

107TH CONGRESS
1ST SESSION

H. R. 3455

To amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 11, 2001

Mr. MARKEY (for himself and Mr. CUNNINGHAM) 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 provide incentives to introduce new technologies to reduce energy consumption in buildings.

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. INCENTIVE FOR CERTAIN ENERGY EFFICIENT**
4 **PROPERTY USED IN BUSINESS.**

5 (a) IN GENERAL.—Part VI of subchapter B of chap-
6 ter 1 of the Internal Revenue Code of 1986 is amended
7 by adding at the end the following new section:

8 **“SEC. 199. ENERGY PROPERTY DEDUCTION.**

9 “(a) IN GENERAL.—There shall be allowed as a de-
10 duction for the taxable year an amount equal to the energy

1 efficient residential rental building property expenditures
2 made by a taxpayer for the taxable year.

3 “(b) LIMITATIONS.—

4 “(1) MAXIMUM AMOUNT OF DEDUCTION.—The
5 amount of energy efficient residential rental building
6 property expenditures taken into account under sub-
7 section (a) with respect to each dwelling unit shall
8 not exceed the amount specified in the following
9 table:

“In the case of:	Deduction amount:
30 percent property	\$1,500
50 percent property	\$4,000.

10 “(2) YEAR DEDUCTION ALLOWED.—The deduc-
11 tion under subsection (a) shall be allowed in the tax-
12 able year in which the construction, reconstruction,
13 or repair of the property is completed.

14 “(c) ENERGY EFFICIENT RESIDENTIAL RENTAL
15 BUILDING PROPERTY EXPENDITURES.—For purposes of
16 this section—

17 “(1) IN GENERAL.—The term ‘energy efficient
18 residential rental building property expenditures’
19 means an amount paid or incurred in connection
20 with construction, reconstruction, or repair of energy
21 efficient residential rental building property—

22 “(A) for which depreciation is allowable
23 under section 167,

1 “(B) which is located in the United States,
2 and

3 “(C) the construction, reconstruction, or
4 repair of which is completed by the taxpayer.

5 Such term includes expenditures for labor costs
6 properly allocable to the onsite preparation, assem-
7 bly, or original installation of the property.

8 “(2) ENERGY EFFICIENT RESIDENTIAL RENTAL
9 BUILDING PROPERTY.—

10 “(A) IN GENERAL.—The term ‘energy effi-
11 cient residential rental building property’ means
12 any property which reduces total annual energy
13 and power costs with respect to heating and
14 cooling of the building by 50 percent or more
15 in the case of 50 percent property or 30 percent
16 or more in the case of 30 percent property in
17 comparison to the projected energy cost of such
18 property without such expenditures. Such com-
19 parison shall be made using the procedures
20 under subparagraph (B).

21 “(B) PROCEDURES.—

22 “(i) IN GENERAL.—For purposes of
23 subparagraph (A), energy usage and costs
24 shall be demonstrated either by a compo-

1 nent-based approach or a performance-
2 based approach.

3 “(ii) COMPONENT APPROACH.—Com-
4 ponent approach compliance shall be dem-
5 onstrated if all of the components of the
6 dwelling unit comply with the requirements
7 of prescriptive packages established by the
8 Secretary of Energy, in consultation with
9 the Administrator of the Environmental
10 Protection Agency, such that the majority
11 of the buildings which use such approach
12 achieve energy cost reductions equivalent
13 to the results of using the performance-
14 based approach under clause (iii).

15 “(iii) PERFORMANCE-BASED AP-
16 PROACH.—Performance-based compliance
17 shall be demonstrated if the 30 percent or
18 50 percent energy cost savings for heating
19 and cooling, as applicable, are met with re-
20 spect to a dwelling unit when compared to
21 the original condition of the dwelling unit.

22 “(iv) COMPUTER SOFTWARE.—Com-
23 puter software shall be used in support of
24 performance-based compliance under
25 clause (iii) and such software shall meet all

1 of the procedures and methods for calcu-
2 lating energy savings reductions that are
3 promulgated by the Secretary of Energy.
4 Such regulations on the specifications for
5 software and verification protocols shall be
6 based on the 2001 California Residential
7 Alternative Calculation Method Approval
8 Manual.

9 “(v) CALCULATION REQUIREMENTS.—

10 In calculating tradeoffs and energy per-
11 formance, the regulations prescribed under
12 this subparagraph shall prescribe for the
13 taxable year the costs per unit of energy
14 and power, such as kilowatt hour, kilowatt,
15 gallon of fuel oil, and cubic foot or Btu of
16 natural gas, which may be dependent on
17 time of usage. Such costs shall be based
18 on average current and future costs to the
19 consumer.

20 “(vi) APPROVAL OF SOFTWARE SUB-
21 MISSIONS.—The Secretary shall approve
22 software submissions that comply with the
23 requirements of clause (iv).

