Affordable Housing Incentives Act

Rep. Scott Peters (D-CA) and Rep. Brian Fitzpatrick (R-PA)

Background:

Across the country, too many of our constituents struggle to find a place to live due to the severe shortage of affordable homes. In competitive real estate markets, nonprofits and government agencies who build and operate affordable housing and homeless services often face difficulties acquiring new properties to develop – even when they have funding available to do so.

Under current law, the sale of property to an affordable housing operator is taxed the same as any other real estate sale, with capital gains due at the time of sale.

The Affordable Housing Incentives Act will incentivize property owners to sell to eligible housing operators, thereby increasing the stock of affordable housing in our communities. It extends the IRC Section 1033 exchange, an existing, well-established tax deferral mechanism, to a specific category of sale: transfer to organizations that operate affordable housing and homeless services.

How the *Affordable Housing Incentives Act* Works:

Requirements: Property sales receiving the benefits provided by this bill must have a deed restriction or other legal agreement that mandates it be used for at least 30 years as either housing affordable to low-income families or a shelter eligible for assistance under the McKinney-Vento Homeless Assistance Act. Sellers must ensure the sale price does not exceed an independent qualified appraised value. This will prevent sellers from inflating the sale price and protect affordable housing operators from potential exploitation.

Eligibility: Sales to four types of qualified housing operators are covered, including:

1. State, tribal, and local government entities, including public housing authorities.
2. Tribally-designated housing entities (i.e. nonprofits authorized to receive federal funding under the Native American Housing Assistance and Self-Determination Act of 1996).
3. Community housing development organizations (CHDOs, i.e. nonprofits designated by a participating jurisdiction to receive HOME Investment Partnership funds).
4. Low-income housing organizations that have a proven record of receiving federal, state, or local grant funds or low-income housing tax credit allocations to develop or operate affordable housing.

Tax treatment: Qualifying sales are treated as involuntary conversions under Section 1033, allowing sellers to defer recognition of capital gains, consistent with existing rules for condemned or destroyed property.

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