

115TH CONGRESS
1ST SESSION

S. 1581

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 SENATE OF THE UNITED STATES

JULY 19, 2017

Mrs. SHAHEEN introduced the following bill; which was read twice and referred to the Committee on Finance

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 “Manufactured Housing
5 Community Sustainability Act of 2017”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1 (1) more than 17,000,000 people live in manu-
2 factured homes and benefit from high-quality afford-
3 able homes which provide stability;

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

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

10 (4) more than 10 percent of veterans in the
11 United States live in manufactured homes;

12 (5) in late 1990, manufactured housing rep-
13 resented $\frac{2}{3}$ of the new affordable housing produced
14 in the United States and remains the largest source
15 of unsubsidized affordable housing in the United
16 States;

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

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 account for 23 percent
25 of new home sales under \$200,000;

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

4 (10) more than 2,900,000 manufactured homes
5 are placed in manufactured home communities;

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

10 (12) manufactured home owners in such com-
11 munities may own the home, but they do not own
12 the land under the home, which leaves the home
13 owners vulnerable to rent increases, arbitrary rule
14 enforcement, and in the case of a manufactured
15 home community owner converting the land to some
16 other use, community closure;

17 (13) an eviction or closure of a manufactured
18 home community is very disruptive to a resident who
19 may be unable to pay the thousands of dollars it
20 takes to move the manufactured home or find a new
21 location for the manufactured home;

22 (14) in an effort to preserve a crucial source of
23 affordable housing within the past two decades, a
24 national network of housing providers has helped
25 residents purchase and own the land under the man-

1 ufactured home community, and manage the manu-
2 ufactured home community;

3 (15) nationwide, there are more than 1,000 sta-
4 ble, permanent ownership cooperatives or nonprofit-
5 owned developments in more than a dozen States;

6 (16) members of manufactured home commu-
7 nities continue to own such homes individually, own
8 an equal share of the land beneath the entire manu-
9 ufactured home community, participate in the gov-
10 erning of the community, and elect a board of direc-
11 tors who make major decisions within the manufac-
12 tured home community by a democratic vote;

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

16 (18) resident-owned cooperatives and nonprofit-
17 owned communities have flourished in Vermont,
18 Massachusetts, Rhode Island, Washington, Oregon,
19 and Minnesota;

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

23 (20) manufactured home community owners
24 often prefer to devise such property tax free, rather

1 than selling the community, in order to avoid capital
2 gain taxes;

3 (21) when the owner of a manufactured home
4 community dies, the heirs of the owner frequently
5 sell the community to the highest bidder which re-
6 sults in displacement for dozens and sometimes hun-
7 dreds of families; and

8 (22) in order to preserve manufactured home
9 communities in the future, a Federal tax benefit
10 should be established to induce manufactured home
11 community owners to sell such properties to resi-
12 dents that the owners have known for decades, or to
13 nonprofit organizations.

14 **SEC. 3. TAX CREDIT FOR MANUFACTURED HOME COMMU-**
15 **NITY SALE TO RESIDENTS OR NONPROFIT**
16 **ENTITY.**

17 (a) IN GENERAL.—Subpart D of part IV of sub-
18 chapter A of chapter 1 of the Internal Revenue Code of
19 1986 (relating to business related credits) is amended by
20 adding at the end the following new section:

21 **“SEC. 45S. MANUFACTURED HOME COMMUNITY SALE TO**
22 **RESIDENTS OR NONPROFIT ENTITY.**

23 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-
24 tion 38, the manufactured home community sale credit de-
25 termined under this section for any taxable year is an

1 amount equal to 75 percent of the qualified gain received
 2 by the taxpayer during the taxable year.

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

4 “(1) QUALIFIED GAIN.—The term ‘qualified
 5 gain’ means gain from the sale or exchange of real
 6 property to a qualified manufactured home commu-
 7 nity cooperative or corporation if—

8 “(A) the real property is acquired for use
 9 as a manufactured home community,

10 “(B) the seller (or any related person)
 11 owned the property for the entire 2-year period
 12 ending on the day before the sale or exchange,
 13 and

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

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

24 “(3) QUALIFIED MANUFACTURED HOME COM-
 25 MUNITY COOPERATIVE OR CORPORATION.—

“(A) IN GENERAL.—The term ‘qualified manufactured home community cooperative or corporation’ means a cooperative or a nonprofit corporation established pursuant to the laws of the State in which the property used as a manufactured home community is located, and which—

“(i) in the case of a community owned by a nonprofit corporation whose membership interests are sold on a nonappreciating basis, has only 1 class of membership and such class consists solely of residents, and

“(ii) in the case of a community owned by a cooperative, has not more than 2 classes of membership, and such classes consist solely of residents and a tax-exempt organization.

