

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 5. The Illinois Income Tax Act is amended by
5 changing Section 221 as follows:

6 (35 ILCS 5/221)

7 Sec. 221. Rehabilitation costs; qualified historic
8 properties; River Edge Redevelopment Zone.

9 (a) For taxable years that begin ~~beginning~~ on or after
10 January 1, 2012 and begin ~~ending~~ prior to January 1, 2018
11 ~~January 1, 2022~~, there shall be allowed a tax credit against
12 the tax imposed by subsections (a) and (b) of Section 201 of
13 this Act in an amount equal to 25% of qualified expenditures
14 incurred by a qualified taxpayer during the taxable year in the
15 restoration and preservation of a qualified historic structure
16 located in a River Edge Redevelopment Zone pursuant to a
17 qualified rehabilitation plan, provided that the total amount
18 of such expenditures (i) must equal \$5,000 or more and (ii)
19 must exceed 50% of the purchase price of the property.

20 (a-1) For taxable years that begin on or after January 1,
21 2018 and end prior to January 1, 2022, there shall be allowed a
22 tax credit against the tax imposed by subsections (a) and (b)
23 of Section 201 of this Act in an aggregate amount equal to 25%

1 of qualified expenditures incurred by a qualified taxpayer in
2 the restoration and preservation of a qualified historic
3 structure located in a River Edge Redevelopment Zone pursuant
4 to a qualified rehabilitation plan, provided that the total
5 amount of such expenditures (i) must equal \$5,000 or more and
6 (ii) must exceed the adjusted basis of the qualified historic
7 structure on the first day the qualified rehabilitation plan
8 begins. If the qualified rehabilitation plan spans multiple
9 years, the aggregate credit for the entire project shall be
10 allowed in the last taxable year.

11 (b) To obtain a tax credit pursuant to this Section, the
12 taxpayer must apply with the Department of Natural Resources
13 ~~Commerce and Economic Opportunity~~. The Department of Natural
14 Resources Commerce and Economic Opportunity, in consultation
15 ~~with the Historic Preservation Agency,~~ shall determine the
16 amount of eligible rehabilitation costs and expenses within 30
17 days of receipt of a complete application. For rehabilitation
18 projects with qualified rehabilitation costs and expenses in
19 excess of \$250,000, the taxpayer must provide to the Department
20 of Natural Resources a third-party audit conducted by a
21 professionally qualified, independent auditor verifying (i)
22 the project expenses, (ii) whether they are qualified
23 expenditures, and (iii) that the qualified expenditures exceed
24 the adjusted basis of the qualified historic structure on the
25 first day the qualified rehabilitation plan commenced. The
26 Department of Natural Resources is authorized, but not

1 required, to accept this audit to determine the amount of
2 qualified expenditures. For projects with less than \$500,000 in
3 qualified rehabilitation costs, the taxpayer must submit a
4 certification of costs prepared by a certified public
5 accountant and certify that the qualified expenditures exceed
6 the adjusted basis of the qualified historic structure on the
7 first day the qualified rehabilitation plan commenced. The
8 Department of Natural Resources is authorized, but not
9 required, to accept this certification of costs to determine
10 the amount of qualified expenditures and the amount of the
11 credit. The Department of Natural Resources and the National
12 Park Service ~~Historic Preservation Agency~~ shall determine
13 whether the rehabilitation is consistent with the standards of
14 the Secretary of the United States Department of the Interior
15 for rehabilitation.

