To amend the Internal Revenue Code of 1986 to provide a tax credit to taxpayers who provide reductions in rent to low-income senior renters, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 11, 2018

Mr. HELLER introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a tax credit to taxpayers who provide reductions in rent to low-income senior renters, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Seniors Affordable Housing Tax Credit Act”.

SEC. 2. LOW-INCOME SENIORS RENT CREDIT.

(a) IN GENERAL.—Subpart D of part IV of sub-
chapter A of chapter 1 of the Internal Revenue Code of
1986 is amended by adding at the end the following new section:

“SEC. 45T. LOW-INCOME SENIORS RENT CREDIT.

“(a) DETERMINATION OF CREDIT AMOUNT.—

“(1) IN GENERAL.—For purposes of section 38, the amount of the low-income seniors rent credit determined under this section for any taxable year is the sum of the amounts determined under paragraph (2) for all qualified buildings with a credit period which includes months occurring during the taxable year.

“(2) QUALIFIED BUILDING AMOUNT.—The amount determined under this paragraph with respect to any qualified building for any taxable year shall be an amount equal to the lesser of—

“(A) the aggregate rental reduction amounts for all eligible senior units within such building for months occurring during the taxable year which are within the credit period for such building, or

“(B) the rental reduction credit amount allocated to such building for such months.

“(3) QUALIFIED BUILDING.—For purposes of this section, the term ‘qualified building’ means any building which is residential rental property (as de-
fined in section 168(e)(2)(A)) of the taxpayer with respect to which—

“(A) a rental reduction credit amount has been allocated by a rental reduction credit agency of a State, and

“(B) a qualified rental reduction agreement is in effect.

A building shall not fail to be treated as a qualified building merely because a credit was allowed under section 42 with respect to such building or there was any other Federal assistance in the construction or rehabilitation of such building.

“(b) RENTAL REDUCTION AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘rental reduction amount’ means, with respect to any eligible senior unit for any month, an amount equal to the applicable percentage (as determined under subsection (d)(1)) of the excess of—

“(A) the applicable standard fair market rent for such unit, over

“(B) the family rental payment required for such unit.

“(2) APPLICABLE STANDARD FAIR MARKET RENT.—The term ‘applicable standard fair market
rent’ means, with respect to any eligible senior unit
for any month, the lesser of—

“(A) the amount of rent which would be
charged for a substantially similar unit in the
same building which is not an eligible senior
unit, or

“(B) an amount equal to the average mod-
est rent (as determined in accordance with the
State rental reduction allocation plan) for units
with the same number of bedrooms in the same
statistical area (as defined in section
143(k)(2)).

“(3) FAMILY RENTAL PAYMENT REQUIRE-
MENTS.—

“(A) IN GENERAL.—Each qualified rental
reduction agreement with respect to any quali-
fied building shall require that the family rental
payment for an eligible senior unit within such
building for any month shall be equal to the
lesser of—

“(i) 30 percent of the monthly family
income of the residents of the unit (as de-
termined under subsection (d)(5)), or
“(ii) the applicable standard fair market rent for such unit determined under paragraph (2).

“(B) Utility Costs.—Any utility allowance (determined by the Secretary after taking into account such determinations under section 8 of the United States Housing Act of 1937) paid by residents of an eligible senior unit shall be taken into account as rent in determining the family rental payment for such unit for purposes of this paragraph.

“(c) Rental Reduction Credit Amount.—For purposes of this section—

“(1) Determination of Amount.—

“(A) In general.—The term ‘rental reduction credit amount’ means, with respect to any qualified building, the dollar amount which is allocated to such building (and to eligible senior units within such building) under this subsection. Such dollar amount shall be allocated to months in the credit period with respect to such building (and units) on the basis of reasonable estimates of rents, family incomes, and vacancies in accordance with proce-
dures established by the State as part of its State rental reduction allocation plan.

“(B) Allocation on Project Basis.—In the case of a project which includes (or will include) more than 1 building, the rental reduction credit amount shall be the dollar amount which is allocated to such project for all buildings included in such project. Such amount shall be allocated among such buildings in the manner specified by the taxpayer unless the qualified rental reduction agreement with respect to such project provides for such allocation.

