

117TH CONGRESS
2D SESSION

S. 5151

To prohibit individuals and entities from owning more than 100 single-family residences, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 30 (legislative day, NOVEMBER 29), 2022

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

A BILL

To prohibit individuals and entities from owning more than 100 single-family residences, 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 “End Hedge Fund Con-
5 trol of American Homes Act”.

6 **SEC. 2. EXCISE TAX ON CERTAIN TAXPAYERS FAILING TO**
7 **SELL EXCESS SINGLE-FAMILY RESIDENCES.**

8 (a) IN GENERAL.—Subtitle D of the Internal Rev-
9 enue Code of 1986 is amended by adding at the end the
10 following new chapter:

1 **“CHAPTER 50B—EXCESS SINGLE-FAMILY**
 2 **RESIDENCES**

“Sec. 5000E. Excess single-family residences.

3 **“SEC. 5000E. EXCESS SINGLE-FAMILY RESIDENCES.**

4 “(a) IN GENERAL.—In the case of any covered tax-
 5 payer who fails to meet the requirement of subsection (b)
 6 for any taxable year, there is hereby imposed a tax equal
 7 to the product of—

8 “(1) \$20,000, and

9 “(2) the excess of—

10 “(A) the number of single-family resi-
 11 dences owned by the taxpayer as of the last day
 12 of the taxable year, over

13 “(B) 100.

14 “(b) REQUIREMENT.—A covered taxpayer meets the
 15 requirements of this section for any taxable year if the
 16 number of single-family residences owned by the covered
 17 taxpayer as of the last day of the taxable year is equal
 18 to or less than 90 percent of the number of single family
 19 homes owned by the covered taxpayer as of the first day
 20 of the taxable year.

21 “(c) COVERED TAXPAYER.—For purposes of this sec-
 22 tion—

23 “(1) IN GENERAL.—The term ‘covered tax-
 24 payer’ means, with respect to any taxable year, any

1 person who owns more than 100 single-family resi-
 2 dences, as determined on the first day of the taxable
 3 year.

4 “(2) EXCLUSIONS.—Such term shall not in-
 5 clude—

6 “(A) a mortgage note holder that owns a
 7 single-family residence through foreclosure,

8 “(B) a organization which is described in
 9 section 501(c)(3) and exempt from tax under
 10 section 501(a),

11 “(C) any person primarily engaged in the
 12 construction or rehabilitation of single-family
 13 residences, or

14 “(D) any person who owns federally sub-
 15 sidized housing.

16 “(3) AGGREGATION RULES.—

17 “(A) IN GENERAL.—For purposes of this
 18 section, all persons which are treated as a sin-
 19 gle employer under subsections (a) and (b) of
 20 section 52 shall be treated as a single taxpayer.

21 “(B) MODIFICATIONS.—For purposes of
 22 this paragraph—

23 “(i) section 52(a) shall be applied by
 24 substituting ‘component members’ for
 25 ‘members’, and

1 “(ii) for purposes of applying section
 2 52(b), the term ‘trade or business’ shall in-
 3 clude any activity treated as a trade or
 4 business under paragraph (5) or (6) of sec-
 5 tion 469(c) (determined without regard to
 6 the phrase ‘To the extent provided in regu-
 7 lations’ in such paragraph (6)).

8 “(C) COMPONENT MEMBER.—For pur-
 9 poses of this paragraph, the term ‘component
 10 member’ has the meaning given such term by
 11 section 1563(b), except that the determination
 12 shall be made without regard to section
 13 1563(b)(2).

14 “(d) OTHER RULES AND DEFINITIONS.—For pur-
 15 poses of this section—

16 “(1) SINGLE-FAMILY RESIDENCE.—The term
 17 ‘single-family residence’ means a residential property
 18 consisting of 1-to-4 dwelling units.

19 “(2) OWN.—

20 “(A) IN GENERAL.—The term ‘own’, with
 21 respect to a single-family residence, means hav-
 22 ing a direct majority ownership interest in the
 23 single-family residence, regardless of the per-
 24 centage of that ownership interest.

1 “(B) SPECIAL RULE FOR CERTAIN
2 SALES.—

3 “(i) IN GENERAL.—Notwithstanding
4 subparagraph (A), for purposes of sub-
5 sections (a)(2)(A) and (b), any single-fam-
6 ily residence which is owned by a covered
7 taxpayer as of the first day of the taxable
8 year and which is sold or transferred dur-
9 ing such taxable year by the covered tax-
10 payer in a sale or transfer described in
11 clause (ii) shall be treated as a single-fam-
12 ily residence which is owned by the covered
13 taxpayer as of the last day of such taxable
14 year.

15 “(ii) SALES DESCRIBED.—A sale or
16 transfer is described in this clause if such
17 sale or transfer is a sale or transfer to—

18 “(I) a corporation or entity en-
19 gaged in a trade or business,

20 “(II) a group of more than 2 in-
21 dividuals, or

22 “(III) a person who owns any
23 other single-family residence at the
24 time of such sale.

