



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB2032

Introduced 2/15/2019, by Sen. Steve McClure

#### SYNOPSIS AS INTRODUCED:

New Act

30 ILCS 605/7.1

from Ch. 127, par. 133b10.1

35 ILCS 5/229 new

215 ILCS 5/409.2 new

Creates the Illinois State Property Revitalization Tax Credit Act. Creates a credit against taxes imposed under the Illinois Income Tax Act and the Illinois Insurance Code in an amount equal to 30% of qualified expenditures incurred by a qualified taxpayer in the rehabilitation of certain property that had been owned by the State. Provides that credits must be approved by the Department of Commerce and Economic Opportunity. Provides that credits may be transferred and assigned. Contains provisions concerning application fees. Amends the Illinois Income Tax Act and the Illinois Insurance Code to make conforming changes. Amends the State Property Control Act. Makes changes to provisions concerning surplus real property. Effective immediately.

LRB101 10712 HLH 55824 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Illinois State Property Revitalization Tax Credit Act.

6 Section 5. Definitions. As used in this Act, unless the  
7 context clearly indicates otherwise:

8 "Department" means the Department of Commerce and Economic  
9 Opportunity.

10 "Qualified expenditures" means all the costs and expenses  
11 associated with the rehabilitation of qualified structures as  
12 defined in this Act. Applicants may incur qualified  
13 expenditures, at their own risk, from the earlier of (i) the  
14 commencement of construction or (ii) one year prior to receipt  
15 of preliminary approval of an application pursuant to Section  
16 30 of this Act.

17 "Qualified structure" means a facility or structure  
18 located in Illinois that is owned by the State of Illinois and  
19 has not been used for at least 2 years. For the purposes of  
20 this definition, regular maintenance and upkeep are not  
21 considered "use".

22 "Qualified rehabilitation plan" means a proposed  
23 rehabilitation design that is approved by the Department.

1 "Qualified rehabilitation project" means a completed  
2 rehabilitation project that is approved by the Department.

3 "Qualified taxpayer" means any owner of the qualified  
4 structure. If the taxpayer is (i) a corporation having an  
5 election in effect under subchapter S of the federal Internal  
6 Revenue Code, (ii) a partnership, including a limited  
7 partnership or a limited liability partnership, or (iii) a  
8 limited liability company, the credit provided by this Act may  
9 be claimed by the shareholders of the corporation, the partners  
10 of the partnership, or the members of the limited liability  
11 company in the same manner as those shareholders, partners, or  
12 members account for their proportionate shares of the income or  
13 losses of the corporation, partnership, or limited liability  
14 company, or as provided in the bylaws or other executed  
15 agreement of the corporation, partnership, or limited  
16 liability company.

17 Credits granted to a partnership, including a limited  
18 partnership or a limited liability partnership, a limited  
19 liability company taxed as a partnership, or other multiple  
20 owners of property shall be passed through to the partners,  
21 members, or owners respectively on a pro rata basis or pursuant  
22 to an executed agreement among the partners, members, or owners  
23 documenting any alternate distribution method. Nothing in this  
24 Act is intended to prohibit a non-profit entity with a Section  
25 501(c)(3) designation under the federal Internal Revenue Code  
26 from serving as a shareholder, partner, member or other owner

1 of a qualified taxpayer.

2 Section 10. Allowable credit. There shall be allowed a tax  
3 credit against (i) the tax imposed by subsections (a) and (b)  
4 of Section 201 of the Illinois Income Tax Act and (ii) the  
5 taxes imposed under Sections 409, 413, 444, and 444.1 of the  
6 Illinois Insurance Code in an aggregate amount equal to 30% of  
7 the qualified expenditures incurred by a qualified taxpayer  
8 pursuant to a qualified rehabilitation plan on a qualified  
9 structure, provided that the total amount of such qualified  
10 expenditures exceeds the greater of \$5,000 for each qualified  
11 structure or the adjusted basis of the property.

