

112TH CONGRESS
2D SESSION

H. R. 6705

To amend the Internal Revenue Code of 1986 to reduce the depreciation recovery periods for energy efficient commercial buildings, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 21, 2012

Mr. LANGEVIN (for himself and Mr. WELCH) 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 reduce the depreciation recovery periods for energy efficient commercial buildings, 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 “Building Efficiently
5 Act of 2012”.

6 **SEC. 2. SHORTER DEPRECIATION RECOVERY PERIODS FOR**
7 **ENERGY EFFICIENT BUILDINGS.**

8 (a) 25-YEAR RECOVERY PERIOD FOR ENERGY EFFI-
9 CIENT NONRESIDENTIAL REAL PROPERTY.—

1 (1) IN GENERAL.—Section 168(e)(3) of the In-
2 ternal Revenue Code of 1986 is amended by insert-
3 ing after subparagraph (F) the following new sub-
4 paragraph:

5 “(G) 25-YEAR PROPERTY.—The term ‘25-
6 year property’ means any qualified energy effi-
7 cient nonresidential real property.”.

8 (2) QUALIFIED ENERGY EFFICIENT NONRESI-
9 DENTIAL REAL PROPERTY DEFINED.—Subsection (i)
10 of section 168 of such Code is amended by adding
11 at the end the following:

12 “(20) QUALIFIED ENERGY EFFICIENT NONRESI-
13 DENTIAL REAL PROPERTY.—

14 “(A) IN GENERAL.—The term ‘qualified
15 energy efficient nonresidential real property’
16 means a building which is nonresidential real
17 property which is described in subparagraph
18 (B), (C), or (D).

19 “(B) NEW OR RECONSTRUCTED BUILD-
20 ING.—A building is described in this subpara-
21 graph if—

22 “(i) the certification requirements of
23 subparagraph (E) with respect to the
24 building are met,

1 “(ii) the original use of the building
2 commences with the taxpayer, and

3 “(iii) the building is placed in service
4 after the date of the enactment of this
5 paragraph.

6 “(C) IMPROVEMENTS TO EXISTING BUILD-
7 ING.—A building is described in this subpara-
8 graph if, only after improvements are made to
9 the building—

10 “(i) the certification requirements of
11 subparagraph (E) with respect to the
12 building are met,

13 “(ii) the original use of the improved
14 building commences with the taxpayer,

15 “(iii) the improved building is placed
16 in service after the date of the enactment
17 of this paragraph, and

18 “(iv) the taxpayer elects to the appli-
19 cation of this paragraph with respect to
20 the building.

21 “(D) BUILDINGS ACQUIRED BY PUR-
22 CHASE.—A building is described in this sub-
23 paragraph if the building—

24 “(i) is acquired by purchase from an
25 unrelated person,

1 “(ii) meets the certification require-
2 ments of subparagraph (E), and

3 “(iii) is placed in service after the
4 date of the enactment of this paragraph.

5 “(E) CERTIFICATION REQUIREMENTS.—

6 The requirements of this subparagraph are met
7 if, with respect to a building, the building is
8 certified in accordance with section 179D(d)(6)
9 as being constructed, reconstructed, or modi-
10 fied, as the case may be, under a plan designed
11 to reduce the total annual energy and power
12 costs of the building by 40 percent or more in
13 comparison to a reference building which meets
14 the minimum requirements of Standard 90.1–
15 2004 using methods of calculation under sec-
16 tion 179D(d)(2).

17 “(F) STANDARD 90.1–2004.—The term
18 ‘Standard 90.1–2004’ means Standard 90.1–
19 2004 of the American Society of Heating, Re-
20 frigerating, and Air Conditioning Engineers and
21 the Illuminating Engineering Society of North
22 America (as in effect on July 30, 2012).

23 “(G) RELATED PERSONS.—For purposes
24 of subparagraph (D), a person is related to an-
25 other person if—

1 “(i) the persons are members of an
 2 affiliated group (as defined in section
 3 1504), or

4 “(ii) the persons have a relationship
 5 described in subsection (b) of section 267;
 6 except that, for purposes of this clause, the
 7 phrase ‘80 percent or more’ shall be sub-
 8 stituted for the phrase ‘more than 50 per-
 9 cent’ each place it appears in such sub-
 10 section and rules similar to the rules of
 11 subsections (c) and (e) (other than para-
 12 graphs (4) and (5) thereof) shall apply.

13 “(H) DENIAL OF DOUBLE BENEFIT.—If
 14 this section applies to a building by reason of
 15 subsection (e)(3)(G), the deduction under sec-
 16 tion 179D shall not be allowed.”.

17 (b) 20-YEAR RECOVERY PERIOD FOR ENERGY EFFI-
 18 CIENT RESIDENTIAL RENTAL PROPERTY.—

19 (1) IN GENERAL.—Subparagraph (F) of section
 20 168(e)(3) of such Code (relating to 20-year prop-
 21 erty) is amended to read as follows:

22 “(F) 20-YEAR PROPERTY.—The term ‘20-
 23 year property’ means—

24 “(i) initial clearing and grading land
 25 improvements with respect to any electric

utility transmission and distribution plant,
and

“(ii) any qualified energy efficient residential rental property.”.

