

H.R. 5159 AMENDING TITLE 38 TO PROVIDE TAX RELIEF FOR THE CONVERSION OF COOPERATIVE HOUSING CORPORATIONS INTO CONDOMINIUMS

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 2000

Mrs. MINK of Hawaii. Mr. Speaker, I rise today to introduce an important piece of legislation. There are some in my district and around the country who would like to convert their cooperative housing units into condominiums but do not because section 216 of the Internal Revenue Code unfairly taxes such conversions.

During the late 1950's and early 1960's the first high-rise apartments were built in Hawaii. Developers formed cooperative housing corporations for ownership. In a cooperative, a corporation owns the land and building, and individuals and families purchase a share in the corporation that grants them the right to live in a particular unit. This enabled homeowners to own their apartments rather than rent them, making home ownership possible for more individuals and families.

As construction of high rise apartments increased, Hawaii enacted the nation's first condominium property laws. Condominiums permit a unit holder to own the unit directly rather than indirectly as stock in a cooperative corporation. Condominiums proved easier to finance and were better received by the public. The vast majority of high-rise apartment buildings constructed since 1963 have been condominiums rather than cooperatives.

The cooperatives that were constructed before condominium laws were enacted have a number of finance and marketing problems. Many banks in Hawaii will not lend more than 70 percent of a cooperative's purchase price, compared with up to 90 percent for a condominium. In addition, banks have generally used an amortization rate of 15 years, compared to 30 years for condominiums, and charge 1 percent more interest for cooperative housing loans. Furthermore, the sale price of a condominiums can be 15 to 40 percent higher than a similar cooperative apartment. Finally, Private Letter Ruling No. 8445010 the IRS recognized that unit holders in cooperatives have greater difficulty acquiring mortgages. These differences discourage the purchase of shares from cooperatives and making selling a unit nearly impossible.

As a result of these shortcomings many who invested in cooperative housing want to convert their ownership form. This is accomplished through converting cooperative housing corporations into condominiums. In a conversion the cooperative corporation dissolves and reconstitutes itself as a condominium with the share holders owning their apartment directly. No substantive change in ownership is involved. The Internal Revenue Code discourages conversions because it treats the dissolution of the cooperative corporation as a taxable event. Prior to the 1986 Tax Reform Act (P.L. 99-514) corporations dissolved without taxation. This became a classic way in which corporations bought and sold one another without paying a tax on the capital gains. This bill protects against this tax loophole. When a cooperative corporation dissolves in

the process of conversion, the original basis of the property remains the basis for the condominium building. Individual unit holders also retain as their basis the price paid for a share purchased in the cooperative corporation. In the future, if the new owners of the building or an individual condominium owner sell their deed the gain in value over the original basis will be taxed.

The IRS and Congress have recognized that this tax is unfair. In Private Letter Ruling No. 8812049 the IRS agreed that the conversion tax was severe because a tenant-stockholder continues to live in the same unit and incurs the same cost. Congress also agreed that this conversion tax was excessive and amended the Internal Revenue Code eliminating the tax incurred by unit holders along as the unit was their primary residence. While this amendment did not repeal the tax at the corporate level (the major impediment to cooperative conversions) the amendments repealed in 1997. Since 1997 cooperative corporations and individual unit holders that want to convert to condominiums and benefit from higher lending rates, longer amortization periods, lower interest rates and a higher market value have been discouraged by the Internal Revenue Code which requires them to update the original basis.

This bill eliminates the unfair conversion tax at the corporate and individual level that do not include a transfer of ownership. It also ensures that no tax loopholes created by requiring that the original basis be assumed by the tenant and property owners. On passage of this bill cooperatives retain the option of conversion.

I urge my colleagues to cosign this bill and end this unfair tax.

HIGH COST OF PRESCRIPTION DRUGS

HON. DEBBIE STABENOW

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 2000

Ms. STABENOW. Mr. Speaker, for the past six months, I have been reading letters on the floor of the House of Representatives from senior citizens from all over the State of Michigan.

These seniors have shared their stories with me about the high cost of prescription drugs. They all have one thing in common: these seniors rely solely on Medicare for their health insurance, so they do not have any prescription drug benefit.

They must pay for their prescription drugs themselves, and with the high prices, they often are forced to make the decision between buying the prescription drugs they need or buying food or heating their homes.

We must enact a voluntary, Medicare prescription drug benefit that will provide real help for these seniors.

This week, I will read a letter from a senior in Lansing, MI, who asked that she remain anonymous.

TEXT OF THE LETTER

It seems every time I see a doctor, I am given a new prescription. I now take six a day. They cost close to \$200 a month. I also take six non-prescription drugs a day.

We really need some help. It is very hard for a retired senior on a fixed income.

I sometimes skip a pill to make them last a little longer.

In these economic good times, it is a national tragedy that seniors are putting their health at risk and skipping the medications they need because they cannot afford them.

