

SB3233



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3233

Introduced 2/6/2024, by Sen. Robert Peters

SYNOPSIS AS INTRODUCED:

New Act

35 ILCS 5/241 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 38198 HLH 68331 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 schedule certification" means a certification
9 issued by the owner of a qualified development, or by the
10 owner's designee, under subsection (d) of Section 15 of this
11 Act. The certification shall include the following:

12 (1) the building identification number for each
13 building included in the qualified development;

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

16 (3) the amount of the credit allowed for each year of
17 the credit period;

18 (4) the amount of credit allocated to each qualified
19 taxpayer for the qualified development for the applicable
20 tax year; and

21 (5) confirmation of whether each qualified taxpayer
22 elects to apply the credit to income tax or insurance
23 premium tax.

1 "Authority" means:

2 (1) the Illinois Housing Development Authority; or

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

4 "Building identification number" means the number assigned
5 to a building within the qualified development by an Authority
6 when allocating the federal tax credit.

7 "Credit" means the credit allowed under this Act.

8 "Credit period" means a period of 6 taxable years
9 beginning with the taxable year in which a qualified
10 development is placed in service. No credit period may include
11 a taxable year beginning prior to January 1, 2025. If a
12 qualified development consists of more than one building, then
13 the qualified development is deemed to be placed in service in
14 the taxable year in which the last building of the qualified
15 development is placed in service.

16 "Department" means the Department of Revenue.

17 "Federal tax credit" means the federal low-income housing
18 tax credit provided by Section 42 of the federal Internal
19 Revenue Code, including federal low-income housing tax credits
20 issued under 26 U.S.C. 42(h) (3) and 26 U.S.C. 42(h) (4).

21 "Qualified basis" means the qualified basis of the
22 qualified development as determined under Section 42 of the
23 federal Internal Revenue Code of 1986.

24 "Qualified development" means a qualified low-income
25 housing project, as that term is defined in Section 42 of the
26 federal Internal Revenue Code of 1986, that is located in the

1 State and is determined to be eligible for the federal tax
2 credit set forth in Section 42 of the Internal Revenue Code.

3 "Qualified taxpayer" means an individual, person, firm,
4 corporation, or other entity that owns a direct or indirect
5 interest in a qualified development and that is subject to the
6 taxes imposed by subsections (a) and (b) of Section 201 of the
7 Illinois Income Tax Act or any privilege tax or retaliatory
8 tax, penalty, fee, charge, or payment imposed by the Illinois
9 Insurance Code.

10 "Reservation letter" means a reservation letter issued by
11 the Illinois Housing Development Authority or a reservation
12 agreement issued by the City of Chicago Department of Housing.

13 "State credit eligibility statement" means a statement
14 issued by an Authority under Section 10 or documents submitted
15 in satisfaction of a statement as allowed under Section 10.

16 "State tax return" means the income tax return filed with
17 the Department or the privilege and retaliatory tax return
18 filed with the Department of Insurance, as applicable.

19 Section 10. State credit eligibility statements. Following
20 construction or rehabilitation of the qualified development,
21 the applicable Authority shall issue a State credit
22 eligibility statement with respect to each building located in
23 the qualified development certifying that the building
24 qualifies for the credit under this Act and specifying:

25 (1) the calendar year in which the last building of

- 1 the qualified development was placed in service;
- 2 (2) the amount of the credit allowed for each year of
- 3 the credit period;
- 4 (3) the maximum qualified basis of the qualified
- 5 development taken into account in determining such annual
- 6 credit amount;
- 7 (4) a building identification number; and
- 8 (5) that the qualified development is eligible for and
- 9 has applied to receive a federal tax credit.

10 The State credit eligibility statement shall be issued by

11 an Authority simultaneously with IRS Form 8609. An Authority

12 may issue, and the Department and Department of Insurance may

13 accept, an IRS Form 8609, including any additional statements

14 attached to the IRS Form 8609, and the reservation letter

15 issued by the Authority for the qualified development in

16 satisfaction of both federal requirements and the requirements

17 set forth in this Section.

