HB1171

LRB09705517HLH45578b

97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1171

Introduced 02/08/11, by Rep. Greg Harris

SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 5/221 new
215 ILCS 5/409 from Ch. 73, par. 1021

Creates the Historic Rehabilitation Tax Credit Act. Authorizes tax credits against Illinois income taxes and insurance company privilege taxes for 25% of the costs of rehabilitating eligible historic property. Allows excess credits to be carried back and forward. Allows credits to be transferred, sold, or assigned. Provides that the credit is administered by the Department of Commerce and Economic Opportunity. Sets forth application and award procedures. Makes related changes in the Illinois Income Tax Act and the Illinois Insurance Code. Effective July 1, 2011.

LRB097 05517 HLH 45578 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

AN ACT concerning revenue.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Historic Rehabilitation Tax Credit Act.

Section 5. Definitions.

As used in this Act, unless the context requires otherwise:

(1) "Certified historic structure" means a property located in Illinois that is listed individually on the National Register of Historic Places or is designated as a historic structure by a unit of local government.

(2) "Eligible property" means property located in Illinois that is offered or used for residential, non-profit, local governmental, or business purposes.

(3) "Structure in a historic district" means a structure located in Illinois that is certified by the United States Department of the Interior as contributing to the historic significance of a certified historic district listed on the National Register of Historic Places, a local district that has been certified by the United States Department of the Interior, or a local district that has been designated by a local government, either municipal or county.

Section 10. Rehabilitation of eligible property. Any person, firm, partnership, trust, estate, corporation, or association incurring costs and expenses for the rehabilitation of eligible property, when that eligible property is a certified historic structure or a structure in a certified historic district, is entitled to a credit against the taxes imposed under the Illinois Income Tax Act (35 ILCS 5/), except Article 7 of that Act, and under Section 409 of the Illinois Insurance Code (215 ILCS 5/409) in an amount equal to 25% of the total costs and expenses of rehabilitation incurred after July 1, 2011. Expenses of rehabilitation include, but are not limited to, qualified rehabilitation expenditures as defined under Section 47(c)(2)(A) of the Internal Revenue Code of 1986, as amended, and the related regulations thereunder, provided the rehabilitation costs associated with rehabilitation and the expenses exceed 50% of the total basis in the property and the rehabilitation meets standards consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation as determined by the Department of Commerce and Economic Opportunity in consultation with the State Historic Preservation Officer.

Section 15. Use of tax credits, carried forward or carried back, assignment.

(a) If the amount of the credit exceeds the total tax liability for the year in which the rehabilitated property is placed in service, the amount that exceeds the tax liability may be carried back to any of the 3 preceding years and carried forward for any of the succeeding 10 years as a credit against the taxes imposed under the Illinois Income Tax Act (except Article 7) and Section 409 of the Illinois Insurance Code, or until the full credit is used, whichever occurs first. Taxpayers eligible for the credits may transfer, sell, or assign the credits. Not-for-profit entities are eligible to receive, transfer, sell, or assign the credits. Credits granted to a partnership, a limited liability company taxed as a partnership, or multiple owners of property shall be passed through to the partners, members, or owners respectively pro rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method.

(b) The assignor of the credits may transfer, sell, or assign any or all of the credits to the assignee who may use the acquired credits to offset tax liabilities imposed under the Illinois Income Tax Act (except Article 7) and Section 409 of the Illinois Insurance Code. The assignor must perfect the transfer, sale, or assignment by notifying the Department of Commerce and Economic Opportunity in writing within 30 calendar days following the effective date of the transfer, sale, or assignment, and must provide any information that is required by the Department of Commerce and Economic Opportunity to administer and carry out the provisions of this Section. The credits may be transferred more than once.

(c) If credits that have been transferred are subsequently reduced, adjusted, or recaptured by the Department of Commerce and Economic Opportunity, Department of Revenue, or any other applicable government agency, only the transferor originally allowed the credits, and not any subsequent transferee of the credits, shall be held liable to repay any amount of that reduction, adjustment, or recapture of the credits.

Section 20. Application to claim tax credit; certificates of eligible credits.

