



Sen. James F. Clayborne, Jr.

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LRB097 18868 HLH 65721 a

1 AMENDMENT TO SENATE BILL 3212

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3212 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by  
5 adding Section 223 as follows:

6 (35 ILCS 5/223 new)

7 Sec. 223. Brownfield remediation tax credit.

8 (a) For taxable years beginning on or after January 1,  
9 2012, qualified taxpayers that undertake one or more eligible  
10 projects during the taxable year may apply with the Department  
11 to obtain a tax credit against the tax imposed under  
12 subsections (a) and (b) of Section 201 of this Act. The credit  
13 may not exceed 100% of the eligible project costs incurred by  
14 the taxpayer during the taxable year. The taxpayer shall be  
15 eligible to receive a certificate for 75% of the amount of the  
16 credit awarded beginning in the taxable year in which the

1 application is approved and the eligible project costs have  
2 been incurred. Except as otherwise provided in this Section  
3 with respect to asbestos abatement and lead abatement, the  
4 taxpayer may receive a certificate for the remaining 25% of the  
5 credits awarded upon receipt of a "No Further Remediation"  
6 determination from the Illinois Environmental Protection  
7 Agency. For expenses associated with asbestos abatement, the  
8 taxpayer may receive a certificate for the remaining 25% of the  
9 credits awarded upon receipt of a closure report certified by  
10 an independent, third-party asbestos air sampling professional  
11 licensed in the State of Illinois. For expenses associated with  
12 lead abatement, the taxpayer may receive a certificate for the  
13 remaining 25% of the credits awarded upon receipt of a closure  
14 report certified by an independent, third-party lead risk  
15 assessor licensed in the State of Illinois.

16 The Department shall distribute the tax credits equitably  
17 throughout all geographic regions of the State. The taxpayer  
18 may sell, transfer, or assign credits awarded under this  
19 Section to other taxpayers or to nonprofit entities, and the  
20 credits may be sold, transferred or assigned more than one time  
21 by any taxpayer or nonprofit entity. The credits may be  
22 bifurcated to be sold, transferred, or assigned to more than  
23 one party. The credits are not subject to recapture. If credits  
24 that have been sold are subsequently reduced, adjusted, or  
25 cancelled, in whole or in part, by the Department or any other  
26 applicable agency, only the original qualified taxpayer that

1 was awarded the credits, and not any purchaser of the credits,  
2 shall be liable to repay the amount of such reduction,  
3 adjustment, or cancellation of the credits.

4 (b) The tax credit may not reduce the taxpayer's liability  
5 to less than zero. If the amount of the tax credit exceeds the  
6 tax liability for the year, the excess may be carried forward  
7 and applied to the tax liability of the 5 taxable years  
8 following the excess credit year. The credit must be applied to  
9 the earliest year for which there is a tax liability. If there  
10 are credits from more than one tax year that are available to  
11 offset a liability, then the earlier credit must be applied  
12 first.

13 (c) For the purposes of this Section:

14 "Department" means the Department of Commerce and  
15 Economic Opportunity;

16 "Eligible project" means the remodeling,  
17 rehabilitation, modernization, or remediation of abandoned  
18 or underutilized property located in the State that is  
19 contaminated with hazardous substances, petroleum  
20 products, asbestos, or lead-based paint, or a combination  
21 of those factors, at the time the property is purchased by  
22 the taxpayer. The project site must be enrolled in the  
23 Illinois Environmental Protection Agency's Site  
24 Remediation Program, and the project must be approved by  
25 the municipality and the county in which the site is  
26 located. The taxpayer must demonstrate that the project

1 will create at least 10 new jobs, retain 25 jobs, or a  
2 combination thereof.

3 "Eligible project costs" include, but are not limited  
4 to, costs associated with site assessment and  
5 investigation; soil, groundwater, and surface water  
6 remediation; asbestos and lead-based paint surveys and  
7 abatement; documentation and reporting necessary to meet  
8 environmental regulations and obtain closure documentation  
9 from the State.

10 "Qualified taxpayer" means a taxpayer that meets all of  
11 the following criteria:

12 (1) the taxpayer is the owner of the site on which  
13 the eligible project will occur;

14 (2) the taxpayer must be current on all taxes  
15 imposed by the State at the time of the application and  
16 must have no criminal record; and

17 (3) the taxpayer must not be the party responsible  
18 for the contamination.

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

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law."