

111TH CONGRESS
1ST SESSION

H. R. 4226

To amend the Internal Revenue Code of 1986 to improve and extend certain energy-related tax provisions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2009

Mr. REICHERT (for himself, Mr. KIND, Mr. DAVIS of Kentucky, Mr. BLUMENAUER, Mr. LEE of New York, and Mr. PERRIELLO) 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 improve and extend certain energy-related tax provisions, and for other purposes.

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. SHORT TITLE; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Expanding Building Efficiency Incentives Act of 2009”.

7 (b) AMENDMENT OF 1986 CODE.—Except as other-
8 wise expressly provided, whenever in this Act an amend-
9 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
 2 shall be considered to be made to a section or other provi-
 3 sion of the Internal Revenue Code of 1986.

4 (c) TABLE OF CONTENTS.—The table of contents for
 5 this Act is as follows:

- Sec. 1. Short title; amendment of 1986 Code; table of contents.
- Sec. 2. Increase in, and extension of, new energy efficient home credit.
- Sec. 3. Modification of deduction for energy efficient commercial buildings.
- Sec. 4. Nonbusiness energy property.
- Sec. 5. Energy ratings of non-business property.
- Sec. 6. Credit for home performance auditor certifications.

6 **SEC. 2. INCREASE IN, AND EXTENSION OF, NEW ENERGY**
 7 **EFFICIENT HOME CREDIT.**

8 (a) NEW TIER; CREDIT AMOUNT FOR NEW TIER.—

9 (1) NEW TIER.—Subsection (c) of section 45L
 10 is amended to read as follows:

11 “(c) ENERGY SAVINGS REQUIREMENTS.—

12 “(1) IN GENERAL.—A dwelling unit meets the
 13 energy saving requirements of this subsection if such
 14 unit is—

15 “(A) described in paragraph (2),

16 “(B) described in paragraph (3),

17 “(C) a manufactured home described in
 18 paragraph (4), or

19 “(D) a manufactured home described in
 20 paragraph (5).

1 “(2) DWELLING UNIT DESCRIBED IN PARA-
2 GRAPH (2).—A dwelling unit is described in this
3 paragraph if such unit is certified—

4 “(A) to have a level of annual heating and
5 cooling energy consumption which is at least 50
6 percent below the annual level of heating and
7 cooling energy consumption of a comparable
8 dwelling unit—

9 “(i) which is constructed in accord-
10 ance with the standards of chapter 4 of the
11 2003 International Energy Conservation
12 Code, as such Code (including supple-
13 ments) is in effect on the date of the en-
14 actment of the Energy Tax Incentives Act
15 of 2005, and

16 “(ii) for which the heating and cooling
17 equipment efficiencies correspond to the
18 minimum allowed under the regulations es-
19 tablished by the Department of Energy
20 pursuant to the National Appliance Energy
21 Conservation Act of 1987 and in effect at
22 the time of completion of construction, and

23 “(B) to have building envelope component
24 improvements account for at least $\frac{1}{5}$ of such
25 50 percent.

1 The Secretary, in consultation with the Secretary of
2 Energy shall provide by regulation for the applica-
3 tion of this paragraph in the case of a dwelling unit
4 in a multifamily building that is more than 3 stories
5 above grade, or in any other building that is not
6 within the scope of such chapter 4. If, upon the ac-
7 quisition of such unit by any person described in
8 subsection (a)(1)(A)(ii)(I), the amount of the credit
9 allowed under this section with respect to such unit
10 shall be disclosed to such person.

11 “(3) DWELLING UNIT DESCRIBED IN PARA-
12 GRAPH (3).—A dwelling unit is described in this
13 paragraph if such unit is certified—

14 “(A) to have a level of annual total energy
15 consumption (including heating, cooling, water
16 heating, lighting, and appliance energy use)
17 which is at least 50 percent below the annual
18 level of total energy consumption of a com-
19 parable dwelling unit which is constructed in
20 accordance with the 2004 Supplement of the
21 2003 International Energy Conservation Code,
22 and

23 “(B) to have building envelope component
24 improvements account for at least $\frac{1}{5}$ of such
25 50 percent.

1 “(4) MANUFACTURED HOME DESCRIBED IN
2 PARAGRAPH (4).—A manufactured home is described
3 in this paragraph if such manufactured home con-
4 forms to Federal Manufactured Home Construction
5 and Safety Standards (part 3280 of title 24, Code
6 of Federal Regulations) and meets the requirements
7 of a dwelling unit described in paragraph (2).

