



## 99TH GENERAL ASSEMBLY

### State of Illinois

### 2015 and 2016

### SB1212

Introduced 2/11/2015, by Sen. Antonio Muñoz

#### SYNOPSIS AS INTRODUCED:

New Act

30 ILCS 605/7.1

from Ch. 127, par. 133b10.1

35 ILCS 5/224 new

215 ILCS 5/409.2 new

Creates the Illinois State Property Revitalization Tax Credit Act. Creates a credit against taxes imposed under the Illinois Income Tax Act and the Illinois Insurance Code in an amount equal to 30% of qualified expenditures incurred by a qualified taxpayer in the rehabilitation of certain property that had been owned by the State. Provides that credits may be carried over into succeeding years and transferred. Contains provisions concerning the application process for obtaining a credit including form, fees, time to commence rehabilitation and expenditures, and that applicants shall comply with the Prevailing Wage Act. Provides that the Department of Commerce and Economic Opportunity will determine the amount of qualified expenditures and the amount of credits to be issued. Requires that a biennial report be issued. Provides for an appeal process where applicants may appeal an adverse decision. Amends the Illinois Income Tax Act and the Illinois Insurance Code to make conforming changes. Amends the State Property Control Act. Changes the definition of "surplus real property" to include property which is determined by the head of the State agency to no longer be required for the State agency's needs and responsibilities (instead of property that is vacant, unoccupied, or unused and having no foreseeable use by the owing agency). Makes changes concerning the disposition of surplus State property. Effective immediately.

LRB099 09720 HLH 29929 b

FISCAL 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 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;

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

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

21 For the purposes of the definition of "qualified  
22 expenditure", the terms "nonresidential real property",  
23 "residential rental property", and "class life" have the

1 meanings given to those terms in Section 168 of the federal  
2 Internal Revenue Code.

3 "Qualified expenditure" does not include:

4 (1) any expenditure with respect to which the applicant  
5 does not use the straight line method over a recovery  
6 period determined under subsection (c) or (g) of Section  
7 168 of the federal Internal Revenue Code; this item (1)  
8 does not apply to an expenditure if the alternative  
9 depreciation system set forth in subsection (g) of Section  
10 168 of the federal Internal Revenue Code applies to that  
11 expenditure by reason of subparagraph (B) or (C) of item  
12 (1) of that subsection;

13 (2) the cost of acquiring any building or interest  
14 therein;

15 (3) any expenditure attributable to the rehabilitation  
16 of a certified historic structure in a registered historic  
17 district, if the rehabilitation plan has not been approved  
18 by the Historic Preservation Agency as being consistent  
19 with the standards for rehabilitation as adopted by the  
20 federal Secretary of the Interior; "certified historic  
21 structure" means a building and its structural components  
22 that: (A) is listed on the National Register of Historic  
23 Places; (B) is located in a registered historic district;  
24 and (C) is certified by the Secretary of the Interior as  
25 being of historic significance to the district;  
26 "registered historic district" means: (A) any district

1 listed on the National Register of Historic Places; and (B)  
2 any district (i) that is designated under a State statute  
3 or local ordinance that has been certified by the Secretary  
4 of the Interior as containing criteria that will  
5 substantially achieve the purpose of preserving and  
6 rehabilitating buildings of historic significance to the  
7 district, and (ii) that has been certified by the Secretary  
8 of the Interior as meeting substantially all of the  
9 requirements for the listing of districts on the National  
10 Register of Historic Places.

11 "Qualified structure" means a facility or structure  
12 located in Illinois (i) that was owned by the State of Illinois  
13 prior to the effective date of this Act and (ii) at which more  
14 than 100 employees were employed prior to the effective date of  
15 this Act.

16 "Qualified rehabilitation plan" means a proposed  
17 rehabilitation design that is approved by the Department.

18 "Qualified rehabilitation project" means a completed  
19 rehabilitation project that is approved by the Department.

