

115TH CONGRESS
2D SESSION

S. 3580

To amend the Internal Revenue Code of 1986 to provide a tax credit to taxpayers who provide reductions in rent to low-income senior renters, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 11, 2018

Mr. HELLER 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 provide a tax credit to taxpayers who provide reductions in rent to low-income senior renters, 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 “Seniors Affordable
5 Housing Tax Credit Act”.

6 **SEC. 2. LOW-INCOME SENIORS RENT CREDIT.**

7 (a) IN GENERAL.—Subpart D of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new
 2 section:

3 **“SEC. 45T. LOW-INCOME SENIORS RENT CREDIT.**

4 “(a) DETERMINATION OF CREDIT AMOUNT.—

5 “(1) IN GENERAL.—For purposes of section 38,
 6 the amount of the low-income seniors rent credit de-
 7 termined under this section for any taxable year is
 8 the sum of the amounts determined under para-
 9 graph (2) for all qualified buildings with a credit pe-
 10 riod which includes months occurring during the
 11 taxable year.

12 “(2) QUALIFIED BUILDING AMOUNT.—The
 13 amount determined under this paragraph with re-
 14 spect to any qualified building for any taxable year
 15 shall be an amount equal to the lesser of—

16 “(A) the aggregate rental reduction
 17 amounts for all eligible senior units within such
 18 building for months occurring during the tax-
 19 able year which are within the credit period for
 20 such building, or

21 “(B) the rental reduction credit amount al-
 22 located to such building for such months.

23 “(3) QUALIFIED BUILDING.—For purposes of
 24 this section, the term ‘qualified building’ means any
 25 building which is residential rental property (as de-

1 fined in section 168(e)(2)(A)) of the taxpayer with
 2 respect to which—

3 “(A) a rental reduction credit amount has
 4 been allocated by a rental reduction credit
 5 agency of a State, and

6 “(B) a qualified rental reduction agree-
 7 ment is in effect.

8 A building shall not fail to be treated as a qualified
 9 building merely because a credit was allowed under
 10 section 42 with respect to such building or there was
 11 any other Federal assistance in the construction or
 12 rehabilitation of such building.

13 “(b) RENTAL REDUCTION AMOUNT.—For purposes
 14 of this section—

15 “(1) IN GENERAL.—The term ‘rental reduction
 16 amount’ means, with respect to any eligible senior
 17 unit for any month, an amount equal to the applica-
 18 ble percentage (as determined under subsection
 19 (d)(1)) of the excess of—

20 “(A) the applicable standard fair market
 21 rent for such unit, over

22 “(B) the family rental payment required
 23 for such unit.

24 “(2) APPLICABLE STANDARD FAIR MARKET
 25 RENT.—The term ‘applicable standard fair market

1 rent’ means, with respect to any eligible senior unit
2 for any month, the lesser of—

3 “(A) the amount of rent which would be
4 charged for a substantially similar unit in the
5 same building which is not an eligible senior
6 unit, or

7 “(B) an amount equal to the average mod-
8 est rent (as determined in accordance with the
9 State rental reduction allocation plan) for units
10 with the same number of bedrooms in the same
11 statistical area (as defined in section
12 143(k)(2)).

13 “(3) FAMILY RENTAL PAYMENT REQUIRE-
14 MENTS.—

15 “(A) IN GENERAL.—Each qualified rental
16 reduction agreement with respect to any quali-
17 fied building shall require that the family rental
18 payment for an eligible senior unit within such
19 building for any month shall be equal to the
20 lesser of—

21 “(i) 30 percent of the monthly family
22 income of the residents of the unit (as de-
23 termined under subsection (d)(5)), or

1 “(ii) the applicable standard fair mar-
 2 ket rent for such unit determined under
 3 paragraph (2).

4 “(B) UTILITY COSTS.—Any utility allow-
 5 ance (determined by the Secretary after taking
 6 into account such determinations under section
 7 8 of the United States Housing Act of 1937)
 8 paid by residents of an eligible senior unit shall
 9 be taken into account as rent in determining
 10 the family rental payment for such unit for pur-
 11 poses of this paragraph.

12 “(c) RENTAL REDUCTION CREDIT AMOUNT.—For
 13 purposes of this section—

14 “(1) DETERMINATION OF AMOUNT.—

15 “(A) IN GENERAL.—The term ‘rental re-
 16 duction credit amount’ means, with respect to
 17 any qualified building, the dollar amount which
 18 is allocated to such building (and to eligible
 19 senior units within such building) under this
 20 subsection. Such dollar amount shall be allo-
 21 cated to months in the credit period with re-
 22 spect to such building (and units) on the basis
 23 of reasonable estimates of rents, family in-
 24 comes, and vacancies in accordance with proce-

dures established by the State as part of its
State rental reduction allocation plan.

