

116TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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.

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IN THE SENATE OF THE UNITED STATES

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Mrs. SHAHEEN introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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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.

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 2019”.

6 **SEC. 2. FINDINGS.**

7        The Congress finds that—

1           (1) more than 17,000,000 people live in manu-  
2           factured homes and benefit from high-quality afford-  
3           able homes which provide stability;

4           (2) owners of manufactured homes have dis-  
5           proportionately low-income households, and in 2013,  
6           the median annual household income for living in  
7           manufactured housing was \$28,400;

8           (3) approximately 75 percent of manufactured  
9           home households earn less than \$50,000 per year;

10          (4) more than 10 percent of veterans in the  
11          United States live in manufactured homes;

12          (5) in late 1990, manufactured housing rep-  
13          resented  $\frac{2}{3}$  of the new affordable housing produced  
14          in the United States and remains a significant  
15          source of unsubsidized affordable housing in the  
16          United States;

17          (6) in 2015, the average cost per square foot  
18          for a new manufactured home was 48 dollars, less  
19          than half of the cost per square foot for a new-site  
20          built, structure-only home, which was \$101;

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

24          (8) manufactured homes account for 23 percent  
25          of new home sales under \$200,000;

1           (9) more than 50,000 manufactured home com-  
2           munities, also referred to as “mobile home parks”,  
3           exist throughout the United States;

4           (10) more than 2,900,000 manufactured homes  
5           are placed in manufactured home communities;

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

10          (12) manufactured home owners in such com-  
11          munities may own the home, but they do not own  
12          the land under the home, which leaves the home  
13          owners vulnerable to rent increases, arbitrary rule  
14          enforcement, and in the case of a manufactured  
15          home community owner converting the land to some  
16          other use, community closure;

17          (13) an eviction or closure of a manufactured  
18          home community is very disruptive to a resident who  
19          may be unable to pay the thousands of dollars it  
20          takes to move the manufactured home or find a new  
21          location for the manufactured home;

22          (14) in an effort to preserve a crucial source of  
23          affordable housing within the past two decades, a  
24          national network of housing providers has helped  
25          residents purchase and own the land under the man-

1        ufactured home community, and manage the manu-  
2        ufactured home community;

3            (15) nationwide, there are more than 1,000 sta-  
4        ble, permanent ownership cooperatives or nonprofit-  
5        owned developments in more than a dozen States;

6            (16) members of manufactured home commu-  
7        nities continue to own such homes individually, own  
8        an equal share of the land beneath the entire manu-  
9        ufactured home community, participate in the gov-  
10       erning of the community, and elect a board of direc-  
11       tors who make major decisions within the manufac-  
12       tured home community by a democratic vote;

13           (17) in New Hampshire, more than 30 percent  
14       of manufactured home communities are owned by  
15       residents;

16           (18) resident-owned cooperatives and nonprofit  
17       owned communities have also flourished in Vermont,  
18       Massachusetts, Rhode Island, Washington, Oregon,  
19       and Minnesota;

20           (19) nationwide, only 2 percent of all manufac-  
21       tured home communities are resident or nonprofit-  
22       owned;

23           (20) manufactured home community owners  
24       often prefer to devise such property tax free, rather

1 than selling the community, in order to avoid capital  
2 gain taxes;

3 (21) when the owner of a manufactured home  
4 community dies, the heirs of the owner frequently  
5 sell the community to the highest bidder which re-  
6 sults in displacement for dozens and sometimes hun-  
7 dreds of families; and

8 (22) in order to preserve manufactured home  
9 communities in the future, a Federal tax benefit  
10 should be established to induce manufactured home  
11 community owners to sell such properties to resi-  
12 dents that the owners have known for decades, or to  
13 nonprofit organizations.

14 **SEC. 3. TAX CREDIT FOR MANUFACTURED HOME COMMU-**  
15 **NITY SALE TO RESIDENTS OR NONPROFIT**  
16 **ENTITY.**

17 (a) IN GENERAL.—Subpart D of part IV of sub-  
18 chapter A of chapter 1 of the Internal Revenue Code of  
19 1986 (relating to business related credits) is amended by  
20 adding at the end the following new section:

21 **“SEC. 45T. MANUFACTURED HOME COMMUNITY SALE TO**  
22 **RESIDENTS OR NONPROFIT ENTITY.**

23 “(a) ALLOWANCE OF CREDIT.—For purposes of sec-  
24 tion 38, the manufactured home community sale credit de-  
25 termined under this section for any taxable year is an

1 amount equal to 75 percent of the qualified gain received  
2 by the taxpayer during the taxable year.

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

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

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

10 “(B) the seller (or any related person)  
11 owned the property for the entire 2-year period  
12 ending on the day before the sale or exchange,  
13 and

14 “(C) the property is transferred subject to  
15 a binding covenant that the property will be  
16 used as a manufactured home community for  
17 not less than 50 years (or, in the case of a  
18 manufactured home community located in a  
19 State the laws of which restrict such covenant  
20 to a lesser term, the maximum permissible term  
21 allowed under such State laws).

