

SB1737



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1737

Introduced 2/9/2023, by Sen. Mattie Hunter

SYNOPSIS AS INTRODUCED:

New Act

35 ILCS 5/234 new

215 ILCS 5/409

215 ILCS 5/444

from Ch. 73, par. 1021

from Ch. 73, par. 1056

Creates the Build Illinois Homes Tax Credit Act. Provides that owners of qualified low-income housing developments are eligible for credits against the taxes imposed by the Illinois Income Tax Act or taxes, penalties, fees, charges, and payments imposed by the Illinois Insurance Code. Amends the Illinois Income Tax Act and the Illinois Insurance Code to make conforming changes. Effective immediately.

LRB103 24914 HLH 51248 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 1. Short title. This Act may be cited as the Build
5 Illinois Homes Tax Credit Act.

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

8 "Allocation" means an award of tax credits to the owner of
9 a qualified development in any allocation round, to be claimed
10 ratably annually over the credit period.

11 "Allocation round" means all allocations by the Authority
12 of credits under this Act to qualified developments in any
13 calendar year.

14 "Allocation schedule certification" means the
15 certification issued by the owner of a qualified development
16 or its designee pursuant to subsection (d) of Section 10 of
17 this Act.

18 "Authority" means:

19 (1) the Illinois Housing Development Authority; or

20 (2) the City of Chicago Department of Housing.

21 "Credit" means the credit allowed pursuant to this Act.

22 "Credit period" means the period of 10 taxable years
23 beginning with the taxable year in which a qualified

1 development is placed in service. No credit period may include
2 a taxable year beginning prior to January 1, 2024. If a
3 qualified development consists of more than one building, the
4 qualified development is deemed to be placed in service in the
5 taxable year during which the last building of the qualified
6 development is placed in service.

7 "Department" means the Department of Revenue.

8 "Federal tax credit" means the federal low-income housing
9 tax credit provided by Section 42 of the federal Internal
10 Revenue Code, including federal low-income housing tax credits
11 issued pursuant to 26 U.S.C. 42(h) (3) and 26 U.S.C. 42(h) (4).

12 "Qualified allocation plan" means the qualified allocation
13 plan adopted by the Authority pursuant to Section 42(m) of the
14 federal Internal Revenue Code of 1986.

15 "Qualified basis" means the qualified basis of the
16 qualified development as determined pursuant to Section 42 of
17 the federal Internal Revenue Code of 1986.

18 "Qualified development" means a qualified low-income
19 housing project, as that term is defined in Section 42 of the
20 federal Internal Revenue Code of 1986, that is located in the
21 State and is determined to be eligible for the federal tax
22 credit set forth in Section 42 of the Internal Revenue Code.

23 "Qualified taxpayer" means an individual, person, firm,
24 corporation, or other entity that owns an interest, direct or
25 indirect, in a qualified development and is subject to any or
26 all of the following: (i) the taxes imposed by the Illinois

1 Income Tax Act; or (ii) any privilege tax or retaliatory tax,
2 penalty, fee, charge or payment imposed by the Illinois
3 Insurance Code.

4 "State credit eligibility statement" means a statement
5 issued by the Authority under Section 7.

6 "State tax return" means the income tax return filed with
7 the Department or the privilege and retaliatory tax return
8 filed with the Department of Insurance, as applicable.

9 Section 7. State credit eligibility statements. A State
10 credit eligibility statement shall be issued by the Authority
11 with respect to each building within the qualified development
12 following construction or rehabilitation of the qualified
13 development certifying that each such building within that
14 qualified development qualifies for the credit and specifying:

15 (1) the calendar year in which the last building of
16 the qualified development was placed in service;

17 (2) the amount of the credit allowed for each year of
18 the credit period;

19 (3) the maximum qualified basis of the qualified
20 development taken into account in determining such annual
21 credit amount; and

22 (4) a unique identification number for each State
23 credit eligibility statement issued.

24 The State credit eligibility statement shall be issued by
25 the Authority simultaneously with IRS Form 8609 if the

1 qualified development was also allocated federal tax credits.

