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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. ____

To amend the Internal Revenue Code of 1986 to allow for nonrecognition of gain on real property sold for use as affordable housing.

IN THE HOUSE OF REPRESENTATIVES

Mr. PETERS introduced the following bill; which was referred to the Committee on ______________________________

A BILL

To amend the Internal Revenue Code of 1986 to allow for nonrecognition of gain on real property sold for use as affordable housing.

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 "Affordable Housing Incentives Act".

SEC. 2. NONRECOGNITION OF GAIN ON PROPERTY SOLD FOR USE AS AFFORDABLE HOUSING.

(a) IN GENERAL.—Section 1033 of the Internal Revenue Code of 1986 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) SALES FOR USE AS AFFORDABLE HOUSING.—

"(1) IN GENERAL.—For purposes of this subtitle, if real property is sold or otherwise transferred to a qualified housing operator for use or development by such operator as affordable housing and such property meets the requirements of paragraphs (3), (4), and (5), such sale or transfer shall be treated as an involuntary conversion to which this section applies.

"(2) QUALIFIED HOUSING OPERATOR.—For purposes of this section, the term 'qualified housing operator' means any of the following:

"(A) A State, tribal, or local government, or any political subdivision or instrumentality thereof, including a public housing agency (as defined in subparagraph (A) or (B) of section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6))).

"(B) A tribally designated housing entity (as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996).

"(C) A community housing development organization (as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act).

"(D) An organization which—

"(i) has the purpose of providing affordable housing,

"(ii) has received Federal, State, or local grant funds to develop or operate affordable housing, or

"(iii) has owned (either directly or through a partnership) an interest in qualified low-income housing project that is allocated housing credit dollar amounts under section 42 and materially participated (within the meaning of section 469(h)) in the development and operation of such project.

"(3) AFFORDABLE HOUSING REQUIREMENT.—The requirements of this paragraph are met with respect to property if such property has, as of the date of the sale or transfer referred to in paragraph (1), a covenant or other binding legal restriction sufficient to obligate, at all times during the 30-year period beginning on such date, each owner of such property with respect to the portion of such period during which such owner owns such property, to maintain such property as either

"(A) residential rental property (within the meaning of section 168) that meets the requirements of subparagraph (A), (B), or (C) of section 42(g)(1) (applied by treating such property as a project), or

"(B) a shelter or property eligible for assistance under title IV of the McKinney-Vento Homeless Assistance Act, and

"(4) NOTIFICATION OF TREASURY.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any property if, not later than 90 days after the date of the sale or transfer referred to in paragraph (1), the transferor notifies the Secretary of such transfer in such manner as the Secretary may provide.

"(B) ENFORCEMENT OBLIGATIONS OF TREASURY.—With respect to each property with respect to which the Secretary receives notification under subparagraph (A), the Secretary shall ensure (not less often than every 5 years during the 30-year period described in paragraph (3) that such property complies with the requirements of paragraph (3).

"(C) AUDITS.—The Secretary shall enforce the affordability requirements of paragraph (3) through audit procedures.

"(5) SALE PRICE DOES NOT EXCEED QUALIFIED APPRAISAL.—The requirements of this paragraph are met with respect to any property if—

"(A) the taxpayer attaches to the return of tax for the taxable year which includes the date of the sale or transfer of such property a qualified appraisal (as defined section 170(f)(11)(E)) of such property, and

"(B) the sale price of such property does not exceed the amount determined in such appraisal.

"(6) SPECIAL RULE FOR REAL PROPERTY HELD FOR PRODUCTIVE USE IN TRADE OR BUSINESS.—For purposes of subsection (a), if the real property described in paragraph (1) is held for productive use in a trade or business or for investment, property of a like kind to be held either for productive use in a trade or business or for investment shall be treated as property similar or related in service or use to the property so described.

"(7) REGULATIONS.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this subsection.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales and transfers after the date of the enactment of this Act.