The 106th Congress will soon adjourn. Our days to enact prescription drug reform are numbered.

I support the Democratic plan that will provide a voluntary, real Medicare prescription drug benefit.

COMMUNICATION FROM PHARMACIA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 2000

Mr. STARK. Mr. Speaker, I am today submitting for the RECORD a letter from the pharmaceutical manufacturer, Pharmacia. This letter was written in response to my October 3rd letter to the company's President & Chief Executive Officer, Fred Hassan.

My recent letter, submitted to the Congressional Record on October 3rd, provided evidence that Pharmacia for many years has been reporting and publishing inflated and misleading price data and has engaged in other improper, deceptive business practices in order to manipulate and inflate the prices of certain drugs. The price manipulation scheme has been executed through Pharmacia's inflated representations of average wholesale price ("AWP") and direct price ("DP"), which are utilized by the Medicare and Medicaid programs in establishing drug reimbursements to providers. This pricing scheme by Pharmacia and other drug companies is estimated to have cost taxpayers over a billion dollars.

Unfortunately, Pharmacia's recent letter provides no meaningful explanation for the company's actions which have overcharged Americans and put patient safety at grave risk. Instead, President Hassan places the blame on the Department of Health and Human Services' difficult reimbursement policies. In this letter he states: "As you know, Medicare and Medicaid reimbursement policies are considerably complex" and "From my perspective, it is the designing of a system to replace the current system that to date has proven to be difficult." The alleged complexity of Medicare's reimbursement system is no excuse for Pharmacia deliberately publishing inflated and misleading price data and engaging in other deceptive business practices—business practices which the letter fails to mention.

Contrary to Mr. Hassan's accusation, Medicare's current reimbursement method is simple. Medicare pays 95% of a covered drug's average wholesale price (AWP). Regardless of the merits of the system, Pharmacia, and other drug companies, have abused this system by reporting inflated drug prices—plain and simple.

I appreciate the fact that Mr. Hassan is taking the issues I raised in my letter "very seriously" and is "continuing to investigate" the allegations made in my letter. But I firmly believe that the blame for reporting misleading—and possibly fraudulent—price data as well as engaging in other deceptive company practices must not and cannot be placed on HHS'

reimbursement policies. Mr. Hassan writes that the "current system has proven to be untenable. . . ." It is the pricing practices of companies like his that have made it untenable.

Pharmacia's behavior overcharges taxpayers—particularly patients—and endangers the public health by influencing the practice of medicine. It is for all of these reasons that I have called on the FDA to conduct a full investigation into such drug company behavior.

The letter from Pharmacia follows:

PHARMACIA CORPORATION,
Peapack, NJ, October 16, 2000.

Re: Your Letter of October 3, 2000

Hon. FORTNEY PETE STARK,

Cannon House Office Building, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE STARK: I am the President, Chief Executive Officer, and a member of the Board of Directors of Pharmacia Corporation ("Pharmacia"). For your information, Pharmacia was created earlier this year upon the merger of Pharmacia & Upjohn, Inc., and Monsanto Company.

In my capacity as Chief Executive Officer of Pharmacia, I write to acknowledge receipt of your letter of October 3, 2000, addressed to Pharmacia & Upjohn, Inc., and to address preliminarily the issues that you raise regarding the reporting and publishing of certain price data for several prescription medications sold by Pharmacia.

Initially, I want to provide you with my personal assurance that Pharmacia takes the issues raised in your letter very seriously. For your information, Pharmacia has actively provided information regarding our pricing practices to a number of investigative bodies. Also, the Company is committed to continuing to work with the appropriate authorities until any differences that may exist in the understanding of this matter are resolved.

As to the particulars of your letter, you should know that Pharmacia is continuing to investigate the allegations made in your letter, as well as those that have been reported recently in various news media regarding the pharmaceutical industry's practices in the area of reimbursement.

As you know, Medicare and Medicaid reimbursement policies are considerably complex. Indeed, in correspondence from the administrator of the Health Care Financing Authority ("HCFA"), it was publicly noted in a letter addressed to the Honorable Tom Bliley, Chairman, Commerce Committee, U.S. House of Representatives, that HCFA has been "actively working to address drug payment issues, both legislatively and through administrative actions, for many years." In fact, Ms. DeParle, the HCFA Administrator, notes that her Agency tried several alternative approaches in the early 1990's but that none were adopted. In fact, in 1997, the Administration proposed to pay physicians and suppliers their so-called "acquisition costs" for drugs, but the proposal was not adopted. Instead, the Balanced Budget Act of 1997 reduced Medicare payments for covered drugs from 100% to 95% of the average wholesale price or "AWP".

From my perspective, it is the designing of a system to replace the current system that to date has proven to be difficult. Indeed, the current system has proven to be untenable and we would welcome the opportunity of working with you, Congress, HCFA, and any other interested regulatory agencies and stakeholders to develop reimbursement guidelines that are simple, transparent, and representative of the current market conditions.