2 The State credit eligibility statement shall include a
3 Section to be completed by the owner of the qualified
4 development annually for each year of the credit period
5 certifying that the qualified development was in conformance
6 with all compliance requirements. That certification shall be
7 filed with the project owner's State tax return annually of
8 each year of the credit period.

9 Section 10. Credit for low-income housing developments.

10 (a) The Authority shall include the credit in its annual
11 qualified allocation plan each year until expiration of this
12 Act. Each allocation round shall be simultaneous with
13 allocations of federal tax credits.

14 (b) For taxable years beginning on or after January 1,
15 2024, the Authority may allocate a credit to the owner of a
16 qualified development in any allocation round in an amount
17 determined by the Authority, subject to the following
18 guidelines:

19 (1) the Authority must find that the credit is
20 necessary for the financial feasibility of the qualified
21 development;

22 (2) the aggregate sum of credits allocated to
23 qualified developments in any allocation round shall not
24 exceed \$35,000,000, plus the amount of unallocated
25 credits, if any, from the preceding allocation round, plus

1 the amount of any credit recaptured or otherwise returned
2 to the Authority since the previous allocation round;

3 (3) of the \$35,000,000 annual allocation: (i) 75.5% of
4 the available credits in each allocation round shall be
5 allocated by the Illinois Housing Development Authority,
6 plus any credits the Illinois Housing Development
7 Authority did not allocate from the previous allocation
8 round, plus the amount of any credits recaptured or
9 otherwise returned to the Illinois Housing Development
10 Authority since the previous allocation round; and (ii)
11 24.5% of the available credits in each allocation round
12 shall be allocated by the City of Chicago Department of
13 Housing, plus any credits the City of Chicago Department
14 of Housing did not allocate from the previous allocation
15 round, plus the amount of any credits recaptured or
16 otherwise returned to the City of Chicago Department of
17 Housing since the previous allocation round; and

18 (4) unless otherwise provided in this Act, or unless
19 the context clearly requires otherwise, the Authority must
20 determine eligibility for credits and allocate credits in
21 accordance with the standards and requirements set forth
22 in Section 42 of the federal Internal Revenue Code of
23 1986.

24 (c) For tax years during the credit period, any qualified
25 taxpayer is allowed a credit as provided in this Act against
26 any or all of the following: (i) the taxes imposed by

1 subsections (a) and (b) of Section 201 of the Illinois Income
2 Tax Act; or (ii) any privilege tax or retaliatory tax,
3 penalty, fee, charge, or payment imposed under the Illinois
4 Insurance Code.

5 (d) If a taxpayer receiving an allocation of a credit is
6 (i) a corporation that has an election in effect under
7 Subchapter S of the federal Internal Revenue Code, (ii) a
8 partnership, or (iii) a limited liability company, that is
9 taxed as a partnership, the credit provided under this Act may
10 be claimed by the shareholders of the corporation, the
11 partners of the partnership, or the members of the limited
12 liability company (as those terms are defined under applicable
13 State law) in the same manner as those shareholders, partners,
14 or members account for their proportionate shares of the
15 income or losses of the corporation, partnership, or limited
16 liability company, or as provided in the bylaws or other
17 executed agreement of the corporation, partnership, or limited
18 liability company. Credits granted to a 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
22 pursuant to an executed agreement among the partners, members,
23 or owners documenting any alternative distribution method. A
24 qualified taxpayer may claim a credit so long as its direct or
25 indirect interest in the qualified development is acquired
26 prior to the filing of its tax return claiming the credit. On

1 or before February 28th following each year of the credit
2 period, the owner must submit an allocation schedule
3 certification in an electronic format prescribed by the
4 Department and the Department of Insurance to the Department
5 and the Department of Insurance detailing the amount of credit
6 allocated to each qualified taxpayer for the applicable year
7 and whether each qualified taxpayer intends to apply the
8 credit to income tax or insurance premium tax, or the owner
9 must notify the Department and the Department of Insurance
10 that it has assigned the duty of the allocation schedule
11 certification to its designee who must provide such allocation
12 schedule certification to the Department and the Department of
13 Insurance by the deadline. Such allocation schedule
14 certification may be amended in the event the State credit
15 eligibility statement for a project is received after the
16 deadline for filing the allocation schedule certification. Any
17 such amendment shall be filed prior to any taxpayer attempting
18 to claim tax credits associated with the applicable State
19 credit eligibility statement. Each qualified taxpayer is
20 allowed to claim its allocated amount of credit subject to any
21 restrictions set forth in this Section.