“(2) State Allocation.—Each rental reduction credit agency of a State shall each calendar year allocate its portion of the State rental reduction credit ceiling to buildings (and to eligible senior units within such building) in accordance with the State rental reduction allocation plan.

“(3) Allocated Credit Amount to Apply to All Taxable Years Ending During or After Credit Allocation Year.—Any rental reduction credit amount allocated to any building out of the State rental reduction credit ceiling for any calendar year—
“(A) shall apply to such building for months in the credit period ending during or after such calendar year, and

“(B) shall reduce the portion of such ceiling of the allocating agency only for such calendar year.

“(4) STATE RENTAL REDUCTION CREDIT CEILING.—

“(A) IN GENERAL.—The State rental reduction credit ceiling applicable to any State for any calendar year shall be an amount equal to the sum of—

“(i) the greater of—

“(I) the per capita amount multiplied by the State population, or

“(II) the minimum ceiling amount, plus

“(ii) the amount of the State rental reduction credit ceiling returned in the calendar year.

“(B) RETURN OF STATE CEILING AMOUNTS.—For purposes of subparagraph (A)(ii), the amount of the State rental reduction credit ceiling returned in a calendar year equals the amount of the rental reduction credit
amount allocated to any building which, after the close of the calendar year for which the allocation is made, is canceled by mutual consent of the rental reduction credit agency and the taxpayer.

“(C) Per capita dollar amount; minimum ceiling amount.—For purposes of this paragraph—

“(i) Per capita dollar amount.—
The per capita dollar amount is $1.75.

“(ii) Minimum ceiling amount.—
The minimum ceiling amount is $2,000,000.

“(D) Cost-of-living adjustment.—

“(i) In general.—In the case of a calendar year after 2019, the $1.75 amount in subparagraph (C)(i) and the $2,000,000 amount in subparagraph (C)(ii) shall each be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting
‘calendar year 2018’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

“(ii) Rounding.—

“(I) In the case of the $1.75 amount, any increase under clause (i) which is not a multiple of 5 cents shall be rounded to the next lowest multiple of 5 cents.

“(II) In the case of the $2,000,000 amount, any increase under clause (i) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.

“(E) Population.—For purposes of this paragraph, population shall be determined in accordance with section 146(j).

“(F) Unused Rental Reduction Credit Allocated Among Certain States.—

“(i) In General.—The unused rental reduction credit of a State for any calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.
“(ii) Unused rental reduction credit.—For purposes of this subpara-
graph, the unused rental reduction credit of a State for any calendar year is the ex-
cess (if any) of—

“(I) the State rental reduction credit ceiling for the year preceding such year, over

“(II) the aggregate rental reduction credit amounts allocated for such year.

“(iii) Formula for allocation of unused credit among qualified states.—The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused rental reduction credits of all States for the preceding calendar year as such State’s population for the calendar year bears to the popu-
lation of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).
“(iv) Qualified State.—For purposes of this subparagraph, the term ‘qualified State’ means, with respect to a calendar year, any State—

“(I) which allocated its entire State rental reduction credit ceiling for the preceding calendar year, and

“(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii).

“(5) Other Definitions.—For purposes of this section—

“(A) Rental Reduction Credit Agency.—The term ‘rental reduction credit agency’ means any agency authorized by a State to carry out this subsection. Such authorization shall include the jurisdictions within the State where the agency may allocate rental reduction credit amounts.

“(B) Possessions Treated as States.—The term ‘State’ includes a possession of the United States.
“(d) TERMS RELATING TO RENTAL REDUCTION CREDIT AND REQUIREMENTS.—For purposes of this section—

“(1) APPLICABLE PERCENTAGE.—The term ‘applicable percentage’ means, with respect to any qualified building, the percentage (not greater than 110 percent) set by the rental reduction credit agency at the time it allocates the rental reduction credit amount to the building.

“(2) CREDIT PERIOD.—

“(A) IN GENERAL.—The term ‘credit period’ means, with respect to any qualified building, the 15-year period beginning with the first month for which the qualified rental reduction agreement is in effect with respect to the building.

“(B) STATE OPTION.—A rental reduction credit agency may provide a credit period for any qualified building which is less than 15 years.

