



Rep. Lawrence M. Walsh, Jr.

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1 AMENDMENT TO SENATE BILL 341

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 341 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Illinois State Property Revitalization Tax Credit Act.

6 Section 5. Definitions. As used in this Act, unless the  
7 context clearly indicates otherwise:

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

10 "Qualified expenditure" means all the costs and expenses  
11 properly chargeable to the capital account for property and:

12 (1) for which depreciation is allowable under Section  
13 168 of the federal Internal Revenue Code; and

14 (2) that is an expenditure related to:

15 (A) nonresidential real property;

16 (B) residential rental property;

1 (C) real property that has a class life of more  
2 than 12.5 years; or

3 (D) an addition or improvement to property  
4 described in (A), (B), or (C).

5 For the purposes of the definition of "qualified  
6 expenditure", the terms "nonresidential real property",  
7 "residential rental property", and "class life" have the  
8 meanings given to those terms in Section 168 of the federal  
9 Internal Revenue Code.

10 "Qualified expenditure" does not include:

11 (1) any expenditure with respect to which the applicant  
12 does not use the straight line method over a recovery  
13 period determined under subsection (c) or (g) of Section  
14 168 of the federal Internal Revenue Code; this item (1)  
15 does not apply to an expenditure if the alternative  
16 depreciation system set forth in subsection (g) of Section  
17 168 of the federal Internal Revenue Code applies to that  
18 expenditure by reason of subparagraph (B) or (C) of item  
19 (1) of that subsection;

20 (2) the cost of acquiring any building or interest  
21 therein;

22 (3) any expenditure attributable to the rehabilitation  
23 of a certified historic structure in a registered historic  
24 district, if the rehabilitation plan has not been approved  
25 by the Historic Preservation Agency as being consistent  
26 with the standards for rehabilitation as adopted by the

1 federal Secretary of the Interior; "certified historic  
2 structure" means a building and its structural components  
3 that: (A) is listed on the National Register of Historic  
4 Places; (B) is located in a registered historic district;  
5 and (C) is certified by the Secretary of the Interior as  
6 being of historic significance to the district;  
7 "registered historic district" means: (A) any district  
8 listed on the National Register of Historic Places; and (B)  
9 any district (i) that is designated under a State statute  
10 or local ordinance that has been certified by the Secretary  
11 of the Interior as containing criteria that will  
12 substantially achieve the purpose of preserving and  
13 rehabilitating buildings of historic significance to the  
14 district, and (ii) that has been certified by the Secretary  
15 of the Interior as meeting substantially all of the  
16 requirements for the listing of districts on the National  
17 Register of Historic Places.

18 "Qualified structure" means a facility or structure  
19 located in Illinois (i) that was owned by the State of Illinois  
20 prior to the effective date of this Act and (ii) at which more  
21 than 100 employees were employed prior to the effective date of  
22 this Act.

23 "Qualified rehabilitation plan" means a proposed  
24 rehabilitation design that is approved by the Department.

25 "Qualified rehabilitation project" means a completed  
26 rehabilitation project that is approved by the Department.

1 "Qualified taxpayer" means any owner of the qualified  
2 structure. If the taxpayer is (i) a corporation having an  
3 election in effect under subchapter S of the federal Internal  
4 Revenue Code, (ii) a partnership, including a limited  
5 partnership or a limited liability partnership, or (iii) a  
6 limited liability company, the credit provided by this Act may  
7 be claimed by the shareholders of the corporation, the partners  
8 of the partnership, or the members of the limited liability  
9 company in the same manner as those shareholders, partners, or  
10 members account for their proportionate shares of the income or  
11 losses of the corporation, partnership, or limited liability  
12 company, or as provided in the bylaws or other executed  
13 agreement of the corporation, partnership, or limited  
14 liability company.

15 Credits granted to a partnership, including a limited  
16 partnership or a limited liability partnership, a limited  
17 liability company taxed as a partnership, or other multiple  
18 owners of property shall be passed through to the partners,  
19 members, or owners respectively on a pro rata basis or pursuant  
20 to an executed agreement among the partners, members, or owners  
21 documenting any alternate distribution method. Nothing in this  
22 Act is intended to prohibit a non-profit entity with a Section  
23 501(c)(3) designation under the federal Internal Revenue Code  
24 from serving as a shareholder, partner, member or other owner  
25 of a qualified taxpayer.

