

118TH CONGRESS
2D SESSION

S. 4871

To amend the Internal Revenue Code of 1986 to provide a credit for hazard mitigation projects in connection with certain working waterfront property.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2024

Mr. KING (for himself and Mr. CASSIDY) 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 credit for hazard mitigation projects in connection with certain working waterfront property.

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.**

4 This Act may be cited as the “Working Waterfront
5 Disaster Mitigation Tax Credit Act”.

6 **SEC. 2. WORKING WATERFRONT DISASTER MITIGATION**
7 **PROJECT CREDIT.**

8 (a) IN GENERAL.—Subpart E of part IV of sub-
9 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by inserting after section 48E the fol-
 2 lowing new section:

3 **“SEC. 48F. WORKING WATERFRONT DISASTER MITIGATION**
 4 **PROJECT CREDIT.**

5 “(a) IN GENERAL.—For purposes of section 46, the
 6 working waterfront disaster mitigation project for any tax-
 7 able year is an amount equal to 30 percent of the qualified
 8 investment for such taxable year.

9 “(b) LIMITATIONS.—

10 “(1) DOLLAR LIMITATION.—

11 “(A) IN GENERAL.—The amount of the
 12 credit allowed under this section with respect to
 13 any taxpayer shall not exceed \$300,000.

14 “(B) AGGREGATION RULES.—All taxpayers
 15 treated as a single employer under subsection
 16 (a) or (b) of section 52 or subsection (m) or (o)
 17 of section 414 shall be treated as a single tax-
 18 payer for purposes of subparagraph (A).

19 “(C) INFLATION ADJUSTMENT.—In the
 20 case of any taxable year beginning after Decem-
 21 ber 31, 2025, the \$300,000 dollar amount in
 22 subparagraph (A) shall be increased by an
 23 amount equal to—

24 “(i) such dollar amount, multiplied by

1 “(ii) the cost-of-living adjustment de-
2 termined under section 1(f)(3) for the cal-
3 endar year in which the taxable year be-
4 gins, by substituting ‘calendar year 2024’
5 for ‘calendar year 2016’ in subparagraph
6 (A)(ii) thereof.

7 If any amount as increased under the preceding
8 sentence is not a multiple of \$10,000, such
9 amount shall be rounded to the nearest multiple
10 of \$10,000.

11 “(2) TIME LIMITATION.—No credit shall be al-
12 lowed to a taxpayer for a taxable year if such tax-
13 payer has been allowed a credit under this section
14 (other than qualified progress expenditures allowed
15 under subsection (c)(3)) for any taxable year in the
16 10-year period ending with the last day of such tax-
17 able year.

18 “(c) QUALIFIED INVESTMENT.—

19 “(1) IN GENERAL.—For purposes of this sec-
20 tion, the qualified investment for any taxable year is
21 the basis of eligible property placed in service by the
22 taxpayer during such taxable year which is part of
23 a qualifying working waterfront disaster mitigation
24 project.

1 “(2) ELIGIBLE PROPERTY.—For purposes of
2 this subsection, the term ‘eligible property’ means
3 property—

4 “(A) which is tangible property,

5 “(B) with respect to which depreciation (or
6 amortization in lieu of depreciation) is allow-
7 able, and

8 “(C) which is—

9 “(i) constructed, reconstructed, or
10 erected by the taxpayer, or

11 “(ii) acquired by the taxpayer if the
12 original use of such property commences
13 with the taxpayer.

14 “(3) CERTAIN QUALIFIED PROGRESS EXPENDI-
15 TURES RULES MADE APPLICABLE.—Rules similar to
16 the rules of subsections (c)(4) and (d) of section 46
17 (as in effect on the day before the enactment of the
18 Revenue Reconciliation Act of 1990) shall apply for
19 purposes of this section.

20 “(4) COORDINATION WITH REHABILITATION
21 CREDIT.—The qualified investment with respect to
22 any qualifying working waterfront disaster mitiga-
23 tion project for any taxable year shall not include
24 that portion of the basis of any project which is at-

1 tributable to qualified rehabilitation expenditures (as
2 defined in section 47(c)(2)).

