

112TH CONGRESS
2D SESSION

H. R. 5839

To amend the Internal Revenue Code of 1986 to provide a business tax credit for resilient construction.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2012

Mr. DAVIS of Kentucky (for himself and Mr. DIAZ-BALART) 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 provide a business tax credit for resilient construction.

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 “Disaster Savings and
5 Resilient Construction Act of 2012”.

6 **SEC. 2. RESILIENT CONSTRUCTION TAX CREDIT.**

7 (a) IN GENERAL.—Subpart D of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 is amended by inserting after section 45R the fol-
10 lowing new section:

1 **“SEC. 45S. RESILIENT CONSTRUCTION.**

2 “(a) GENERAL RULE.—For purposes of section 38,
3 in the case of an eligible contractor, the resilient construc-
4 tion credit for the taxable year is the applicable amount
5 for each building—

6 “(1) constructed by the eligible contractor in a
7 disaster area determined as a result of a federally
8 declared major disaster,

9 “(2) the construction of which began after the
10 date of such disaster in that area,

11 “(3) which—

12 “(A) in the case of qualified commercial
13 property, is placed in service for commercial
14 purposes, and

15 “(B) in the case of qualified residential
16 property, is placed in service for residential pur-
17 poses, and

18 “(4) for which a certificate of occupancy is
19 issued before the end of the 2-year period beginning
20 on the date of such disaster declaration in that area.

21 “(b) APPLICABLE AMOUNT.—For purposes of sub-
22 section (a), the applicable amount is:

23 “(1) COMMERCIAL PROPERTY.—In the case of a
24 qualified commercial property, the applicable amount
25 is the lesser of—

1 “(A) 1 percent of the cost of construction,
2 or

3 “(B) \$25,000.

4 “(2) RESIDENTIAL PROPERTY.—In the case of
5 a qualified residential property, the applicable
6 amount is the lesser of—

7 “(A) 1 percent of the cost of construction,
8 or

9 “(B) \$3,000.

10 “(c) QUALIFIED PROPERTY.—For purposes of this
11 section:

12 “(1) QUALIFIED COMMERCIAL PROPERTY.—The
13 term ‘qualified commercial property’ means a build-
14 ing that is—

15 “(A) located in the United States,

16 “(B) defined in the scope of the 2009 or
17 later International Building Code published by
18 the International Code Council, and

19 “(C) designed and constructed to meet re-
20 silient construction requirements.

21 “(2) QUALIFIED RESIDENTIAL PROPERTY.—
22 The term ‘qualified residential property’ means a
23 building that is—

24 “(A) located in the United States,

1 “(B) defined in the scope of the 2009 or
2 later International Residential Code published
3 by the International Code Council, and

4 “(C) designed and constructed to meet re-
5 silient construction requirements.

6 “(d) RESILIENT CONSTRUCTION REQUIREMENTS.—

7 For purposes of this section:

8 “(1) IN GENERAL.—The resilient construction
9 requirements with respect to a property are that the
10 property is designed and constructed to—

11 “(A) resist hazards brought on by a major
12 disaster and continues to provide its primary
13 functions after a major disaster,

14 “(B) reduce the magnitude or duration of
15 a disruptive event, and

16 “(C) have the absorptive capacity, adaptive
17 capacity, recoverability to withstand a poten-
18 tially disruptive event.

19 “(2) TREATED AS MEETING RESILIENCY RE-
20 QUIREMENTS.—For purposes of paragraph (1)—

21 “(A) in the case of a qualified commercial
22 property, the property shall be treated as meet-
23 ing the requirements specified in paragraph (1)
24 if the property is a building which—

1 “(i) was designed to meet the require-
2 ments of the 2009 or later International
3 Building Code published by the Inter-
4 national Code Council and received the In-
5 surance Institute for Business and Home
6 Safety FORTIFIED for Safer Business
7 designation, or

8 “(ii) was designed and built in a juris-
9 diction that requires commercial buildings
10 to meet the requirements of the 2009 or
11 later International Building Code pub-
12 lished by the International Code Council©
13 with amendments that are equivalent or
14 more restrictive than the requirements de-
15 scribed in FORTIFIED for Safer Business
16 Standards published by the Insurance In-
17 stitute for Business and Home Safety and
18 received a certificate of occupancy (or
19 other documentation stating that it has
20 met the requirements of the building code)
21 from the jurisdiction, and

22 “(B) in the case of a qualified residential
23 property, the property shall be treated as meet-
24 ing the requirements specified in paragraph (1)
25 if the property is a building which was designed

1 to meet the requirements of the 2009 or later
2 International Residential Code published by the
3 International Code Council, and meets one of
4 the following requirements:

5 “(i) The building received the Insur-
6 ance Institute for Business and Home
7 Safety as FORTIFIED for Safer Living
8 designation.