1           Section 10. Allowable credit. There shall be allowed a tax  
2 credit against (i) the tax imposed by subsections (a) and (b)  
3 of Section 201 of the Illinois Income Tax Act and (ii) the  
4 taxes imposed under Sections 409, 413, 444, and 444.1 of the  
5 Illinois Insurance Code in an aggregate amount equal to 30% of  
6 the qualified expenditures incurred by a qualified taxpayer  
7 pursuant to a qualified rehabilitation plan on a qualified  
8 structure, provided that the total amount of such qualified  
9 expenditures exceeds the greater of \$5,000 for each qualified  
10 structure or the adjusted basis of the property.

11           While a tax credit may be earned before July 1, 2014, no  
12 tax credit shall be issued by the Department before that date.  
13 If the amount of any tax credit awarded under this Act exceeds  
14 the taxpayer's tax liability for the year in which the  
15 qualified rehabilitation project was placed in service, the  
16 excess amount may be carried forward for deduction from the  
17 taxpayer's tax liability in the next succeeding year or years  
18 or may be carried back for deduction from the taxpayer's tax  
19 liability for the immediately preceding year until the total  
20 amount of the credit has been used, except that a credit may  
21 not be carried forward for deduction after the fifth taxable  
22 year after the taxable year in which the qualified  
23 rehabilitation project was placed in service or carried back  
24 for deduction more than one year before the taxable year in  
25 which the qualified rehabilitation project was placed in  
26 service.

1 Applicants may incur qualified expenditures, at their own  
2 risk, from the earlier of (i) the commencement of construction  
3 or (ii) one year prior to receipt of preliminary approval of an  
4 application pursuant to Section 30 of this Act.

5 Section 15. Economic needs test. When the total credits  
6 requested with respect to a qualified rehabilitation plan will  
7 be \$1,000,000 or more, the Department shall evaluate whether,  
8 without public intervention, the economic development project  
9 would not otherwise benefit from private sector investment.

10 Section 20. Transfer of credits.

11 (a) Any qualified taxpayer may elect to transfer, in whole  
12 or in part, any unused credit amount granted under this Act as  
13 provided in subsection (b). An election to transfer any unused  
14 credit amount must be made no later than 5 years after the date  
15 the credit is awarded, after which period the credit expires  
16 and may not be used. The Department shall notify the Department  
17 of Revenue of the election and transfer.

18 (b) A qualified taxpayer is permitted a one-time transfer  
19 of unused credit amounts to no more than 4 transferees. Those  
20 transfers must occur in the same taxable year.

21 (c) The transferee is subject to the same rights and  
22 limitations as the accredited production company awarded the  
23 credit, except that the transferee may not sell or otherwise  
24 transfer the credit.

1           (d) The Department may adopt rules to administer this  
2 Section.

3           Section 25. Maximum limits. The credits awarded for each  
4 qualified rehabilitation project shall be limited to a maximum  
5 of \$10,000,000. The aggregate amount of the tax credits that  
6 may be claimed under this Act for investments in qualified  
7 rehabilitation projects shall be limited to \$40,000,000. A  
8 qualified rehabilitation project shall not receive credits  
9 pursuant to this Act if the qualified rehabilitation project  
10 has received credits pursuant to the River Edge Redevelopment  
11 Zone Act.

12           Section 30. Application process.

13           (a) To obtain the credits allowed under this Act, the  
14 applicant shall submit an application for tax credits to the  
15 Department. The application shall be in such form as the  
16 Department shall reasonably require, and the application shall  
17 include sufficient information to permit the Department to  
18 approve, approve with conditions, or reject the structure,  
19 rehabilitation plan, or rehabilitation project.

20           (b) The Department may charge a non-refundable application  
21 fee of up to 1% of the amount of credits requested, with a  
22 minimum fee of \$1,000 per application per project. All  
23 application fees shall be deposited into the Department's  
24 Administrative Fund.

1           (c) All applicants with applications receiving preliminary  
2 approval on or after the effective date of this Act shall  
3 commence rehabilitation within 3 years of the date of issue of  
4 the letter from the Department granting preliminary approval  
5 for credits. Commencement of rehabilitation means that, as of  
6 the date on which actual physical work has begun, the applicant  
7 has incurred no less than 10% of the estimated costs of  
8 rehabilitation provided in the application. The applicant may  
9 commence and incur qualified expenditures at its own risk  
10 before the property becomes a qualified structure. If the  
11 rehabilitation receives final approval under this Section,  
12 including the necessary verification of the total costs and  
13 expenses of rehabilitation, the applicant shall receive tax  
14 credits for all qualified expenditures incurred within the time  
15 periods allowed in this Act.

