

105TH CONGRESS
1ST SESSION

H. R. 2765

To amend the Internal Revenue Code of 1986 to specify certain circumstances that give rise to affiliation or control of a nonprofit organization by a for-profit organization for purposes of denying eligibility for the low-income housing tax credit.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 29, 1997

Mr. HILLIARD 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 specify certain circumstances that give rise to affiliation or control of a nonprofit organization by a for-profit organization for purposes of denying eligibility for the low-income housing 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. AFFILIATION OR CONTROL OF A NONPROFIT**
4 **ORGANIZATION BY A FOR-PROFIT ORGANIZA-**
5 **TION.**

6 (a) IN GENERAL.—Paragraph (5) of section 42(h) of
7 the Internal Revenue Code of 1986 (relating to portion

1 of State ceiling set-aside for certain projects involving
 2 qualified nonprofit organizations) is amended by redesign-
 3 nating subparagraph (E) as subparagraph (F) and insert-
 4 ing after subparagraph (D) the following new subpara-
 5 graph:

6 “(E) CERTAIN ACTIONS DETERMINATIVE
 7 OF AFFILIATION OR CONTROL.—

8 “(i) IN GENERAL.—For purposes of
 9 subparagraph (C)(ii), an organization shall
 10 be treated as controlled by a for-profit or-
 11 ganization if the organization is described
 12 in clause (ii).

13 “(ii) An organization is described in
 14 this clause if the organization—

15 “(I) guarantees to a for-profit or-
 16 ganization any form of economic or fi-
 17 nancial benefit,

18 “(II) guarantees to a for-profit
 19 organization the return of capital con-
 20 tribution made by such for-profit or-
 21 ganization to the partnership or ven-
 22 ture or is otherwise required to fund
 23 operating deficits of the partnership
 24 or venture, or

1 “(III) can be removed as a gen-
2 eral partner from the partnership or
3 venture by a for-profit organization
4 for reasons other than fraud or gross
5 negligence.”

6 (b) EFFECTIVE DATE.—

7 (1) IN GENERAL.—The amendment made by
8 subsection (a) shall apply to State housing credit
9 ceilings for calendar years after 1997.

10 (2) PERIOD IN WHICH NONPROFIT ORGANIZA-
11 TION MAY TERMINATE AFFILIATION OR CONTROL BY
12 FOR-PROFIT ORGANIZATION.—If, with respect to any
13 building that has been allocated a housing credit dol-
14 lar amount under section 42(h)(5) of the Internal
15 Revenue Code of 1986 as of the date of enactment
16 of this Act, a nonprofit organization is determined
17 to be affiliated with or controlled by a for-profit or-
18 ganization under clause (ii) of section 42(h)(5)(C) of
19 the Internal Revenue Code of 1986 by reason of the
20 amendment made by subsection (a), then—

21 (A) after December 31, 1997, such build-
22 ing shall cease to be a qualified low income
23 housing project, unless

24 (B) before January 1, 1998, such non-
25 profit organization is determined by the State

- 1 housing credit agency to be not so affiliated or
- 2 controlled.

