To amend the Internal Revenue Code of 1986 to impose an excise tax on the failure of certain hedge funds owning excess single-family residences to dispose of such residences, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MERKLEY (for himself and Ms. SMITH) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to impose an excise tax on the failure of certain hedge funds owning excess single-family residences to dispose of such residences, and for other purposes.

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 “End Hedge Fund Control of American Homes Act”.

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SEC. 2. EXCISE TAX ON CERTAIN TAXPAYERS FAILING TO SELL EXCESS SINGLE-FAMILY RESIDENCES.

(a) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following new chapter:

“CHAPTER 50B—EXCESS SINGLE-FAMILY RESIDENCES

Sec. 5000E. Newly acquired single-family residences.

Sec. 5000F. Excess single-family residences.

Sec. 5000G. Definitions and other special rules.

“SEC. 5000E. NEWLY ACQUIRED SINGLE-FAMILY RESIDENCES.

“(a) IN GENERAL.—In the case of an applicable taxpayer, there is hereby imposed a tax on the acquisition of any newly acquired single-family residence equal to 50 percent of the fair market value of such residence.

“(b) NEWLY ACQUIRED SINGLE-FAMILY RESIDENCE.—For purposes of this section, the term ‘newly acquired single-family residence’ means any single-family residence which was acquired by the taxpayer in any taxable year which begins after the date of the enactment of this chapter.

“SEC. 5000F. EXCESS SINGLE-FAMILY RESIDENCES.

“(a) IN GENERAL.—In the case of an applicable taxpayer who fails to meet the requirements of subsection (b), there is hereby imposed a tax equal to the product of——

“(1) $50,000, and

Sec. 5000E. Newly acquired single-family residences.
Sec. 5000F. Excess single-family residences.
Sec. 5000G. Definitions and other special rules.
“(2) the excess of—

“(A) the number of applicable single-family residences owned by the taxpayer as of the last day of the taxable year, over

“(B) the sum of—

“(i) 50 (zero in the case of any hedge fund taxpayer), plus

“(ii) the maximum permissible units for the taxable year.

“(b) REQUIREMENT.—

“(1) IN GENERAL.—An applicable taxpayer meets the requirement of this subsection for any taxable year if the number of applicable single-family residences owned by the taxpayer as of the last day of the taxable year is equal to or less than the maximum permissible units determined with respect to such taxpayer for such taxable year.

“(2) SPECIAL RULE FOR CERTAIN SALES.—For purposes of applying paragraph (1), a single-family residence which is sold or transferred in a disqualified sale during the taxable year shall be treated as a single-family residence which is owned by the applicable taxpayer as of the last day of such taxable year.
“(c) **Maximum Permissible Units.**—The maximum permissible units with respect to any applicable taxpayer for any taxable year shall be determined as follows:

<table>
<thead>
<tr>
<th>“In the case of—”</th>
<th>The maximum permissible units for a hedge fund taxpayer is—</th>
<th>The maximum permissible units for any other applicable taxpayer is—</th>
</tr>
</thead>
<tbody>
<tr>
<td>the first full taxable year beginning after the applicable date . . .</td>
<td>90 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
<td>50 plus 90 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
</tr>
<tr>
<td>the second taxable year beginning after the applicable date . . .</td>
<td>80 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
<td>50 plus 80 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
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<td>the third taxable year beginning after the applicable date . . .</td>
<td>70 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
<td>50 plus 70 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
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<td>the fourth taxable year beginning after the applicable date . . .</td>
<td>60 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
<td>50 plus 60 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
</tr>
<tr>
<td>the fifth taxable year beginning after the applicable date . . .</td>
<td>50 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
<td>50 plus 50 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
</tr>
<tr>
<td>the sixth taxable year beginning after the applicable date . . .</td>
<td>40 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
<td>50 plus 40 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
</tr>
<tr>
<td>the seventh taxable year beginning after the applicable date . . .</td>
<td>30 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
<td>50 plus 30 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
</tr>
<tr>
<td>the eighth taxable year beginning after the applicable date . . .</td>
<td>20 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
<td>50 plus 20 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
</tr>
</tbody>
</table>
“In the case of—