16           (d) For qualified rehabilitation projects, the applicant  
17 shall submit a cost certification, and if the credits requested  
18 with respect to a qualified rehabilitation project are \$250,000  
19 or more, the Department shall require an independent audit of  
20 the cost certification at the applicant's expense. Those audits  
21 shall be conducted by a licensed Certified Public Accounting  
22 firm that participates in the peer review program of the  
23 American Institute of Certified Public Accountants.

24           (e) The Department shall determine the amount of qualified  
25 expenditures and the amount of credits to be issued to the  
26 applicant. The issuance of certificates of credits to



1 applicants shall be performed by the Department. The Department  
2 shall coordinate with the Illinois Department of Revenue to  
3 determine if the applicant has any outstanding Illinois tax  
4 obligations that can be satisfied by the credits to be issued.  
5 The Department shall inform the applicant of final approval and  
6 of the final credit amount by letter. An issuance fee of up to  
7 2% of the amount of the credits issued by the tax credit  
8 certificate may be collected from the applicant and remitted to  
9 the Department for the purpose of administering the Act. When  
10 the Department has received the issuance fee from the applicant  
11 and deposited it into the Department's Administrative Fund, the  
12 Department shall issue a tax credit certificate to the  
13 applicant. The taxpayer must attach the tax credit certificate  
14 to the tax return on which the credits are to be claimed.

15 Section 35. Biennial report; powers of the Department. The  
16 Department shall issue a report no later than the last day of  
17 the second fiscal year after the effective date of this Act on  
18 the overall economic impact to the State of the qualified  
19 rehabilitation projects. The Department is granted and has all  
20 the powers necessary or convenient to carry out the provisions  
21 of this Act. The Department has the power to promulgate rules  
22 for the administration of this Act, including the power to  
23 adopt emergency rules for a period of 12 months after the  
24 effective date of this Act for the purposes of establishing  
25 application forms and entering into agreements related to this

1 Act.

2 Section 40. Appeals process. An applicant may appeal an  
3 adverse decision made by the Department, other than a decision  
4 related to the qualifications of the structure, rehabilitation  
5 plan, or rehabilitation project, by requesting a hearing under  
6 the terms of Article 10 of the Illinois Administrative  
7 Procedure Act. A petition for hearing must be postmarked no  
8 later than 30 days from the date of the adverse decision.

9 Section 60. The State Property Control Act is amended by  
10 changing Section 7.1 as follows:

11 (30 ILCS 605/7.1) (from Ch. 127, par. 133b10.1)

12 Sec. 7.1. (a) Except as otherwise provided by law, all  
13 surplus real property held by the State of Illinois shall be  
14 disposed of by the administrator as provided in this Section.  
15 "Surplus real property," as used in this Section, means any  
16 real property to which the State holds fee simple title or  
17 lesser interest, and is determined by the head of the State  
18 agency to no longer be required for the State agency's needs  
19 and responsibilities ~~vacant, unoccupied or unused and which has~~  
20 ~~no foreseeable use by the owning agency.~~

21 (b) All responsible officers shall submit an Annual Real  
22 Property Utilization Report to the Administrator, or annual  
23 update of such report, on forms required by the Administrator,

1 by July 31 of each year. The Administrator may require such  
2 documentation as he deems reasonably necessary in connection  
3 with this Report, and shall require that such Report include  
4 the following information:

5 (1) A legal description of all real property owned by the  
6 State under the control of the responsible officer.

7 (2) A description of the use of the real property listed  
8 under (1).

9 (3) A list of any improvements made to such real property  
10 during the previous year.

11 (4) The dates on which the State first acquired its  
12 interest in such real property, and the purchase price and  
13 source of the funds used to acquire the property.

14 (5) Plans for the future use of currently unused real  
15 property.

16 (6) A declaration of any surplus real property. On or  
17 before October 31 of each year the Administrator shall furnish  
18 copies of each responsible officer's report along with a list  
19 of surplus property indexed by legislative district to the  
20 General Assembly.