24 “(vii) PROCEDURES FOR INSPECTION
25 AND TESTING OF HOMES.—The Secretary

1 shall ensure that procedures for the inspec-
2 tion and testing for compliance comply
3 with the calculation requirements under
4 clause (iv).

5 “(C) DETERMINATIONS OF COMPLIANCE.—

6 A determination of compliance with respect to
7 energy efficient residential rental building prop-
8 erty made for the purposes of this paragraph
9 shall be filed with the Secretary not later than
10 1 year after the date of such determination and
11 shall include the TIN of the certifier, the ad-
12 dress of the building in compliance, and the
13 identity of the person for whom such deter-
14 mination was performed. Determinations of
15 compliance filed with the Secretary shall be
16 available for inspection by the Secretary of En-
17 ergy.

18 “(D) COMPLIANCE.—

19 “(i) IN GENERAL.—The Secretary, in
20 consultation with the Secretary of Energy
21 shall establish requirements for certifi-
22 cation and compliance procedures after ex-
23 amining the requirements for energy con-
24 sultants and home energy ratings providers
25 specified by the Mortgage Industry Na-

1 tional Accreditation Procedures for Home
2 Energy Rating Systems.

3 “(ii) INDIVIDUALS QUALIFIED TO DE-
4 TERMINE COMPLIANCE.—Individuals quali-
5 fied to determine compliance shall be only
6 those individuals who are recognized by an
7 organization certified by the Secretary for
8 such purposes. The Secretary may qualify
9 a Home Energy Rating Systems Organiza-
10 tion, a local building code agency, a State
11 or local energy office, a utility, or other or-
12 ganizations which meet the requirements
13 prescribed under this section.

14 “(4) ALLOCATION OF DEDUCTION FOR PUBLIC
15 PROPERTY.—In the case of energy efficient residen-
16 tial rental building property which is public prop-
17 erty, the Secretary shall promulgate a regulation to
18 allow the allocation of the deduction to the person
19 primarily responsible for designing the improvements
20 to the property in lieu of the public entity which is
21 the owner of such property. Such person shall be
22 treated as the taxpayer for purposes of this sub-
23 section.

24 “(d) BASIS REDUCTION.—For purposes of this sub-
25 title, if a deduction is allowed under this section with re-

1 spect to any property, the basis of such property shall be
2 reduced by the amount of the deduction so allowed.

3 “(e) REGULATIONS.—The Secretary shall promulgate
4 such regulations as necessary to take into account new
5 technologies regarding energy efficiency and renewable en-
6 ergy for purposes of determining energy efficiency and
7 savings under this section.

8 “(f) TERMINATION.—This section shall not apply
9 with respect to any property placed in service, or construc-
10 tion, reconstruction, repair, or erection completed, after
11 December 31, 2007.”.

12 (b) CONFORMING AMENDMENT.—Section 1016(a) of
13 the Internal Revenue Code of 1986 is amended by striking
14 “and” at the end of paragraph (26), by striking the period
15 at the end of paragraph (27) and inserting “, and”, and
16 by inserting the following new paragraph:

17 “(28) for amounts allowed as a deduction under
18 section 199(a).”.

19 (c) CLERICAL AMENDMENT.—The table of sections
20 for part VI of subchapter B of chapter 1 of the Internal
21 Revenue Code of 1986 is amended by adding at the end
22 the following new item:

“Sec. 199. Energy property deduction.”.

23 (d) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to the Department of

1 Energy out of amounts not already appropriated such
 2 sums as necessary to carry out this section.

3 (e) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to property placed in service, or
 5 construction, reconstruction, repair, or erection completed,
 6 in taxable years beginning after December 31, 2001.

7 **SEC. 2. CREDIT FOR CERTAIN NONBUSINESS ENERGY**
 8 **PROPERTY.**

9 (a) IN GENERAL.—Subpart A of part IV of sub-
 10 chapter A of chapter 1 of the Internal Revenue Code of
 11 1986 (relating to nonrefundable personal credits) is
 12 amended by inserting after section 25B the following new
 13 section:

14 **“SEC. 25C. HIGHLY ENERGY-EFFICIENT NONBUSINESS EN-**
 15 **ERGY PROPERTY.**

16 “(a) ALLOWANCE OF CREDIT.—

17 “(1) IN GENERAL.—In the case of an indi-
 18 vidual, there shall be allowed as a credit against the
 19 tax imposed by this chapter for the taxable year an
 20 amount equal to the amount of residential energy
 21 property expenditures made by the taxpayer for the
 22 taxable year.

23 “(2) LIMITATION.—The credit allowed under
 24 paragraph (1) with respect to a residence of a tax-

1 payer shall not exceed the amount specified in the
 2 following table:

“Highly energy-efficient property:	Credit amount:
30 percent property	\$500
50 percent property	\$1,250.