16 (b-1) Upon completion and review of the project, the
17 Department of Natural Resources ~~Commerce and Economic~~
18 Opportunity shall issue a single certificate in the amount of
19 the eligible credits equal to 25% of qualified expenditures
20 incurred during the eligible taxable years, as defined in
21 subsections (a) and (a-1). At the time the certificate is
22 issued, an issuance fee up to the maximum amount of 2% of the
23 amount of the credits issued by the certificate may be
24 collected from the applicant to administer the provisions of
25 this Section. If collected, this issuance fee shall be
26 deposited into the Historic Property Administrative Fund, a

1 special fund created in the State treasury. Subject to
2 appropriation, moneys in the Historic Property Administrative
3 Fund shall be provided to the Department of Natural Resources
4 as reimbursement evenly divided between the Department of
5 Commerce and Economic Opportunity and the Historic
6 Preservation Agency to reimburse the Department of Commerce and
7 Economic Opportunity and the Historic Preservation Agency for
8 the costs associated with administering this Section. ~~The~~
9 ~~taxpayer must attach the certificate to the tax return on which~~
10 ~~the credits are to be claimed. The Department of Commerce and~~
11 ~~Economic Opportunity may adopt rules to implement this Section.~~

12 (c) The taxpayer must attach the certificate to the tax
13 return on which the credits are to be claimed. The tax credit
14 under this Section may not reduce the taxpayer's liability to
15 less than zero. If the amount of the credit exceeds the tax
16 liability for the year, the excess credit may be carried
17 forward and applied to the tax liability of the 5 taxable years
18 following the excess credit year.

19 (c-1) If the taxpayer is a partnership, a Subchapter S
20 corporation, or a limited liability company that has elected
21 partnership tax treatment, the credit is allowed to the
22 partners, shareholders, or members in accordance with the
23 determination of income and distributive share of income under
24 the Internal Revenue Code.

25 (c-3) If a recapture event occurs during the recapture
26 period with respect to a qualified historic structure, then for

1 any taxable year in which the credits allowed under subsection
2 (a) or (a-1) have been applied, the tax under the applicable
3 section of this Act shall be increased by applying the
4 recapture percentage set forth below to the tax decrease
5 resulting from the application of credits allowed under
6 subsection (a) or (a-1) to the taxable year in question.

7 For purposes of this subsection, the recapture percentage
8 shall be determined as follows:

9 (1) if the recapture event occurs within the first year
10 after commencement of the recapture period, then the
11 recapture percentage is 100%;

12 (2) if the recapture event occurs within the second
13 year after commencement of the recapture period, then the
14 recapture percentage is 80%;

15 (3) if the recapture event occurs within the third year
16 after commencement of the recapture period, then the
17 recapture percentage is 60%;

18 (4) if the recapture event occurs within the fourth
19 year after commencement of the recapture period, then the
20 recapture percentage is 40%; and

21 (5) if the recapture event occurs within the fifth year
22 after commencement of the recapture period, then the
23 recapture percentage is 20%.

24 In the case of any recapture event, the carryforwards under
25 subsection (c) above shall be adjusted by reason of such event.

26 (c-4) Subject to appropriation and prior to equal

1 disbursement to the Department of Natural Resources, moneys in
2 the Historic Property Administrative Fund shall be used, on a
3 biennial basis beginning at the end of the second fiscal year
4 after the effective date of this amendatory Act of the 100th
5 General Assembly, to hire a qualified third party to prepare a
6 biennial report to assess the overall economic impact to the
7 State from the qualified rehabilitation projects under this Act
8 completed in that year and in previous years. The overall
9 economic impact shall include at least: (i) the direct and
10 indirect or induced economic impacts of completed projects;
11 (ii) temporary, permanent, and construction jobs created;
12 (iii) sales, income, and property tax generation before, during
13 construction, and after completion; and (iv) indirect
14 neighborhood impact after completion.

15 (c-5) The Department of Natural Resources may adopt rules
16 to implement this Section in addition to the rules expressly
17 authorized herein.

18 (d) As used in this Section, the following terms have the
19 following meanings.

20 "Placed in service" means the date the historic structure
21 or the rehabilitated portion thereof is first placed in a
22 condition or state of readiness or occupancy and is operational
23 for its specifically assigned function or use. If the property
24 remains in service during the rehabilitation, the placed in
25 service date will be commensurate with the date of completion
26 of the rehabilitation project as per the qualified

1 rehabilitation plan.