22 (e) No credit may be allocated pursuant to this Act unless
23 the qualified development is the subject of a recorded
24 restrictive covenant requiring the development to be
25 maintained and operated as a qualified development; this
26 requirement for a recorded restrictive covenant may be

1 satisfied by the agreement for an extended low-income housing
2 commitment required for the federal tax credits as defined in
3 Section 42(h)(6)(B) of the federal Internal Revenue Code of
4 1986.

5 (f) If, during a taxable year, there is a determination
6 that no recorded restrictive covenant meeting the requirements
7 of subsection (e) was in effect as of the beginning of that
8 year, such determination shall not apply to any period before
9 that year and subsection (e) shall be applied without regard
10 to that determination if the failure is corrected within one
11 year from the date of the determination.

12 (g) In any year of the credit period, a qualified taxpayer
13 may claim the credit against the taxes imposed by the Illinois
14 Income Tax Act or the taxes, penalties, fees, charges, and
15 payments imposed by the Illinois Insurance Code. Any credit
16 amount that exceeds the tax due for a taxable year may be
17 carried forward as a credit against payments due for up to 5
18 taxable years following the taxable year in which the credit
19 is first claimed to which the credit relates. Credits that are
20 carried forward must be applied first to the earliest
21 reporting period possible. Credits that are initially claimed
22 against taxes imposed by the Illinois Income Tax Act may be
23 carried forward only against the taxpayer's future Illinois
24 Income Tax liability. Credits that are initially claimed
25 against taxes, penalties, fees, charges, and payments imposed
26 by the Illinois Insurance Code may be carried forward only

1 against taxes, penalties, fees, charges, and payments imposed
2 by the Illinois Insurance Code. Credits that are not claimed
3 or carried forward may not be refunded to the taxpayer.

4 (h) By February 28, 2025 and by February 28 of each year
5 thereafter, the Authority shall provide to the Department and
6 the Department of Insurance an electronic file containing all
7 data related to all State credit eligibility statements issued
8 during the preceding year in the manner and form as provided by
9 the Department.

10 Section 15. Recapture. If, under Section 42 of the
11 Internal Revenue Code of 1986, a portion of any federal tax
12 credit claimed with respect to a qualified development is
13 required to be recaptured during the first 10 years after a
14 project is placed in service, then the Authority shall provide
15 written notice, upon a form created by the Authority, to the
16 owner of the qualified development, the Department and the
17 Department of Insurance of the amount to be recaptured and the
18 event triggering recapture. The Authority shall provide such
19 notice to the Department and Department of Insurance no
20 earlier than 6 months after the event triggering recapture to
21 allow the owner of the qualified development an opportunity to
22 correct this event. The amount of credit subject to recapture
23 shall be proportionately equal to the amount of the qualified
24 development's federal tax credits which are subject to
25 recapture. The Authority shall notify the qualified taxpayer

1 that claimed the credit of the amount recaptured, and the
2 qualified taxpayer subject to recapture shall increase the
3 qualified taxpayer's tax by the amount of any credit
4 wrongfully claimed in the tax year the qualified taxpayer is
5 notified of the recapture. If multiple taxpayers claimed
6 credit with respect to the building for which credit is to be
7 recaptured, each of those taxpayers shall be liable for a
8 portion of the recapture equal to the percentages of credit
9 with respect to the building originally claimed by the
10 taxpayer.