3 “(3) YEAR CREDIT ALLOWED.—The credit
 4 under paragraph (1) shall be allowed for the taxable
 5 year in which the principal residence of the taxpayer
 6 is certified as 50 percent property or 30 percent
 7 property.

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

9 “(1) RESIDENTIAL ENERGY PROPERTY EX-
 10 PENDITURES.—The term ‘residential energy prop-
 11 erty expenditures’ means expenditures made by the
 12 taxpayer in connection with the construction, recon-
 13 struction, or repair of a dwelling unit of the tax-
 14 payer which results in the unit being a highly en-
 15 ergy-efficient principal residence. Such term includes
 16 expenditures for labor costs properly allocable to the
 17 onsite preparation, assembly, or original installation
 18 of the property.

19 “(2) HIGHLY ENERGY-EFFICIENT PRINCIPAL
 20 RESIDENCE.—

21 “(A) IN GENERAL.—Property is a highly
 22 energy-efficient principal residence if—

23 “(i) such property is located in the
 24 United States,

1 “(ii) the property is the principal resi-
2 dence of the taxpayer, and

3 “(iii) such property is certified as
4 being 50 percent property or 30 percent
5 property.

6 “(B) 50 OR 30 PERCENT PROPERTY.—

7 “(i) IN GENERAL.—For purposes of
8 subparagraph (A), property is 50 percent
9 property or 30 percent property if the pro-
10 jected heating and cooling energy cost of
11 such property, measured in terms of aver-
12 age annual energy cost to taxpayer, is re-
13 duced by 50 percent, or 30 percent, respec-
14 tively, in comparison to the energy cost of
15 such property if expenditures made by the
16 taxpayer with respect to energy efficient
17 improvements to such property were not
18 made. Such comparison shall be deter-
19 mined using the procedures under clause
20 (ii).

21 “(ii) PROCEDURES.—

22 “(I) IN GENERAL.—For purposes
23 of clause (i), energy usage shall be
24 demonstrated either by a component-

1 based approach or a performance-
2 based approach.

3 “(II) COMPONENT APPROACH.—

4 Component approach compliance shall
5 be demonstrated if all of the compo-
6 nents of the property comply with the
7 requirements of prescriptive packages
8 established by the Secretary of En-
9 ergy, in consultation with the Admin-
10 istrator of the Environmental Protec-
11 tion Agency, such that the majority of
12 the buildings which use such approach
13 achieve energy cost reductions equiva-
14 lent to the results of using the per-
15 formance-based approach under sub-
16 clause (III).

17 “(III) PERFORMANCE-BASED AP-
18 PROACH.—Performance-based compli-

19 ance shall be demonstrated if the 30
20 percent or 50 percent energy cost sav-
21 ings for heating and cooling, as appli-
22 cable, are met with respect to a dwell-
23 ing unit when compared to the origi-
24 nal condition of the property.

1 “(IV) COMPUTER SOFTWARE.—
2 Computer software shall be used in
3 support of performance-based compli-
4 ance under subclause (III) and such
5 software shall meet all of the proce-
6 dures and methods for calculating en-
7 ergy savings reductions that are pro-
8 mulgated by the Secretary of Energy.
9 Such regulations on the specifications
10 for software and verification protocols
11 shall be based on the 2001 California
12 Residential Alternative Calculation
13 Method Approval Manual.

14 “(3) PRINCIPAL RESIDENCE.—For purposes of
15 this section—

16 “(A) IN GENERAL.—The term ‘principal
17 residence’ has the same meaning as when used
18 in section 121, except that—

19 “(i) no ownership requirement shall
20 be imposed, and

21 “(ii) the period for which a building is
22 treated as the principal residence of the
23 taxpayer shall also include the 60-day pe-
24 riod ending on the 1st day on which it

1 would (but for this subparagraph) first be
2 treated as a principal residence.

3 “(B) MANUFACTURED HOUSING.—The
4 term ‘residence’ shall include a dwelling unit
5 which is manufactured housing.

6 “(c) SPECIAL RULES.—For purposes of this
7 section—

8 “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-
9 CUPANCY.—In the case of any dwelling unit which if
10 jointly occupied and used during any calendar year
11 as a residence by 2 or more individuals the following
12 rules shall apply:

13 “(A) The amount of the credit allowable
14 under subsection (a) by reason of expenditures
15 made during such calendar year by any of such
16 individuals with respect to such dwelling unit
17 shall be determined by treating all of such indi-
18 viduals as 1 taxpayer whose taxable year is
19 such calendar year.

