

**SB2886**



**97TH GENERAL ASSEMBLY**

**State of Illinois**

**2011 and 2012**

**SB2886**

Introduced 2/1/2012, by Sen. James F. Clayborne, Jr.

**SYNOPSIS AS INTRODUCED:**

35 ILCS 5/221

Amends the Illinois Income Tax Act. In a Section granting a credit for the restoration and preservation of a qualified historic structure located in a River Edge Redevelopment Zone, provides that taxpayers may sell, assign, convey, or otherwise transfer those credits. Effective immediately.

LRB097 17637 HLH 62844 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT 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 Illinois Income Tax Act is amended by  
5 changing Section 221 as follows:

6 (35 ILCS 5/221)

7 Sec. 221. Rehabilitation costs; qualified historic  
8 properties; River Edge Redevelopment Zone.

9 (a) For taxable years beginning on or after January 1, 2012  
10 and ending prior to January 1, 2017, there shall be allowed a  
11 tax credit against the tax imposed by subsections (a) and (b)  
12 of Section 201 in an amount equal to 25% of qualified  
13 expenditures incurred by a qualified taxpayer during the  
14 taxable year in the restoration and preservation of a qualified  
15 historic structure located in a River Edge Redevelopment Zone  
16 pursuant to a qualified rehabilitation plan, provided that the  
17 total amount of such expenditures (i) must equal \$5,000 or more  
18 and (ii) must exceed 50% of the purchase price of the property.

19 (b) To obtain a tax credit pursuant to this Section, the  
20 taxpayer must apply with the Department of Commerce and  
21 Economic Opportunity. The Department of Commerce and Economic  
22 Opportunity, in consultation with the Historic Preservation  
23 Agency, shall determine the amount of eligible rehabilitation

1 costs and expenses. The Historic Preservation Agency shall  
2 determine whether the rehabilitation is consistent with the  
3 standards of the Secretary of the United States Department of  
4 the Interior for rehabilitation. Upon completion and review of  
5 the project, the Department of Commerce and Economic  
6 Opportunity shall issue a certificate in the amount of the  
7 eligible credits. At the time the certificate is issued, an  
8 issuance fee up to the maximum amount of 2% of the amount of  
9 the credits issued by the certificate may be collected from the  
10 applicant to administer the provisions of this Section. If  
11 collected, this issuance fee shall be deposited into the  
12 Historic Property Administrative Fund, a special fund created  
13 in the State treasury. Subject to appropriation, moneys in the  
14 Historic Property Administrative Fund shall be evenly divided  
15 between the Department of Commerce and Economic Opportunity and  
16 the Historic Preservation Agency to reimburse the Department of  
17 Commerce and Economic Opportunity and the Historic  
18 Preservation Agency for the costs associated with  
19 administering this Section. The taxpayer must attach the  
20 certificate to the tax return on which the credits are to be  
21 claimed. The Department of Commerce and Economic Opportunity  
22 may adopt rules to implement this Section.

23 (c) The tax credit under this Section may not reduce the  
24 taxpayer's liability to less than zero.

25 (c-5) Any person or entity, referred to in this Section as  
26 the assignor, may sell, assign, convey, or otherwise transfer

1 tax credits allowed and earned under this Act. The person or  
2 entity acquiring the tax credits, referred to in this Section  
3 as the assignee, may use the amount of the acquired tax credits  
4 to offset up to 100% of its tax liability for the taxable year  
5 in which the qualified rehabilitation plan was first placed  
6 into service, and any unused tax credits claimed by the  
7 assignee may be carried forward for up to 10 years or carried  
8 back for up to 1 year, except that all tax credits must be  
9 claimed within 10 years after the tax year in which the  
10 qualified rehabilitation plan was first placed into service and  
11 may not be carried back more than one year before the taxable  
12 year in which the qualified rehabilitation plan was placed in  
13 service. The assignor shall enter into a written agreement with  
14 the assignee establishing the terms and conditions of the  
15 agreement, shall perfect the transfer by notifying the  
16 Department of Commerce and Economic Opportunity in writing  
17 within 90 calendar days after the effective date of the  
18 transfer, and shall provide any information as may be required  
19 by the Department of Commerce and Economic Opportunity to  
20 administer and carry out the provisions of this Section. For  
21 purposes of this Section, assignors and assignees may include a  
22 non-profit entity with a Section 501(c)(3) designation under  
23 the federal Internal Revenue Code, although such entity shall  
24 not be the original recipient of the tax credits. The tax  
25 credits may be transferred more than once. The tax credits may  
26 be bifurcated to be transferred to more than one assignee. If

1 tax credits that have been transferred are subsequently  
2 reduced, adjusted, or recaptured, in whole or in part, by the  
3 Department of Commerce and Economic Opportunity, the  
4 Department of Revenue, or any other applicable government  
5 agency, only the original qualified taxpayer that was awarded  
6 the tax credits, and not any subsequent assignee of the tax  
7 credits, shall be held liable to repay any amount of such  
8 reduction, adjustment, or recapture of the tax credits.

9 (d) As used in this Section, the following terms have the  
10 following meanings.

11 "Qualified expenditure" means all the costs and expenses  
12 defined as qualified rehabilitation expenditures under Section  
13 47 of the federal Internal Revenue Code that were incurred in  
14 connection with a qualified historic structure.

15 "Qualified historic structure" means a certified historic  
16 structure as defined under Section 47 (c) (3) of the federal  
17 Internal Revenue Code.

18 "Qualified rehabilitation plan" means a project that is  
19 approved by the Historic Preservation Agency as being  
20 consistent with the standards in effect on the effective date  
21 of this amendatory Act of the 97th General Assembly for  
22 rehabilitation as adopted by the federal Secretary of the  
23 Interior.

24 "Qualified taxpayer" means the owner of the qualified  
25 historic structure or any other person who qualifies for the  
26 federal rehabilitation credit allowed by Section 47 of the

1 federal Internal Revenue Code with respect to that qualified  
2 historic structure. Partners, shareholders of subchapter S  
3 corporations, and owners of limited liability companies (if the  
4 limited liability company is treated as a partnership for  
5 purposes of federal and State income taxation) are entitled to  
6 a credit under this Section to be determined in accordance with  
7 the determination of income and distributive share of income  
8 under Sections 702 and 703 and subchapter S of the Internal  
9 Revenue Code, provided that credits granted to a partnership, a  
10 limited liability company taxed as a partnership, or other  
11 multiple owners of property shall be passed through to the  
12 partners, members, or owners respectively on a pro rata basis  
13 or pursuant to an executed agreement among the partners,  
14 members, or owners documenting any alternate distribution  
15 method.

16 (Source: P.A. 97-203, eff. 7-28-11.)

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law.