11 Section 20. Filing requirements. An owner of a qualified
12 development that has received an allocation and each qualified
13 taxpayer claiming any portion of the credit must file with
14 their State tax returns a copy of the State credit eligibility
15 statement issued by the Authority for that qualified
16 development. A qualified taxpayer receiving an allocation of
17 credit through a pass-through entity shall attach to its State
18 tax return a copy of the Schedule K-1-P or other written
19 statement from the pass-through entity stating the portion of
20 the annual credit shown on the State credit eligibility
21 statement that is allocated to that partner, member or
22 shareholder for that taxable year. In addition, the owner of a
23 qualified development or its designee shall file a copy of the
24 allocation schedule certification prior to any tax return
25 being filed claiming a State credit for such qualified

1 development.

2 Section 25. Rules. The Illinois Housing Development
3 Authority, the Department, and the Department of Insurance, in
4 consultation with each other, shall adopt such rules as are
5 necessary to carry out their respective responsibilities under
6 this Act.

7 Section 30. Compliance monitoring. The Authority, in
8 consultation with the Department, shall monitor and oversee
9 compliance with the provisions of this Act and shall report
10 specific occurrences of noncompliance to the Department and
11 the Department of Insurance.

12 Section 35. Report to the General Assembly.

13 (a) The Illinois Housing Development Authority and the
14 Chicago Department of Housing must, by February 28 of each
15 year following the annual allocation, provide a written report
16 to the General Assembly and must publish that report on their
17 websites.

18 (b) The report shall:

19 (1) set forth the number of qualified developments
20 that have been allocated tax credits under this Act during
21 the allocation year and the total number of units
22 supported by each qualified development;

23 (2) describe each qualified development that has been

1 allocated tax credits under this Act including, without
2 limitation, the geographic location of the qualified
3 development, the household type and any specific
4 demographic information available about residents intended
5 to be served by the qualified development, the income
6 levels intended to be served by the qualified development,
7 and the rents or set-asides authorized for each qualified
8 development;

9 (3) provide housing market and demographic information
10 that demonstrates how the qualified developments supported
11 by the tax credits are addressing the need for affordable
12 housing within the communities they are intended to serve
13 as well as information about any remaining disparities in
14 the affordability of housing within those communities; and

15 (4) provide information on the percentage of qualified
16 developments allocated credits that received incentive
17 scoring points in the qualified allocation plan as a
18 result of the general contractor, property manager,
19 architect, or sponsor being certified under the Business
20 Enterprise Program for Minorities, Females, and Persons
21 with a Disability.

22 Section 40. Exempt from automatic sunset. The credit under
23 this Act is exempt from the provisions of Section 250 of the
24 Illinois Income Tax Act.

1 Section 60. The Illinois Income Tax Act is amended by
2 adding Section 234 as follows:

3 (35 ILCS 5/234 new)

4 Sec. 234. Build Illinois Homes Tax Credit Act.

5 (a) For taxable years beginning on or after January 1,
6 2024, any eligible taxpayer with respect to a credit awarded
7 in accordance with the Build Illinois Homes Tax Credit Act
8 that is named on the allocation schedule certification for a
9 particular tax year is entitled to a credit against the taxes
10 imposed by subsections (a) and (b) of Section 201 as provided
11 in the Build Illinois Homes Tax Credit Act.

12 (b) The taxpayer shall attach a copy of the allocation
13 schedule certification and the State credit eligibility
14 certificate issued under the Build Illinois Homes Tax Credit
15 Act to the tax return on which the credits are to be claimed.

16 (c) If, during any taxable year, a taxpayer is notified of
17 a recapture of a credit previously claimed on a State income
18 tax return in accordance with the Build Illinois Homes Tax
19 Credit Act, the tax imposed under subsections (a) and (b) of
20 Section 201 for that taxpayer for that taxable year shall be
21 increased. The amount of the increase shall be determined by
22 (i) recomputing the Build Illinois Homes Tax Credit that would
23 have been allowed for the year in which the credit was
24 originally allowed by eliminating the recaptured amount from
25 such computation, and (ii) subtracting that recomputed credit

1 from the amount of credit previously allowed. No Build
2 Illinois Homes tax Credit shall be allowed with respect to any
3 credit subject to a recapture notice for any taxable year
4 ending after the issuance of a recapture notice.