3 “(d) QUALIFYING WORKING WATERFRONT DIS-
4 ASTER MITIGATION PROJECT.—For purposes of this sec-
5 tion—

6 “(1) IN GENERAL.—The term ‘qualifying work-
7 ing waterfront disaster mitigation project’ means
8 any project—

9 “(A) which is substantially designed in
10 compliance with—

11 “(i) in the case of any project placed
12 in service before January 1, 2032, the
13 2021 International Code Council Inter-
14 national Building Code, and

15 “(ii) in the case of any project placed
16 in service on or after such date, the most
17 recent applicable International Code Coun-
18 cil model code which has been affirmed by
19 the Secretary for purposes of this section
20 not later than 5 years before the date such
21 project is placed in service, and

22 “(B) which designed to prevent or mitigate
23 damage to working waterfront property from
24 natural hazards using one or more of the fol-
25 lowing:

1 “(i) STRUCTURAL ELEVATION.—The
2 elevation of continuous foundation walls,
3 the elevation of structures on open founda-
4 tions (such as piles, piers, posts or col-
5 umns), the elevation of structures on fill,
6 the conversion of the second story, and
7 other methods involving structural ele-
8 vation as the Secretary may prescribe.

9 “(ii) FLOOD RISK REDUCTION.—
10 Stormwater management (including the
11 construction, installation or modification of
12 culverts, drainage pipes, pumping stations,
13 floodgates, bioswales, detention and reten-
14 tion basins, and other stormwater manage-
15 ment facilities), flood diversion and storage
16 measures, slope stabilization or grading to
17 direct flood waters away from businesses,
18 flood protection measures for water and
19 sanitary sewer systems or other utility sys-
20 tems, vegetation management for shoreline
21 stabilization (coastal, riverine, riparian and
22 other littoral zones), flood protection and
23 stabilization measures for roads and
24 bridges, and such other flood risk reduc-

1 tion methods as the Secretary may pre-
2 scribe.

3 “(iii) SHORELINE STABILIZATION.—

4 Reducing the risk to structures or infra-
5 structure from erosion and landslides (in-
6 cluding through the installation of
7 geosynthetics, surface and subsurface
8 drainage, stabilizing sod, and vegetative
9 buffer strips), preserving mature vegeta-
10 tion, decreasing slope angles, stabilizing
11 with riprap and other means of slope an-
12 choring, and other shoreline stabilization
13 methods as the Secretary may prescribe.

14 “(iv) FLOODPROOFING.—Creating a

15 space that is protected by walls that are
16 substantially impermeable and resistant to
17 flood loads, the use of flood-damage-resist-
18 ant materials and construction techniques
19 to minimize flood damage to areas below
20 the flood protection level of a structure.

21 “(v) RETROFITTING.—Changes made

22 to an existing structure to reduce or elimi-
23 nate the possibility of damage to that
24 structure from flooding, erosion, extreme

1 temperatures, high winds, or other haz-
2 ards.

3 “(vi) WARNING SYSTEMS.—Equip-
4 ment and systems to warn residents of im-
5 pending hazards (including enhanced or re-
6 versed 911 systems), weather stations, rain
7 gauges, flood alarms, and such other warn-
8 ing systems as the Secretary may pre-
9 scribe.

10 “(2) WORKING WATERFRONT PROPERTY.—The
11 term ‘working waterfront property’ means real prop-
12 erty—

13 “(A) which is located within the United
14 States or a possession of the United States, and

15 “(B) which is used by the taxpayer to
16 carry on an active trade or business—

17 “(i) which meets the gross receipts
18 test of paragraph (3), and

19 “(ii) which—

20 “(I) provides access to navigable
21 waters to persons engaged in commer-
22 cial fishing, recreational fishing and
23 boating, boatbuilding, aquaculture,
24 dredging, or other water-dependent
25 activities, and

1 “(II) is used for or supports ac-
2 tivities described in subclause (I).

3 “(3) GROSS RECEIPTS TEST.—

4 “(A) IN GENERAL.—A trade or business
5 meets the gross receipts test of this paragraph
6 if the average annual gross receipts of such
7 trade or business for the 3-taxable-year period
8 preceding such taxable year does not exceed
9 \$47,000,000.