18 The State credit eligibility statement shall include a

19 section to be completed by the owner of the qualified

20 development annually for each year of the credit period

21 certifying that the qualified development conforms with all

22 compliance requirements, including all federal compliance

23 requirements for the federal tax credit. The State credit

24 eligibility statement shall be filed with the project owner's

25 State tax return annually for each year of the credit period.

1 Section 15. Credit for low-income housing developments.

2 (a) For taxable years beginning on or after January 1,
3 2025, an Authority may award a credit to the owner of a
4 qualified development simultaneously with the federal tax
5 credit in an amount determined by the Authority, subject to
6 the following guidelines:

7 (1) the Authority must find that the credit is
8 necessary for the financial feasibility of the qualified
9 development;

10 (2) the aggregate amount of credits awarded to
11 qualified developments for each calendar year shall not
12 exceed \$20,000,000, plus the amount of unallocated
13 credits, if any, from the preceding calendar year, plus
14 the amount of any credit recaptured or otherwise returned
15 to an Authority since the preceding calendar year;

16 (3) of the \$20,000,000 annual allocation:

17 (A) 75.5% of the available credits for each
18 calendar year shall be awarded by the Illinois Housing
19 Development Authority, plus any credits the Illinois
20 Housing Development Authority did not award from prior
21 calendar years, plus the amount of any credits
22 recaptured or otherwise returned to the Illinois
23 Housing Development Authority from prior calendar
24 years; and

25 (B) 24.5% of the available credits in each
26 calendar year shall be awarded by the City of Chicago

1 Department of Housing, plus any credits the City of
2 Chicago Department of Housing did not award from prior
3 calendar years, plus the amount of any credits
4 recaptured or otherwise returned to the City of
5 Chicago Department of Housing since the prior calendar
6 year; and

7 (4) unless otherwise provided in this Act, or unless
8 the context clearly requires otherwise, an Authority must
9 determine eligibility for credits and award credits in
10 accordance with the standards and requirements set forth
11 in Section 42 of the federal Internal Revenue Code of 1986
12 and, to the extent possible, use the same forms that are
13 used in administering the credit under Section 42 of the
14 federal Internal Revenue Code of 1986.

15 (b) For tax years during the credit period, any qualified
16 taxpayer is allowed a credit, as provided in this Act, against
17 either of the following: (i) the taxes imposed by subsections
18 (a) and (b) of Section 201 of the Illinois Income Tax Act; or
19 (ii) any privilege tax or retaliatory tax, penalty, fee,
20 charge, or payment imposed under the Illinois Insurance Code.

21 (c) A qualified taxpayer may claim a credit under this Act
22 so long as the taxpayer's direct or indirect interest in the
23 qualified development is acquired prior to the filing of its
24 tax return claiming the credit. On or before March 31
25 following each year of the credit period, the owner must
26 submit to the Department, the Department of Insurance, and the

1 applicable Authority an allocation schedule certification, in
2 an electronic format prescribed by the Department, the
3 Department of Insurance, and the Authority, respectively,
4 detailing the amount of the credit allocated to the qualified
5 taxpayer for the applicable year and stating whether the
6 qualified taxpayer has elected to claim the credit against the
7 taxpayer's State income tax or insurance privilege tax or
8 retaliatory tax liability. The taxpayer may assign to a
9 designee the duty of preparing and submitting the allocation
10 schedule certification. In that case, the designee must
11 provide the allocation schedule certification to the
12 Department, the Department of Insurance, and the applicable
13 Authority on or before the deadline for submission. The
14 qualified taxpayer must notify the Department, the Department
15 of Insurance, and the applicable Authority if it assigns that
16 duty to its designee.

17 The allocation schedule certification submitted under this
18 Section may be amended if the State credit eligibility
19 statement for a project is received after the deadline for
20 filing the allocation schedule certification. Any amendment to
21 an allocation schedule certification shall be filed before the
22 taxpayer attempts to claim tax credits associated with the
23 applicable State credit eligibility statement. Each qualified
24 taxpayer is allowed to claim its awarded amount of credit
25 subject to any restrictions set forth in this Section. If the
26 credit is to be taken against the income tax and the qualified

1 taxpayer is a pass-through entity, then the provisions of
2 Section 251 of the Illinois Income Tax Act apply.