Finally, I want you to know that—in accordance with your request—I will share

your letter and this response with the members of Pharmacia's Public Issues and Social Responsibility Committee of the Board of Directors. In addition, Pharmacia will continue to participate constructively in the public dialogue with regard to whether changes will be made in this arena either legislatively or through administrative action.

Sincerely,

FRED HASSAN.

HONORING MRS. CLEOTILDE
CASTRO GOULD

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 2000

Mr. UNDERWOOD. Mr. Speaker, From a pool of very worthy candidates, the Guam Humanities Council elected to bestow the 2000 Humanities Award for Lifetime Contribution upon Mrs. Cleotilde Castro Gould, a retired educator and well-known local storyteller. This very distinguished award honors the contributions of individuals who, over the years, have worked towards the promotion and advancement of local culture and traditions. To Mrs. Gould, the conferral of this honor is both timely and well deserved.

Mrs. Gould is primarily known as an educator and as a specialist on Chamorro language and culture. In 1974, she played a key role in the formation of the Guam Department of Education's Chamorro language and Culture program. She served as the program's director until her recent retirement. Her many talents include that of singing, songwriting and creative writing. She is a talented singer of Kantan Chamorrita (Chamorro Songs) and has written several songs made popular by local island performer, Johnny Sablan. In the 1980's, she obtained funding to document the Kantan Chamorrita song form. The result was a video record of the ancient call-and-response impromptu song form which is practiced today by few remaining artists.

However, her claim to fame is that of being a storyteller. Her great talent in conveying ancient Chamorro legends to the younger generation has placed great demand on her skills throughout the island's many schools. Mrs. Gould has represented the island as a storyteller in a Pacific islands tour sponsored by the Consortium of Pacific Arts and Cultures and she employed the same talent in 1988 as part of the Guam delegation to the Pacific Festival of Arts in Australia. In addition, Mrs. Gould is also the writer and creator of the Juan Malimanga comic strip. A daily feature in the Pacific Daily News, Guam's daily newspaper, the strip and its characters embody the Chamorro perspective and our local tendency to use humor in order to get points across or to express criticism in a witty and non-confrontational manner. Mrs. Gould is one of my best friends and favorite colleagues in education. She represents the best in that indomitable Chamorro spirit.

Through her song lyrics, the Comical situations she has concocted, and the lessons brought forth by her storytelling, Mrs. Gould has touched a generation of children, young adults and students. Her exceptional ability to communicate with people from a wide range of age and educational backgrounds has en-

abled her to pass on the values and standards of our elders to the younger generation. Her life has been dedicated towards the preservation of our island's culture and traditions. For this she rightfully deserves commendation.

Also worthy of note are several distinguished island residents, who, in their own ways, have made contributions to our island. Dirk Ballendorf, a professor of History and Micronesian Studies, through his scholarly work and research, has provided the academic community a wide body of material on the history and culture of our island and our region. Professor Lawrence Cunningham, the author of the first Chamorro history book, has been largely instrumental in the inclusion of Guam History in the secondary school curriculum and the participation of island students in local and national Mock Trial debate competitions. Professor Marjorie Driver's translation of documents pertaining to the Spanish presence in the Mariana Islands has generated enthusiasm among the local community and brought about a desire to get reacquainted with their heritage and traditions. The Reverend Dr. Thomas H. Hilt, the founder of the Evangelical Christian Academy, has fostered the development of a generation of students and donated his time and efforts providing assistance and counsel to troubled kids. Local banker, Jesus Leon Guerrero, founder of the first locally chartered full service bank on Guam, the Bank of Guam, has made great contributions towards the economic, political, and social transformation of Guam. Newspaperman Joe Murphy has written a daily newspaper column for the last thirty years and has provoked our thoughts and encouraged us to get involved in our island's affairs and concerns. The director of the Guam Chapter of the American Red Cross, Josephine Palomo, in addition to her invaluable assistance during disaster related situations, has established a program which encourages involvement among the island's senior citizens in social and healthful activities. Professor Robert F. Rogers, through his scholarly work and provision of guidance and advice to political science majors in the University of Guam, has fostered the development of policy and leadership within our region. Finally, former Senator Cynthia Torres, one of the first women to be elected to the Guam Legislature, has made great contributions towards the advancement of women and vulnerable members in our island society.

On behalf of the people of Guam, I commend and congratulate these wonderful people for their contributions. Their passion and dedication has gone a long way towards the development of a new generation who, like them, will dedicate their lives and their work towards the humanities. To each and every one of these individuals, I offer my heartfelt gratitude. Si Yu'os Ma'ase'.

CHAIRMAN'S FINAL REPORT CONCERNING THE NOVEMBER 13 SUBCOMMITTEE ON FORESTS AND FOREST HEALTH HEARING IN ELKO, NEVADA

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 2000

Mr. GIBBONS. Mr. Speaker, last year on November 13th, the Subcommittee on Forests