8 “(5) MANUFACTURED HOME DESCRIBED IN
9 PARAGRAPH (5).—A manufactured home is described
10 in this paragraph if such manufactured home con-
11 forms to Federal Manufactured Home Construction
12 and Safety Standards (part 3280 of title 24, Code
13 of Federal Regulations) and—

14 “(A) meets the requirements of—

15 “(i) a dwelling unit described in para-
16 graph (2), applied by substituting ‘30 per-
17 cent’ for ‘50 percent’ both places it ap-
18 pears therein and by substituting ‘ $\frac{1}{3}$ ’ for
19 ‘ $\frac{1}{5}$ ’ in subparagraph (B) thereof, or

20 “(ii) a dwelling unit described in para-
21 graph (3),

22 “(B) meets the requirements established
23 by the Administrator of the Environmental Pro-
24 tection Agency under the Energy Star Labeled
25 Homes program as in effect on the date of the

1 enactment of the Expanding Building Effi-
2 ciency Incentives Act of 2009, or

3 “(C) meets the requirements under the
4 Energy Star Labeled Homes program estab-
5 lished after the date of the enactment of the
6 Expanding Building Efficiency Incentives Act
7 of 2009.”.

8 (2) CREDIT AMOUNT FOR NEW TIER.—Para-
9 graph (2) of section 45L(a) is amended to read as
10 follows:

11 “(2) APPLICABLE AMOUNT.—For purposes of
12 paragraph (1), the applicable amount is an amount
13 equal to—

14 “(A) in the case of a dwelling unit de-
15 scribed in paragraph (2) or (4) of subsection
16 (c), \$2,000,

17 “(B) in the case of a dwelling unit de-
18 scribed in paragraph (3) of subsection (c),
19 \$5,000,

20 “(C) in the case of a manufactured home
21 described in paragraph (5)(A)(i) or (5)(B) of
22 subsection (c), \$1,500, and

23 “(D) in the case of a manufactured home
24 described in paragraph (5)(A)(ii) or (5)(C) of
25 subsection (c), \$2,500.

1 Nothing in this section shall permit the same dwell-
2 ing unit or manufactured home to qualify for more
3 than one applicable amount.”.

4 (b) CREDIT AVAILABLE FOR RENTAL UNITS,
5 OWNER-BUILDERS, AND QUALIFIED LOW-INCOME
6 BUILDINGS; CREDIT AMOUNT FOR QUALIFIED LOW-IN-
7 COME BUILDINGS.—

8 (1) IN GENERAL.—Paragraph (1) of section
9 45L(a) is amended to read as follows:

10 “(1) IN GENERAL.—For purposes of section
11 38—

12 “(A) in the case of an eligible contractor,
13 the new energy efficient home credit for the
14 taxable year is the applicable amount for each
15 qualified new energy efficient home which is—

16 “(i) constructed by the eligible con-
17 tractor, and

18 “(ii)(I) acquired by a person from
19 such eligible contractor and used by any
20 person as a residence during the taxable
21 year, or

22 “(II) used by such eligible contractor
23 as a residence during the taxable year, and

24 “(B) in the case of a taxpayer, the new en-
25 ergy efficient home credit for the taxable year

1 is the applicable amount for each qualified new
2 energy efficient home which is in a qualified
3 low-income building (as defined in section
4 42(c)(2))—

5 “(i) placed in service by the taxpayer
6 during the taxable year, and

7 “(ii) for which such taxpayer is al-
8 lowed a credit under section 42 or a
9 subaward under section 1602(c) of the
10 American Recovery and Reinvestment Tax
11 Act of 2009.”.

12 (2) CREDIT AMOUNT.—Paragraph (2) of section
13 45L(a), as amended by this section, is amended by
14 adding at the end the following new flush sentence:
15 “In the case of a dwelling unit in a qualified low-
16 income building (as so defined), the applicable dollar
17 amount for such a dwelling unit described in 1 of
18 the preceding subparagraphs shall be equal to 150
19 percent of the dollar amount otherwise specified in
20 such preceding subparagraph, except that if the
21 credit under section 42 with respect to such unit is
22 determined by applying section 42(d)(5)(B), then
23 the applicable dollar amount shall be 115 percent of
24 such dollar amount so specified.”.

1 (c) CERTIFICATION METHOD FOR HIGH RISE MUL-
2 TIFAMILY AND MIXED USE BUILDINGS.—Section
3 45L(d)(1) is amended by inserting “, and in the case of
4 high rise multifamily and mixed use buildings, after exam-
5 ining the methods required for such buildings under sec-
6 tion 179D” after “the Secretary of Energy”.

7 (d) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-
8 IMUM TAX.—Subparagraph (B) of section 38(c)(4) is
9 amended—

10 (1) by redesignating clauses (vi), (vii), and (viii)
11 as clauses (vii), (viii), and (ix), respectively, and

12 (2) by inserting after clause (v) the following
13 new clause:

14 “(vi) the credit determined under sec-
15 tion 45L.”.