(a) To obtain the credit, an application must be made to the Department of Commerce and Economic Opportunity. The Department, in consultation with the Director of Historic Sites and Preservation and the United States Department of the Interior, shall determine the amount of eligible rehabilitation costs and expenses and whether the rehabilitation meets the standards of the Secretary of the United States Department of the Interior for rehabilitation. The Department of Commerce and Economic Opportunity shall issue a certificate in the amount of the eligible credits. The taxpayer must attach the certificate to the tax return on which the credits are to be claimed.

(b) The Department of Commerce and Economic Opportunity shall determine, on an annual basis, the overall economic impact to the State from the rehabilitation of eligible property.

(c) The Department of Commerce and Economic Opportunity is granted and has all powers necessary or convenient to carry out the provisions of this Act, including, but not limited to, the power to adopt rules for the administration of this Act and the power to establish application forms and other agreements.

Section 50. The Illinois Income Tax Act is amended by adding Section 221 as follows:

(35 ILCS 5/221 new)

Sec. 221. Historic rehabilitation tax credit. A taxpayer who is awarded a credit under the Historic Rehabilitation Tax Credit Act is entitled to a credit against the taxes imposed under subsections (a) and (b) of Section 201 of this Act as provided in the Historic Rehabilitation Tax Credit Act. This Section is exempt from the provisions of Section 250.

Section 55. The Illinois Insurance Code is amended by changing Section 409 as follows:

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

Sec. 409. Annual privilege tax payable by companies.

(1) As of January 1, 1999 for all health maintenance organization premiums written; as of July 1, 1998 for all

premiums written as accident and health business, voluntary health service plan business, dental service plan business, or limited health service organization business; and as of January 1, 1998 for all other types of insurance premiums written, every company doing any form of insurance business in this State, including, but not limited to, every risk retention group, and excluding all fraternal benefit societies, all farm mutual companies, all religious charitable risk pooling trusts, and excluding all statutory residual market and special purpose entities in which companies are statutorily required to participate, whether incorporated or otherwise, shall pay, for the privilege of doing business in this State, to the Director for the State treasury a State tax equal to 0.5% of the net taxable premium written, together with any amounts due under Section 444 of this Code, except that the tax to be paid on any premium derived from any accident and health insurance or on any insurance business written by any company operating as a health maintenance organization, voluntary health service plan, dental service plan, or limited health service organization shall be equal to 0.4% of such net taxable premium written, together with any amounts due under Section 444. Upon the failure of any company to pay any such tax due, the Director may, by order, revoke or suspend the company's certificate of authority after giving 20 days written notice to the company, or commence proceedings for the suspension of business in this State under the procedures set forth by

Section 401.1 of this Code. The gross taxable premium written shall be the gross amount of premiums received on direct business during the calendar year on contracts covering risks in this State, except premiums on annuities, premiums on which State premium taxes are prohibited by federal law, premiums paid by the State for health care coverage for Medicaid eligible insureds as described in Section 5-2 of the Illinois Public Aid Code, premiums paid for health care services included as an element of tuition charges at any university or college owned and operated by the State of Illinois, premiums on group insurance contracts under the State Employees Group Insurance Act of 1971, and except premiums for deferred compensation plans for employees of the State, units of local government, or school districts. The net taxable premium shall be the gross taxable premium written reduced only by the following:

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

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

(2) The annual privilege tax payment due from a company under subsection (4) of this Section may be reduced by: (a) the excess amount, if any, by which the aggregate income taxes paid by the company, on a cash basis, for the preceding calendar year under subsections (a) through (d) of Section 201 of the Illinois Income Tax Act exceed 1.5% of the company's net taxable premium written for that prior calendar year, as determined under subsection (1) of this Section; and (b) the amount of any fire department taxes paid by the company during the preceding calendar year under Section 11-10-1 of the Illinois Municipal Code. Any deductible amount or offset allowed under items (a) and (b) of this subsection for any calendar year will not be allowed as a deduction or offset against the company's privilege tax liability for any other taxing period or calendar year.

(3) If a company survives or was formed by a merger, consolidation, reorganization, or reincorporation, the premiums received and amounts returned or paid by all companies party to the merger, consolidation, reorganization, or reincorporation shall, for purposes of determining the amount

of the tax imposed by this Section, be regarded as received, returned, or paid by the surviving or new company.

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

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

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

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

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

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

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

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

<u>This Section is subject to the provisions of the Historic Rehabilitation Tax Credit Act.</u>

(Source: P.A. 95-1024, eff. 12-31-08.)

Section 99. Effective date. This Act takes effect July 1, 2011.