9 “(ii) The building received the Insur-
10 ance Institute for Business and Home
11 Safety as FORTIFIED for Existing
12 Homes designation.

13 “(iii) It was designed and built in a
14 jurisdiction that requires residential build-
15 ings to meet the requirements of the 2009
16 or later International Building Code pub-
17 lished by the International Code Council©
18 with amendments that are equivalent or
19 more restrictive than the requirements de-
20 scribed in FORTIFIED for Safer Living
21 Builders Guide published by the Insurance
22 Institute for Business and Home Safety
23 and received a certificate of occupancy (or
24 other documentation stating that it has

1 met the requirements of the building code)
2 from the jurisdiction.

3 “(3) ABSORPTIVE CAPACITY.—The term ‘ab-
4 sorptive capacity’ means the ability of the construc-
5 tion to endure a disruption without significant devi-
6 ation from normal operating performance.

7 “(4) ADAPTIVE CAPACITY.—The term ‘adaptive
8 capacity’ means the ability of the construction to
9 adapt to a drastic change in normal operating condi-
10 tions.

11 “(5) RECOVERABILITY.—The term
12 ‘recoverability’ means the ability of the construction
13 to recover quickly, and at low cost, from potentially
14 disruptive events.

15 “(e) OTHER DEFINITIONS.—For purposes of this
16 section:

17 “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-
18 ble contractor’ means the person who constructed
19 the qualified building.

20 “(2) CONSTRUCTION.—The term ‘construction’
21 includes new construction and reconstruction and re-
22 habilitation that meets resilient construction require-
23 ments.

1 “(3) DISASTER AREA.—The term ‘disaster area’
2 has the meanings given such terms by section
3 165(h)(3).

4 “(4) FEDERALLY DECLARED MAJOR DIS-
5 ASTER.—The term ‘federally declared major dis-
6 aster’ means a disaster subsequently determined by
7 the President of the United States to be a ‘major
8 disaster’ that warrants assistance by the Federal
9 Government under the Robert T. Stafford Disaster
10 Relief and Emergency Assistance Act.

11 “(f) BASIS REDUCTION.—For purposes of this sub-
12 title, the basis of any property for which a credit is allow-
13 able under subsection (a) shall be reduced by the amount
14 of such credit so allowed.

15 “(g) TERMINATION.—This section shall not apply to
16 any property for which a certificate for occupancy is issued
17 after December 31, 2015.”.

18 (b) CREDIT MADE PART OF GENERAL BUSINESS
19 CREDIT.—Section 38(b) of such Code, as amended by this
20 Act, is amended by striking “plus” at the end of para-
21 graph (35), by striking the period at the end of paragraph
22 (36) and inserting “, plus”, and by adding at the end the
23 following new paragraph:

24 “(37) the resilient construction credit deter-
25 mined under section 45S(a).”.

1 (c) BASIS ADJUSTMENT.—Subsection (a) of section
 2 1016 is amended by striking “and” at the end of para-
 3 graph (31), by striking the period at the end of paragraph
 4 (32) and inserting “, and”, and by adding at the end the
 5 following new paragraph:

6 “(38) to the extent provided in section 45S(f),
 7 in the case of amounts with respect to which a credit
 8 has been allowed under section 45S.”.

9 (d) DEDUCTION FOR CERTAIN UNUSED BUSINESS
 10 CREDITS.—Section 196(c) (defining qualified business
 11 credits) is amended by striking “and” at the end of para-
 12 graph (13), by striking the period at the end of paragraph
 13 (14) and inserting “, and”, and by adding after paragraph
 14 (14) the following new paragraph:

15 “(15) the resilient construction credit deter-
 16 mined under section 45S(a).”.

17 (e) CLERICAL AMENDMENT.—The table of sections
 18 for subpart D of part IV of subchapter A of chapter 1
 19 of such Code is amended by inserting after section 45R
 20 the following new item:

“Sec. 45S. Resilient construction.”.

21 (f) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to property for which a certificate
 23 for occupancy is issued after the date of the enactment
 24 of this Act.