

# SB3147



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3147

Introduced 2/9/2010, by Sen. James F. Clayborne, Jr.

#### SYNOPSIS AS INTRODUCED:

New Act  
35 ILCS 5/219 new

Creates the Efficient and Green Illinois Tax Credit Act. Authorizes the Department of Commerce and Economic Opportunity to award income tax credits based on 25% of the cost of qualifying expenditures for energy efficient projects, such as solar energy equipment, Energy Star certified heat pumps, lighting retrofit projects, and wind equipment. Authorizes the Department to adopt rules. Provides that the credit may be carried forward for up to 5 taxable years. Amends the Illinois Income Tax Act to make conforming changes. Provides that the credit is exempt from the Act's automatic sunset provisions. Effective immediately.

LRB096 20025 HLH 35521 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 1. Short title. This Act may be cited as the  
5 Efficient and Green Illinois Tax Credit Act.

6 Section 5. Purpose. The General Assembly finds that the  
7 Illinois economy and environment are greatly enhanced by the  
8 installation of energy efficiency measures and by the support  
9 of renewable energy resources. The purpose of this Act is to  
10 expand the adoption of energy efficiency measures in the  
11 private sector, as well as to encourage use of renewable energy  
12 resources. It is the policy of this State to promote and  
13 encourage the adoption of energy efficiency measures as well as  
14 the voluntary use of renewable energy resources.

15 Section 10. Definitions. As used in this Act:

16 "Energy efficiency project" includes any of the following:

17 (A) Solar energy equipment that uses solar  
18 radiation as a substitute for traditional energy for  
19 water heating, active space heating and cooling,  
20 passive heating, day-lighting, generating electricity,  
21 distillation, desalinization, or the production of  
22 industrial or commercial process heat, as well as

1 related devices necessary for collecting, storing,  
2 exchanging, conditioning, or converting solar energy  
3 to other useful forms of energy.

4 (B) Energy Star certified geothermal heat pump  
5 systems.

6 (C) Lighting retrofit projects. "Lighting retrofit  
7 project" means a lighting retrofit system that employs  
8 dual switching (ability to switch roughly half the  
9 lights off and still have fairly uniform light  
10 distribution), de-lamping, day-lighting, re-lamping,  
11 or other controls or processes that reduce annual  
12 energy and power consumption by 30% compared to the  
13 American Society of Heating, Refrigerating, and Air  
14 Conditioning Engineers 2004 standard (ASHRAE  
15 90.1.2004).

16 (D) Wind equipment required to capture and convert  
17 wind energy into electricity or mechanical power as  
18 well as related devices that may be required for  
19 converting, conditioning, and storing the electricity  
20 produced by wind equipment.

21 "Cost" means:

22 (A) In the case of clean energy property owned by  
23 the taxpayer, cost is the aggregate funds actually  
24 invested and expended by a taxpayer in that taxable  
25 year to put into service the clean energy property.

26 (B) In the case of clean energy property the

1 taxpayer leases from another, cost is 8 times the net  
2 annual rental rate, which is the annual rental rate  
3 paid by the taxpayer less any annual rental rate  
4 received by the taxpayer from sub-rentals.

5 "Credit" means:

6 (A) For an energy efficiency project approved by  
7 the Department, the amount equal to 25% of the cost of  
8 that project.

9 (B) For renewable energy resources usage approved  
10 by the Department, an amount equal to 25% of the cost  
11 paid for the environmental attributes of those  
12 renewable energy resources during the tax year.

13 "Department" means the Department of Commerce and Economic  
14 Opportunity.

15 "Renewable energy resources" means the same as it does in  
16 Section 1-10 of the Illinois Power Agency Act.

17 Section 15. Powers of the Department. The Department, in  
18 addition to those powers granted under the Civil Administrative  
19 Code of Illinois, is granted and has all the powers necessary  
20 or convenient to carry out and effectuate the purposes and  
21 provisions of this Act, including, but not limited to, power  
22 and authority to:

23 (1) Adopt rules deemed necessary and appropriate for  
24 the administration of the tax credit program; establish  
25 forms for applications, notifications, contracts, or any

1 other agreements; and accept applications at any time  
2 during the year.

3 (2) Assist applicants pursuant to the provisions of  
4 this Act to promote, foster, and support energy efficiency  
5 measures and renewable energy resources and related job  
6 creation or retention within the State.

7 (3) Provide for sufficient personnel to permit  
8 administration, staffing, operation, and related support  
9 required to adequately discharge its duties and  
10 responsibilities described in this Act from funds as may be  
11 appropriated to the Department for the administration of  
12 this Act.

13 (4) Require that an applicant must at all times keep  
14 proper books of record and account in accordance with  
15 generally accepted accounting principles consistently  
16 applied, with the books, records, or papers related to the  
17 accredited production in the custody or control of the  
18 taxpayer open for reasonable Department inspection and  
19 audits.

20 Section 20. Tax credit awards. Subject to the conditions  
21 set forth in this Act, for taxable years beginning on or after  
22 January 1, 2010, an applicant is entitled to a credit against  
23 the tax imposed under subsections (a) and (b) of Section 201 of  
24 the Illinois Income Tax Act, in an amount approved by the  
25 Department under Section 40 of this Act.

1 Section 35. Issuance of tax credit certificate.

2 (a) In order to qualify for a tax credit under this Act, an  
3 applicant must file an application, on forms prescribed by the  
4 Department, providing information necessary to calculate the  
5 tax credit, and any additional information as required by the  
6 Department.

7 (b) Upon satisfactory review of the application, the  
8 Department shall issue a tax credit certificate.

9 Section 40. Amount and duration of the credit. The amount  
10 of the credit awarded under this Act is based on the cost of  
11 the qualifying expenditures under this Act. The credit shall be  
12 awarded for the taxable year in which the expenditure is made.  
13 The tax credit may not reduce the taxpayer's liability to less  
14 than zero. If the amount of the tax credit exceeds the  
15 taxpayer's Illinois income tax liability for the year, the  
16 excess may be carried forward and applied to the tax liability  
17 of the 5 taxable years following the excess credit year. The  
18 credit must be applied to the earliest year for which there is  
19 a tax liability. If there are credits from more than one tax  
20 year that are available to offset a liability, then the earlier  
21 credit must be applied first. This Act is exempt from the  
22 provisions of Section 250 of the Illinois Income Tax Act.

23 Section 80. The Illinois Income Tax Act is amended by

1 adding Section 219 as follows:

2 (35 ILCS 5/219 new)

3 Sec. 219. Efficient and Green Illinois Tax Credit Act. For  
4 tax years beginning on or after January 1, 2010, a taxpayer who  
5 has been awarded a credit under the Efficient and Green  
6 Illinois Tax Credit Act is entitled to a credit against the  
7 taxes imposed under subsections (a) and (b) of Section 201 of  
8 this Act in an amount to be determined under that Act. If the  
9 taxpayer is a partnership or Subchapter S corporation, the  
10 credit shall be allowed to the partners or shareholders in  
11 accordance with the determination of income and distributive  
12 share of income under Sections 702 and 704 and subchapter S of  
13 the Internal Revenue Code. This Section is exempt from the  
14 provisions of Section 250 of this Act.

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law.