21 This report shall be filed with the Speaker, the Minority  
22 Leader and the Clerk of the House of Representatives and the  
23 President, the Minority Leader and the Secretary of the Senate  
24 and shall be duplicated and made available to the members of  
25 the General Assembly for evaluation by such members for  
26 possible liquidation of unused public property at public sale.

1           (c) Following receipt of the Annual Real Property  
2 Utilization Report required under paragraph (b), the  
3 Administrator shall notify all State agencies by October 31 of  
4 all declared surplus real property. ~~Any State agency may submit~~  
5 ~~a written request to the Administrator, within 60 days of the~~  
6 ~~date of such notification, to have control of surplus real~~  
7 ~~property transferred to that agency. Such request must indicate~~  
8 ~~the reason for the transfer and the intended use to be made of~~  
9 ~~such surplus real property. The Administrator may deny any or~~  
10 ~~all such requests by a State agency or agencies if the~~  
11 ~~Administrator determines that it is more advantageous to the~~  
12 ~~State to dispose of the surplus real property under paragraph~~  
13 ~~(d). In case requests for the same surplus real property are~~  
14 ~~received from more than one State agency, the Administrator~~  
15 ~~shall weigh the benefits to the State and determine to which~~  
16 ~~agency, if any, to transfer control of such property. The~~  
17 ~~Administrator shall coordinate the use and disposal of State~~  
18 ~~surplus real property with any State space utilization program.~~

19           (d) Any surplus real property ~~which is not transferred to~~  
20 ~~the control of another State agency under paragraph (c)~~ shall  
21 be disposed of by the Administrator. No appraisal is required  
22 if during his initial survey of surplus real property the  
23 Administrator determines such property has a fair market value  
24 of less than \$5,000. If the value of such property is  
25 determined by the Administrator in his initial survey to be  
26 \$5,000 or more, then the Administrator shall obtain 2 3

1 appraisals of such real property, which shall include any known  
2 liabilities, including, but not limited to, environmental  
3 costs ~~one of which shall be performed by an appraiser residing~~  
4 ~~in the county in which said surplus real property is located.~~  
5 The average of these 2 3 appraisals, ~~plus the costs of~~  
6 ~~obtaining the appraisals,~~ shall represent the fair market value  
7 of the surplus real property. However, if the 2 appraisals  
8 differ by more than 15%, then the Administrator shall obtain a  
9 third appraisal, and the fair market value shall be the average  
10 of these 3 appraisals.

11 No surplus real property may be conveyed by the  
12 Administrator for less than the fair market value, unless the  
13 Administrator makes a written determination that it is in the  
14 best interests of the State to establish a different value.  
15 That written determination shall be published in the Illinois  
16 Procurement Bulletin. Such written determination, along with  
17 an affidavit setting forth the conditions and circumstances  
18 that make the use of a different value in the best interests of  
19 the State, shall also be filed with the Executive Ethics  
20 Commission. The Executive Ethics Commission shall have at least  
21 30 days to review the written determination. The Executive  
22 Ethics Commission may order an additional 30 days to review the  
23 written determination. The Administrator shall provide the  
24 Executive Ethics Commission with any information requested by  
25 the Executive Ethics Commission related to the Administrator's  
26 determination of the value of the surplus real property. If the

1 Executive Ethics commission objects in writing to the value  
2 determined by the Administrator, then the Administrator shall  
3 not convey the surplus real property for less than either the  
4 fair market value as determined by the average of appraisals or  
5 an amount agreed upon by the Executive Ethics Commission and  
6 the Administrator. Circumstances in which it is in the best  
7 interest of the State to establish a different value may  
8 include, but are not limited to, the following: an auction did  
9 not yield any bids at the established fair market value; a unit  
10 of local government is interested in acquiring the surplus real  
11 property; or the costs to the State of maintaining such surplus  
12 real property are sufficiently high that it would be reasonable  
13 to a prudent person to sell such surplus real property for less  
14 than the fair market value established by the average of  
15 appraisals.

