132nd MAINE LEGISLATURE

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H.P. 1129 House of Representatives, April 17, 2025

An Act to Provide an Income Tax Credit for Certain Disaster Mitigation Projects for Working Waterfront Property

Reference to the Committee on Taxation suggested and ordered printed.

ROBERT B. HUNT
Clerk

Presented by Representative RIELLY of Westbrook.
Cosponsored by Senator MOORE of Washington and
Representatives: EATON of Deer Isle, FAULKINGHAM of Winter Harbor, GOLEK of Harpswell, MATHIESON of Kittery, MATLACK of St. George, STOVER of Boothbay, STROUT of Harrington, Senator: President DAUGHTRY of Cumberland.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §5219-CCC is enacted to read:

§5219-CCC. Working waterfront disaster mitigation tax credit

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Eligible property" means tangible property for which depreciation or amortization in lieu of depreciation is allowable that is:

(1) Constructed, reconstructed or erected by the taxpayer; or

(2) Acquired by the taxpayer if the first use of such property commences with the taxpayer.

B. "Qualifying working waterfront disaster mitigation project" means a project that:

(1) Is substantially designed in compliance with:

(a) In the case of a project placed in service before January 1, 2032, the 2021 International Building Code published by the International Code Council; or

(b) In the case of a project placed in service on or after January 1, 2032, the most recent applicable International Code Council model code as long as that code was published not later than 5 years before the date such project is placed in service; and

(2) Is designed to prevent or mitigate damage to working waterfront property from natural hazards using one or more of the following:

(a) The elevation of continuous foundation walls; the elevation of structures on open foundations, such as piles, piers, posts or columns; the elevation of structures on fill; the conversion of the 2nd story; and other methods involving structural elevation as established by rule;

(b) Storm water management, including the construction, installation or modification of culverts, drainage pipes, pumping stations, floodgates, bioswales, detention and retention basins and other storm water management facilities; flood diversion and storage measures; slope stabilization or grading to direct flood waters away from businesses; flood protection measures for water and sanitary sewer systems or other utility systems; vegetation management for shoreline stabilization, including coastal, riverine, riparian and other littoral zones; flood protection and stabilization measures for roads and bridges; and such other flood risk reduction methods as determined by rule;

(c) Reducing the risk to structures or infrastructure from erosion and landslides, including through the installation of geosynthetics; surface and subsurface drainage, stabilizing sod and vegetative buffer strips; preserving mature vegetation; decreasing slope angles; stabilizing with riprap and other means of slope anchoring; and other shoreline stabilization methods as determined by rule;

(d) Creating a space that is protected by walls that are substantially impermeable and resistant to flood loads, the use of materials and construction techniques that are resistant to flood damage to minimize flood damage to areas below the flood protection level of a structure;

(e) Changes made to an existing structure to reduce or eliminate the possibility of damage to that structure from flooding, erosion, extreme temperatures, high winds or other hazards; and

(f) Equipment and systems to warn residents of impending hazards, including enhanced 9-1-1 services, as defined in Title 25, section 2921, subsection 6, weather stations, rain gauges, flood alarms and such other warning systems as determined by rule.

C. "Working waterfront property" means real property located in the State that is used by the taxpayer to carry on an active trade or business that meets the gross receipts test of subsection 2 and:

(1) Provides access to navigable waters to persons engaged in commercial fishing, recreational fishing and boating, boat building, aquaculture, dredging or other water-dependent activities; and

(2) Is used for or supports activities described in subparagraph (1).

2. Gross receipts test. A trade or business meets the gross receipts test for a taxable year if the average annual gross receipts of that trade or business for a period of 3 taxable years preceding a taxable year does not exceed $47,000,000. All trades or business of a taxpayer that are treated as a single employer under Section 52(a) or Section 52(b) of the Code or Section 414(m) or Section 414(o) of the Code must be treated as one trade or business for purposes of this subsection.

3. Tax credit; limitation. For tax years beginning on or after January 1, 2025, a taxpayer that undertakes a qualifying working waterfront disaster mitigation project is allowed a tax credit against the tax otherwise due under this Part equal to 30% of cost of that disaster mitigation project. The credit provided pursuant to this subsection may not exceed $300,000.

4. Determination of taxable year. For purposes of this section, the qualified investment for a taxable year is the basis of eligible property placed in service by the taxpayer during the taxable year that is part of a qualifying working waterfront disaster mitigation project.

5. Limitations; carry-forward. The credit allowed under subsection 3 may not reduce the tax otherwise due under this Part to less than zero. Any unused portion of the credit may be carried forward to the following year or years for a period not to exceed 10 years.

6. Relation to other tax credits. A taxpayer eligible for a credit pursuant to this section may not claim a tax credit under this Part for the same or a similar project.

7. Inflation adjustment. Beginning in 2026, the limit on annual gross receipts specified in subsection 2 and the total credit amount specified in subsection 3 must be multiplied by the cost-of-living adjustment for taxable years beginning in the succeeding calendar year. For purposes of this subsection, the "cost-of-living adjustment" is the

Chained Consumer Price Index for the 12-month period ending June 30th of the preceding calendar year divided by the Chained Consumer Price Index for the 12-month period ending June 30, 2025 and "Chained Consumer Price Index" has the same meaning as in section 5402, subsection 1. If the amount for subsection 2 as increased pursuant to this subsection is not a multiple of $1,000,000, that amount must be rounded to the nearest multiple of $1,000,000. If the amount for subsection 3 as increased pursuant to this subsection is not a multiple of $1,000, that amount must be rounded to the nearest multiple of $1,000.

8. Rules. The assessor may adopt rules to implement this section, including, but not limited to, rules for determining and certifying eligibility and for determining what additional projects designed to prevent or mitigate damage to working waterfront property from natural hazards qualify. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

SUMMARY

This bill provides a tax credit for taxpayers that undertake working waterfront disaster mitigation projects, such as the elevation of foundation walls, flood risk protection, shoreline stabilization and warning systems. The credit is equal to 30% of the cost of the qualifying working waterfront disaster mitigation project but may not exceed $300,000. A business qualifies if it has $47,000,000 or less in average annual gross receipts.