20 “(B) There shall be allowable with respect
21 to such expenditures to each of such individ-
22 uals, a credit under subsection (a) for the tax-
23 able year in which such calendar year ends in
24 an amount which bears the same ratio to the
25 amount determined under subparagraph (A) as

1 the amount of such expenditures made by such
2 individual during such calendar year bears to
3 the aggregate of such expenditures made by all
4 of such individuals during such calendar year.

5 “(2) TENANT-STOCKHOLDER IN COOPERATIVE
6 HOUSING CORPORATION.—In the case of an indi-
7 vidual who is a tenant-stockholder (as defined in sec-
8 tion 216) in a cooperative housing corporation (as
9 defined in such section), such individual shall be
10 treated as having made his tenant-stockholder’s pro-
11 portionate share (as defined in section 216(b)(3)) of
12 any expenditures of such corporation and such credit
13 shall be allocated pro rata to such individual.

14 “(3) CONDOMINIUMS.—

15 “(A) IN GENERAL.—In the case of an indi-
16 vidual who is a member of a condominium man-
17 agement association with respect to a condo-
18 minium which he owns, such individual shall be
19 treated as having made his proportionate share
20 of any expenditures of such association and any
21 credit shall be allocated appropriately.

22 “(B) CONDOMINIUM MANAGEMENT ASSO-
23 CIATION.—For purposes of this paragraph, the
24 term ‘condominium management association’
25 means an organization which meets the require-

1 ments of paragraph (1) of section 528(c) (other
2 than subparagraph (E) thereof) with respect to
3 a condominium project substantially all of the
4 units of which are used as residences.

5 “(4) JOINT OWNERSHIP OF ENERGY ITEMS.—

6 “(A) IN GENERAL.—Any expenditure oth-
7 erwise qualifying as a residential energy prop-
8 erty expenditure shall not be treated as failing
9 to so qualify merely because such expenditure
10 was made with respect to 2 or more dwelling
11 units.

12 “(B) LIMITS APPLIED SEPARATELY.—In
13 the case of any expenditure described in sub-
14 paragraph (A), the amount of the credit allow-
15 able under subsection (a) shall (subject to para-
16 graph (1)) be computed separately with respect
17 to the amount of the expenditure made for each
18 dwelling unit.

19 “(5) ALLOCATION IN CERTAIN CASES.—If less
20 than 80 percent of the use of an item is for nonbusi-
21 ness purposes, only that portion of the expenditures
22 for such item which is properly allocable to use for
23 nonbusiness purposes shall be taken into account.

24 “(6) PROPERTY FINANCED BY SUBSIDIZED EN-
25 ERGY FINANCING.—

1 “(A) REDUCTION OF EXPENDITURES.—

2 “(i) IN GENERAL.—Except as pro-
3 vided in subparagraph (B), for purposes of
4 determining the amount of residential en-
5 ergy property expenditures made by any
6 individual with respect to any dwelling
7 unit, there shall not be taken into account
8 expenditures which are made from sub-
9 sidized energy financing.

10 “(ii) SUBSIDIZED ENERGY FINANC-
11 ING.—For purposes of clause (i), the term
12 ‘subsidized energy financing’ has the same
13 meaning given such term in section
14 48(a)(4)(C).

15 “(B) EXCEPTION FOR STATE PROGRAMS.—
16 Subparagraph (A) shall not apply to expendi-
17 tures made with respect to property for which
18 the taxpayer has received a loan, State tax
19 credit, or grant under any State energy pro-
20 gram.

21 “(d) BASIS ADJUSTMENTS.—For purposes of this
22 subtitle, if a credit is allowed under this section for any
23 expenditure with respect to any property, the increase in
24 the basis of such property which would (but for this sub-

1 section) result from such expenditure shall be reduced by
2 the amount of the credit so allowed.

3 “(e) REGULATIONS.—The Secretary shall promulgate
4 such regulations as necessary to take into account new
5 technologies regarding energy efficiency and renewable en-
6 ergy for purposes of determining energy efficiency and
7 savings under this section.

8 “(f) TERMINATION.—This section shall not apply
9 with respect to any taxable years beginning after Decem-
10 ber 31, 2007.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Subsection (a) of section 1016 of the Inter-
13 nal Revenue Code of 1986 as amended by section
14 1(b), is amended by striking “and” at the end of
15 paragraph (27), by striking the period at the end of
16 paragraph (28) and inserting “, and”, and by add-
17 ing at the end the following new paragraph:

18 “(29) to the extent provided in section 25C(e),
19 in the case of amounts with respect to which a credit
20 has been allowed under section 25C.”.

21 (2) The table of sections for subpart A of part
22 IV of subchapter A of chapter 1 of such Code is
23 amended by inserting after the item relating to sec-
24 tion 25B the following new item:

“Sec. 25C. Nonbusiness energy property.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to expenditures made after Decem-
3 ber 31, 2001.

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