5 (d) This Section is exempt from the provisions of Section
6 250.

7 Section 65. The Illinois Insurance Code is amended by
8 changing Sections 409 and 444 as follows:

9 (215 ILCS 5/409) (from Ch. 73, par. 1021)

10 Sec. 409. Annual privilege tax payable by companies.

11 (1) As of January 1, 1999 for all health maintenance
12 organization premiums written; as of July 1, 1998 for all
13 premiums written as accident and health business, voluntary
14 health service plan business, dental service plan business, or
15 limited health service organization business; and as of
16 January 1, 1998 for all other types of insurance premiums
17 written, every company doing any form of insurance business in
18 this State, including, but not limited to, every risk
19 retention group, and excluding all fraternal benefit
20 societies, all farm mutual companies, all religious charitable
21 risk pooling trusts, and excluding all statutory residual
22 market and special purpose entities in which companies are
23 statutorily required to participate, whether incorporated or
24 otherwise, shall pay, for the privilege of doing business in

1 this State, to the Director for the State treasury a State tax
2 equal to 0.5% of the net taxable premium written, together
3 with any amounts due under Section 444 of this Code, except
4 that the tax to be paid on any premium derived from any
5 accident and health insurance or on any insurance business
6 written by any company operating as a health maintenance
7 organization, voluntary health service plan, dental service
8 plan, or limited health service organization shall be equal to
9 0.4% of such net taxable premium written, together with any
10 amounts due under Section 444. Upon the failure of any company
11 to pay any such tax due, the Director may, by order, revoke or
12 suspend the company's certificate of authority after giving 20
13 days written notice to the company, or commence proceedings
14 for the suspension of business in this State under the
15 procedures set forth by Section 401.1 of this Code. The gross
16 taxable premium written shall be the gross amount of premiums
17 received on direct business during the calendar year on
18 contracts covering risks in this State, except premiums on
19 annuities, premiums on which State premium taxes are
20 prohibited by federal law, premiums paid by the State for
21 health care coverage for Medicaid eligible insureds as
22 described in Section 5-2 of the Illinois Public Aid Code,
23 premiums paid for health care services included as an element
24 of tuition charges at any university or college owned and
25 operated by the State of Illinois, premiums on group insurance
26 contracts under the State Employees Group Insurance Act of

1 1971, and except premiums for deferred compensation plans for
2 employees of the State, units of local government, or school
3 districts. The net taxable premium shall be the gross taxable
4 premium written reduced only by the following:

5 (a) the amount of premiums returned thereon which
6 shall be limited to premiums returned during the same
7 preceding calendar year and shall not include the return
8 of cash surrender values or death benefits on life
9 policies including annuities;

10 (b) dividends on such direct business that have been
11 paid in cash, applied in reduction of premiums or left to
12 accumulate to the credit of policyholders or annuitants.
13 In the case of life insurance, no deduction shall be made
14 for the payment of deferred dividends paid in cash to
15 policyholders on maturing policies; dividends left to
16 accumulate to the credit of policyholders or annuitants
17 shall be included as gross taxable premium written when
18 such dividend accumulations are applied to purchase
19 paid-up insurance or to shorten the endowment or premium
20 paying period.

21 (2) The annual privilege tax payment due from a company
22 under subsection (4) of this Section may be reduced by: (a) the
23 excess amount, if any, by which the aggregate income taxes
24 paid by the company, on a cash basis, for the preceding
25 calendar year under Sections 601 and 803 of the Illinois
26 Income Tax Act exceed 1.5% of the company's net taxable

1 premium written for that prior calendar year, as determined
2 under subsection (1) of this Section; and (b) the amount of any
3 fire department taxes paid by the company during the preceding
4 calendar year under Section 11-10-1 of the Illinois Municipal
5 Code. Any deductible amount or offset allowed under items (a)
6 and (b) of this subsection for any calendar year will not be
7 allowed as a deduction or offset against the company's
8 privilege tax liability for any other taxing period or
9 calendar year.

