

107TH CONGRESS
1ST SESSION

H. R. 1309

To amend the Internal Revenue Code of 1986 to encourage contributions by individuals of capital gain real property for conservation purposes, to encourage qualified conservation contributions, and to modify the rules governing the estate tax exclusion for land subject to a qualified conservation easement.

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2001

Mr. JOHNSON of Connecticut (for herself, Mr. BLUMENAUER, Mrs. WILSON, Mr. MCGOVERN, Mr. SIMMONS, Mr. GEORGE MILLER of California, Ms. MCKINNEY, Mr. FATTAH, Mr. ABERCROMBIE, and Mr. MALONEY of Connecticut) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to encourage contributions by individuals of capital gain real property for conservation purposes, to encourage qualified conservation contributions, and to modify the rules governing the estate tax exclusion for land subject to a qualified conservation easement.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. MODIFICATIONS TO ENCOURAGE CONTRIBU-**
2 **TIONS OF CAPITAL GAIN REAL PROPERTY**
3 **MADE FOR CONSERVATION PURPOSES AND**
4 **QUALIFIED CONSERVATION CONTRIBUTIONS.**

5 (a) CONTRIBUTIONS OF CAPITAL GAIN REAL PROP-
6 ERTY MADE FOR CONSERVATION PURPOSES AND OF
7 QUALIFIED CONSERVATION CONTRIBUTIONS NOT SUB-
8 JECT TO SPECIAL LIMITATION ON CONTRIBUTIONS OF
9 CAPITAL GAIN PROPERTY.—Subparagraph (C) of section
10 170(b)(1) of the Internal Revenue Code of 1986 (relating
11 to special limitation with respect to contributions de-
12 scribed in subparagraph (A) of capital gain property) is
13 amended by redesignating clause (iv) as clause (v) and by
14 inserting after clause (iii) the following new clause:

15 “(iv) In the case of charitable con-
16 tributions described in subparagraph (A)
17 of capital gain property, clauses (i) and (ii)
18 shall not apply to—

19 “(I) any qualified conservation
20 contribution (as defined in section
21 170(h)), or

22 “(II) any other contribution of
23 capital gain property which is real
24 property if the contribution is of the
25 donor’s entire interest in such prop-
26 erty and is to a qualified organization

1 (as defined in section 170(h)(3))
2 which is organized for conservation
3 purposes (as defined in section
4 170(h)(4)(A)) and which provides the
5 taxpayer, at the time of such dona-
6 tion, a letter of intent which contains
7 an acknowledgment of the donee's in-
8 tent that the property is being ac-
9 quired for any such conservation pur-
10 pose.”.

11 (b) UNLIMITED CARRYOVER FOR CONTRIBUTIONS OF
12 CAPITAL GAIN REAL PROPERTY FOR CONSERVATION
13 PURPOSES AND OF QUALIFIED CONSERVATION CON-
14 TRIBUTIONS OF CAPITAL GAIN PROPERTY.—Paragraph
15 (1) of section 170(d) of such Code is amended by adding
16 at the end the following new subparagraph:

17 “(C) UNLIMITED CARRYOVER FOR CON-
18 TRIBUTIONS OF CAPITAL GAIN REAL PROPERTY
19 FOR CONSERVATION PURPOSES AND OF QUALI-
20 FIED CONSERVATION CONTRIBUTIONS OF CAP-
21 ITAL GAIN PROPERTY.—The 5 taxable year lim-
22 itation in subparagraph (A) shall not apply to
23 any charitable contribution to which clauses (i)
24 and (ii) of subsection (b)(1)(C) do not apply by
25 reason of clause (iv) thereof. For purposes of

1 this paragraph, the excess described in the ma-
2 terial preceding clause (i) of subparagraph (A)
3 shall be treated as attributable to contributions
4 described in the preceding sentence of this sub-
5 paragraph to the extent of such contributions.”.

6 (c) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to contributions made in taxable
8 years beginning after the date of the enactment of this
9 Act.