25 “(e) REPORTING.—

1 “(1) IN GENERAL.—The Secretary shall require
 2 such reporting as the Secretary determines nec-
 3 essary or appropriate to carry out the purposes of
 4 this section, including reporting with respect to
 5 whether any person acquiring a single-family resi-
 6 dence from a covered taxpayer owns any other sin-
 7 gle-family residences at the time of the acquisition.

8 “(2) FAILURE TO REPORT.—

9 “(A) IN GENERAL.—Any person who fails
 10 to report information required under paragraph
 11 (1) or who fails to include correct information
 12 in such report shall pay a penalty of \$20,000.

13 “(B) REASONABLE CAUSE WAIVER.—No
 14 penalty shall be imposed under this paragraph
 15 with respect to any failure if it is shown that
 16 such failure is due to reasonable cause and not
 17 to willful neglect.

18 “(C) TREATMENT OF PENALTY.—The pen-
 19 alty under this paragraph shall be paid upon
 20 notice and demand by the Secretary, and shall
 21 be assessed and collected in the same manner
 22 as an assessable penalty under subchapter B of
 23 chapter 68.”.

24 (b) CERTIFICATION.—

1 (1) IN GENERAL.—The reporting required
2 under section 5000E(a) of the Internal Revenue
3 Code of 1986, as added by this section, shall include
4 a certification from each individual to whom a sin-
5 gle-family residence is sold or transferred from a
6 covered taxpayer.

7 (2) FORM OF CERTIFICATION.—The certifi-
8 cation required under this subsection shall be signed
9 by the purchaser or transferee and state the fol-
10 lowing:

11 (A) The name and address of the pur-
12 chaser or transferee.

13 (B) The sale is not a sale described in sec-
14 tion 5000E(d)(2)(B)(ii) of the Internal Revenue
15 Code of 1986.

16 (C) The purchaser or transferee will be
17 subject to the penalty imposed under section
18 5000E(e)(2) of such Code for any false certifi-
19 cation.

20 (3) DEFINITIONS.—Any term used in this sub-
21 section which is used in section 5000E of the Inter-
22 nal Revenue Code of 1986 shall have the meaning
23 give such term under such section.

1 (c) CLERICAL AMENDMENT.—The table of chapters
 2 for subtitle D of the Internal Revenue Code of 1986 is
 3 amended by adding at the end the following new item:

“CHAPTER 50B—EXCESS SINGLE-FAMILY RESIDENCES”.

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

7 **SEC. 3. USE OF TAX REVENUES FOR DOWN PAYMENT AS-**
 8 **SISTANCE GRANTS.**

9 (a) ESTABLISHMENT OF HOUSING TRUST FUND.—

10 (1) IN GENERAL.—Subchapter A of chapter 98
 11 of the Internal Revenue Code of 1986 is amended by
 12 adding at the end the following new section:

13 **“SEC. 9512. HOUSING TRUST FUND.**

14 “(a) CREATION OF TRUST FUND.—There is estab-
 15 lished in the Treasury of the United States a trust fund
 16 to be known as the Housing Trust Fund (hereinafter in
 17 this section referred to as the ‘Trust Fund’), consisting
 18 of such amounts as may be appropriated or credited to
 19 such Trust Fund as provided in this section and section
 20 9602(b).

21 “(b) TRANSFERS TO TRUST FUND.—There are here-
 22 by appropriated to the Housing Trust Fund amounts
 23 equivalent to revenues received in the Treasury from the
 24 tax imposed by section 5000E.

1 “(c) EXPENDITURES FROM TRUST FUND.—Amounts
 2 in the Housing Trust Fund shall be available, as provided
 3 in appropriations Acts, only for grants under section 3(b)
 4 of the End Hedge Fund Control of American Homes
 5 Act.”.

6 (2) CLERICAL AMENDMENT.—The table of sec-
 7 tions for subchapter A of chapter 98 of the Internal
 8 Revenue Code of 1986 is amended by adding at the
 9 end the following new item:

10 (b) GRANTS PROGRAM FOR DOWN PAYMENT ASSIST-
 11 ANCE PROGRAMS.—

12 (1) ESTABLISHMENT.—The Secretary of Hous-
 13 ing and Urban Development shall establish a pro-
 14 gram under which the Secretary makes grants to
 15 State housing finance agencies to establish new or
 16 supplement existing programs that provide down
 17 payment assistance to families purchasing homes
 18 within the State.

19 (2) PRIORITY.—A State housing finance agency
 20 that receives a grant under this section shall give
 21 priority to families seeking assistance to purchase
 22 any single-family residence that is sold or trans-
 23 ferred by a covered taxpayer (as defined in section

- 1 5000E(c) of the Internal Revenue Code of 1986, as
- 2 added by section 2).

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