2 "Qualified expenditure" means all the costs and expenses
3 defined as qualified rehabilitation expenditures under Section
4 47 of the federal Internal Revenue Code that were incurred in
5 connection with a qualified historic structure.

6 "Qualified historic structure" means a certified historic
7 structure as defined under Section 47(c)(3) of the federal
8 Internal Revenue Code.

9 "Qualified rehabilitation plan" means a project that is
10 approved by the Department of Natural Resources and the
11 National Park Service ~~Historic Preservation Agency~~ as being
12 consistent with the standards ~~in effect on the effective date~~
13 ~~of this amendatory Act of the 97th General Assembly~~ for
14 rehabilitation as adopted by the federal Secretary of the
15 Interior.

16 "Qualified taxpayer" means the owner of the qualified
17 historic structure or any other person who qualifies for the
18 federal rehabilitation credit allowed by Section 47 of the
19 federal Internal Revenue Code with respect to that qualified
20 historic structure. Partners, shareholders of subchapter S
21 corporations, and owners of limited liability companies (if the
22 limited liability company is treated as a partnership for
23 purposes of federal and State income taxation) are entitled to
24 a credit under this Section to be determined in accordance with
25 the determination of income and distributive share of income
26 under Sections 702 and 703 and subchapter S of the Internal

1 Revenue Code, provided that credits granted to a partnership, a
2 limited liability company taxed as a partnership, or other
3 multiple owners of property shall be passed through to the
4 partners, members, or owners respectively on a pro rata basis
5 or pursuant to an executed agreement among the partners,
6 members, or owners documenting any alternate distribution
7 method.

8 "Recapture event" means any of the following events
9 occurring during the recapture period:

10 (1) failure to place in service the rehabilitated
11 portions of the qualified historic structure, or failure to
12 maintain the rehabilitated portions of the qualified
13 historic structure in service after they are placed in
14 service; provided that a recapture event under this
15 paragraph (1) shall not include a removal from service for
16 a reasonable period of time to conduct maintenance and
17 repairs that are reasonably necessary to protect the health
18 and safety of the public or to protect the structural
19 integrity of the qualified historic structure or a
20 neighboring structure;

21 (2) demolition or other alteration of the qualified
22 historic structure in a manner that is inconsistent with
23 the qualified rehabilitation plan or the Secretary of the
24 Interior's Standards for Rehabilitation;

25 (3) disposition of the rehabilitated qualified
26 historic structure in whole or a proportional disposition

1 of a partnership interest therein, except as otherwise
2 permitted by this Section; or

3 (4) use of the qualified historic structure in a manner
4 that is inconsistent with the qualified rehabilitation
5 plan or that is otherwise inconsistent with the provisions
6 and intent of this Section.

7 A recapture event occurring in one taxable year shall be
8 deemed continuing to subsequent taxable years unless and until
9 corrected.

10 The following dispositions of a qualified historic
11 structure shall not be deemed to be a recapture event for
12 purposes of this Section:

13 (1) a transfer by reason of death;

14 (2) a transfer between spouses incident to divorce;

15 (3) a sale by and leaseback to an entity that, when the
16 rehabilitated portions of the qualified historic structure
17 are placed in service, will be a lessee of the qualified
18 historic structure, but only for so long as the entity
19 continues to be a lessee; and

20 (4) a mere change in the form of conducting the trade
21 or business by the owner (or, if applicable, the lessee) of
22 the qualified historic structure, so long as the property
23 interest in such qualified historic structure is retained
24 in such trade or business and the owner or lessee retains a
25 substantial interest in such trade or business.

26 "Recapture period" means the 5-year period beginning on the

1 date that the qualified historic structure or rehabilitated
2 portions thereof are placed in service.

3 (Source: P.A. 99-914, eff. 12-20-16; 100-236, eff. 8-18-17.)