3 (d) No credit may be awarded under this Act unless the
4 qualified development is the subject of a recorded restrictive
5 covenant requiring the development to be maintained and
6 operated as a qualified development; this requirement for a
7 recorded restrictive covenant may be satisfied by the
8 agreement for an extended low-income housing commitment
9 required for the federal tax credits as defined in Section
10 42(h)(6)(B) of the federal Internal Revenue Code of 1986.

11 (e) If, during a taxable year, there is a determination
12 that no recorded restrictive covenant meeting the requirements
13 of subsection (d) was in effect as of the beginning of that
14 year, the determination shall not apply to any period before
15 that year and subsection (e) shall be applied without regard
16 to that determination if the failure is corrected within one
17 year after the date of the determination.

18 (f) The tax credit under this Act may not reduce the
19 taxpayer's liability to less than zero. If the amount of the
20 tax credit exceeds the tax liability for the year, the excess
21 may be carried forward and applied to the tax liability of the
22 5 taxable years following the excess credit year. The credit
23 must be applied to the earliest year for which there is a tax
24 liability. If there are credits from more than one tax year
25 that are available to offset a liability, then the earlier
26 credit must be applied first. Credits that are initially

1 claimed against taxes imposed by the Illinois Income Tax Act
2 may be carried forward only against the taxpayer's future
3 Illinois Income Tax liability. Credits that are initially
4 claimed against taxes, penalties, fees, charges, and payments
5 imposed by the Illinois Insurance Code may be carried forward
6 only against taxes, penalties, fees, charges, and payments
7 imposed by the Illinois Insurance Code. Credits that are not
8 claimed or carried forward may not be refunded to the
9 taxpayer. The qualified taxpayer is solely responsible for
10 correctly filing tax returns, and an Authority is not
11 responsible for monitoring the calculation of taxes under this
12 Section.

13 (g) By March 31, 2025 and by March 31 of each year
14 thereafter, each Authority shall provide to the Department and
15 the Department of Insurance an electronic file containing all
16 data related to all State credit eligibility statements issued
17 during the preceding year in the manner and form as provided by
18 each respective Department.

19 (h) Each Authority is entitled to a reservation fee of 1%
20 of the credit awarded under this Section for each year of the
21 award to support the cost of compliance monitoring. An
22 Authority may exercise the option to impose a compliance fee
23 or a penalty in the exercise of its compliance monitoring
24 function under this Act.

25 Section 20. Recapture. If, under Section 42 of the

1 Internal Revenue Code, a portion of any federal tax credit
2 claimed with respect to a qualified development for which a
3 credit has been awarded under this Act is required by the
4 Internal Revenue Service to be recaptured during the first 6
5 years after a project is placed in service, then, within 60
6 days after becoming aware of the federal tax credit recapture,
7 the project owner shall provide the Department, the Department
8 of Insurance, and the applicable Authority with notice of the
9 federal tax credit recapture. Notice shall be provided in the
10 manner and form as provided by the Department, the Department
11 of Insurance, and the Authority, respectively. If an Authority
12 issues a federal Form 8823 to the owner of a qualified
13 development that has been awarded a credit under this Act, and
14 an Authority has not been notified within 6 months of filing
15 the Form 8823 that the noncompliance has been remedied, an
16 Authority shall submit the Form 8823 to the Department or
17 Department of Insurance, as applicable. The amount of credit
18 subject to recapture shall be proportionately equal to the
19 amount of the qualified development's federal tax credits that
20 are subject to recapture. If the project owner (or one of the
21 project owner's direct or indirect members) fails to notify
22 the Department or the Department of Insurance, as applicable,
23 of any recapture of the federal tax credit, then the entire
24 amount of the State tax credit awarded for the qualified
25 development is subject to recapture. The qualified taxpayer
26 subject to recapture shall increase the qualified taxpayer's