12 While a tax credit may be earned before July 1, 2019, no  
13 tax credit shall be issued by the Department before that date.  
14 If the amount of any tax credit awarded under this Act exceeds  
15 the taxpayer's tax liability for the year in which the  
16 qualified rehabilitation project was placed in service, the  
17 excess amount may be carried forward for deduction from the  
18 taxpayer's tax liability in the next succeeding year or years  
19 or may be carried back for deduction from the taxpayer's tax  
20 liability for the immediately preceding year until the total  
21 amount of the credit has been used, except that a credit may  
22 not be carried forward for deduction after the fifth taxable  
23 year after the taxable year in which the qualified  
24 rehabilitation project was placed in service or carried back  
25 for deduction more than one year before the taxable year in

1 which the qualified rehabilitation project was placed in  
2 service.

3 Section 15. Economic needs test. When the total credits  
4 requested with respect to a qualified rehabilitation plan will  
5 be \$1,000,000 or more, the Department shall evaluate whether,  
6 without public intervention, the economic development project  
7 would not otherwise benefit from private sector investment.

8 Section 20. Transfer of credits.

9 (a) Any qualified taxpayer may elect to transfer, in whole  
10 or in part, any unused credit amount granted under this Act as  
11 provided in subsection (b). An election to transfer any unused  
12 credit amount must be made no later than 5 years after the date  
13 the credit is awarded, after which period the credit expires  
14 and may not be used. The Department shall notify the Department  
15 of Revenue of the election and transfer.

16 (b) A qualified taxpayer is permitted a one-time transfer  
17 of unused credit amounts to no more than 4 transferees. Those  
18 transfers must occur in the same taxable year.

19 (c) The transferee is subject to the same rights and  
20 limitations as the accredited production company awarded the  
21 credit, except that the transferee may not sell or otherwise  
22 transfer the credit.

23 (d) The Department may adopt rules to administer this  
24 Section.

1           Section 25. Maximum limits. The credits awarded for each  
2 qualified rehabilitation project shall be limited to a maximum  
3 of \$10,000,000. The aggregate amount of the tax credits that  
4 may be claimed under this Act for investments in qualified  
5 rehabilitation projects shall be limited to \$40,000,000. A  
6 qualified rehabilitation project shall not receive credits  
7 pursuant to this Act if the qualified rehabilitation project  
8 has received credits pursuant to the River Edge Redevelopment  
9 Zone Act.

10           Section 30. Application process.

11           (a) To obtain the credits allowed under this Act, the  
12 applicant shall submit an application for tax credits to the  
13 Department. The application shall be in such form as the  
14 Department shall reasonably require, and the application shall  
15 include sufficient information to permit the Department to  
16 approve, approve with conditions, or reject the structure,  
17 rehabilitation plan, or rehabilitation project.

18           (b) The Department may charge a non-refundable application  
19 fee of up to 1% of the amount of credits requested, with a  
20 minimum fee of \$1,000 per application per project. All  
21 application fees shall be deposited into the Department's  
22 Administrative Fund.

23           (c) All applicants with applications receiving preliminary  
24 approval on or after the effective date of this Act shall

1 commence rehabilitation within 3 years of the date of issue of  
2 the letter from the Department granting preliminary approval  
3 for credits. Commencement of rehabilitation means that, as of  
4 the date on which actual physical work has begun, the applicant  
5 has incurred no less than 10% of the estimated costs of  
6 rehabilitation provided in the application. The applicant may  
7 commence and incur qualified expenditures at its own risk  
8 before the property becomes a qualified structure. If the  
9 rehabilitation receives final approval under this Section,  
10 including the necessary verification of the total costs and  
11 expenses of rehabilitation, the applicant shall receive tax  
12 credits for all qualified expenditures incurred within the time  
13 periods allowed in this Act.

14 (d) For qualified rehabilitation projects, the applicant  
15 shall submit a cost certification, and if the credits requested  
16 with respect to a qualified rehabilitation project are \$250,000  
17 or more, the Department shall require an independent audit of  
18 the cost certification at the applicant's expense. Those audits  
19 shall be conducted by a licensed Certified Public Accounting  
20 firm that participates in the peer review program of the  
21 American Institute of Certified Public Accountants.