“(3) ELIGIBLE SENIOR UNIT.—The term ‘eligible senior unit’ means, with respect to any qualified building, a unit—

“(A) which is occupied by an eligible tenant,
“(B) the rent of which for does not exceed the family rental payment requirement determined under subsection (b)(3), and

“(C) which is certified to the rental reduction credit agency as an eligible senior unit for purposes of this section and the qualified rental reduction agreement.

“(4) ELIGIBLE TENANT.—

“(A) IN GENERAL.—The term ‘eligible tenant’ means any individual if—

“(i) the individual’s family income does not exceed the greater of—

“(I) 30 percent of the area median gross income (as determined under section 42(g)(1)), or

“(II) the applicable poverty line for a family of the size involved, and

“(ii) at least 1 of the occupants of the unit in which the individual will reside has attained the age of 55 as of the beginning of the lease.

“(B) APPLICABLE POVERTY LINE.—The term ‘applicable poverty line’ means the most recently published poverty line (within the meaning of section 2110(c)(5) of the Social Se-
currency Act (42 U.S.C. 1397jj(e)(5))) as of the time of the determination as to whether an individual is an eligible tenant.

“(5) FAMILY INCOME.—Income of a family shall be determined by the taxpayer annually using the method set forth in the State rental reduction allocation plan.

“(e) STATE RENTAL REDUCTION ALLOCATION PLAN.—

“(1) ADOPTION OF PLAN REQUIRED.—For purposes of this section—

“(A) each State shall, before the allocation of its State rental reduction credit ceiling, establish and have in effect a State rental reduction allocation plan meeting the requirements of this subsection, and

“(B) notwithstanding any other provision of this section, the rental reduction credit amount allocated to any building shall be zero unless such amount was allocated pursuant to a State rental reduction allocation plan meeting such requirements.

Such plan shall only be adopted after such plan is made public and a reasonable period of time has been allowed for public comment.
“(2) General Plan Requirements.—A plan shall meet the requirements of this subsection only if—

“(A) the plan sets forth the criteria and priorities which a rental reduction credit agency of the State shall use in allocating the State rental reduction credit ceiling to eligible senior units within a building, and

“(B) the plan provides that no credit allocation shall be made which is not in accordance with the criteria and priorities set forth under subparagraph (A) unless such agency provides a written explanation to the general public for any credit allocation which is not so made and the reasons why such allocation is necessary.

In establishing the criteria and priorities described in subparagraph (A), the State shall take into account the factors described in subparagraphs (B) and (C) of section 42(m)(1) and shall, to the maximum extent possible, coordinate such criteria and priorities with the State’s qualified allocation plan under section 42.

“(3) Specific Requirements.—A plan shall meet the requirements of this subsection only if—
“(A) the plan provides methods for determining—

“(i) the amount of rent which would be charged for a substantially similar unit in the same building which is not an eligible seniors unit for purposes of subsection (b)(2)(A), and

“(ii) the applicable percentage under subsection (d)(1),

“(B) the plan provides a procedure that the rental reduction credit agency (or an agent or other private contractor of such agency) will follow in monitoring for—

“(i) noncompliance with the provisions of this section and the qualified rental reduction agreement and in notifying the Internal Revenue Service of any such noncompliance of which the agency becomes aware, and

“(ii) noncompliance with habitability standards through regular site visits, and

“(C) the plan requires a person receiving a credit allocation to report to the rental reduction credit agency such information as is necessary to ensure compliance with the provisions
of this section and the qualified rental reduction agreement.

“(f) QUALIFIED RENTAL REDUCTION AGREEMENT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified rental reduction agreement’ means, with respect to any residential rental property (as defined in section 168(e)(2)(A)), a written, binding agreement between a rental reduction credit agency and the owner of such building which specifies—

“(A) the number of eligible senior units within such building for which a rental reduction credit amount is being allocated,

“(B) the credit period for such building,

“(C) the rental reduction credit amount allocated to such building (and dwelling units within such building),

“(D) the applicable percentage to be used in computing the qualified rental reduction amounts with respect to the building, and

“(E) the method for determining the amount of rent which may be charged for eligible senior units within the building.

“(2) COMPLIANCE REQUIREMENTS.—A qualified rental reduction agreement shall provide that
the owner of a building receiving a rental reduction
credit amount shall comply with all reporting and
other procedures established by the State to ensure
compliance with this section and the agreement.

