

H.R. 5159 AMENDING TITLE 38 TO PROVIDE TAX RELIEF FOR THE CONVERSION OF COOPERATIVE HOUSING CORPORATIONS INTO CONDOMINIUMS

**HON. PATSY T. MINK**

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Monday, October 23, 2000*

Mrs. MINK of Hawaii. Mr. Speaker, I rise today to introduce an important piece of legislation. There are some in my district and around the country who would like to convert their cooperative housing units into condominiums but do not because section 216 of the Internal Revenue Code unfairly taxes such conversions.

During the late 1950's and early 1960's the first high-rise apartments were built in Hawaii. Developers formed cooperative housing corporations for ownership. In a cooperative, a corporation owns the land and building, and individuals and families purchase a share in the corporation that grants them the right to live in a particular unit. This enabled homeowners to own their apartments rather than rent them, making home ownership possible for more individuals and families.

As construction of high rise apartments increased, Hawaii enacted the nation's first condominium property laws. Condominiums permit a unit holder to own the unit directly rather than indirectly as stock in a cooperative corporation. Condominiums proved easier to finance and were better received by the public. The vast majority of high-rise apartment buildings constructed since 1963 have been condominiums rather than cooperatives.

The cooperatives that were constructed before condominium laws were enacted have a number of finance and marketing problems. Many banks in Hawaii will not lend more than 70 percent of a cooperative's purchase price, compared with up to 90 percent for a condominium. In addition, banks have generally used an amortization rate of 15 years, compared to 30 years for condominiums, and charge 1 percent more interest for cooperative housing loans. Furthermore, the sale price of a condominiums can be 15 to 40 percent higher than a similar cooperative apartment. Finally, Private Letter Ruling No. 8445010 the IRS recognized that unit holders in cooperatives have greater difficulty acquiring mortgages. These differences discourage the purchase of shares from cooperatives and making selling a unit nearly impossible.

As a result of these shortcomings many who invested in cooperative housing want to convert their ownership form. This is accomplished through converting cooperative housing corporations into condominiums. In a conversion the cooperative corporation dissolves and reconstitutes itself as a condominium with the share holders owning their apartment directly. No substantive change in ownership is involved. The Internal Revenue Code discourages conversions because it treats the dissolution of the cooperative corporation as a taxable event. Prior to the 1986 Tax Reform Act (P.L. 99-514) corporations dissolved without taxation. This became a classic way in which corporations bought and sold one another without paying a tax on the capital gains. This bill protects against this tax loophole. When a cooperative corporation dissolves in

the process of conversion, the original basis of the property remains the basis for the condominium building. Individual unit holders also retain as their basis the price paid for a share purchased in the cooperative corporation. In the future, if the new owners of the building or an individual condominium owner sell their deed the gain in value over the original basis will be taxed.

The IRS and Congress have recognized that this tax is unfair. In Private Letter Ruling No. 8812049 the IRS agreed that the conversion tax was severe because a tenant-stockholder continues to live in the same unit and incurs the same cost. Congress also agreed that this conversion tax was excessive and amended the Internal Revenue Code eliminating the tax incurred by unit holders along as the unit was their primary residence. While this amendment did not repeal the tax at the corporate level (the major impediment to cooperative conversions) the amendments repealed in 1997. Since 1997 cooperative corporations and individual unit holders that want to convert to condominiums and benefit from higher lending rates, longer amortization periods, lower interest rates and a higher market value have been discouraged by the Internal Revenue Code which requires them to update the original basis.

This bill eliminates the unfair conversion tax at the corporate and individual level that do not include a transfer of ownership. It also ensures that no tax loopholes created by requiring that the original basis be assumed by the tenant and property owners. On passage of this bill cooperatives retain the option of conversion.

I urge my colleagues to cosign this bill and end this unfair tax.

**HIGH COST OF PRESCRIPTION DRUGS**

**HON. DEBBIE STABENOW**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, October 23, 2000*

Ms. STABENOW. Mr. Speaker, for the past six months, I have been reading letters on the floor of the House of Representatives from senior citizens from all over the State of Michigan.

These seniors have shared their stories with me about the high cost of prescription drugs. They all have one thing in common: these seniors rely solely on Medicare for their health insurance, so they do not have any prescription drug benefit.

They must pay for their prescription drugs themselves, and with the high prices, they often are forced to make the decision between buying the prescription drugs they need or buying food or heating their homes.

We must enact a voluntary, Medicare prescription drug benefit that will provide real help for these seniors.

This week, I will read a letter from a senior in Lansing, MI, who asked that she remain anonymous.

**TEXT OF THE LETTER**

It seems every time I see a doctor, I am given a new prescription. I now take six a day. They cost close to \$200 a month. I also take six non-prescription drugs a day.

We really need some help. It is very hard for a retired senior on a fixed income.

I sometimes skip a pill to make them last a little longer.

In these economic good times, it is a national tragedy that seniors are putting their health at risk and skipping the medications they need because they cannot afford them.

The 106th Congress will soon adjourn. Our days to enact prescription drug reform are numbered.

I support the Democratic plan that will provide a voluntary, real Medicare prescription drug benefit.

**COMMUNICATION FROM PHARMACIA**

**HON. FORTNEY PETE STARK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, October 23, 2000*

Mr. STARK. Mr. Speaker, I am today submitting for the RECORD a letter from the pharmaceutical manufacturer, Pharmacia. This letter was written in response to my October 3rd letter to the company's President & Chief Executive Officer, Fred Hassan.

My recent letter, submitted to the Congressional Record on October 3rd, provided evidence that Pharmacia for many years has been reporting and publishing inflated and misleading price data and has engaged in other improper, deceptive business practices in order to manipulate and inflate the prices of certain drugs. The price manipulation scheme has been executed through Pharmacia's inflated representations of average wholesale price ("AWP") and direct price ("DP"), which are utilized by the Medicare and Medicaid programs in establishing drug reimbursements to providers. This pricing scheme by Pharmacia and other drug companies is estimated to have cost taxpayers over a billion dollars.

Unfortunately, Pharmacia's recent letter provides no meaningful explanation for the company's actions which have overcharged Americans and put patient safety at grave risk. Instead, President Hassan places the blame on the Department of Health and Human Services' difficult reimbursement policies. In this letter he states: "As you know, Medicare and Medicaid reimbursement policies are considerably complex" and "From my perspective, it is the designing of a system to replace the current system that to date has proven to be difficult." The alleged complexity of Medicare's reimbursement system is no excuse for Pharmacia deliberately publishing inflated and misleading price data and engaging in other deceptive business practices—business practices which the letter fails to mention.

Contrary to Mr. Hassan's accusation, Medicare's current reimbursement method is simple. Medicare pays 95% of a covered drug's average wholesale price (AWP). Regardless of the merits of the system, Pharmacia, and other drug companies, have abused this system by reporting inflated drug prices—plain and simple.

I appreciate the fact that Mr. Hassan is taking the issues I raised in my letter "very seriously" and is "continuing to investigate" the allegations made in my letter. But I firmly believe that the blame for reporting misleading—and possibly fraudulent—price data as well as engaging in other deceptive company practices must not and cannot be placed on HHS'