16 Prior to offering the surplus real property for sale to the  
17 public the Administrator shall give notice in writing of the  
18 existence ~~and fair market value~~ of the surplus real property to  
19 each State agency and to the governing bodies of the county and  
20 of all cities, villages and incorporated towns in the county in  
21 which such real property is located. Any such State agency or  
22 governing body may notify the Administrator of its interest in  
23 acquiring ~~exercise its option to acquire~~ the surplus real  
24 property ~~for the fair market value~~ within the notice period set  
25 by the Administrator of at least 14 days ~~60 days of the notice.~~  
26 If any Stage agency or governing body notifies the

1 Administrator of its interest in acquiring the property, then  
2 the Administrator shall wait a minimum of 30 additional days  
3 during which to engage in negotiations with that State agency  
4 or governing body for the sale of the surplus real property.

5 After the notice period ~~60 day period~~ has passed, the  
6 Administrator may sell the surplus real property by public  
7 auction, which may include an electronic auction or the use of  
8 sealed bids, following notice of such sale by publication on 3  
9 separate days not less than 15 nor more than 30 days prior to  
10 the sale in the State newspaper and in a newspaper having  
11 general circulation in the county in which the surplus real  
12 property is located. The Administrator shall post "For Sale"  
13 signs of a conspicuous nature on such surplus real property  
14 offered for sale to the public. If no acceptable offers for the  
15 surplus real property are received, the Administrator may have  
16 new appraisals of such property made. The Administrator shall  
17 have all power necessary to convey surplus real property under  
18 this Section. All moneys received for the sale of surplus real  
19 property shall be deposited in the General Revenue Fund, except  
20 that:

21 (1) Where moneys expended for the acquisition of such  
22 real property were from a special fund which is still a  
23 special fund in the State treasury, this special fund shall  
24 be reimbursed in the amount of the original expenditure and  
25 any amount in excess thereof shall be deposited in the  
26 General Revenue Fund.

1           (2) Whenever a State mental health facility operated by  
2           the Department of Human Services is closed and the real  
3           estate on which the facility is located is sold by the  
4           State, the net proceeds of the sale of the real estate  
5           shall be deposited into the Community Mental Health  
6           Medicaid Trust Fund.

7           (3) Whenever a State developmental disabilities  
8           facility operated by the Department of Human Services is  
9           closed and the real estate on which the facility is located  
10          is sold by the State, the net proceeds of the sale of the  
11          real estate shall be deposited into the Community  
12          Developmental Disability Services Medicaid Trust Fund.

13          The Administrator shall have authority to order such  
14          surveys, abstracts of title, or commitments for title insurance  
15          as may, in his reasonable discretion, be deemed necessary to  
16          demonstrate to prospective purchasers or bidders good and  
17          marketable title in any property offered for sale pursuant to  
18          this Section. Unless otherwise specifically authorized by the  
19          General Assembly, all conveyances of property made by the  
20          Administrator shall be by quit claim deed.

21          (e) The Administrator shall submit an annual report on or  
22          before February 1 to the Governor and the General Assembly  
23          containing a detailed statement of surplus real property either  
24          transferred or conveyed under this Section.

25          (Source: P.A. 96-527, eff. 1-1-10; 96-660, eff. 8-25-09;  
26          96-1000, eff. 7-2-10.)



1           Section 70. The Illinois Income Tax Act is amended by  
2 adding Section 224 as follows:

3           (35 ILCS 5/224 new)

4           Sec. 224. Rehabilitation and revitalization credit. For  
5 tax years commencing on or after January 1, 2014, a taxpayer  
6 who qualifies for a credit under the Illinois Rehabilitation  
7 and Revitalization Tax Credit Act is entitled to a credit  
8 against the taxes imposed under subsections (a) and (b) of  
9 Section 201 of this Act. If the taxpayer is a partnership or  
10 Subchapter S corporation, the credit shall be allowed to the  
11 partners or shareholders in accordance with the determination  
12 of income and distributive share of income under Sections 702  
13 and 704 and Subchapter S of the Internal Revenue Code or the  
14 credit shall be allowed to the partners or shareholders  
15 pursuant to an executed agreement among the partners or  
16 shareholders documenting any alternate distribution method.  
17 This Section is exempt from the provisions of Section 250 of  
18 this Act.

19           Section 75. The Illinois Insurance Code is amended by  
20 adding Section 409.2 as follows:

21           (215 ILCS 5/409.2 new)

22           Sec. 409.2. Rehabilitation and revitalization credit. For

1 taxes payable after January 1, 2014, credits may be granted  
2 against the taxes imposed under Section 409, 413, 444, and  
3 444.1 of this Act as provided in the Illinois Rehabilitation  
4 and Revitalization Tax Credit Act.

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