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

8 Section 25. Filing requirements. An owner of a qualified
9 development that has been awarded a credit and each qualified
10 taxpayer claiming any portion of the credit must file with
11 their State tax returns a copy of the State credit eligibility
12 statement issued by an Authority for that qualified
13 development. In addition, the owner of a qualified development
14 or its designee shall file a copy of the allocation schedule
15 certification prior to any tax return being filed claiming a
16 State credit for such qualified development. A qualified
17 taxpayer receiving any allocated portion of a credit through a
18 pass-through entity shall attach to its State tax return a
19 copy of the Schedule K-1-P for that taxable year.

20 Section 30. Compliance monitoring. An Authority, in
21 consultation with the Department and Department of Insurance,
22 shall monitor and oversee compliance with the provisions of
23 this Act and shall report specific occurrences of
24 noncompliance to the Department and the Department of

1 Insurance in the manner and form as provided by the Department
2 and the Department of Insurance. An Authority shall make every
3 effort to monitor and report noncompliance using the same
4 procedures used for compliance monitoring of the federal tax
5 credits.

6 Section 35. Report to the General Assembly.

7 (a) Each Authority must, by March 31, 2026 and by March 31
8 of each year thereafter, provide a written report to the
9 General Assembly and must publish that report on its website.

10 (b) The report shall:

11 (1) set forth the number of qualified developments
12 that have been awarded tax credits under this Act during
13 the calendar year and the total number of units supported
14 by each qualified development;

15 (2) describe each qualified development that has been
16 awarded tax credits under this Act, including, without
17 limitation, the geographic location of the qualified
18 development, the household type, the income levels
19 intended to be served by the qualified development, and
20 the rents or set-asides authorized for each qualified
21 development;

22 (3) provide housing market information that
23 demonstrates how the qualified developments supported by
24 the tax credits are addressing the need for affordable
25 housing within the communities they are intended to serve

1 as well as information about any remaining disparities in
2 the affordability of housing within those communities; and

3 (4) provide information about the percentage of
4 qualified developments that were awarded credits and that
5 received incentive scoring points as a result of the
6 general contractor, property manager, architect, or
7 sponsor being certified under the Business Enterprise
8 Program for Minorities, Females, and Persons with a
9 Disability.

10 Section 40. Exempt from automatic sunset. The credit under
11 this Act is exempt from the provisions of Section 250 of the
12 Illinois Income Tax Act.

13 Section 900. The Illinois Income Tax Act is amended by
14 adding Section 241 as follows:

15 (35 ILCS 5/241 new)

16 Sec. 241. Build Illinois Homes Tax Credit Act.

17 (a) For taxable years beginning on or after January 1,
18 2025, any eligible taxpayer with respect to a credit awarded
19 in accordance with the Build Illinois Homes Tax Credit Act
20 that is named on an allocation schedule certification for a
21 particular tax year is entitled to a credit against the taxes
22 imposed by subsections (a) and (b) of Section 201 as provided
23 in the Build Illinois Homes Tax Credit Act.

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

5 (c) If, during any taxable year, a taxpayer is notified of
6 a recapture of a credit previously claimed on a State income
7 tax return in accordance with 42 U.S.C. 42, the tax imposed
8 under subsections (a) and (b) of Section 201 for that taxpayer
9 for that taxable year shall be increased. The amount of the
10 increase shall be determined by (i) recomputing the Build
11 Illinois Homes Tax Credit that would have been allowed for the
12 year in which the credit was originally allowed by eliminating
13 the recaptured amount from such computation, and (ii)
14 subtracting that recomputed credit from the amount of credit
15 previously allowed. No Build Illinois Homes Tax Credit shall
16 be allowed with respect to any credit subject to a recapture
17 notice for any taxable year ending after the issuance of a
18 recapture notice.

19 (d) This Section is exempt from the provisions of Section
20 250.