22 (e) The Department shall determine the amount of qualified  
23 expenditures and the amount of credits to be issued to the  
24 applicant. The issuance of certificates of credits to  
25 applicants shall be performed by the Department. The Department  
26 shall coordinate with the Illinois Department of Revenue to

1 determine if the applicant has any outstanding Illinois tax  
2 obligations that can be satisfied by the credits to be issued.  
3 The Department shall inform the applicant of final approval and  
4 of the final credit amount by letter. An issuance fee of up to  
5 2% of the amount of the credits issued by the tax credit  
6 certificate may be collected from the applicant and remitted to  
7 the Department for the purpose of administering the Act. When  
8 the Department has received the issuance fee from the applicant  
9 and deposited it into the Department's Administrative Fund, the  
10 Department shall issue a tax credit certificate to the  
11 applicant. The taxpayer must attach the tax credit certificate  
12 to the tax return on which the credits are to be claimed.

13 Section 35. Biennial report; powers of the Department. The  
14 Department shall issue a report no later than the last day of  
15 the second fiscal year after the effective date of this Act on  
16 the overall economic impact to the State of the qualified  
17 rehabilitation projects. The Department is granted and has all  
18 the powers necessary or convenient to carry out the provisions  
19 of this Act. The Department has the power to promulgate rules  
20 for the administration of this Act, including the power to  
21 adopt emergency rules for a period of 12 months after the  
22 effective date of this Act for the purposes of establishing  
23 application forms and entering into agreements related to this  
24 Act.



1 Section 40. Appeals process. An applicant may appeal an  
2 adverse decision made by the Department, other than a decision  
3 related to the qualifications of the structure, rehabilitation  
4 plan, or rehabilitation project, by requesting a hearing under  
5 the terms of Article 10 of the Illinois Administrative  
6 Procedure Act. A petition for hearing must be postmarked no  
7 later than 30 days from the date of the adverse decision.

8 Section 900. The State Property Control Act is amended by  
9 changing Section 7.1 as follows:

10 (30 ILCS 605/7.1) (from Ch. 127, par. 133b10.1)

11 Sec. 7.1. (a) Except as otherwise provided by law, all  
12 surplus real property held by the State of Illinois shall be  
13 disposed of by the administrator as provided in this Section.  
14 "Surplus real property," as used in this Section, means any  
15 real property to which the State holds fee simple title or  
16 lesser interest, and is determined by the head of the State  
17 agency to no longer be required for the State agency's needs  
18 and responsibilities ~~vacant, unoccupied or unused and which has~~  
19 ~~no foreseeable use by the owning agency.~~

20 (b) All responsible officers shall submit an Annual Real  
21 Property Utilization Report to the Administrator, or annual  
22 update of such report, on forms required by the Administrator,  
23 by July 31 of each year. The Administrator may require such  
24 documentation as he deems reasonably necessary in connection

1 with this Report, and shall require that such Report include  
2 the following information:

3 (1) A legal description of all real property owned by the  
4 State under the control of the responsible officer.

5 (2) A description of the use of the real property listed  
6 under (1).

7 (3) A list of any improvements made to such real property  
8 during the previous year.

9 (4) The dates on which the State first acquired its  
10 interest in such real property, and the purchase price and  
11 source of the funds used to acquire the property.

12 (5) Plans for the future use of currently unused real  
13 property.

14 (6) A declaration of any surplus real property. On or  
15 before October 31 of each year the Administrator shall furnish  
16 copies of each responsible officer's report along with a list  
17 of surplus property indexed by legislative district to the  
18 General Assembly.

19 This report shall be filed with the Speaker, the Minority  
20 Leader and the Clerk of the House of Representatives and the  
21 President, the Minority Leader and the Secretary of the Senate  
22 and shall be duplicated and made available to the members of  
23 the General Assembly for evaluation by such members for  
24 possible liquidation of unused public property at public sale.

