

117TH CONGRESS
2D SESSION

S. 4475

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

JUNE 23, 2022

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 2022”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) more than 22,000,000 people live in HUD-
2 code manufactured homes;

3 (2) there are approximately 6,700,000 occupied
4 manufactured homes in the United States, rep-
5 resenting about 6 percent of the Nation's housing
6 stock, 9 percent of the single-family housing stock,
7 and more than 12 percent of all new single-family
8 homes sold in 2021;

9 (3) owners of manufactured homes are dis-
10 proportionately low-income households, and in 2016,
11 the median annual household income for living in
12 manufactured housing was \$28,400;

13 (4) over one-quarter of manufactured home-
14 owners earn less than \$20,000 annually, and two-
15 thirds earn less than \$50,000 annually;

16 (5) more than half of all manufactured homes
17 are located in rural areas around the country, and
18 manufactured homes make up 13 percent of all oc-
19 cupied homes in rural and small-town communities;

20 (6) the average sales price of a new manufac-
21 tured home (excluding land) in 2019 was \$81,700,
22 and as of December 2021, that average sales price
23 had increased to \$123,200, an increase of 37 per-
24 cent over the preceding 12 months;

1 (7) despite this sharp increase, the average
2 manufactured home costs roughly half the price per
3 square foot of the average site-built home;

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

8 (9) an estimated 380,000 manufactured home
9 communities, also referred to as “mobile home
10 parks”, exist throughout the United States;

11 (10) owners of manufactured homes in such
12 communities may own the home, but they do not
13 own the land under the home, which leaves the
14 homeowners vulnerable to rent increases, dis-invest-
15 ment, changes in land use, and community closure;

16 (11) an eviction or closure of a manufactured
17 home community is very disruptive and can be finan-
18 cially devastating to a homeowner who may be un-
19 able to pay the thousands of dollars it takes to move
20 the manufactured home or find a new location for
21 the manufactured home;

22 (12) manufactured housing where the consumer
23 does not own the land generally does not promote
24 wealth-building via homeownership;

1 (13) for more than a decade, in an effort to
2 preserve a crucial source of affordable housing and
3 aid low-income homeowners, a national network of
4 housing providers has helped residents purchase and
5 own the land under the manufactured home commu-
6 nity, and manage the manufactured home commu-
7 nity as limited equity cooperatives;

8 (14) nationwide, there are more than 1,000 co-
9 operative manufactured home communities, of which
10 more than 300, located in more than 20 States, are
11 permanently preserved as affordable communities
12 through limited equity cooperative or nonprofit own-
13 ership;

14 (15) members of manufactured home commu-
15 nity cooperatives continue to own such homes indi-
16 vidually, own an equal share of the land beneath the
17 entire manufactured home community, participate in
18 the governing of the community, and elect a board
19 of directors who make major decisions within the
20 manufactured home community by a democratic
21 vote;

22 (16) site fee increases in limited equity resi-
23 dent-owned communities average just 0.9 percent
24 per year, compared to 3.9 percent per year in com-
25 mercially owned communities;

1 (17) in New Hampshire, more than 30 percent
2 of manufactured home communities are owned by
3 residents;

4 (18) resident-owned cooperatives and nonprofit
5 owned communities have also flourished in Colorado,
6 Vermont, Massachusetts, Rhode Island, Washington,
7 Oregon, and Minnesota;

8 (19) nationwide, only 2.4 percent of all manu-
9 factured home communities are resident or non-
10 profit-owned;

11 (20) 19 States have adopted some protection
12 when a community is sold, and 4 States have strong
13 notification and resident purchase opportunities,
14 which provide homeowners in those States an oppor-
15 tunity to purchase the manufactured home commu-
16 nity when it is put up for sale; and

17 (21) in order to preserve manufactured home
18 communities and help low-income homeowners live
19 securely, safely, and build wealth through homeown-
20 ership in the future, a Federal tax benefit should be
21 established to induce manufactured home community
22 owners to sell such properties to the residents when
23 those residents or a nonprofit commits to preserving
24 the community long-term.

1 **SEC. 3. TAX CREDIT FOR MANUFACTURED HOME COMMU-**
 2 **NITY SALE TO RESIDENTS OR NONPROFIT**
 3 **ENTITY.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-
 5 chapter A of chapter 1 of the Internal Revenue Code of
 6 1986 (relating to business related credits) is amended by
 7 adding at the end the following new section:

8 **“SEC. 45U. MANUFACTURED HOME COMMUNITY SALE TO**
 9 **RESIDENTS OR NONPROFIT ENTITY.**

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

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

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

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

22 “(B) the seller (or any related person)
 23 owned the property for the entire 2-year period
 24 ending on the day before the sale or exchange,
 25 and

1 “(C) the property is transferred subject to
 2 a binding covenant that the property will be
 3 used as a manufactured home community for
 4 not less than 50 years (or, in the case of a
 5 manufactured home community located in a
 6 State the laws of which restrict such covenant
 7 to a lesser term, the maximum permissible term
 8 allowed under such State laws).