10 “(B) AGGREGATION RULES.—All trades or
11 business of a taxpayer that are treated as a sin-
12 gle employer under subsection (a) or (b) of sec-
13 tion 52 or subsection (m) or (o) of section 414
14 shall be treated as one trade or business for
15 purposes of subparagraph (A).

16 “(C) OTHER RULES.—Rules similar to the
17 rules of section 448(c)(3) shall apply for pur-
18 poses of this paragraph.

19 “(D) INFLATION ADJUSTMENT.—In the
20 case of any taxable year beginning after Decem-
21 ber 31, 2025, the dollar amount in subpara-
22 graph (A) shall be increased by an amount
23 equal to—

24 “(i) such dollar amount, multiplied by

1 “(ii) the cost-of-living adjustment de-
2 termined under section 1(f)(3) for the cal-
3 endar year in which the taxable year be-
4 gins, by substituting ‘calendar year 2024’
5 for ‘calendar year 2016’ in subparagraph
6 (A)(ii) thereof.

7 If any amount as increased under the preceding
8 sentence is not a multiple of \$1,000,000, such
9 amount shall be rounded to the nearest multiple
10 of \$1,000,000.

11 “(e) REGULATIONS.—The Secretary, in consultation
12 with the Administrator of the Federal Emergency Man-
13 agement Agency, shall issue such regulations or other
14 guidance as may be necessary or appropriate to carry out
15 the purposes of this section.”.

16 (b) INCLUSION IN INVESTMENT CREDIT.—Section 46
17 of the Internal Revenue Code of 1986 is amended by strik-
18 ing “and” at the end of paragraph (6), by striking the
19 period at the end of paragraph (7) and inserting “, and”,
20 and by adding at the end the following new paragraph:

21 “(8) the working waterfront disaster mitigation
22 project credit.”.

23 (c) CONFORMING AMENDMENTS.—

24 (1) Section 49(a)(1)(C) of the Internal Revenue
25 Code of 1986 is amended by striking “and” at the

1 end of clause (vii), by striking the period at the end
2 of clause (viii) and inserting “, and”, and by adding
3 at the end the following:

4 “(ix) the basis of any property which
5 is part of a qualifying working waterfront
6 disaster mitigation project (as defined in
7 section 48F(d)(2)).”.

8 (2) Section 50(a)(2)(E) of such Code is amend-
9 ed by striking “or 48E(e)” and inserting “48E(e),
10 or 48F(c)(2)”.

11 (3) The table of sections for subpart E of part
12 IV of subchapter A of chapter 1 of such Code is
13 amended by inserting after the item relating to sec-
14 tion 48E the following new item:

“Sec. 48F. Working waterfront disaster mitigation project credit.”.

15 (d) TREATMENT OF POSSESSIONS.—

16 (1) PAYMENTS TO POSSESSIONS WITH MIRROR
17 CODE TAX SYSTEMS.—The Secretary of the Treas-
18 ury shall pay to each possession of the United States
19 which has a mirror code tax system amounts equal
20 to the loss (if any) to that possession by reason of
21 the amendments made by this section. Such
22 amounts shall be determined by the Secretary of the
23 Treasury based on information provided by the gov-
24 ernment of the respective possession.

1 (2) PAYMENTS TO OTHER POSSESSIONS.—The
2 Secretary of the Treasury shall pay to each posses-
3 sion of the United States which does not have a mir-
4 ror code tax system amounts estimated by the Sec-
5 retary of the Treasury as being equal to the aggre-
6 gate benefits (if any) that would have been provided
7 to residents of such possession by reason of the
8 amendments made by this section if a mirror code
9 tax system had been in effect in such possession.
10 The preceding sentence shall not apply unless the re-
11 spective possession has a plan, which has been ap-
12 proved by the Secretary of the Treasury, under
13 which such possession will promptly distribute such
14 payments to its residents.

15 (e) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to periods after December 31,
17 2024, in taxable years ending after such date, under rules
18 similar to the rules of section 48(m) of the Internal Rev-
19 enue Code of 1986 (as in effect on the day before the date
20 of the enactment of the Revenue Reconciliation Act of
21 1990).

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