

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1778

To amend the Internal Revenue Code of 1986 with respect to the tax treatment of cooperative housing corporations.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 22, 1993

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

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## A BILL

To amend the Internal Revenue Code of 1986 with respect to the tax treatment of cooperative housing corporations.

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. TAX TREATMENT OF COOPERATIVE HOUSING**

4 **CORPORATIONS.**

5 (a) SECTION 277 NOT TO APPLY TO COOPERATIVE  
6 HOUSING CORPORATIONS.—Section 277(b) of the Internal  
7 Revenue Code of 1986 (relating to exceptions) is amended  
8 by striking “or” at the end of paragraph (3), by striking  
9 the period at the end of paragraph (4) and inserting a

1 comma and “or”, and by adding at the end thereof the  
2 following new paragraph:

3 “(5) which for the taxable year is a cooperative  
4 housing corporation described in section 216(b)(1)  
5 (determined without regard to section  
6 143(k)(9)(E)).”

7 (b) APPLICATION OF RULES RELATING TO TAX  
8 TREATMENT OF COOPERATIVES.—

9 (1) PATRONAGE EARNINGS MAY BE OFFSET  
10 ONLY BY PATRONAGE LOSSES.—Section 1388(a) of  
11 such Code is amended by adding at the end the fol-  
12 lowing new sentence: “In no event shall any patron-  
13 age losses of an organization described in section  
14 277(b)(5) be used to offset earnings which are not  
15 patronage earnings.”

16 (2) PATRONAGE EARNINGS AND LOSSES OF CO-  
17 OPERATIVE HOUSING CORPORATIONS.—Section 1388  
18 of such Code is amended by adding at the end the  
19 following new subsection:

20 “(k) PATRONAGE EARNINGS OR LOSSES DEFINED.—  
21 For purposes of this section—

22 “(1) IN GENERAL.—The terms ‘patronage earn-  
23 ings’ and ‘patronage losses’ mean earnings and  
24 losses, respectively, which are derived from business  
25 done with or for patrons of the organization.

1           “(2) SPECIAL RULES FOR COOPERATIVE HOUS-  
2           ING CORPORATION.—In the case of a cooperative  
3           housing corporation, the following earnings shall be  
4           treated as patronage earnings:

5                   “(A) Interest on reasonable reserves estab-  
6                   lished in connection with the corporation, in-  
7                   cluding reserves required by a governmental  
8                   agency or lender.

9                   “(B) Income from laundry and parking fa-  
10                  cilities to the extent attributable to use of the  
11                  facilities by tenant-stockholders and their  
12                  guests.

13                  “(C) In the case of a cooperative housing  
14                  corporation with respect to which the require-  
15                  ments of clause (i) of section 143(k)(9)(D) are  
16                  met at all times during the taxable year, rental  
17                  income from other than tenant-stockholders to  
18                  the extent attributable to any project operated  
19                  by the corporation.

20           “(3) DEFINITIONS.—For purposes of paragraph  
21           (2)—

22                   “(A) COOPERATIVE HOUSING CORPORA-  
23                   TION.—The term ‘cooperative housing corpora-  
24                   tion’ has the meaning given such term by sec-

1           tion 216(b)(1) (without regard to section  
2           143(k)(9)(E)).

3           “(B) TENANT-STOCKHOLDER.—The term  
4           ‘tenant-stockholder’ has the meaning given such  
5           term by section 216(b)(2).”

6           (3) CONFORMING AMENDMENT.—Section  
7           1388(j) of such Code is amended by striking para-  
8           graph (4).

9           (c) EFFECTIVE DATE.—

10           (1) IN GENERAL.—Except as provided in para-  
11           graph (2), the amendments made by this section  
12           shall apply to taxable years beginning after the date  
13           of the enactment of this Act.

14           (2) ELECTION TO HAVE AMENDMENTS APPLY  
15           RETROACTIVELY.—Any corporation which is a coop-  
16           erative housing corporation as of the 1st day of the  
17           1st taxable year beginning after the date of the en-  
18           actment of this Act may elect to have the amend-  
19           ments made by this section apply to all taxable years  
20           whether beginning before, on, or after the date of  
21           the enactment of this Act.

22           (3) NO INFERENCE.—Nothing in the provisions  
23           of this section shall be construed as a change in the  
24           treatment of income derived by any cooperative  
25           housing corporation, and the treatment of such in-

1        come for any year to which the amendments made  
2        by this section does not apply shall be made as if  
3        this section had not been enacted.

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