9 “(2) MANUFACTURED HOME COMMUNITY.—The
 10 term ‘manufactured home community’ means a com-
 11 munity comprised primarily of manufactured homes
 12 used solely for residential purposes and owned by a
 13 manufactured home community cooperative or cor-
 14 poration.

15 “(3) QUALIFIED MANUFACTURED HOME COM-
 16 MUNITY COOPERATIVE OR CORPORATION.—

17 “(A) IN GENERAL.—The term ‘qualified
 18 manufactured home community cooperative or
 19 corporation’ means a cooperative or a nonprofit
 20 corporation established pursuant to the laws of
 21 the State in which the property used as a man-
 22 ufactured home community is located, and
 23 which—

24 “(i) in the case of a community owned
 25 by a nonprofit corporation whose member-

ship 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.

“(C) MEMBER.—The term ‘member’ means—

“(i) an individual who—

“(I) has attained the age of 18,

“(II) is entitled to be a member

by reason of—

“(aa) the membership interest of the individual to execute an occupancy agreement with the manufactured home community

1 cooperative nonprofit with re-
 2 spect to a site in the manufac-
 3 tured home community in order
 4 to establish a manufactured
 5 home which is owned by the indi-
 6 vidual, or

7 “(bb) permission from the
 8 manufactured community cooper-
 9 ative or corporation, the mem-
 10 ber’s trust, or other entity, and

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

13 “(ii) a tax exempt organization.

14 “(4) MEMBERSHIP INTEREST.—The term
 15 ‘membership interest’ means—

16 “(A) an ownership interest in a manufac-
 17 tured home community cooperative or corpora-
 18 tion, or

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

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

24 “(A) in traveling mode, is 8 body feet or
 25 more in width and 40 body feet or more in

1 length, or, when erected on site, is 320 square
 2 feet or more,

3 “(B) is built on a permanent chassis and
 4 designed to be used as a dwelling (with or with-
 5 out a permanent foundation when connected to
 6 required utilities) and includes plumbing, heat-
 7 ing, and electrical heating systems, and

8 “(C) in the case of a structure manufac-
 9 tured after June 15, 1976, is certified as meet-
 10 ing the Manufactured Home Construction and
 11 Safety Standards issued under the National
 12 Manufactured Housing Construction and Safety
 13 Standards Act of 1974 (42 U.S.C. 5401 et
 14 seq.) by the Department of Housing and Urban
 15 Development and displays a label of such cer-
 16 tification on the exterior of each transportable
 17 section.

18 “(c) SPECIAL RULES.—

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

22 “(A) such person bears a relationship to
 23 the seller as specified in section 267(b) or
 24 707(b)(1), or

1 “(B) such person and the seller are en-
 2 gaged in trades or businesses under common
 3 control within the meanings of subsections (a)
 4 and (b) of section 52.

5 “(2) ELECTION BY BOTH SELLER AND
 6 BUYER.—The credit is allowable under this section
 7 only if—

8 “(A) both the seller and the purchaser of
 9 the real property execute an affidavit rep-
 10 resenting that the sale meets the requirements
 11 of subsection (b)(1), and the purchaser ac-
 12 knowledges liability for the recapture of the
 13 credit under subsection (d) in case of any viola-
 14 tion described in such subsection,

15 “(B) the purchaser of the real property
 16 records the affidavit, and

17 “(C) the affidavit is referenced in the deed
 18 to the real property.

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

22 “(d) TAX UPON VIOLATION OF COVENANT.—There
 23 is imposed a tax on the buyer for a violation of the cov-
 24 enant specified in subsection (b)(1)(C). The amount of
 25 such tax shall be 20 percent of the net proceeds after set-

1 tlement for the sale or exchange of the real property re-
 2 ferred to in subsection (b)(1). For purposes of section
 3 501(a), the tax imposed by this subsection shall not be
 4 treated as a tax imposed by this subtitle.

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

9 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
 10 NESS CREDIT.—Section 38(b) of the Internal Revenue
 11 Code of 1986 is amended—

12 (1) by striking “plus” at the end of paragraph
 13 (32);

14 (2) by striking the period at the end of para-
 15 graph (33) and inserting “, plus”; and

16 (3) by adding at the end the following new
 17 paragraph:

18 “(34) the manufactured home community sale
 19 credit determined under section 45U(a).”.

20 (c) CONFORMING AMENDMENTS.—

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

23 (A) by striking “and” at the end of para-
 24 graph (13);

1 (B) by striking the period at the end of
2 paragraph (14) and inserting “, and”; and

3 (C) by adding at the end the following new
4 paragraph:

5 “(15) the manufactured home community sale
6 credit determined under section 45U(a).”.

7 (2) The table of sections for subpart D of part
8 IV of subchapter A of chapter 1 of such the Internal
9 Revenue Code of 1986 is amended by adding at the
10 end the following new item:

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

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to taxable years beginning after
13 December 31, 2022.

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