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## HOUSE BILL NO. 1438

House Amendments in [ ] - February 6, 2023

A BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:13, relating to oyster shell recycling tax credit.

Patron Prior to Engrossment—Delegate Anderson

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:13 as follows:

§ 58.1-439.12:13. Oyster shell recycling tax credit.

A. For taxable years beginning on or after January 1, 2023, but before January 1, 2028, any taxpayer that donates oyster shells for use in oyster restoration projects, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oyster populations, shall be allowed a nonrefundable tax credit against the tax levied pursuant to § 58.1-320 or 58.1-400 for the taxable year of the donation. The taxpayer shall be allowed the credit in an amount equal to \$4.00 per bushel of oyster shells, as described in § 28.2-526, donated during the taxable year but not to exceed an aggregate credit of \$1,500 for all such donations made by the taxpayer during such year. The aggregate amount of credits available under this section for each taxable year shall be \$250,000. For every taxable year for which a taxpayer seeks this credit, the taxpayer shall submit an application to the Department in accordance with the forms, instructions, dates, and procedures prescribed by the Department.

B. The credit allowed under this section may be claimed only if the bushels are donated by the person to [ (i) ~~the Virginia Marine Resources Commission~~ or (ii) ] an entity that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and is engaged in oyster restoration activities. Credits granted to a partnership, limited liability company, or electing small business corporation shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.

C. The amount of the credit allowed under this section that may be claimed in any single taxable year shall not exceed the taxpayer's liability for taxes imposed by this chapter for that taxable year. If the amount of the credit allowed under this section exceeds the taxpayer's tax liability for the taxable year in which the eligible expenditures occurred, the amount that exceeds the tax liability may be carried over for credit against the income taxes of the taxpayer in the next five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.

D. The Tax Commissioner [ ; ~~in consultation with the Virginia Marine Resources Commission;~~ ] shall develop guidelines for claiming the credit provided by this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

ENGROSSED

HB1438E