HB3566

LRB09910617HLH30919b

99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3566

by Rep. Jehan A. Gordon-Booth

SYNOPSIS AS INTRODUCED:

35 ILCS 5/221
215 ILCS 5/409.1 new

Amends the Illinois Income Tax Act and the Illinois Insurance Code. Provides that all or a portion of the income tax credit awarded for the restoration and preservation of a qualified historic structure located in a River Edge Redevelopment Zone may instead be taken as a credit against privilege and retaliatory taxes paid under the Illinois Insurance Code. Provides that the Historic Preservation Agency may issue a certification to the taxpayer stating that, if the project is completed as proposed, the project will qualify for the credits. Contains provisions concerning transfers of credits. Provides that the credit may be carried forward. Provides that the credit sunsets on January 1, 2022 (currently, January 1, 2017). 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 changing Section 221 as follows:

(35 ILCS 5/221)

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

(a) For taxable years beginning on or after January 1, 2012 and ending prior to January 1, 2022 ~~January 1, 2017~~, there shall be allowed a tax credit against the tax imposed by (i) subsections (a) and (b) of Section 201 of this Act and (ii) taxes imposed under Sections 409, 413, 444, and 444.1 of the Illinois Insurance Code in an aggregate amount equal to 25% of qualified expenditures incurred by a qualified taxpayer during the taxable year in the restoration and preservation of a qualified historic structure located in a River Edge Redevelopment Zone pursuant to a qualified rehabilitation plan, provided that the total amount of such expenditures (i) must equal $5,000 or more and (ii) must exceed 50% of the purchase price of the property.

(b) To obtain a tax credit pursuant to this Section, the taxpayer must apply with the Department of Commerce and

Economic Opportunity. The Department of Commerce and Economic Opportunity, in consultation with the Historic Preservation Agency, shall determine the amount of eligible rehabilitation costs and expenses. The Historic Preservation Agency shall determine whether the rehabilitation is consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation. The Historic Preservation Agency may, after its approval of any plan of rehabilitation and prior to the completion of any project, issue a certification to the taxpayer stating that, if the project is completed as proposed, the rehabilitation work will qualify for the credits. Upon completion and review of the project, the Department of Commerce and Economic Opportunity shall issue a certificate in the amount of the eligible credits. At the time the certificate is issued, an issuance fee up to the maximum amount of 2% of the amount of the credits issued by the certificate may be collected from the applicant to administer the provisions of this Section. If collected, this issuance fee shall be deposited into the Historic Property Administrative Fund, a special fund created in the State treasury. Subject to appropriation, moneys in the Historic Property Administrative Fund shall be evenly divided between the Department of Commerce and Economic Opportunity and the Historic Preservation Agency to reimburse the Department of Commerce and Economic Opportunity and the Historic Preservation Agency for the costs associated with administering this Section. The taxpayer must attach the certificate to the tax return on which the credits are to be claimed. The Department of Commerce and Economic Opportunity may adopt rules to implement this Section.

(c) The tax credit under this Section may not reduce the taxpayer's liability to less than zero. The credit may not be carried back. If the amount of the 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 shall 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, the earlier credit shall be applied first.

(c-5) Taxpayers who are eligible to claim the credit, including without limitation, any partners, shareholders of subchapter S corporations, and members who are eligible to claim the credit as provided in the definition of "qualified taxpayer" below, may transfer all or any portion of the credit to any individual or entity, within one year after the credit is awarded, in accordance with rules adopted by the Department of Commerce and Economic Opportunity. Any transferee of all or any portion of a credit shall have the right to claim the credit, carry the credit forward as described in subsection (c) above, and allocate such credit to its partners, shareholders of subchapter S corporations, and members (and also through tiers of such entities) as described in the definition of "qualified taxpayer" below, as if the transferee had been originally issued such credit. The tax credit may not be transferred more than once. Allocations of credits to partners, shareholders of S corporations, members, or other owners (including through tiers of such entities) as described in the definition of "qualified taxpayer" below shall not be considered transfers under this subsection (c-5), and the one-time transfer limitation set forth in the immediately preceding sentence shall not apply to any such allocations.

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

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

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

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

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

federal Internal Revenue Code with respect to that qualified historic structure. Partners, shareholders of subchapter S corporations, and owners of limited liability companies (if the limited liability company is treated as a partnership for purposes of federal and State income taxation) are entitled to a credit under this Section to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 703 and subchapter S of the Internal Revenue Code, provided that credits granted to a partnership, a limited liability company taxed as a partnership, or other multiple owners of property shall be passed through to the partners, members, or owners respectively <u>(and shall be passed through more than once in the case of tiers of such entities)</u> on a pro rata basis or pursuant to an executed agreement among the partners, members, or owners documenting any alternate distribution method <u>(which need not be on a pro-rata basis)</u>.
(Source: P.A. 97-203, eff. 7-28-11.)

Section 10. The Illinois Insurance Code is amended by adding Section 409.1 as follows:

(215 ILCS 5/409.1 new)

<u>Sec. 409.1. River Edge Redevelopment Zone Rehabilitation credit. For taxes payable after January 1, 2015, credits may be granted against the taxes imposed under Section 409, 413, 444, and 444.1 of this Act as provided in Section 221 of the</u>

Illinois Income Tax Act.

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