10 **SEC. 2. MODIFICATION OF RULES RELATING TO ESTATE**
11 **TAX EXCLUSION FOR LAND SUBJECT TO**
12 **QUALIFIED CONSERVATION EASEMENT.**

13 (a) REPEAL OF CERTAIN RESTRICTIONS ON WHERE
14 LAND IS LOCATED.—Clause (i) of section 2031(c)(8)(A)
15 of the Internal Revenue Code of 1986 is amended to read
16 as follows:

17 “(i) which is located in the United
18 States or any possession of the United
19 States,”.

20 (b) REPEAL OF LIMITATION ON EXCLUSION.—

21 (1) IN GENERAL.—Paragraph (1) of section
22 2031(c) of such Code is amended by striking “the
23 lesser of—” and all that follows and inserting “the
24 applicable percentage of the value of land subject to
25 a qualified conservation easement, reduced by the

1 amount of any deduction under section 2055(f) with
2 respect to such land.”

3 (2) CONFORMING AMENDMENTS.—

4 (A) Subsection (c) of section 2031 of such
5 Code is amended by striking paragraph (3) and
6 by redesignating paragraphs (4) through (10)
7 as paragraphs (3) through (9), respectively.

8 (B) Paragraphs (2) and (6) of section
9 2031(c) of such Code, as redesignated by sub-
10 paragraph (A), are each amended by striking
11 “paragraph (5)” and inserting “paragraph
12 (4)”.

13 (C) Paragraphs (1), (6), and (7)(A)(iii) of
14 section 2031(c) of such Code, as redesignated
15 by subparagraph (A), are each amended by
16 striking “paragraph (6)” and inserting “para-
17 graph (5)”.

18 (c) DATE FOR DETERMINING VALUE OF LAND AND
19 EASEMENT.—Paragraph (2) of section 2032(c) of such
20 Code (defining applicable percentage) is amended by add-
21 ing at the end the following new sentence: “The values
22 taken into account under the preceding sentence shall be
23 such values as of the date of the contribution referred to
24 in paragraph (7)(B).”

1 (d) CERTAIN COMMERCIAL RECREATIONAL USES
2 PERMITTED.—Subparagraph (B) of section 2031(c)(7) of
3 such Code, as redesignated by subsection (b), is amended
4 to read as follows:

5 “(B) QUALIFIED CONSERVATION EASE-
6 MENT.—

7 “(i) IN GENERAL.—The term ‘quali-
8 fied conservation easement’ means a quali-
9 fied conservation contribution (as defined
10 in section 170(h)(1)) of a qualified real
11 property interest (as defined in section
12 170(h)(2)(C)), except that clause (iv) of
13 section 170(h)(4)(A) shall not apply, and
14 the restriction on the use of such interest
15 described in section 170(h)(2)(C) shall in-
16 clude a prohibition on more than a de
17 minimis use for a commercial recreational
18 activity.

19 “(ii) SPECIAL RULES.—For purposes
20 of this paragraph—

21 “(I) RETAINED RIGHTS.—Rights
22 retained in the conservation easement
23 to lease the land for hunting and fish-
24 ing, so long as such leases are not in-
25 consistent with the conservation pur-

1 pose of the easement, shall be deemed
2 to be de minimis use.

3 “(II) PRE-EFFECTIVE DATE
4 EASEMENTS.—Easements otherwise
5 qualifying under the provisions of this
6 subsection that were donated on or
7 before the date of the enactment of
8 this subclause, shall be deemed to
9 allow no more than de minimis use for
10 a commercial recreational activity un-
11 less by their terms they expressly pro-
12 vide for commercial recreational activ-
13 ity in excess of that otherwise allowed
14 by this subparagraph.

15 “(III) AUTHORITY TO EXTIN-
16 GUISH RIGHT OF COMMERCIAL RECRE-
17 ATION ACTIVITY.—For purposes of
18 this section, if the executor of an es-
19 tate and every person in being who
20 has an interest in the land execute an
21 agreement to amend or extinguish any
22 right under the easement of commer-
23 cial recreation activity in the land so
24 as to ensure that such land is used for
25 no more than de minimis commercial

1 recreational activity, such agreement
2 shall be treated as in effect as of the
3 date of the election described in para-
4 graph (5).”

5 (e) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to estates of decedents dying after
7 the date of the enactment of this Act.

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