“(B) ALLOCATION ON PROJECT BASIS.—In
the case of a project which includes (or will in-
clude) more than 1 building, the rental reduc-
tion credit amount shall be the dollar amount
which is allocated to such project for all build-
ings included in such project. Such amount
shall be allocated among such buildings in the
manner specified by the taxpayer unless the
qualified rental reduction agreement with re-
spect to such project provides for such alloca-
tion.

“(2) STATE ALLOCATION.—Each rental reduc-
tion credit agency of a State shall each calendar
year allocate its portion of the State rental reduction
credit ceiling to buildings (and to eligible senior
units within such building) in accordance with the
State rental reduction allocation plan.

“(3) ALLOCATED CREDIT AMOUNT TO APPLY
TO ALL TAXABLE YEARS ENDING DURING OR AFTER
CREDIT ALLOCATION YEAR.—Any rental reduction
credit amount allocated to any building out of the
State rental reduction credit ceiling for any calendar
year—

1 “(A) shall apply to such building for
2 months in the credit period ending during or
3 after such calendar year, and

4 “(B) shall reduce the portion of such ceil-
5 ing of the allocating agency only for such cal-
6 endar year.

7 “(4) STATE RENTAL REDUCTION CREDIT CEIL-
8 ING.—

9 “(A) IN GENERAL.—The State rental re-
10 duction credit ceiling applicable to any State for
11 any calendar year shall be an amount equal to
12 the sum of—

13 “(i) the greater of—

14 “(I) the per capita amount multi-
15 plied by the State population, or

16 “(II) the minimum ceiling
17 amount, plus

18 “(ii) the amount of the State rental
19 reduction credit ceiling returned in the cal-
20 endar year.

21 “(B) RETURN OF STATE CEILING
22 AMOUNTS.—For purposes of subparagraph
23 (A)(ii), the amount of the State rental reduc-
24 tion credit ceiling returned in a calendar year
25 equals the amount of the rental reduction credit

amount allocated to any building which, after the close of the calendar year for which the allocation is made, is canceled by mutual consent of the rental reduction credit agency and the taxpayer.

“(C) PER CAPITA DOLLAR AMOUNT; MINIMUM CEILING AMOUNT.—For purposes of this paragraph—

“(i) PER CAPITA DOLLAR AMOUNT.—
The per capita dollar amount is \$1.75.

“(ii) MINIMUM CEILING AMOUNT.—
The minimum ceiling amount is \$2,000,000.

“(D) COST-OF-LIVING ADJUSTMENT.—

“(i) IN GENERAL.—In the case of a calendar year after 2019, the \$1.75 amount in subparagraph (C)(i) and the \$2,000,000 amount in subparagraph (C)(ii) shall each be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting

1 ‘calendar year 2018’ for ‘calendar
2 year 2016’ in subparagraph (A)(ii)
3 thereof.

4 “(ii) ROUNDING.—

5 “(I) In the case of the \$1.75
6 amount, any increase under clause (i)
7 which is not a multiple of 5 cents
8 shall be rounded to the next lowest
9 multiple of 5 cents.

10 “(II) In the case of the
11 \$2,000,000 amount, any increase
12 under clause (i) which is not a mul-
13 tiple of \$5,000 shall be rounded to the
14 next lowest multiple of \$5,000.

15 “(E) POPULATION.—For purposes of this
16 paragraph, population shall be determined in
17 accordance with section 146(j).

18 “(F) UNUSED RENTAL REDUCTION CREDIT
19 ALLOCATED AMONG CERTAIN STATES.—

20 “(i) IN GENERAL.—The unused rental
21 reduction credit of a State for any cal-
22 endar year shall be assigned to the Sec-
23 retary for allocation among qualified
24 States for the succeeding calendar year.

1 “(ii) UNUSED RENTAL REDUCTION
2 CREDIT.—For purposes of this subpara-
3 graph, the unused rental reduction credit
4 of a State for any calendar year is the ex-
5 cess (if any) of—

6 “(I) the State rental reduction
7 credit ceiling for the year preceding
8 such year, over

9 “(II) the aggregate rental reduc-
10 tion credit amounts allocated for such
11 year.

