



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3968

Introduced 2/26/2009, 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.

LRB096 11695 HLH 22378 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 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 fixed  
13 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 specified  
22 by the Department of Commerce and Economic Opportunity under  
23 that Act, and (ii) applies against its State income tax

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

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

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

5 (Source: P.A. 94-793, eff. 5-19-06.)