(2) QUALIFIED ENERGY EFFICIENT RESIDENTIAL RENTAL PROPERTY DEFINED.—Subsection (i) of section 168 of such Code, as amended by subsection (a), is amended by adding at the end the following:

“(21) QUALIFIED ENERGY EFFICIENT RESIDENTIAL RENTAL PROPERTY.—

“(A) IN GENERAL.—The term ‘qualified energy efficient nonresidential real property’ means a building which is residential rental property which is described in subparagraph (B), (C), or (D).

“(B) NEW OR RECONSTRUCTED BUILDING.—A building is described in this subparagraph if—

“(i) the certification requirements of subparagraph (E) with respect to the building are met,

“(ii) the original use of which commences with the taxpayer, and

1 “(iii) the building is placed in service
2 after the date of the enactment of this
3 paragraph.

4 “(C) IMPROVEMENTS TO EXISTING BUILD-
5 ING.—A building is described in this subpara-
6 graph if, only after improvements are made to
7 the building—

8 “(i) the certification requirements of
9 subparagraph (E) with respect to the
10 building are met,

11 “(ii) the original use of the improved
12 building commences with the taxpayer,

13 “(iii) the improved building is placed
14 in service after the date of the enactment
15 of this paragraph, and

16 “(iv) the taxpayer elects to the appli-
17 cation of this paragraph with respect to
18 the building.

19 “(D) BUILDINGS ACQUIRED BY PUR-
20 CHASE.—A building is described in this sub-
21 paragraph if the building—

22 “(i) is acquired by purchase from an
23 unrelated person,

24 “(ii) meets the certification require-
25 ments of subparagraph (E), and

1 “(iii) is placed in service after the
2 date of the enactment of this paragraph.

3 “(E) CERTIFICATION REQUIREMENTS.—

4 The requirements of this subparagraph are met
5 if, with respect to a building, the building is
6 certified in accordance with section 179D(d)(6)
7 as being constructed, reconstructed, or modi-
8 fied, as the case may be, under a plan designed
9 to reduce the total annual energy and power
10 costs of the building by 40 percent or more in
11 comparison to a reference building which meets
12 the minimum requirements of the International
13 Energy Conservation Code 2004 using methods
14 of calculation under section 179D(d)(2).

15 “(F) RELATED PERSONS.—For purposes
16 of subparagraph (D), a person is related to an-
17 other person if—

18 “(i) the persons are members of an
19 affiliated group (as defined in section
20 1504), or

21 “(ii) the persons have a relationship
22 described in subsection (b) of section 267;
23 except that, for purposes of this clause, the
24 phrase ‘80 percent or more’ shall be sub-
25 stituted for the phrase ‘more than 50 per-

1 cent’ each place it appears in such sub-
 2 section and rules similar to the rules of
 3 subsections (c) and (e) (other than para-
 4 graphs (4) and (5) thereof) shall apply.

5 “(G) DENIAL OF DOUBLE BENEFIT.—If
 6 this section applies to a building by reason of
 7 subsection (e)(3)(F)(ii), the deduction under
 8 section 179D shall not be allowed.”.

9 (c) CONFORMING AMENDMENTS.—

10 (1) The table contained in section 168(c) of
 11 such Code is amended by inserting after the item re-
 12 lating to 20-year property the following new item:

“25-year property 25 years”.

13 (2) The table contained in section 467(e)(3)(A)
 14 of such Code is amended—

15 (A) by inserting “which is not 25-year
 16 property” after “nonresidential real property”,
 17 and

18 (B) by inserting after the item relating to
 19 residential rental property and nonresidential
 20 real property the following new item:

“25-year property 19 years”.

21 (3) Clauses (iv), (v), and (ix) of section
 22 168(e)(3)(E) of such Code are each amended by in-
 23 serting “(not described in subparagraph (G))” after
 24 “property”.

1 (d) REQUIREMENT TO USE STRAIGHT LINE METH-
 2 OD.—Paragraph (3) of section 168(b) of such Code (relat-
 3 ing to property to which straight line method applies) is
 4 amended by redesignating subparagraphs (F), (G), (H),
 5 and (I) as subparagraphs (G), (H), (I), and (J), respec-
 6 tively, and by inserting after subparagraph (E) the fol-
 7 lowing new subparagraph:

8 “(F) Property described in subsection
 9 (e)(3)(F)(ii) or subsection (e)(3)(G).”.

10 (e) ALTERNATIVE SYSTEM.—The table contained in
 11 section 168(g)(3)(B) of such Code is amended by striking
 12 the item relating to subparagraph (F) and inserting the
 13 following new items:

“(F)(i)	25
(F)(ii)	20
(G)	25”.

14 (f) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to property placed in service after
 16 December 31, 2012.

○