12 “(iii) FORMULA FOR ALLOCATION OF
13 UNUSED CREDIT AMONG QUALIFIED
14 STATES.—The amount allocated under this
15 subparagraph to a qualified State for any
16 calendar year shall be the amount deter-
17 mined by the Secretary to bear the same
18 ratio to the aggregate unused rental reduc-
19 tion credits of all States for the preceding
20 calendar year as such State’s population
21 for the calendar year bears to the popu-
22 lation of all qualified States for the cal-
23 endar year. For purposes of the preceding
24 sentence, population shall be determined in
25 accordance with section 146(j).

1 “(iv) QUALIFIED STATE.—For pur-
2 poses of this subparagraph, the term
3 ‘qualified State’ means, with respect to a
4 calendar year, any State—

5 “(I) which allocated its entire
6 State rental reduction credit ceiling
7 for the preceding calendar year, and

8 “(II) for which a request is made
9 (not later than May 1 of the calendar
10 year) to receive an allocation under
11 clause (iii).

12 “(5) OTHER DEFINITIONS.—For purposes of
13 this section—

14 “(A) RENTAL REDUCTION CREDIT AGEN-
15 CY.—The term ‘rental reduction credit agency’
16 means any agency authorized by a State to
17 carry out this subsection. Such authorization
18 shall include the jurisdictions within the State
19 where the agency may allocate rental reduction
20 credit amounts.

21 “(B) POSSESSIONS TREATED AS STATES.—
22 The term ‘State’ includes a possession of the
23 United States.

1 “(d) TERMS RELATING TO RENTAL REDUCTION
2 CREDIT AND REQUIREMENTS.—For purposes of this sec-
3 tion—

4 “(1) APPLICABLE PERCENTAGE.—The term
5 ‘applicable percentage’ means, with respect to any
6 qualified building, the percentage (not greater than
7 110 percent) set by the rental reduction credit agen-
8 cy at the time it allocates the rental reduction credit
9 amount to the building.

10 “(2) CREDIT PERIOD.—

11 “(A) IN GENERAL.—The term ‘credit pe-
12 riod’ means, with respect to any qualified build-
13 ing, the 15-year period beginning with the first
14 month for which the qualified rental reduction
15 agreement is in effect with respect to the build-
16 ing.

17 “(B) STATE OPTION.—A rental reduction
18 credit agency may provide a credit period for
19 any qualified building which is less than 15
20 years.

21 “(3) ELIGIBLE SENIOR UNIT.—The term ‘eligi-
22 ble senior unit’ means, with respect to any qualified
23 building, a unit—

24 “(A) which is occupied by an eligible ten-
25 ant,

1 “(B) the rent of which for does not exceed
 2 the family rental payment requirement deter-
 3 mined under subsection (b)(3), and

4 “(C) which is certified to the rental reduc-
 5 tion credit agency as an eligible senior unit for
 6 purposes of this section and the qualified rental
 7 reduction agreement.

8 “(4) ELIGIBLE TENANT.—

9 “(A) IN GENERAL.—The term ‘eligible ten-
 10 ant’ means any individual if—

11 “(i) the individual’s family income
 12 does not exceed the greater of—

13 “(I) 30 percent of the area me-
 14 dian gross income (as determined
 15 under section 42(g)(1)), or

16 “(II) the applicable poverty line
 17 for a family of the size involved, and

18 “(ii) at least 1 of the occupants of the
 19 unit in which the individual will reside has
 20 attained the age of 55 as of the beginning
 21 of the lease.

22 “(B) APPLICABLE POVERTY LINE.—The
 23 term ‘applicable poverty line’ means the most
 24 recently published poverty line (within the
 25 meaning of section 2110(c)(5) of the Social Se-

1 security Act (42 U.S.C. 1397jj(c)(5))) as of the
 2 time of the determination as to whether an in-
 3 dividual is an eligible tenant.

4 “(5) FAMILY INCOME.—Income of a family
 5 shall be determined by the taxpayer annually using
 6 the method set forth in the State rental reduction al-
 7 location plan.

8 “(e) STATE RENTAL REDUCTION ALLOCATION
 9 PLAN.—

10 “(1) ADOPTION OF PLAN REQUIRED.—For pur-
 11 poses of this section—

12 “(A) each State shall, before the allocation
 13 of its State rental reduction credit ceiling, es-
 14 tablish and have in effect a State rental reduc-
 15 tion allocation plan meeting the requirements of
 16 this subsection, and

17 “(B) notwithstanding any other provision
 18 of this section, the rental reduction credit
 19 amount allocated to any building shall be zero
 20 unless such amount was allocated pursuant to
 21 a State rental reduction allocation plan meeting
 22 such requirements.

23 Such plan shall only be adopted after such plan is
 24 made public and a reasonable period of time has
 25 been allowed for public comment.

