

115TH CONGRESS
1ST SESSION

H. R. 3296

To amend the Internal Revenue Code of 1986 to allow a business credit for gain from the sale of real property for use as a manufactured home community, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2017

Mr. ELLISON 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 allow a business credit for gain from the sale of real property for use as a manufactured home community, 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 “Frank Adelman Man-
5 ufactured Housing Community Sustainability Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1 (1) more than 17 million people live in manu-
2 factured homes, benefitting from high-quality afford-
3 able homes that can provide them stability;

4 (2) owners of manufactured homes are dis-
5 proportionately low-income households: in 2013, the
6 median annual household income for those living in
7 manufactured housing was \$28,400;

8 (3) about 75 percent of manufactured home
9 households earn less than \$50,000;

10 (4) over 10 percent of United States veterans
11 live in manufactured homes;

12 (5) in the late 1990s, manufactured housing
13 represented two-thirds of the new affordable housing
14 produced in the United States, and it remains the
15 largest source of unsubsidized affordable housing in
16 the country;

17 (6) as of 2015, the average cost per square foot
18 for a new manufactured home was \$48, less than
19 half the \$101 per square foot of the structure-only
20 cost of a new site-built home;

21 (7) in 2009, 43 percent of all new homes that
22 sold for less than \$150,000 were manufactured
23 homes;

24 (8) manufactured homes accounts for 23 per-
25 cent of new home sales under \$200,000;

1 (9) more than 50,000 manufactured home com-
2 munities, or “mobile home parks”, exist throughout
3 the United States;

4 (10) more than 2.9 million manufactured homes
5 are placed in manufactured home communities;

6 (11) manufactured home communities provide
7 critical affordable housing but receive very little
8 local, State, or Federal funds subsidizing the cost of
9 these homes;

10 (12) manufactured home owners in commu-
11 nities may own the home, but they do not own the
12 land under their homes, leaving them vulnerable to
13 rent increases, arbitrary rule enforcement, and even
14 closure of the community if the community owner
15 decides to convert the land to some other use;

16 (13) eviction or closure of manufactured home
17 communities is very disruptive to residents who may
18 be unable to pay the thousands of dollars it takes to
19 move their home or even find a new location for
20 their home;

21 (14) in the past two decades, a national net-
22 work of housing providers has helped residents pur-
23 chase and own the land and manage the community
24 in order to preserve a crucial source of affordable
25 housing;

1 (15) nationwide, there are more than 1,000 of
2 these stable, permanent ownership cooperatives or
3 nonprofit-owned developments in more than a dozen
4 States;

5 (16) members continue to own their own homes
6 individually and an equal share of the land beneath
7 the entire neighborhood where everyone has a say in
8 the way the resident-owned community is run, and
9 major decisions are made by democratic vote by a
10 member-elected board of directors;

11 (17) in New Hampshire, more than 20 percent
12 of manufactured home communities are owned by
13 residents;

14 (18) in Vermont, Massachusetts, Rhode Island,
15 Washington, Oregon, and Minnesota, resident-owned
16 cooperatives and nonprofit ownership have flour-
17 ished;

18 (19) nationwide, only 2 percent of all manufac-
19 tured home communities are resident- or nonprofit-
20 owned;

21 (20) owners are frequently reluctant to sell the
22 community because they would prefer to pass the
23 property on to their heirs tax free and avoid capital
24 gains taxes;

1 (21) when the owner dies, the heirs frequently
 2 sell the community to the highest bidder resulting in
 3 displacement for dozens and sometimes hundreds of
 4 families; and

5 (22) a Federal tax benefit needs to be estab-
 6 lished to induce owners to sell to residents they have
 7 known for decades or to nonprofit organizations in
 8 order to preserve the community for years to come.

9 **SEC. 3. TAX CREDIT FOR MANUFACTURED HOME COMMU-**
 10 **NITY SALE TO RESIDENTS OR NONPROFIT**
 11 **ENTITY.**

12 (a) IN GENERAL.—Subpart D of part IV of sub-
 13 chapter A of chapter 1 of the Internal Revenue Code of
 14 1986 (relating to business related credits) is amended by
 15 adding at the end the following new section:

16 **“SEC. 45S. MANUFACTURED HOME COMMUNITY SALE TO**
 17 **RESIDENTS OR NONPROFIT ENTITY.**

18 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
 19 tion 38, the manufactured home community sale credit de-
 20 termined under this section for any taxable year is an
 21 amount equal to 75 percent of the qualified gain received
 22 by the taxpayer during the taxable year.

23 “(b) DEFINITIONS.—For purposes of this section—

24 “(1) QUALIFIED GAIN.—The term ‘qualified
 25 gain’ means gain from the sale or exchange of real

1 property to a qualified manufactured home commu-
2 nity cooperative or corporation if—

3 “(A) the real property is acquired for use
4 as a manufactured home community, and

5 “(B) the requirements of paragraph (2)
6 are met.

7 “(2) REQUIREMENTS.—The requirements of
8 this paragraph are met if—

9 “(A) the seller (or any related person)
10 owned the property for not less than the 2-year
11 period ending before the sale or exchange, and

12 “(B) the property is transferred subject to
13 a binding covenant that the property will be
14 used as a manufactured home community for
15 not less than 50 years.

16 “(3) MANUFACTURED HOME COMMUNITY.—The
17 term ‘manufactured home community’ means a com-
18 munity comprised primarily of manufactured homes
19 used solely for residential purposes and owned by a
20 manufactured home community cooperative or cor-
21 poration.