<table>
<thead>
<tr>
<th>The maximum permissible units for a hedge fund taxpayer is—</th>
<th>The maximum permissible units for any other applicable taxpayer is—</th>
</tr>
</thead>
<tbody>
<tr>
<td>the ninth taxable year beginning after the applicable date . . .</td>
<td>10 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
</tr>
<tr>
<td>any taxable year beginning more than 9 years after the applicable date . . .</td>
<td>50 plus 10 percent of the number of applicable single-family residences owned by the taxpayer on the applicable date</td>
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</table>

“(d) DEFINITIONS.—For purposes of this section—

“(1) APPLICABLE SINGLE-FAMILY RESIDENCE.—The term ‘applicable single-family residence’ means any single-family residence which was acquired on or before the applicable date.

“(2) APPLICABLE DATE.—

“(A) IN GENERAL.—The term ‘applicable date’ means—

“(i) the last day of the first full taxable year ending on or after the date of the enactment of this chapter, or

“(ii) in the case of any taxpayer described in subparagraph (B), the date provided in such subparagraph.

“(B) TAXPAYERS CHANGING STATUS.—

“(i) IN GENERAL.—In the case of any applicable taxpayer described in clause (ii), the applicable date means the last day of the taxable year immediately preceding the
taxable year in which the taxpayer is des-
cribed in such clause.

“(ii) APPLICABLE TAXPAYER DE-
scribed.—An applicable taxpayer is de-
scribed in this clause with respect to any
taxable year if—

“(I) such taxpayer was not a
hedge fund taxpayer for the preceding
taxable year, and

“(II) such taxpayer is a hedge
fund taxpayer for such taxable year.

“(3) HEDGE FUND TAXPAYER.—For purposes
of this subsection, the term ‘hedge fund taxpayer’
means, with respect to any taxable year, any appli-
cable taxpayer which has $50,000,000 or more in
net value or assets under management on any day
during the taxable year.

“SEC. 5000G. DEFINITIONS AND OTHER SPECIAL RULES.

“(a) APPLICABLE TAXPAYER.—For purposes of this
chapter—

“(1) IN GENERAL.—The term ‘applicable tax-
payer’ means any applicable entity which—

“(A) manages funds pooled from investors,
“(B) is a fiduciary with respect to such investors.

“(2) APPLICABLE ENTITY.—

“(A) IN GENERAL.—The term ‘applicable entity’ means—

“(i) any partnership,

“(ii) any corporation, or

“(iii) any real estate investment trust.

“(B) EXCEPTIONS.—The term ‘applicable entity’ shall not include—

“(i) an organization which is described in section 501(c)(3) and exempt from tax under section 501(a), or

“(ii) an organization primarily engaged in the construction or rehabilitation of single-family residences.

“(b) SINGLE-FAMILY RESIDENCE.—For purposes of this chapter—

“(1) IN GENERAL.—The term ‘single-family residence’ means a residential property consisting of 1-to-4 dwelling units.

“(2) EXCEPTIONS.—Such term shall not include—

“(A) any unoccupied single-family residence acquired through foreclosure,
“(B) any single-family residence that is—

“(i) not rented or leased, and

“(ii) used as the principal residence

(within the meaning of section 121) of any

person who has an ownership interest in

the applicable taxpayer, or

“(C) any single-family residence con-

structed, acquired, or operated with Federal ap-

propriated funding sources.

“(c) Acquisition; Ownership.—For purposes of

this chapter, an applicable taxpayer shall be treated—

“(1) as acquiring a single-family residence if

the applicable taxpayer acquires a majority owner-

ship interest in the single-family residence, regard-

less of the percentage of that ownership interest,

and

“(2) as owning a single-family residence if the

applicable taxpayer owns a majority ownership inter-

est in the single-family residence, regardless of the

percentage of that ownership interest.

“(d) Disqualified Sale.—For purposes of this

chapter, the term ‘disqualified sale’ means any sale or

transfer to—

“(1) a corporation or other entity engaged in a

trade or business, or
“(2) an individual who owns any other single-family residence at the time of such sale or transfer.