10 (3) If a company survives or was formed by a merger,
11 consolidation, reorganization, or reincorporation, the
12 premiums received and amounts returned or paid by all
13 companies party to the merger, consolidation, reorganization,
14 or reincorporation shall, for purposes of determining the
15 amount of the tax imposed by this Section, be regarded as
16 received, returned, or paid by the surviving or new company.

17 (4)(a) All companies subject to the provisions of this
18 Section shall make an annual return for the preceding calendar
19 year on or before March 15 setting forth such information on
20 such forms as the Director may reasonably require. Payments of
21 quarterly installments of the taxpayer's total estimated tax
22 for the current calendar year shall be due on or before April
23 15, June 15, September 15, and December 15 of such year, except
24 that all companies transacting insurance in this State whose
25 annual tax for the immediately preceding calendar year was
26 less than \$5,000 shall make only an annual return. Failure of a

1 company to make the annual payment, or to make the quarterly
2 payments, if required, of at least 25% of either (i) the total
3 tax paid during the previous calendar year or (ii) 80% of the
4 actual tax for the current calendar year shall subject it to
5 the penalty provisions set forth in Section 412 of this Code.

6 (b) Notwithstanding the foregoing provisions, no annual
7 return shall be required or made on March 15, 1998, under this
8 subsection. For the calendar year 1998:

9 (i) each health maintenance organization shall have no
10 estimated tax installments;

11 (ii) all companies subject to the tax as of July 1,
12 1998 as set forth in subsection (1) shall have estimated
13 tax installments due on September 15 and December 15 of
14 1998 which installments shall each amount to no less than
15 one-half of 80% of the actual tax on its net taxable
16 premium written during the period July 1, 1998, through
17 December 31, 1998; and

18 (iii) all other companies shall have estimated tax
19 installments due on June 15, September 15, and December 15
20 of 1998 which installments shall each amount to no less
21 than one-third of 80% of the actual tax on its net taxable
22 premium written during the calendar year 1998.

23 In the year 1999 and thereafter all companies shall make
24 annual and quarterly installments of their estimated tax as
25 provided by paragraph (a) of this subsection.

26 (5) In addition to the authority specifically granted

1 under Article XXV of this Code, the Director shall have such
2 authority to adopt rules and establish forms as may be
3 reasonably necessary for purposes of determining the
4 allocation of Illinois corporate income taxes paid under
5 subsections (a) through (d) of Section 201 of the Illinois
6 Income Tax Act amongst members of a business group that files
7 an Illinois corporate income tax return on a unitary basis,
8 for purposes of regulating the amendment of tax returns, for
9 purposes of defining terms, and for purposes of enforcing the
10 provisions of Article XXV of this Code. The Director shall
11 also have authority to defer, waive, or abate the tax imposed
12 by this Section if in his opinion the company's solvency and
13 ability to meet its insured obligations would be immediately
14 threatened by payment of the tax due.

15 (6) This Section is subject to the provisions of Section
16 10 of the New Markets Development Program Act.

17 (7) This Section is subject to the provisions of the Build
18 Illinois Homes Tax Credit Act. For taxable years beginning on
19 or after January 1, 2024, qualified taxpayers are entitled to
20 claim credits against the taxes imposed by this Section as
21 provided in the Build Illinois Homes Tax Credit Act. Companies
22 claiming a credit under the Build Illinois Homes Tax Credit
23 Act are not required to pay any additional tax as a result of
24 claiming the credit. The credit may fully offset any amounts
25 imposed under this Section.

26 (Source: P.A. 97-813, eff. 7-13-12; 98-1169, eff. 1-9-15.)

