



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4761

Introduced 2/18/2020, by Rep. Ryan Spain

SYNOPSIS AS INTRODUCED:

35 ILCS 5/232 new

Amends the Illinois Income Tax Act. Creates an income tax credit in an amount equal to 10% of the portion of the taxpayer's investment in an opportunity fund that the fund invested during the preceding calendar year in projects located in Illinois opportunity zones. Contains provisions concerning application to the Department of Commerce and Economic Opportunity.

LRB101 18483 HLH 67934 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 5. The Illinois Income Tax Act is amended by adding
5 Section 232 as follows:

6 (35 ILCS 5/232 new)

7 Sec. 232. Opportunity Zone investment credit.

8 (a) The definitions found in Section 1400Z-2 of the federal
9 Internal Revenue Code are expressly incorporated into this
10 Section, except to the extent that terms are otherwise defined
11 in this subsection (a), and except that "all" shall be
12 substituted for "substantially all" wherever "substantially
13 all" appears in Section 1400Z-2 of the federal Internal Revenue
14 Code.

15 As used in this Section:

16 "Illinois qualified opportunity fund" means a qualified
17 opportunity fund that holds 100% of its invested assets in
18 qualified opportunity zone property situated in an Illinois
19 opportunity zone. In the case of qualified opportunity zone
20 stock or qualified opportunity zone partnership interest, the
21 stock or interest is considered to be situated in an Illinois
22 opportunity zone only if, during all of the qualified
23 opportunity fund's holding period for such stock or interest,

1 all of the use of the corporation's or partnership's tangible
2 property was in an Illinois opportunity zone. In the case of
3 qualified opportunity zone business property, the property is
4 considered to be situated in an Illinois opportunity zone only
5 if, during all of the fund's holding period for such property,
6 all of the use of the property was in an Illinois opportunity
7 zone.

8 "Illinois opportunity zone" means a qualified opportunity
9 zone designated in this State under Section 1400Z-1 of the
10 federal Internal Revenue Code before, on, or after the
11 effective date of this amendatory Act of the 101st General
12 Assembly.

13 "Taxpayer" means any person subject to the tax imposed by
14 subsections (a) and (b) of Section 201 of this Act.

15 "Qualifying taxable year" means a taxpayer's taxable year
16 that includes the first day of a calendar year during which an
17 Illinois qualified opportunity fund in which the taxpayer
18 invests makes an investment in a project located in an Illinois
19 opportunity zone.

20 (b) For taxable years ending on or after December 31, 2020,
21 each taxpayer is entitled to a credit against the tax imposed
22 by subsections (a) and (b) of Section 201 of this Act in an
23 amount equal to 10% of the portion of the taxpayer's investment
24 in an opportunity fund that the fund invested during the
25 preceding calendar year in projects located in Illinois
26 opportunity zones. For partners, shareholders of Subchapter S

1 corporations, and owners of limited liability companies, if the
2 liability company is treated as a partnership for purposes of
3 federal and State income taxation, there shall be allowed a
4 credit under this Section to be determined in accordance with
5 the determination of income and distributive share of income
6 under Sections 702 and 704 and Subchapter S of the federal
7 Internal Revenue Code.

8 (c) A taxpayer that invests in one or more Illinois
9 qualified opportunity funds shall apply to the Department of
10 Commerce and Economic Opportunity for certification. The
11 application shall be made on forms prescribed by the Department
12 of Commerce and Economic Opportunity on or after the first day
13 of January and on or before the first day of February of each
14 year.

15 (d) The taxpayer shall include the following information
16 with the taxpayer's application:

17 (1) the amount of the taxpayer's investment in Illinois
18 qualified opportunity funds during the taxpayer's
19 qualifying taxable year, arranged according to the amount
20 invested in each such fund if the taxpayer invested in more
21 than one such fund; and

22 (2) a statement from an employee or officer of each
23 Illinois qualified opportunity fund identified by the
24 taxpayer under item (1) certifying the amount of the
25 taxpayer's investment in the fund and the portion of the
26 taxpayer's investment that the fund invested in projects

1 located in Illinois opportunity zones during the preceding
2 calendar year. The statement shall describe each project
3 funded by the investment and state each project's location
4 and the portion of the taxpayer's investment invested in
5 each such project. Unless the fund demonstrates otherwise
6 to the Department of Commerce and Economic Opportunity's
7 satisfaction, the portion of a taxpayer's investment that
8 the fund invested in a project located in an Illinois
9 opportunity zone equals the same proportion of the amount
10 of the fund's investment in the project as the taxpayer's
11 investment in the fund bears to the total investment by all
12 investors in that fund on the date the fund makes the
13 investment in the project. The Department of Commerce and
14 Economic Opportunity shall review applications in the
15 order in which applications are received.

16 (e) Subject to subsection (f), if the Department of
17 Commerce and Economic Opportunity determines that the
18 applicant qualifies for a credit under this Section, the
19 Department of Commerce and Economic Opportunity shall issue,
20 within 60 days after the receipt of a complete application, a
21 tax credit certificate to the taxpayer identified with a unique
22 number and listing the amount of credit the Department of
23 Commerce and Economic Opportunity determines the taxpayer is
24 eligible to claim.

25 (f) The Department of Commerce and Economic Opportunity
26 shall not issue certificates in a total amount that would cause

1 the tax credits claimed in any fiscal biennium to exceed
2 \$50,000,000. The Department shall not issue certificates to a
3 single applicant in an amount that would cause the tax credits
4 claimed in any fiscal biennium by that applicant to exceed
5 \$1,000,000.

6 (g) In no event shall a credit under this subsection reduce
7 a taxpayer's liability to less than zero. If the amount of the
8 credit exceeds the tax liability for the year, the excess may
9 be carried forward and applied to the tax liability for the 5
10 taxable years following the excess credit year. The tax credit
11 shall be applied to the earliest year for which there is a tax
12 liability. If there are credits for more than one year that are
13 available to offset liability, the earlier credit shall be
14 applied first.

15 (h) A taxpayer claiming a credit under this Section shall
16 submit a copy of the certificate with the taxpayer's return to
17 the Department.

18 (i) On or before the first day of August each year, the
19 Department of Commerce and Economic Opportunity shall submit a
20 report to the Governor and the General Assembly on the tax
21 credit program authorized under this Section. The report shall
22 include the following information:

23 (1) the number of projects funded by investments for
24 which a tax credit application was submitted under this
25 Section during the preceding year;

26 (2) the Illinois opportunity zone in which each such

1 project is located;

2 (3) the number of projects funded by investments for
3 which certificates were allocated during the preceding
4 year;

5 (4) a description of each such project;

6 (5) the composition of an Illinois qualified
7 opportunity fund's investments in each project funded by
8 investments for which a tax credit application was
9 submitted under this Section;

10 (6) the number of taxpayers that invested in an
11 Illinois qualified opportunity fund and applied for a tax
12 credit based on the fund's investment in a project during
13 the preceding year;

14 (7) the name of the fund in which each such investment
15 was made;

16 (8) the number of taxpayers allocated a credit for such
17 investments under this Section and the dollar amount of
18 those credits; and

19 (9) a map that shows the location of each Illinois
20 opportunity zone and that indicates which zones include
21 existing or pending projects that are, or will be, funded
22 by tax credit-eligible investments.

23 (j) This Section is exempt from the provisions of Section
24 250.