

HB1077



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1077

Introduced 1/12/2023, by Rep. Mark L. Walker

SYNOPSIS AS INTRODUCED:

35 ILCS 10/5-45

Amends the Economic Development for a Growing Economy Tax Credit Act. Provides that the recipient of a credit under the Act may apply for a certificate of transferability of credit from the Department of Commerce and Economic Opportunity for the amount of the credit not previously claimed. Provides that the transferability certificate may be transferred or sold by the recipient to another Illinois taxpayer. Makes other changes.

LRB103 05275 SPS 50293 b

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 Economic Development for a Growing Economy
5 Tax Credit Act is amended by changing Section 5-45 as follows:

6 (35 ILCS 10/5-45)

7 Sec. 5-45. Amount and duration of the credit.

8 (a) The Department shall determine the amount and duration
9 of the credit awarded under this Act. The duration of the
10 credit may not exceed 10 taxable years. The credit may be
11 stated as a percentage of the Incremental Income Tax
12 attributable to the applicant's project and may include a
13 fixed dollar limitation.

14 (b) Notwithstanding subsection (a), and except as the
15 credit may be applied in a carryover year pursuant to Section
16 211(4) of the Illinois Income Tax Act, the credit may be
17 applied against the State income tax liability in more than 10
18 taxable years but not in more than 15 taxable years for an
19 eligible business that (i) qualifies under this Act and the
20 Corporate Headquarters Relocation Act and has in fact
21 undertaken a qualifying project within the time frame
22 specified by the Department of Commerce and Economic
23 Opportunity under that Act, and (ii) applies against its State

1 income tax liability, during the entire 15-year period, no
2 more than 60% of the maximum credit per year that would
3 otherwise be available under this Act.

4 (b-5) Notwithstanding subsection (a) or (b), a recipient
5 of a credit may request a certificate of transferability of
6 credit from the Department for the amount of credit not
7 previously claimed. A transferability certificate so issued
8 may be transferred or sold by the recipient to another
9 Illinois taxpayer. Transferors and sellers shall submit to the
10 Department of Revenue a notification of any transfer or sale
11 of tax credits within 30 days after the transfer or sale of
12 those tax credits. The notification, which shall be in the
13 form prescribed by the Department, shall include the
14 transferor's tax credit balance prior to transfer, the credit
15 certificate number, the identifying number of the EDGE
16 agreement, the transferor's remaining tax credit balance after
17 transfer, all tax identification numbers for both transferor
18 and transferee, the date of transfer, the amount transferred,
19 a copy of the credit certificate, and any other information
20 required by the Department of Revenue. The transfer or sale of
21 the credit does not extend the time in which the credit can be
22 used. The carry forward period for a credit that is
23 transferred or sold begins on the date on which the credit was
24 originally granted by the Department. To the extent the
25 transferor did not have rights to claim or use the credit at
26 the time of the transfer or sale, the Department of Revenue

1 shall either disallow the credit claimed by the transferee or
2 recapture the credit from the transferee through any
3 collection method authorized by statute. In such case, the
4 transferee's recourse is against the transferor.

5 (c) Nothing in this Section shall prevent the Department,
6 in consultation with the Department of Revenue, from adopting
7 rules to extend the sunset of any earned, existing, and unused
8 tax credit or credits a taxpayer may be in possession of, as
9 provided for in Section 605-1070 of the Department of Commerce
10 and Economic Opportunity Law of the Civil Administrative Code
11 of Illinois, notwithstanding the carry-forward provisions
12 pursuant to paragraph (4) of Section 211 of the Illinois
13 Income Tax Act.

14 (Source: P.A. 102-16, eff. 6-17-21; 102-813, eff. 5-13-22.)