21 Section 905. The Illinois Insurance Code is amended by
22 changing Sections 409 and 444 as follows:

23 (215 ILCS 5/409) (from Ch. 73, par. 1021)

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

1 (1) As of January 1, 1999 for all health maintenance
2 organization premiums written; as of July 1, 1998 for all
3 premiums written as accident and health business, voluntary
4 health service plan business, dental service plan business, or
5 limited health service organization business; and as of
6 January 1, 1998 for all other types of insurance premiums
7 written, every company doing any form of insurance business in
8 this State, including, but not limited to, every risk
9 retention group, and excluding all fraternal benefit
10 societies, all farm mutual companies, all religious charitable
11 risk pooling trusts, and excluding all statutory residual
12 market and special purpose entities in which companies are
13 statutorily required to participate, whether incorporated or
14 otherwise, shall pay, for the privilege of doing business in
15 this State, to the Director for the State treasury a State tax
16 equal to 0.5% of the net taxable premium written, together
17 with any amounts due under Section 444 of this Code, except
18 that the tax to be paid on any premium derived from any
19 accident and health insurance or on any insurance business
20 written by any company operating as a health maintenance
21 organization, voluntary health service plan, dental service
22 plan, or limited health service organization shall be equal to
23 0.4% of such net taxable premium written, together with any
24 amounts due under Section 444. Upon the failure of any company
25 to pay any such tax due, the Director may, by order, revoke or
26 suspend the company's certificate of authority after giving 20

1 days written notice to the company, or commence proceedings
2 for the suspension of business in this State under the
3 procedures set forth by Section 401.1 of this Code. The gross
4 taxable premium written shall be the gross amount of premiums
5 received on direct business during the calendar year on
6 contracts covering risks in this State, except premiums on
7 annuities, premiums on which State premium taxes are
8 prohibited by federal law, premiums paid by the State for
9 health care coverage for Medicaid eligible insureds as
10 described in Section 5-2 of the Illinois Public Aid Code,
11 premiums paid for health care services included as an element
12 of tuition charges at any university or college owned and
13 operated by the State of Illinois, premiums on group insurance
14 contracts under the State Employees Group Insurance Act of
15 1971, and except premiums for deferred compensation plans for
16 employees of the State, units of local government, or school
17 districts. The net taxable premium shall be the gross taxable
18 premium written reduced only by the following:

19 (a) the amount of premiums returned thereon which
20 shall be limited to premiums returned during the same
21 preceding calendar year and shall not include the return
22 of cash surrender values or death benefits on life
23 policies including annuities;

24 (b) dividends on such direct business that have been
25 paid in cash, applied in reduction of premiums or left to
26 accumulate to the credit of policyholders or annuitants.

1 In the case of life insurance, no deduction shall be made
2 for the payment of deferred dividends paid in cash to
3 policyholders on maturing policies; dividends left to
4 accumulate to the credit of policyholders or annuitants
5 shall be included as gross taxable premium written when
6 such dividend accumulations are applied to purchase
7 paid-up insurance or to shorten the endowment or premium
8 paying period.

9 (2) The annual privilege tax payment due from a company
10 under subsection (4) of this Section may be reduced by: (a) the
11 excess amount, if any, by which the aggregate income taxes
12 paid by the company, on a cash basis, for the preceding
13 calendar year under Sections 601 and 803 of the Illinois
14 Income Tax Act exceed 1.5% of the company's net taxable
15 premium written for that prior calendar year, as determined
16 under subsection (1) of this Section; and (b) the amount of any
17 fire department taxes paid by the company during the preceding
18 calendar year under Section 11-10-1 of the Illinois Municipal
19 Code. Any deductible amount or offset allowed under items (a)
20 and (b) of this subsection for any calendar year will not be
21 allowed as a deduction or offset against the company's
22 privilege tax liability for any other taxing period or
23 calendar year.

24 (3) If a company survives or was formed by a merger,
25 consolidation, reorganization, or reincorporation, the
26 premiums received and amounts returned or paid by all

1 companies party to the merger, consolidation, reorganization,
2 or reincorporation shall, for purposes of determining the
3 amount of the tax imposed by this Section, be regarded as
4 received, returned, or paid by the surviving or new company.