25 (c) Following receipt of the Annual Real Property  
26 Utilization Report required under paragraph (b), the

1 Administrator shall notify all State agencies by October 31 of  
2 all declared surplus real property. ~~Any State agency may submit~~  
3 ~~a written request to the Administrator, within 60 days of the~~  
4 ~~date of such notification, to have control of surplus real~~  
5 ~~property transferred to that agency. Such request must indicate~~  
6 ~~the reason for the transfer and the intended use to be made of~~  
7 ~~such surplus real property. The Administrator may deny any or~~  
8 ~~all such requests by a State agency or agencies if the~~  
9 ~~Administrator determines that it is more advantageous to the~~  
10 ~~State to dispose of the surplus real property under paragraph~~  
11 ~~(d). In case requests for the same surplus real property are~~  
12 ~~received from more than one State agency, the Administrator~~  
13 ~~shall weigh the benefits to the State and determine to which~~  
14 ~~agency, if any, to transfer control of such property. The~~  
15 ~~Administrator shall coordinate the use and disposal of State~~  
16 ~~surplus real property with any State space utilization program.~~

17 (d) Any surplus real property ~~which is not transferred to~~  
18 ~~the control of another State agency under paragraph (c)~~ shall  
19 be disposed of by the Administrator. No appraisal is required  
20 if during his initial survey of surplus real property the  
21 Administrator determines such property has a fair market value  
22 of less than \$5,000. If the value of such property is  
23 determined by the Administrator in his initial survey to be  
24 \$5,000 or more, then the Administrator shall obtain 2 ~~3~~  
25 appraisals of such real property, which shall include any known  
26 liabilities, including, but not limited to, environmental

1 ~~costs one of which shall be performed by an appraiser residing~~  
2 ~~in the county in which said surplus real property is located.~~  
3 The average of these 2 ~~3~~ appraisals, ~~plus the costs of~~  
4 ~~obtaining the appraisals,~~ shall represent the fair market value  
5 of the surplus real property. However, if the 2 appraisals  
6 differ by more than 15%, then the Administrator shall obtain a  
7 third appraisal, and the fair market value shall be the average  
8 of these 3 appraisals.

9 No surplus real property may be conveyed by the  
10 Administrator for less than the fair market value, unless the  
11 Administrator makes a written determination that it is in the  
12 best interests of the State to establish a different value.  
13 That written determination shall be published in the Illinois  
14 Procurement Bulletin. Such written determination, along with  
15 an affidavit setting forth the conditions and circumstances  
16 that make the use of a different value in the best interests of  
17 the State, shall also be filed with the Executive Ethics  
18 Commission. The Executive Ethics Commission shall have at least  
19 30 days to review the written determination. The Executive  
20 Ethics Commission may order an additional 30 days to review the  
21 written determination. The Administrator shall provide the  
22 Executive Ethics Commission with any information requested by  
23 the Executive Ethics Commission related to the Administrator's  
24 determination of the value of the surplus real property. If the  
25 Executive Ethics commission objects in writing to the value  
26 determined by the Administrator, then the Administrator shall

1 not convey the surplus real property for less than either the  
2 fair market value as determined by the average of appraisals or  
3 an amount agreed upon by the Executive Ethics Commission and  
4 the Administrator. Circumstances in which it is in the best  
5 interest of the State to establish a different value may  
6 include, but are not limited to, the following: an auction did  
7 not yield any bids at the established fair market value; a unit  
8 of local government is interested in acquiring the surplus real  
9 property; or the costs to the State of maintaining such surplus  
10 real property are sufficiently high that it would be reasonable  
11 to a prudent person to sell such surplus real property for less  
12 than the fair market value established by the average of  
13 appraisals.

14 Prior to offering the surplus real property for sale to the  
15 public the Administrator shall give notice in writing of the  
16 existence ~~and fair market value~~ of the surplus real property to  
17 each State agency and to the governing bodies of the county and  
18 of all cities, villages and incorporated towns in the county in  
19 which such real property is located. Any such State agency or  
20 governing body may notify the Administrator of its interest in  
21 acquiring ~~exercise its option to acquire~~ the surplus real  
22 property ~~for the fair market value~~ within the notice period set  
23 by the Administrator of at least 14 days ~~60 days of the notice.~~  
24 If any State agency or governing body notifies the  
25 Administrator of its interest in acquiring the property, then  
26 the Administrator shall wait a minimum of 30 additional days

1 during which to engage in negotiations with that State agency  
2 or governing body for the sale of the surplus real property.