“(e) AGGREGATION RULES.—

“(1) IN GENERAL.—For purposes of this chapter, all persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single person.

“(2) MODIFICATIONS.—For purposes of this subsection—

“(A) section 52(a) shall be applied by substituting ‘component members’ for ‘members’, and

“(B) for purposes of applying section 52(b), the term ‘trade or business’ shall include any activity treated as a trade or business under paragraph (5) or (6) of section 469(e) (determined without regard to the phrase ‘To the extent provided in regulations’ in such paragraph (6)).

“(3) COMPONENT MEMBER.—For purposes of this paragraph, the term ‘component member’ has the meaning given such term by section 1563(b), except that the determination shall be made without regard to section 1563(b)(2).

“(f) REPORTING.—
“(1) IN GENERAL.—The Secretary shall require such reporting as the Secretary determines necessary or appropriate to carry out the purposes of this section, including reporting with respect to—

“(A) the dates on which single-family residences owned by an applicable taxpayer were acquired by such taxpayer, and

“(B) whether any person acquiring a single-family residence from an applicable taxpayer owns any other single-family residences at the time of the acquisition.

“(2) FAILURE TO REPORT.—

“(A) IN GENERAL.—Any person who fails to report information required under paragraph (1) or who fails to include correct information in such report shall pay a penalty of $20,000.

“(B) REASONABLE CAUSE WAIVER.—No penalty shall be imposed under this paragraph with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

“(C) TREATMENT OF PENALTY.—The penalty under this paragraph shall be paid upon notice and demand by the Secretary, and shall be assessed and collected in the same manner.
as an assessable penalty under subchapter B of chapter 68.”.

(b) Tax Form.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury (or the Secretary’s delegate) shall publish a form to be used for calculating the amount of tax owned under chapter 50B of the Internal Revenue Code of 1986 (as added by subsection (a)).

(e) Certification.—

(1) In General.—The reporting required under section 5000G(f)(1)(B) of the Internal Revenue Code of 1986, as added by subsection (a), shall include a certification from each individual to whom a single-family residence is sold or transferred from an applicable taxpayer.

(2) Form of Certification.—The certification required under this subsection shall be signed by the purchaser or transferee and state the following:

(A) The name and address of the purchaser or transferee.

(B) The sale is not a sale disqualified sale (as defined in section 5000G(d) of the Internal Revenue Code of 1986, as added by this section).
(C) The purchaser or transferee will be subject to the penalty imposed under section 5000G(f)(2) of such Code for any false certification.

(3) DEFINITIONS.—Any term used in this subsection which is used in chapter 50B of the Internal Revenue Code of 1986 (as added by this section) shall have the meaning given such term under such chapter.

(d) CLERICAL AMENDMENT.—The table of chapters for subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Chapter 50B—Excess Single-Family Residences”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.

SEC. 3. USE OF TAX REVENUES FOR DOWN PAYMENT ASSISTANCE GRANTS.

(a) ESTABLISHMENT OF HOUSING DOWNPAYMENT TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 9512. HOUSING DOWNPAYMENT TRUST FUND.

“(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund
to be known as the Housing Downpayment Trust Fund (hereinafter in this section referred to as the ‘Trust Fund’), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section and section 9602(b).

“(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to revenues received in the Treasury from the tax imposed by sections 5000E and 5000F.

“(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be available, as provided in appropriations Acts, only for grants under section 3(b) of the End Hedge Fund Control of American Homes Act.”.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 9512. Housing Downpayment Trust Fund.”.

(b) GRANTS PROGRAM FOR DOWN PAYMENT ASSISTANCE PROGRAMS.—

(1) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish a program under which the Secretary makes grants to State housing finance agencies to establish new or supplement existing programs that provide down
payment assistance to families purchasing homes within the State.

(2) PRIORITY.—A State housing finance agency that receives a grant under this section shall give priority to families seeking assistance to purchase any single-family residence that is sold or transferred by an applicable taxpayer (as defined in section 5000G of the Internal Revenue Code of 1986, as added by section 2).