5 (4)(a) All companies subject to the provisions of this
6 Section shall make an annual return for the preceding calendar
7 year on or before March 15 setting forth such information on
8 such forms as the Director may reasonably require. Payments of
9 quarterly installments of the taxpayer's total estimated tax
10 for the current calendar year shall be due on or before April
11 15, June 15, September 15, and December 15 of such year, except
12 that all companies transacting insurance in this State whose
13 annual tax for the immediately preceding calendar year was
14 less than \$5,000 shall make only an annual return. Failure of a
15 company to make the annual payment, or to make the quarterly
16 payments, if required, of at least 25% of either (i) the total
17 tax paid during the previous calendar year or (ii) 80% of the
18 actual tax for the current calendar year shall subject it to
19 the penalty provisions set forth in Section 412 of this Code.

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

23 (i) each health maintenance organization shall have no
24 estimated tax installments;

25 (ii) all companies subject to the tax as of July 1,
26 1998 as set forth in subsection (1) shall have estimated

1 tax installments due on September 15 and December 15 of
2 1998 which installments shall each amount to no less than
3 one-half of 80% of the actual tax on its net taxable
4 premium written during the period July 1, 1998, through
5 December 31, 1998; and

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

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

14 (5) In addition to the authority specifically granted
15 under Article XXV of this Code, the Director shall have such
16 authority to adopt rules and establish forms as may be
17 reasonably necessary for purposes of determining the
18 allocation of Illinois corporate income taxes paid under
19 subsections (a) through (d) of Section 201 of the Illinois
20 Income Tax Act amongst members of a business group that files
21 an Illinois corporate income tax return on a unitary basis,
22 for purposes of regulating the amendment of tax returns, for
23 purposes of defining terms, and for purposes of enforcing the
24 provisions of Article XXV of this Code. The Director shall
25 also have authority to defer, waive, or abate the tax imposed
26 by this Section if in his opinion the company's solvency and

1 ability to meet its insured obligations would be immediately
2 threatened by payment of the tax due.

3 (6) This Section is subject to the provisions of Section
4 10 of the New Markets Development Program Act.

5 (7) This Section is subject to the provisions of the Build
6 Illinois Homes Tax Credit Act.

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

8 (215 ILCS 5/444) (from Ch. 73, par. 1056)

9 Sec. 444. Retaliation.

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

1 shall apply to companies incorporated or organized under the
2 laws of such state or country doing business in this State, and
3 all such companies, agents thereof, or brokers doing business
4 in this State, shall be required to make deposits, pay
5 penalties, fees, charges, and taxes, in amounts equal to those
6 required in the aggregate for like purposes of Illinois
7 companies doing business in such state or country, agents
8 thereof or brokers. Whenever any other state or country shall
9 refuse to permit any insurance company incorporated or
10 organized under the laws of this State to transact business
11 according to its usual plan in such other state or country, the
12 director may, if satisfied that such company of this State is
13 solvent, properly managed, and can operate legally under the
14 laws of such other state or country, forthwith suspend or
15 cancel the license of every insurance company doing business
16 in this State which is incorporated or organized under the
17 laws of such other state or country to the extent that it
18 insures in this State against any of the risks or hazards which
19 are sought to be insured against by the company of this State
20 in such other state or country.

21 (2) The provisions of this Section shall not apply to
22 residual market or special purpose assessments or guaranty
23 fund or guaranty association assessments, both under the laws
24 of this State and under the laws of any other state or country,
25 and any tax offset or credit for any such assessment shall, for
26 purposes of this Section, be treated as a tax paid both under

1 the laws of this State and under the laws of any other state or
2 country.

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

1 business of insurance whether calculated as a percentage of
2 income, gross receipts, premium, or otherwise.

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

7 (5) This Section is subject to the provisions of Section
8 10 of the New Markets Development Program Act.

9 (6) This Section is subject to the provisions of the Build
10 Illinois Homes Tax Credit Act.

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

12 Section 999. Effective date. This Act takes effect upon
13 becoming law.