HB3277

LRB09811154HLH41856b

98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3277

by Rep. Elgie R. Sims, Jr.

SYNOPSIS AS INTRODUCED:

35 ILCS 5/224 new

Amends the Illinois Income Tax Act. Provides that qualified taxpayers that undertake one or more eligible projects related to the remodeling, rehabilitation, modernization, or remediation of certain contaminated property may apply with the Department of Commerce and Economic Opportunity to obtain a tax credit against their income tax liability. Effective immediately.

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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 5. The Illinois Income Tax Act is amended by adding Section 224 as follows:

(35 ILCS 5/224 new)

Sec. 224. Brownfield remediation tax credit.

(a) For taxable years beginning on or after January 1, 2013, qualified taxpayers that undertake one or more eligible projects during the taxable year may apply with the Department to obtain a tax credit against the tax imposed under subsections (a) and (b) of Section 201 of this Act. The credit may not exceed 100% of the eligible project costs incurred by the taxpayer during the taxable year. The taxpayer shall be eligible to receive a certificate for 75% of the amount of the credit awarded beginning in the taxable year in which the application is approved and the eligible project costs have been incurred. The taxpayer may receive a certificate for the remaining 25% of the credits awarded upon receipt of a "No Further Remediation" determination from the Illinois Environmental Protection Agency. For expenses associated with asbestos abatement, the taxpayer may receive a certificate for the remaining 25% of the credits awarded upon receipt of a closure report certified by an independent third-party asbestos Air Sampling Professional licensed in the State of Illinois. For expenses associated with lead abatement, the taxpayer may receive a certificate for the remaining 25% of the credits awarded upon receipt of a closure report certified by an independent third-party lead risk assessor licensed in the State of Illinois. The Department shall distribute the tax credits equitably throughout all geographic regions of the State. The taxpayer may sell, transfer, or assign credits awarded under this Section to other taxpayers or to nonprofit entities, and the credits may be sold, transferred, or assigned more than one time by any taxpayer or nonprofit entity. The credits may be bifurcated to be sold, transferred, or assigned to more than one party. The credits are not subject to recapture. If credits that have been sold are subsequently reduced, adjusted, or cancelled, in whole or in part, by the Department or any other applicable agency, only the original qualified taxpayer that was awarded the credits, and not any purchaser or allocatee of the credits, shall be liable to repay the amount of such reduction, adjustment, or cancellation of the credits. The Department may, in its discretion, withhold the remaining 25% of the credits pending creation of the proposed jobs.

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

(c) The Department shall not approve applications for credits under this Act which, in the aggregate for each fiscal year, exceed $50,000,000. However, if, in any fiscal year, the total aggregate amount of the credits awarded does not exceed $50,000,000, then the $50,000,000 limitation for the next fiscal year shall be increased by the difference between $50,000,000 and the total amount of aggregate credits awarded in that previous fiscal year.

(d) Tax credits awarded under this Section are limited to the lesser of the least amount necessary for the project to occur or the positive net State economic impact. Consideration shall be given for a project's potential for enhancing the redevelopment of nearby blighted property.

(e) For the purposes of this Section:

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

"Eligible project" means the remodeling, rehabilitation, modernization, or remediation of abandoned or underutilized property located in the State that is contaminated with hazardous substances, petroleum products, asbestos or lead-based paint, or a combination of those factors, at the time the property is purchased by the taxpayer. The project must be approved by the municipality and the county in which the site is located. The taxpayer must demonstrate that the project will create at least 10 new jobs, retain 25 jobs, or a combination thereof.

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

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

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

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

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

Credits awarded to a partnership or a limited liability company taxed as a partnership shall be passed through to the partners or members respectively on a pro rata basis or pursuant to an executed agreement among the partners or members documenting any alternative distribution method.

(f) This Section is exempt from the provisions of Section 250.

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