“(3) PROJECTS.—In the case of a rental reduc-
tion credit allocated to a project consisting of more
than 1 building, the rental reduction credit agency
may provide for a single qualified rental reduction
agreement which applies to all buildings which are
part of the project.

“(g) TRANSFER OF CREDIT.—

“(1) IN GENERAL.—Subject to paragraph (2)
and such regulations or other guidance as the Sec-
etary may provide, the taxpayer may transfer to
any person all or a portion of the credit allowable to
the taxpayer under subsection (a) for any taxable
year with respect to a building.

“(2) CERTIFICATION.—A transfer under para-
graph (1) shall be accompanied by a certificate
which includes—

“(A) the qualified rental reduction agree-
ment for the building,

“(B) the taxpayer’s name, address, and tax
identification number,
“(C) the transferee’s name, address, and tax identification number,

“(D) the amount of credit being transferred for each taxable year of the taxpayer, and

“(E) such other information as may be required by the Secretary.

“(3) TAX TREATMENT OF TRANSFER.—

“(A) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed for any amount of consideration paid or incurred by the transferee in return for the transfer of any credit under this paragraph.

“(B) ALLOWANCE OF CREDIT.—The amount of credit transferred under subparagraph (A)—

“(i) shall not be allowed to the transferor for any taxable year, and

“(ii) shall be allowable to the transferee as a credit under this section for the taxable year of the transferee in which such credit is transferred.

“(4) INFORMATION REPORTING.—The transferor and the transferee shall each make such reports regarding the transfer of an amount of credit
under paragraph (1), and containing such information, as the Secretary may require. The reports required by this paragraph shall be filed at such time and in such manner as may be required by the Secretary.

“(h) CERTIFICATIONS AND OTHER REPORTS TO SECRETARY.—

“(1) CERTIFICATION WITH RESPECT TO 1ST YEAR OF CREDIT PERIOD.—Following the close of the 1st taxable year in the credit period with respect to any qualified building, the taxpayer shall certify to the Secretary (at such time and in such form and in such manner as the Secretary prescribes)—

“(A) the information described in subsection (f)(1) required to be contained in the qualified rental reduction agreement with respect to the building,

“(B) the transferee (if any) of the credit under subsection (g), and

“(C) such other information as the Secretary may require.

In the case of a failure to make the certification required by the preceding sentence on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect,
no credit shall be allowable by reason of subsection
(a) with respect to such building for any taxable
year ending before such certification is made.

“(2) Annual reports to the Secretary.—
The Secretary may require taxpayers to submit an
information return (at such time and in such form
and manner as the Secretary prescribes) for each
taxable year setting forth—

“(A) the information described in para-
graph (1)(A) for the taxable year, and

“(B) such other information as the Sec-
retary may require.

The penalty under section 6652(j) shall apply to any
failure to submit the return required by the Sec-
retary under the preceding sentence on the date pre-
scribed therefor.

“(3) Annual reports from housing credit
agencies.—Each agency which allocates any hous-
ing credit amount to 1 or more buildings for any
calendar year shall submit to the Secretary (at such
time and in such manner as the Secretary shall pre-
scribe) an annual report specifying—

“(A) the amount of rental reduction credit
amounts allocated to each such building for
such year,
“(B) sufficient information to identify each such building and the taxpayer with respect thereto,

“(C) information as to the demographic and income characteristics of eligible tenants of all such buildings to which such amounts were allocated, and

“(D) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the report required by the preceding sentence on the date prescribed therefor.”.

(b) TREATMENT AS PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking “plus” at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting “,

plus”, and by adding at the end the following new paragraph:

“(33) the low-income seniors rent credit determined under section 45T(a).”.

(2) ALLOWANCE AGAINST MINIMUM TAX.—Section 38(c)(4)(B) of such Code is amended by redesignating clauses (x), (xi), and (xii) as clauses (xi),
(xii), and (x)(iii), respectively, and by inserting after clause (ix) the following new clause:

“(x) the low-income seniors rent credit determined under section 45T(a),”.

(c) CONFORMING AMENDMENTS.—

(1) Subsections (i)(3)(C), (i)(6)(B)(i), and (k)(1) of section 469 of such Code are each amended by inserting “or 45T” after “42”.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by inserting at the end the following new item:

“Sec. 42A. Low-income seniors rent credit.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2018.