16 (e) EXTENSION.—Subsection (g) of section 45L is
17 amended by striking “December 31, 2009” and inserting
18 “December 31, 2015”.

19 (f) EFFECTIVE DATES.—

20 (1) IN GENERAL.—The amendments made by
21 this section shall apply to homes constructed and ac-
22 quired or placed in service after December 31, 2008.

23 (2) AMT.—The amendments made by sub-
24 section (d) shall apply to credits determined under
25 section 45L of the Internal Revenue Code of 1986

1 in taxable years beginning after December 31, 2008,
2 and to carrybacks of such credits.

3 **SEC. 3. MODIFICATION OF DEDUCTION FOR ENERGY EFFI-**
4 **CIENT COMMERCIAL BUILDINGS.**

5 (a) INCREASE IN MAXIMUM AMOUNT OF DEDUC-
6 TION.—

7 (1) IN GENERAL.—Subparagraph (A) of section
8 179D(b)(1) is amended by striking “\$1.80” and in-
9 serting “\$3.00”.

10 (2) PARTIAL ALLOWANCE.—Paragraph (1) of
11 section 179D(d) is amended to read as follows:

12 “(1) PARTIAL ALLOWANCE.—

13 “(A) IN GENERAL.—Except as provided in
14 subsection (f), if—

15 “(i) the requirement of subsection
16 (c)(1)(D) is not met, but

17 “(ii) there is a certification in accord-
18 ance with paragraph (6) that—

19 “(I) any system referred to in
20 subsection (c)(1)(C) satisfies the en-
21 ergy-savings targets established by the
22 Secretary under subparagraph (B)
23 with respect to such system, or

24 “(II) the systems referred to in
25 subsection (c)(1)(C)(ii) and subsection

1 (c)(1)(C)(iii) together satisfy the en-
2 ergy-savings targets established by the
3 Secretary under subparagraph (B)
4 with respect to such systems,
5 then the requirement of subsection (c)(1)(D)
6 shall be treated as met with respect to such sys-
7 tem or systems, and the deduction under sub-
8 section (a) shall be allowed with respect to en-
9 ergy efficient commercial building property in-
10 stalled as part of such system and as part of
11 a plan to meet such targets, except that sub-
12 section (b) shall be applied to such property de-
13 scribed in clause (ii)(I) by substituting ‘\$1.00’
14 for ‘\$3.00’ and to such property described in
15 clause (ii)(II) by substituting ‘\$2.20’ for
16 ‘\$3.00’.

17 “(B) REGULATIONS.—

18 “(i) IN GENERAL.—The Secretary,
19 after consultation with the Secretary of
20 Energy, shall establish a target for each
21 system described in subsection (c)(1)(C)
22 which, if such targets were met for all such
23 systems, the building would meet the re-
24 quirements of subsection (c)(1)(D).

1 “(ii) COMBINED SYSTEMS.—The Sec-
2 retary, after consultation with the Sec-
3 retary of Energy, shall establish not later
4 than 6 months after the date of the enact-
5 ment of the Expanding Building Efficiency
6 Incentives Act of 2009 a prescriptive par-
7 tial compliance pathway for combined en-
8 velope and mechanical system performance
9 that details the appropriate components,
10 efficiency levels, or other relevant informa-
11 tion for which the required level of com-
12 bined savings in both categories can be
13 deemed to have been achieved.”.

14 (b) DENIAL OF DOUBLE BENEFIT.—Section 179D is
15 amended by redesignating subsections (g) and (h) as sub-
16 sections (h) and (i), respectively, and by inserting after
17 subsection (f) the following new subsection:

18 “(g) COORDINATION WITH NEW ENERGY EFFICIENT
19 HOME CREDIT.—No deduction shall be allowed under this
20 section with respect to any building or dwelling unit with
21 respect to which a credit under section 45L was allowed.”.

22 (c) EXTENSION.—Subsection (h) of section 179D is
23 amended by striking “December 31, 2013” and inserting
24 “December 31, 2015”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to property placed in service in
3 taxable years beginning after the date of the enactment
4 of this Act.

5 **SEC. 4. NONBUSINESS ENERGY PROPERTY.**

6 (a) INCREASE IN LIMITATION AMOUNT.—Subsection
7 (b) of section 25C is amended by striking “\$1,500” and
8 inserting “\$5,000”.

9 (b) EXTENSION.—Paragraph (2) of section 25C(g) is
10 amended by striking “December 31, 2010” and inserting
11 “December 31, 2015”.

12 (c) ONSITE LABOR COSTS ALLOWED.—Paragraph
13 (1) of section 25C(e) is amended by adding at the end
14 the following flush sentence: “Such term includes amounts
15 paid or incurred for labor costs properly allocable to the
16 onsite preparation, assembly, or original installation of
17 such improvements.”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to property placed in service in
20 taxable years beginning after the date of the enactment
21 of this Act.