1 (215 ILCS 5/444) (from Ch. 73, par. 1056)

2 Sec. 444. Retaliation.

3 (1) Whenever the existing or future laws of any other
4 state or country shall require of companies incorporated or
5 organized under the laws of this State as a condition
6 precedent to their doing business in such other state or
7 country, compliance with laws, rules, regulations, and
8 prohibitions more onerous or burdensome than the rules and
9 regulations imposed by this State on foreign or alien
10 companies, or shall require any deposit of securities or other
11 obligations in such state or country, for the protection of
12 policyholders or otherwise or require of such companies or
13 agents thereof or brokers the payment of penalties, fees,
14 charges, or taxes greater than the penalties, fees, charges,
15 or taxes required in the aggregate for like purposes by this
16 Code or any other law of this State, of foreign or alien
17 companies, agents thereof or brokers, then such laws, rules,
18 regulations, and prohibitions of said other state or country
19 shall apply to companies incorporated or organized under the
20 laws of such state or country doing business in this State, and
21 all such companies, agents thereof, or brokers doing business
22 in this State, shall be required to make deposits, pay
23 penalties, fees, charges, and taxes, in amounts equal to those
24 required in the aggregate for like purposes of Illinois
25 companies doing business in such state or country, agents

1 thereof or brokers. Whenever any other state or country shall
2 refuse to permit any insurance company incorporated or
3 organized under the laws of this State to transact business
4 according to its usual plan in such other state or country, the
5 director may, if satisfied that such company of this State is
6 solvent, properly managed, and can operate legally under the
7 laws of such other state or country, forthwith suspend or
8 cancel the license of every insurance company doing business
9 in this State which is incorporated or organized under the
10 laws of such other state or country to the extent that it
11 insures in this State against any of the risks or hazards which
12 are sought to be insured against by the company of this State
13 in such other state or country.

14 (2) The provisions of this Section shall not apply to
15 residual market or special purpose assessments or guaranty
16 fund or guaranty association assessments, both under the laws
17 of this State and under the laws of any other state or country,
18 and any tax offset or credit for any such assessment shall, for
19 purposes of this Section, be treated as a tax paid both under
20 the laws of this State and under the laws of any other state or
21 country.

22 (3) The terms "penalties", "fees", "charges", and "taxes"
23 in subsection (1) of this Section shall include: the
24 penalties, fees, charges, and taxes collected on a cash basis
25 under State law and referenced within Article XXV exclusive of
26 any items referenced by subsection (2) of this Section, but

1 including any tax offset allowed under Section 531.13 of this
2 Code; the aggregate Illinois corporate income taxes paid under
3 Sections 601 and 803 of the Illinois Income Tax Act during the
4 calendar year for which the retaliatory tax calculation is
5 being made, less the recapture of any Illinois corporate
6 income tax cash refunds to the extent that the amount of tax
7 refunded was reported as part of the Illinois basis in the
8 calculation of the retaliatory tax for a prior tax year,
9 provided that such recaptured refund shall not exceed the
10 amount necessary for equivalence of the Illinois basis with
11 the state of incorporation basis in such tax year, and after
12 any tax offset allowed under Section 531.13 of this Code;
13 income or personal property taxes imposed by other states or
14 countries; penalties, fees, charges, and taxes of other states
15 or countries imposed for purposes like those of the penalties,
16 fees, charges, and taxes specified in Article XXV of this Code
17 exclusive of any item referenced in subsection (2) of this
18 Section; and any penalties, fees, charges, and taxes required
19 as a franchise, privilege, or licensing tax for conducting the
20 business of insurance whether calculated as a percentage of
21 income, gross receipts, premium, or otherwise.

22 (4) Nothing contained in this Section or Section 409 or
23 Section 444.1 is intended to authorize or expand any power of
24 local governmental units or municipalities to impose taxes,
25 fees, or charges.

26 (5) This Section is subject to the provisions of Section

1 10 of the New Markets Development Program Act.

2 (6) This Section is subject to the provisions of the Build
3 Illinois Homes Tax Credit Act. For taxable years beginning on
4 or after January 1, 2024, qualified taxpayers are entitled to
5 claim credits against the taxes imposed by this Section as
6 provided in the Build Illinois Homes Tax Credit Act. Companies
7 claiming a credit under the Build Illinois Homes Tax Credit
8 Act are not required to pay any additional tax as a result of
9 claiming the credit. The credit may fully offset any amounts
10 imposed under this Section.

11 (Source: P.A. 98-1169, eff. 1-9-15.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.