“(B) GOVERNANCE.—An entity shall not be treated as a qualified manufactured home community cooperative or corporation unless governance of the entity is carried out by members elected to a board of directors with voting structured equitably among all members.

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

3 “(i) an individual who—

4 “(I) has attained the age of 18,

5 “(II) is entitled to be a member
6 by reason of—

7 “(aa) the membership inter-
8 est of the individual to execute
9 an occupancy agreement with the
10 manufactured home community
11 cooperative nonprofit with re-
12 spect to a site in the manufac-
13 tured home community in order
14 to establish a manufactured
15 home which is owned by the indi-
16 vidual, or

17 “(bb) permission from the
18 manufactured community cooper-
19 ative or corporation, the mem-
20 ber’s trust, or other entity, and

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

23 “(ii) a tax exempt organization.

24 “(4) MEMBERSHIP INTEREST.—The term
25 ‘membership interest’ means—

1 “(A) an ownership interest in a manufac-
 2 tured home community cooperative or corpora-
 3 tion, or

4 “(B) a membership interest in a manufac-
 5 tured home community nonprofit corporation.

6 “(5) MANUFACTURED HOME.—The term ‘man-
 7 ufactured home’ means a structure which is trans-
 8 portable in one or more sections, which—

9 “(A) in traveling mode, is 8 body feet or
 10 more in width and 40 body feet or more in
 11 length, or, when erected on site, is 320 square
 12 feet or more,

13 “(B) is built on a permanent chassis and
 14 designed to be used as a dwelling (with or with-
 15 out a permanent foundation when connected to
 16 required utilities) and includes plumbing, heat-
 17 ing, and electrical heating systems, and

18 “(C) in the case of a structure manufac-
 19 tured after June 15, 1976, is certified as meet-
 20 ing the Manufactured Home Construction and
 21 Safety Standards issued under the National
 22 Manufactured Housing Construction and Safety
 23 Standards Act of 1974 (42 U.S.C. 5401 et
 24 seq.) by the Department of Housing and Urban
 25 Development and displays a label of such cer-

1 tification on the exterior of each transportable
2 section.

3 “(c) SPECIAL RULES.—

4 “(1) RELATED PERSON.—For purposes of sub-
5 section (b)(1)(B), a person is related to the seller
6 if—

7 “(A) such person bears a relationship to
8 the seller as specified in section 267(b) or
9 707(b)(1), or

10 “(B) such person and the seller are en-
11 gaged in trades or businesses under common
12 control within the meanings of subsections (a)
13 and (b) of section 52.

14 “(2) ELECTION BY BOTH SELLER AND
15 BUYER.—The credit is allowable under this section
16 only if—

17 “(A) both the seller and the purchaser of
18 the real property execute an affidavit rep-
19 resenting that the sale meets the requirements
20 of subsection (b)(1), and the purchaser ac-
21 knowledges liability for the recapture of the
22 credit under subsection (d) in case of any viola-
23 tion described in such subsection,

24 “(B) the purchaser of the real property
25 records the affidavit, and

1 “(C) the affidavit is referenced in the deed
2 to the real property.

3 “(3) REQUIREMENT.—The seller shall include a
4 copy of the affidavit representing the sale with the
5 return of tax.

6 “(d) TAX UPON VIOLATION OF COVENANT.—There
7 is imposed a tax on the buyer for a violation of the cov-
8 enant specified in subsection (b)(1)(C). The amount of
9 such tax shall be 20 percent of the net proceeds after set-
10 tlement for the sale or exchange of the real property re-
11 ferred to in subsection (b)(1). For purposes of section
12 501(a), the tax imposed by this subsection shall not be
13 treated as a tax imposed by this subtitle.

14 “(e) REGULATIONS.—The Secretary shall issue such
15 regulations or other guidance as may be necessary to carry
16 out this section, including the recapture under subsection
17 (d).”.

18 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
19 NESS CREDIT.—

20 Section 38(b) of the Internal Revenue Code of
21 1986 is amended—

22 (1) by striking “plus” at the end of paragraph
23 (35),

24 (2) by striking the period at the end of para-
25 graph (36) and inserting “, plus”, and

1 (3) by adding at the end the following new
2 paragraph:

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

5 (c) CONFORMING AMENDMENTS.—

6 (1) Subsection (c) of section 196 of the Internal
7 Revenue Code of 1986 is amended—

8 (A) by striking “and” at the end of para-
9 graph (13),

10 (B) by striking the period at the end of
11 paragraph (14) and inserting “, and”, and

12 (C) by adding at the end the following new
13 paragraph:

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

16 (2) The table of sections for subpart D of part
17 IV of subchapter A of chapter 1 of the Internal Rev-
18 enue Code of 1986 is amended by adding at the end
19 the following new item:

“Sec. 45S. Manufactured home community sale to residents or nonprofit enti-
ty.”.

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

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