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115TH CONGRESS
1ST SESSION

H. R. 3296

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 HOUSE OF REPRESENTATIVES

JULY 19, 2017

Mr. ELLISON introduced the following bill; which was referred to the Committee on Ways and Means

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Frank Adelmann Manufactured Housing Community Sustainability Act’’.

SEC. 2. FINDINGS.

The Congress finds that—

(1) more than 17 million people live in manufactured homes, benefitting from high-quality affordable homes that can provide them stability;

(2) owners of manufactured homes are disproportionately low-income households: in 2013, the median annual household income for those living in manufactured housing was $28,400;

(3) about 75 percent of manufactured home households earn less than $50,000;

(4) over 10 percent of United States veterans live in manufactured homes;

(5) in the late 1990s, manufactured housing represented two-thirds of the new affordable housing produced in the United States, and it remains the largest source of unsubsidized affordable housing in the country;

(6) as of 2015, the average cost per square foot for a new manufactured home was $48, less than half the $101 per square foot of the structure-only cost of a new site-built home;

(7) in 2009, 43 percent of all new homes that sold for less than $150,000 were manufactured homes;

(8) manufactured homes accounts for 23 percent of new home sales under $200,000;

(9) more than 50,000 manufactured home communities, or ''mobile home parks'', exist throughout the United States;

(10) more than 2.9 million manufactured homes are placed in manufactured home communities;

(11) manufactured home communities provide critical affordable housing but receive very little local, State, or Federal funds subsidizing the cost of these homes;

(12) manufactured home owners in communities may own the home, but they do not own the land under their homes, leaving them vulnerable to rent increases, arbitrary rule enforcement, and even closure of the community if the community owner decides to convert the land to some other use;

(13) eviction or closure of manufactured home communities is very disruptive to residents who may be unable to pay the thousands of dollars it takes to move their home or even find a new location for their home;

(14) in the past two decades, a national network of housing providers has helped residents purchase and own the land and manage the community in order to preserve a crucial source of affordable housing;

(15) nationwide, there are more than 1,000 of these stable, permanent ownership cooperatives or nonprofit-owned developments in more than a dozen States;

(16) members continue to own their own homes individually and an equal share of the land beneath the entire neighborhood where everyone has a say in the way the resident-owned community is run, and major decisions are made by democratic vote by a member-elected board of directors;

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

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

(19) nationwide, only 2 percent of all manufactured home communities are resident- or nonprofit-owned;

(20) owners are frequently reluctant to sell the community because they would prefer to pass the property on to their heirs tax free and avoid capital gains taxes;

(21) when the owner dies, the heirs frequently sell the community to the highest bidder resulting in displacement for dozens and sometimes hundreds of families; and

(22) a Federal tax benefit needs to be established to induce owners to sell to residents they have known for decades or to nonprofit organizations in order to preserve the community for years to come.

SEC. 3. TAX CREDIT FOR MANUFACTURED HOME COMMUNITY SALE TO RESIDENTS OR NONPROFIT ENTITY.

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

"SEC. 45S. MANUFACTURED HOME COMMUNITY SALE TO RESIDENTS OR NONPROFIT ENTITY.

"(a) ALLOWANCE OF CREDIT.—For purposes of section 38, the manufactured home community sale credit determined under this section for any taxable year is an amount equal to 75 percent of the qualified gain received by the taxpayer during the taxable year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED GAIN.—The term 'qualified gain' means gain from the sale or exchange of real property to a qualified manufactured home community cooperative or corporation if—

"(A) the real property is acquired for use as a manufactured home community, and

"(B) the requirements of paragraph (2) are met.

"(2) REQUIREMENTS.—The requirements of this paragraph are met if—

"(A) the seller (or any related person) owned the property for not less than the 2-year period ending before the sale or exchange, and

"(B) the property is transferred subject to a binding covenant that the property will be used as a manufactured home community for not less than 50 years.

"(3) MANUFACTURED HOME COMMUNITY.—The term 'manufactured home community' means a community comprised primarily of manufactured homes used solely for residential purposes and owned by a manufactured home community cooperative or corporation.

"(4) MANUFACTURED HOME COMMUNITY 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 one class of membership consisting of residents, and

"(ii) in the case of a community owned by a cooperative, has no more than two classes of membership, which includes both members and a tax-exempt organization actively engaged in supporting affordable housing and resident-owned manufactured home communities.

"(B) GOVERNANCE.—An entity shall not be treated as a qualified manufactured home community cooperative or corporation for purposes of subparagraph (A) 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—

"(I) has attained the age of 18,

"(II) is entitled by reason of the individual's membership interest to execute an occupancy agreement with the manufactured home community cooperative nonprofit with respect to one site in the manufactured home community for the purposes of situating a manufactured home owned by the member or, as permitted by the manufactured community cooperative or corporation, the member's trust or other entity, and

"(III) is a resident of the manufactured home community, and

"(ii) a tax exempt organization.

"(5) MEMBERSHIP INTEREST.—The term 'membership interest' means an ownership interest in a manufactured home community cooperative or corporation or a membership interest in a manufactured home community nonprofit corporation.

"(6) MANUFACTURED HOME.—The term 'manufactured home' means a structure, transportable in one or more sections, which—

"(A) in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more,

"(B) is built on a permanent chassis and designed to be used as a dwelling (with or without a permanent foundation when connected to required utilities) and includes plumbing, heating, and electrical heating systems, and

"(C) in the case of a structure manufactured after June 15, 1976, is certified as meeting the Manufactured Home Construction and Safety Standards issued under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401–5426) by the Department of Housing and Urban Development and displays a label of such certification on the exterior of each transportable section.

"(c) SPECIAL RULES.—

"(1) RELATED PERSON.—For purposes of subsection (b)(2)(A), a person (hereafter in this subparagraph referred to as the 'related person') is related to the seller if—

"(A) the related person bears a relationship to the seller specified in section 267(b) or 707(b)(1), or

"(B) the related person and the seller are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

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

"(A) elected by both the seller and the buyer of the real property and evidenced by an affidavit executed by both parties, and

"(B) the buyer of the real property records the affidavit and the affidavit is referenced in its deed to the real property.

The seller shall elect the credit under this section on its return of tax.

"(d) TAX UPON VIOLATION OF COVENANT.—There is imposed a tax on the buyer for a violation of the covenant specified in subsection (b)(2)(B). The amount of such tax shall be 20 percent of the net proceeds after settlement for the sale or exchange of the real property referred to in subsection (b)(2). For purposes of section 501(a), the tax imposed by this subsection shall not be treated as a tax imposed by this subtitle.

"(e) REGULATIONS.—The Secretary shall issue such regulations or other guidance as may be necessary to carry out this section, including the recapture of the tax benefit under this section in any case in which the real property described in subsection (b) is not used as a manufactured home community for at least 50 years.".

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code is amended by striking "plus" at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting ", plus", and by adding at the end the following new paragraph:

"(37) the manufactured home community sale credit determined under section 45S(a).".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 196 of such Code is amended by striking "and" at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting ", and", and by adding at the end the following new paragraph:

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

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

"Sec. 45S. Manufactured home community sale to residents or nonprofit entity.".

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

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