1 “(2) GENERAL PLAN REQUIREMENTS.—A plan
2 shall meet the requirements of this subsection only
3 if—

4 “(A) the plan sets forth the criteria and
5 priorities which a rental reduction credit agency
6 of the State shall use in allocating the State
7 rental reduction credit ceiling to eligible senior
8 units within a building, and

9 “(B) the plan provides that no credit allo-
10 cation shall be made which is not in accordance
11 with the criteria and priorities set forth under
12 subparagraph (A) unless such agency provides
13 a written explanation to the general public for
14 any credit allocation which is not so made and
15 the reasons why such allocation is necessary.

16 In establishing the criteria and priorities described
17 in subparagraph (A), the State shall take into ac-
18 count the factors described in subparagraphs (B)
19 and (C) of section 42(m)(1) and shall, to the max-
20 imum extent possible, coordinate such criteria and
21 priorities with the State’s qualified allocation plan
22 under section 42.

23 “(3) SPECIFIC REQUIREMENTS.—A plan shall
24 meet the requirements of this subsection only if—

1 “(A) the plan provides methods for deter-
2 mining—

3 “(i) the amount of rent which would
4 be charged for a substantially similar unit
5 in the same building which is not an eligi-
6 ble seniors unit for purposes of subsection
7 (b)(2)(A), and

8 “(ii) the applicable percentage under
9 subsection (d)(1),

10 “(B) the plan provides a procedure that
11 the rental reduction credit agency (or an agent
12 or other private contractor of such agency) will
13 follow in monitoring for—

14 “(i) noncompliance with the provisions
15 of this section and the qualified rental re-
16 duction agreement and in notifying the In-
17 ternal Revenue Service of any such non-
18 compliance of which the agency becomes
19 aware, and

20 “(ii) noncompliance with habitability
21 standards through regular site visits, and

22 “(C) the plan requires a person receiving a
23 credit allocation to report to the rental reduc-
24 tion credit agency such information as is nec-
25 essary to ensure compliance with the provisions

1 of this section and the qualified rental reduction
 2 agreement.

3 “(f) QUALIFIED RENTAL REDUCTION AGREE-
 4 MENT.—For purposes of this section—

5 “(1) IN GENERAL.—The term ‘qualified rental
 6 reduction agreement’ means, with respect to any res-
 7 idential rental property (as defined in section
 8 168(e)(2)(A)), a written, binding agreement between
 9 a rental reduction credit agency and the owner of
 10 such building which specifies—

11 “(A) the number of eligible senior units
 12 within such building for which a rental reduc-
 13 tion credit amount is being allocated,

14 “(B) the credit period for such building,

15 “(C) the rental reduction credit amount al-
 16 located to such building (and dwelling units
 17 within such building),

18 “(D) the applicable percentage to be used
 19 in computing the qualified rental reduction
 20 amounts with respect to the building, and

21 “(E) the method for determining the
 22 amount of rent which may be charged for eligi-
 23 ble senior units within the building.

24 “(2) COMPLIANCE REQUIREMENTS.—A quali-
 25 fied rental reduction agreement shall provide that

1 the owner of a building receiving a rental reduction
 2 credit amount shall comply with all reporting and
 3 other procedures established by the State to ensure
 4 compliance with this section and the agreement.

5 “(3) PROJECTS.—In the case of a rental reduc-
 6 tion credit allocated to a project consisting of more
 7 than 1 building, the rental reduction credit agency
 8 may provide for a single qualified rental reduction
 9 agreement which applies to all buildings which are
 10 part of the project.

11 “(g) TRANSFER OF CREDIT.—

12 “(1) IN GENERAL.—Subject to paragraph (2)
 13 and such regulations or other guidance as the Sec-
 14 retary may provide, the taxpayer may transfer to
 15 any person all or a portion of the credit allowable to
 16 the taxpayer under subsection (a) for any taxable
 17 year with respect to a building.

18 “(2) CERTIFICATION.—A transfer under para-
 19 graph (1) shall be accompanied by a certificate
 20 which includes—

21 “(A) the qualified rental reduction agree-
 22 ment for the building,

23 “(B) the taxpayer’s name, address, and tax
 24 identification number,

1 “(C) the transferee’s name, address, and
2 tax identification number,

3 “(D) the amount of credit being trans-
4 ferred for each taxable year of the taxpayer,
5 and

6 “(E) such other information as may be re-
7 quired by the Secretary.

8 “(3) TAX TREATMENT OF TRANSFER.—

9 “(A) DISALLOWANCE OF DEDUCTION.—No
10 deduction shall be allowed for any amount of
11 consideration paid or incurred by the transferee
12 in return for the transfer of any credit under
13 this paragraph.