22 **SEC. 5. ENERGY RATINGS OF NON-BUSINESS PROPERTY.**

23 (a) IN GENERAL.—Subpart A of part IV of sub-
24 chapter A of chapter 1 is amended by inserting after sec-
25 tion 25D the following new section:

1 **“SEC. 25E. ENERGY RATINGS OF NON-BUSINESS PROPERTY.**

2 “(a) IN GENERAL.—In the case of an individual,
3 there shall be allowed as a credit against the tax imposed
4 by this chapter for the taxable year an amount equal to
5 the amount paid or incurred by the taxpayer for a quali-
6 fied home energy rating conducted during such taxable
7 year.

8 “(b) LIMITATION.—The amount allowed as a credit
9 under subsection (a) with respect to any taxpayer for any
10 taxable year shall not exceed \$200.

11 “(c) QUALIFIED HOME ENERGY RATING.—For pur-
12 poses of this section, the term ‘qualified home energy rat-
13 ing’ means a home energy rating conducted with respect
14 to any residence of the taxpayer by a home performance
15 auditor certified by a provider accredited by the Building
16 Performance Institute (BPI), the Residential Energy
17 Services Network (RESNET), or equivalent rating system
18 as determined by the Secretary of Energy.

19 “(d) TERMINATION.—This section shall not apply
20 with respect to any rating conducted after December 31,
21 2011.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for subpart A of part IV of subchapter A chapter 1 is
24 amended by inserting after the item relating to section
25 25D the following new item:

“Sec. 25E. Energy ratings of non-business property.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to amounts paid or incurred in tax-
3 able years beginning after the date of the enactment of
4 this Act.

5 **SEC. 6. CREDIT FOR HOME PERFORMANCE AUDITOR CER-**
6 **TIFICATIONS.**

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

10 **“SEC. 45R. HOME PERFORMANCE AUDITOR CERTIFICATION**
11 **CREDIT.**

12 “(a) IN GENERAL.—For purposes of section 38, the
13 home performance auditor certification credit determined
14 under this section for any taxable year is an amount equal
15 to the qualified training and certification costs paid or in-
16 curred by the taxpayer which may be taken into account
17 for such taxable year.

18 “(b) QUALIFIED TRAINING AND CERTIFICATION
19 COSTS.—

20 “(1) IN GENERAL.—The term ‘qualified train-
21 ing and certification costs’ means costs paid or in-
22 curred for training which is required for the tax-
23 payer or employees of the taxpayer to be certified as
24 home performance auditors for purposes of providing
25 qualified home energy ratings under section 25E(c).

1 “(2) LIMITATION.—The qualified training and
2 certification costs taken into account under sub-
3 section (a)(1) for the taxable year with respect to
4 any individual shall not exceed \$500 reduced by the
5 amount of the credit allowed under subsection (a)(1)
6 to the taxpayer (or any predecessor) with respect to
7 such individual for all prior taxable years.

8 “(3) YEAR COSTS TAKEN INTO ACCOUNT.—
9 Qualified training and certifications costs with re-
10 spect to any individual shall not be taken into ac-
11 count under subsection (a)(1) before the taxable
12 year in which the individual with respect to whom
13 such costs are paid or incurred has performed 25
14 qualified home energy ratings under section 25E(c).

15 “(c) SPECIAL RULES.—

16 “(1) AGGREGATION RULES.—For purposes of
17 this section, all persons treated as a single employer
18 under subsections (a) and (b) of section 52 shall be
19 treated as 1 person.

20 “(2) DENIAL OF DOUBLE BENEFIT.—

21 “(A) IN GENERAL.—No deduction shall be
22 allowed for that portion of the expenses other-
23 wise allowable as a deduction for the taxable
24 year which is equal to the amount taken into

1 account under subsection (a) for such taxable
2 year.

3 “(B) AMOUNT PREVIOUSLY DEDUCTED.—
4 No credit shall be allowed under subsection (a)
5 with respect to any amount for which a deduc-
6 tion has been allowed in any preceding taxable
7 year.”.

8 (b) CREDIT TREATED AS PART OF GENERAL BUSI-
9 NESS CREDIT.—Section 38(b) is amended by striking
10 “plus” at the end of paragraph (34), by striking the period
11 at the end of paragraph (35) and inserting “plus”, and
12 by adding at the end the following new paragraph:

13 “(36) the home performance auditor certifi-
14 cation credit determined under section 45R(a).”.

15 (c) CONFORMING AMENDMENT.—The table of sec-
16 tions for subpart D of part IV of subchapter A of chapter
17 1 is amended by inserting after the item relating to section
18 45Q the following new item:

“Sec. 45R. Home performance auditor certification credit.”.

19 (d) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to amounts paid or incurred after
21 the date of the enactment of this Act.

○