22 “(4) MANUFACTURED HOME COMMUNITY COOP-
23 ERATIVE OR CORPORATION.—

24 “(A) IN GENERAL.—The term ‘qualified
25 manufactured home community cooperative or

1 corporation’ means a cooperative or a nonprofit
2 corporation established pursuant to the laws of
3 the State in which the property used as a man-
4 ufactured home community is located and
5 which—

6 “(i) in the case of a community owned
7 by a nonprofit corporation whose member-
8 ship interests are sold on a nonappre-
9 ciating basis, has only one class of mem-
10 bership consisting of residents, and

11 “(ii) in the case of a community
12 owned by a cooperative, has no more than
13 two classes of membership, which includes
14 both members and a tax-exempt organiza-
15 tion actively engaged in supporting afford-
16 able housing and resident-owned manufac-
17 tured home communities.

18 “(B) GOVERNANCE.—An entity shall not
19 be treated as a qualified manufactured home
20 community cooperative or corporation for pur-
21 poses of subparagraph (A) unless governance of
22 the entity is carried out by members elected to
23 a board of directors with voting structured eq-
24 uitably among all members.

1 “(C) MEMBER.—The term ‘member’
2 means—

3 “(i) an individual—

4 “(I) has attained the age of 18,

5 “(II) is entitled by reason of the
6 individual’s membership interest to
7 execute an occupancy agreement with
8 the manufactured home community
9 cooperative nonprofit with respect to
10 one site in the manufactured home
11 community for the purposes of situ-
12 ating a manufactured home owned by
13 the member or, as permitted by the
14 manufactured community cooperative
15 or corporation, the member’s trust or
16 other entity, and

17 “(III) is a resident of the manu-
18 factured home community, and

19 “(ii) a tax exempt organization.

20 “(5) MEMBERSHIP INTEREST.—The term
21 ‘membership interest’ means an ownership interest
22 in a manufactured home community cooperative or
23 corporation or a membership interest in a manufac-
24 tured home community nonprofit corporation.

1 “(6) MANUFACTURED HOME.—The term ‘man-
2 ufactured home’ means a structure, transportable in
3 one or more sections, which—

4 “(A) in the traveling mode, is 8 body feet
5 or more in width and 40 body feet or more in
6 length, or when erected on site, is 320 square
7 feet or more,

8 “(B) is built on a permanent chassis and
9 designed to be used as a dwelling (with or with-
10 out a permanent foundation when connected to
11 required utilities) and includes plumbing, heat-
12 ing, and electrical heating systems, and

13 “(C) in the case of a structure manufac-
14 tured after June 15, 1976, is certified as meet-
15 ing the Manufactured Home Construction and
16 Safety Standards issued under the National
17 Manufactured Housing Construction and Safety
18 Standards Act of 1974 (42 U.S.C. 5401–5426)
19 by the Department of Housing and Urban De-
20 velopment and displays a label of such certifi-
21 cation on the exterior of each transportable sec-
22 tion.

23 “(c) SPECIAL RULES.—

24 “(1) RELATED PERSON.—For purposes of sub-
25 section (b)(2)(A), a person (hereafter in this sub-

1 paragraph referred to as the ‘related person’) is re-
2 lated to the seller if—

3 “(A) the related person bears a relation-
4 ship to the seller specified in section 267(b) or
5 707(b)(1), or

6 “(B) the related person and the seller are
7 engaged in trades or businesses under common
8 control (within the meaning of subsections (a)
9 and (b) of section 52).

10 “(2) ELECTION BY BOTH SELLER AND
11 BUYER.—The credit is allowable under this section
12 only if—

13 “(A) elected by both the seller and the
14 buyer of the real property and evidenced by an
15 affidavit executed by both parties, and

16 “(B) the buyer of the real property records
17 the affidavit and the affidavit is referenced in
18 its deed to the real property.

19 The seller shall elect the credit under this section on
20 its return of tax.

21 “(d) TAX UPON VIOLATION OF COVENANT.—There
22 is imposed a tax on the buyer for a violation of the cov-
23 enant specified in subsection (b)(2)(B). The amount of
24 such tax shall be 20 percent of the net proceeds after set-
25 tlement for the sale or exchange of the real property re-

1 ferred to in subsection (b)(2). For purposes of section
2 501(a), the tax imposed by this subsection shall not be
3 treated as a tax imposed by this subtitle.

4 “(e) REGULATIONS.—The Secretary shall issue such
5 regulations or other guidance as may be necessary to carry
6 out this section, including the recapture of the tax benefit
7 under this section in any case in which the real property
8 described in subsection (b) is not used as a manufactured
9 home community for at least 50 years.”.

10 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
11 NESS CREDIT.—Section 38(b) of such Code is amended
12 by striking “plus” at the end of paragraph (35), by strik-
13 ing the period at the end of paragraph (36) and inserting
14 “, plus”, and by adding at the end the following new para-
15 graph:

16 “(37) the manufactured home community sale
17 credit determined under section 45S(a).”.

18 (c) CONFORMING AMENDMENTS.—

19 (1) Subsection (c) of section 196 of such Code
20 is amended by striking “and” at the end of para-
21 graph (13), by striking the period at the end of
22 paragraph (14) and inserting “, and”, and by add-
23 ing at the end the following new paragraph:

24 “(15) the manufactured home community sale
25 credit determined under section 45S(a).”.

1 (2) The table of sections for subpart D of part
2 IV of subchapter A of chapter 1 of such Code is
3 amended by adding at the end the following new
4 item:

“Sec. 45S. Manufactured home community sale to residents or nonprofit entity.”.

5 (d) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2017.

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