 with the issue of which the refunding bond
22 is a part.

23 “(ii) REDEMPTIONS NOT REQUIRED
24 BEFORE 90TH DAY.—For purposes of
25 clauses (ii) and (iii) of subparagraph (A),

1 the earliest date referred to in such clauses
2 shall not be earlier than the 90th day after
3 the date of issuance of the refunding bond.

4 “(4) ABUSIVE TRANSACTIONS PROHIBITED.—
5 An issue is described in this paragraph if any bond
6 (issued as part of such issue) is issued to advance
7 refund another bond and a device is employed in
8 connection with the issuance of such issue to obtain
9 a material financial advantage (based on arbitrage)
10 apart from savings attributable to lower interest
11 rates.

12 “(5) SPECIAL RULES FOR PURPOSES OF PARA-
13 GRAPH (3).—For purposes of paragraph (3), bonds
14 issued before the date of the enactment of this sub-
15 section shall be taken into account under subpara-
16 graph (A)(i) thereof except—

17 “(A) a refunding which occurred before
18 1986 shall be treated as an advance refunding
19 only if the refunding bond was issued more
20 than 180 days before the redemption of the re-
21 funded bond, and

22 “(B) a bond issued before 1986, shall be
23 treated as advance refunded no more than once
24 before March 15, 1986.”.

1 (b) CONFORMING AMENDMENT.—Section
2 148(f)(4)(C) of such Code is amended by redesignating
3 clauses (xiv) through (xvi) as clauses (xv) through (xvii)
4 and by inserting after clause (xiii) the following new
5 clause:

6 “(xiv) DETERMINATION OF INITIAL
7 TEMPORARY PERIOD.—For purposes of
8 this subparagraph, the end of the initial
9 temporary period shall be determined with-
10 out regard to section 149(d)(3)(A)(iv).”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to advance refunding bonds issued
13 after the date of the enactment of this Act.

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