22 “(2) MANUFACTURED HOME COMMUNITY.—The  
23 term ‘manufactured home community’ means a com-  
24 munity comprised primarily of manufactured homes  
25 used solely for residential purposes and owned by a

1 manufactured home community cooperative or cor-  
2 poration.

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

5 “(A) IN GENERAL.—The term ‘qualified  
6 manufactured home community cooperative or  
7 corporation’ means a cooperative or a nonprofit  
8 corporation established pursuant to the laws of  
9 the State in which the property used as a man-  
10 ufactured home community is located, and  
11 which—

12 “(i) in the case of a community owned  
13 by a nonprofit corporation whose member-  
14 ship interests are sold on a nonappre-  
15 ciating basis, has only 1 class of member-  
16 ship and such class consists solely of resi-  
17 dents, and

18 “(ii) in the case of a community  
19 owned by a cooperative, has not more than  
20 2 classes of membership, and such classes  
21 consist solely of residents and a tax-exempt  
22 organization.

23 “(B) GOVERNANCE.—An entity shall not  
24 be treated as a qualified manufactured home  
25 community cooperative or corporation unless

1 governance of the entity is carried out by mem-  
2 bers elected to a board of directors with voting  
3 structured equitably among all members.

4 “(C) MEMBER.—The term ‘member’  
5 means—

6 “(i) an individual who—

7 “(I) has attained the age of 18,

8 “(II) is entitled to be a member  
9 by reason of—

10 “(aa) the membership inter-  
11 est of the individual to execute  
12 an occupancy agreement with the  
13 manufactured home community  
14 cooperative nonprofit with re-  
15 spect to a site in the manufac-  
16 tured home community in order  
17 to establish a manufactured  
18 home which is owned by the indi-  
19 vidual, or

20 “(bb) permission from the  
21 manufactured community cooper-  
22 ative or corporation, the mem-  
23 ber’s trust, or other entity, and

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

1                   “(ii) a tax exempt organization.

2                   “(4) MEMBERSHIP INTEREST.—The term  
3 ‘membership interest’ means—

4                   “(A) an ownership interest in a manufac-  
5 tured home community cooperative or corpora-  
6 tion, or

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

9                   “(5) MANUFACTURED HOME.—The term ‘man-  
10 ufactured home’ means a structure which is trans-  
11 portable in 1 or more sections, which—

12                   “(A) in traveling mode, is 8 body feet or  
13 more in width and 40 body feet or more in  
14 length, or, when erected on site, is 320 square  
15 feet or more,

16                   “(B) is built on a permanent chassis and  
17 designed to be used as a dwelling (with or with-  
18 out a permanent foundation when connected to  
19 required utilities) and includes plumbing, heat-  
20 ing, and electrical heating systems, and

21                   “(C) in the case of a structure manufac-  
22 tured after June 15, 1976, is certified as meet-  
23 ing the Manufactured Home Construction and  
24 Safety Standards issued under the National  
25 Manufactured Housing Construction and Safety

1 Standards Act of 1974 (42 U.S.C. 5401 et  
2 seq.) by the Department of Housing and Urban  
3 Development and displays a label of such cer-  
4 tification on the exterior of each transportable  
5 section.

6 “(c) SPECIAL RULES.—

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

10 “(A) such person bears a relationship to  
11 the seller as specified in section 267(b) or  
12 707(b)(1), or

13 “(B) such person and the seller are en-  
14 gaged in trades or businesses under common  
15 control within the meanings of subsections (a)  
16 and (b) of section 52.

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

20 “(A) both the seller and the purchaser of  
21 the real property execute an affidavit rep-  
22 resenting that the sale meets the requirements  
23 of subsection (b)(1), and the purchaser ac-  
24 knowledges liability for the recapture of the

1 credit under subsection (d) in case of any viola-  
2 tion described in such subsection,

3 “(B) the purchaser of the real property  
4 records the affidavit, and

5 “(C) the affidavit is referenced in the deed  
6 to the real property.

7 “(3) REQUIREMENT.—The seller shall include a  
8 copy of the affidavit representing the sale with the  
9 return of tax.

10 “(d) TAX UPON VIOLATION OF COVENANT.—There  
11 is imposed a tax on the buyer for a violation of the cov-  
12 enant specified in subsection (b)(1)(C). The amount of  
13 such tax shall be 20 percent of the net proceeds after set-  
14 tlement for the sale or exchange of the real property re-  
15 ferred to in subsection (b)(1). For purposes of section  
16 501(a), the tax imposed by this subsection shall not be  
17 treated as a tax imposed by this subtitle.

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

22 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
23 NESS CREDIT.—

24 Section 38(b) of the Internal Revenue Code of  
25 1986 is amended—

1           (1) by striking “plus” at the end of paragraph  
2           (31),

3           (2) by striking the period at the end of para-  
4           graph (32) and inserting “, plus”, and

5           (3) by adding at the end the following new  
6           paragraph:

7           “(33) the manufactured home community sale  
8           credit determined under section 45T(a).”.

9           (c) CONFORMING AMENDMENTS.—

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

12                   (A) by striking “and” at the end of para-  
13                   graph (13),

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

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

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

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

“Sec. 45T. Manufactured home community sale to residents or nonprofit enti-  
ty.”.

1       (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2019.