14 “(B) ALLOWANCE OF CREDIT.—The
15 amount of credit transferred under subpara-
16 graph (A)—

17 “(i) shall not be allowed to the trans-
18 feror for any taxable year, and

19 “(ii) shall be allowable to the trans-
20 feree as a credit under this section for the
21 taxable year of the transferee in which
22 such credit is transferred.

23 “(4) INFORMATION REPORTING.—The trans-
24 feror and the transferee shall each make such re-
25 ports regarding the transfer of an amount of credit

1 under paragraph (1), and containing such informa-
 2 tion, as the Secretary may require. The reports re-
 3 quired by this paragraph shall be filed at such time
 4 and in such manner as may be required by the Sec-
 5 retary.

6 “(h) CERTIFICATIONS AND OTHER REPORTS TO SEC-
 7 RETARY.—

8 “(1) CERTIFICATION WITH RESPECT TO 1ST
 9 YEAR OF CREDIT PERIOD.—Following the close of
 10 the 1st taxable year in the credit period with respect
 11 to any qualified building, the taxpayer shall certify
 12 to the Secretary (at such time and in such form and
 13 in such manner as the Secretary prescribes)—

14 “(A) the information described in sub-
 15 section (f)(1) required to be contained in the
 16 qualified rental reduction agreement with re-
 17 spect to the building,

18 “(B) the transferee (if any) of the credit
 19 under subsection (g), and

20 “(C) such other information as the Sec-
 21 retary may require.

22 In the case of a failure to make the certification re-
 23 quired by the preceding sentence on the date pre-
 24 scribed therefor, unless it is shown that such failure
 25 is due to reasonable cause and not to willful neglect,

1 no credit shall be allowable by reason of subsection
 2 (a) with respect to such building for any taxable
 3 year ending before such certification is made.

4 “(2) ANNUAL REPORTS TO THE SECRETARY.—

5 The Secretary may require taxpayers to submit an
 6 information return (at such time and in such form
 7 and manner as the Secretary prescribes) for each
 8 taxable year setting forth—

9 “(A) the information described in para-
 10 graph (1)(A) for the taxable year, and

11 “(B) such other information as the Sec-
 12 retary may require.

13 The penalty under section 6652(j) shall apply to any
 14 failure to submit the return required by the Sec-
 15 retary under the preceding sentence on the date pre-
 16 scribed therefor.

17 “(3) ANNUAL REPORTS FROM HOUSING CREDIT

18 AGENCIES.—Each agency which allocates any hous-
 19 ing credit amount to 1 or more buildings for any
 20 calendar year shall submit to the Secretary (at such
 21 time and in such manner as the Secretary shall pre-
 22 scribe) an annual report specifying—

23 “(A) the amount of rental reduction credit
 24 amounts allocated to each such building for
 25 such year,

1 “(B) sufficient information to identify each
2 such building and the taxpayer with respect
3 thereto,

4 “(C) information as to the demographic
5 and income characteristics of eligible tenants of
6 all such buildings to which such amounts were
7 allocated, and

8 “(D) such other information as the Sec-
9 retary may require.

10 The penalty under section 6652(j) shall apply to any
11 failure to submit the report required by the pre-
12 ceding sentence on the date prescribed therefor.”.

13 (b) TREATMENT AS PART OF GENERAL BUSINESS
14 CREDIT.—

15 (1) IN GENERAL.—Section 38(b) of the Internal
16 Revenue Code of 1986 is amended by striking
17 “plus” at the end of paragraph (31), by striking the
18 period at the end of paragraph (32) and inserting “,
19 plus”, and by adding at the end the following new
20 paragraph:

21 “(33) the low-income seniors rent credit deter-
22 mined under section 45T(a).”.

23 (2) ALLOWANCE AGAINST MINIMUM TAX.—Sec-
24 tion 38(c)(4)(B) of such Code is amended by redesh-
25 ignating clauses (x), (xi), and (xii) as clauses (xi),

1 (xii), and (x)(iii), respectively, and by inserting after
2 clause (ix) the following new clause:

3 “(x) the low-income seniors rent credit
4 determined under section 45T(a),”.

5 (c) CONFORMING AMENDMENTS.—

6 (1) Subsections (i)(3)(C), (i)(6)(B)(i), and
7 (k)(1) of section 469 of such Code are each amended
8 by inserting “or 45T” after “42”.

9 (2) The table of sections for subpart D of part
10 IV of subchapter A of chapter 1 of such Code is
11 amended by inserting at the end the following new
12 item:

“Sec. 42A. Low-income seniors rent credit.”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 2018.

○