3 After the notice period ~~60-day period~~ has passed, the  
4 Administrator may sell the surplus real property by public  
5 auction, which may include an electronic auction or the use of  
6 sealed bids, following notice of such sale by publication on 3  
7 separate days not less than 15 nor more than 30 days prior to  
8 the sale in the State newspaper and in a newspaper having  
9 general circulation in the county in which the surplus real  
10 property is located. The Administrator shall post "For Sale"  
11 signs of a conspicuous nature on such surplus real property  
12 offered for sale to the public. If no acceptable offers for the  
13 surplus real property are received, the Administrator may have  
14 new appraisals of such property made. The Administrator shall  
15 have all power necessary to convey surplus real property under  
16 this Section. All moneys received for the sale of surplus real  
17 property shall be deposited in the General Revenue Fund, except  
18 that:

19 (1) Where moneys expended for the acquisition of such  
20 real property were from a special fund which is still a  
21 special fund in the State treasury, this special fund shall  
22 be reimbursed in the amount of the original expenditure and  
23 any amount in excess thereof shall be deposited in the  
24 General Revenue Fund.

25 (2) Whenever a State mental health facility operated by  
26 the Department of Human Services is closed and the real

1 estate on which the facility is located is sold by the  
2 State, the net proceeds of the sale of the real estate  
3 shall be deposited into the Community Mental Health  
4 Medicaid Trust Fund.

5 (3) Whenever a State developmental disabilities  
6 facility operated by the Department of Human Services is  
7 closed and the real estate on which the facility is located  
8 is sold by the State, the net proceeds of the sale of the  
9 real estate shall be deposited into the Community  
10 Developmental Disability Services Medicaid Trust Fund.

11 The Administrator shall have authority to order such  
12 surveys, abstracts of title, or commitments for title insurance  
13 as may, in his reasonable discretion, be deemed necessary to  
14 demonstrate to prospective purchasers or bidders good and  
15 marketable title in any property offered for sale pursuant to  
16 this Section. Unless otherwise specifically authorized by the  
17 General Assembly, all conveyances of property made by the  
18 Administrator shall be by quit claim deed.

19 (e) The Administrator shall submit an annual report on or  
20 before February 1 to the Governor and the General Assembly  
21 containing a detailed statement of surplus real property either  
22 transferred or conveyed under this Section.

23 (Source: P.A. 96-527, eff. 1-1-10; 96-660, eff. 8-25-09;  
24 96-1000, eff. 7-2-10.)

25 Section 905. The Illinois Income Tax Act is amended by

1 adding Section 229 as follows:

2 (35 ILCS 5/229 new)

3 Sec. 229. Rehabilitation and revitalization credit. For  
4 tax years commencing on or after January 1, 2014, a taxpayer  
5 who qualifies for a credit under the Illinois Rehabilitation  
6 and Revitalization Tax Credit Act is entitled to a credit  
7 against the taxes imposed under subsections (a) and (b) of  
8 Section 201 of this Act. If the taxpayer is a partnership or  
9 Subchapter S corporation, the credit shall be allowed to the  
10 partners or shareholders in accordance with the determination  
11 of income and distributive share of income under Sections 702  
12 and 704 and Subchapter S of the Internal Revenue Code or the  
13 credit shall be allowed to the partners or shareholders  
14 pursuant to an executed agreement among the partners or  
15 shareholders documenting any alternate distribution method.  
16 This Section is exempt from the provisions of Section 250 of  
17 this Act.

18 Section 910. The Illinois Insurance Code is amended by  
19 adding Section 409.2 as follows:

20 (215 ILCS 5/409.2 new)

21 Sec. 409.2. Rehabilitation and revitalization credit. For  
22 taxes payable after January 1, 2014, credits may be granted  
23 against the taxes imposed under Section 409, 413, 444, and



1 444.1 of this Act as provided in the Illinois Rehabilitation  
2 and Revitalization Tax Credit Act.

3 Section 999. Effective date. This Act takes effect upon  
4 becoming law.