20 "Qualified taxpayer" means any owner of the qualified  
21 structure. If the taxpayer is (i) a corporation having an  
22 election in effect under subchapter S of the federal Internal  
23 Revenue Code, (ii) a partnership, including a limited  
24 partnership or a limited liability partnership, or (iii) a  
25 limited liability company, the credit provided by this Act may  
26 be claimed by the shareholders of the corporation, the partners

1 of the partnership, or the members of the limited liability  
2 company in the same manner as those shareholders, partners, or  
3 members account for their proportionate shares of the income or  
4 losses of the corporation, partnership, or limited liability  
5 company, or as provided in the bylaws or other executed  
6 agreement of the corporation, partnership, or limited  
7 liability company.

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

19 Section 10. Allowable credit. There shall be allowed a tax  
20 credit against (i) the tax imposed by subsections (a) and (b)  
21 of Section 201 of the Illinois Income Tax Act and (ii) the  
22 taxes imposed under Sections 409, 413, 444, and 444.1 of the  
23 Illinois Insurance Code in an aggregate amount equal to 30% of  
24 the qualified expenditures incurred by a qualified taxpayer  
25 pursuant to a qualified rehabilitation plan on a qualified

1 structure, provided that the total amount of such qualified  
2 expenditures exceeds the greater of \$5,000 for each qualified  
3 structure or the adjusted basis of the property.

4 While a tax credit may be earned before July 1, 2015, no  
5 tax credit shall be issued by the Department before that date.  
6 If the amount of any tax credit awarded under this Act exceeds  
7 the taxpayer's tax liability for the year in which the  
8 qualified rehabilitation project was placed in service, the  
9 excess amount may be carried forward for deduction from the  
10 taxpayer's tax liability in the next succeeding year or years  
11 or may be carried back for deduction from the taxpayer's tax  
12 liability for the immediately preceding year until the total  
13 amount of the credit has been used, except that a credit may  
14 not be carried forward for deduction after the fifth taxable  
15 year after the taxable year in which the qualified  
16 rehabilitation project was placed in service or carried back  
17 for deduction more than one year before the taxable year in  
18 which the qualified rehabilitation project was placed in  
19 service.

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

24 Section 15. Economic needs test. When the total credits  
25 requested with respect to a qualified rehabilitation plan will

1 be \$1,000,000 or more, the Department shall evaluate whether,  
2 without public intervention, the economic development project  
3 would not otherwise benefit from private sector investment.

4 Section 20. Transfer of credits.

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

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

15 (c) The transferee is subject to the same rights and  
16 limitations as the qualified taxpayer awarded the credit,  
17 except that the transferee may not sell or otherwise transfer  
18 the credit.

19 (d) The Department may adopt rules to administer this  
20 Section.

21 Section 25. Maximum limits. The credits awarded for each  
22 qualified rehabilitation project shall be limited to a maximum  
23 of \$10,000,000. The aggregate amount of the tax credits that  
24 may be claimed under this Act for investments in qualified

1 rehabilitation projects shall be limited to \$40,000,000. A  
2 qualified rehabilitation project shall not receive credits  
3 pursuant to this Act if the qualified rehabilitation project  
4 has received credits pursuant to the River Edge Redevelopment  
5 Zone Act.

6 Section 30. Application process.

7 (a) To obtain the credits allowed under this Act, the  
8 applicant shall submit an application for tax credits to the  
9 Department. The application shall be in such form as the  
10 Department shall reasonably require, and the application shall  
11 include sufficient information to permit the Department to  
12 approve, approve with conditions, or reject the structure,  
13 rehabilitation plan, or rehabilitation project.

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

19 (c) All applicants with applications receiving preliminary  
20 approval on or after the effective date of this Act shall  
21 commence rehabilitation within 3 years of the date of issue of  
22 the letter from the Department granting preliminary approval  
23 for credits. Commencement of rehabilitation means that, as of  
24 the date on which actual physical work has begun, the applicant  
25 has incurred no less than 10% of the estimated costs of



1 rehabilitation provided in the application. The applicant may  
2 commence and incur qualified expenditures at its own risk  
3 before the property becomes a qualified structure. If the  
4 rehabilitation receives final approval under this Section,  
5 including the necessary verification of the total costs and  
6 expenses of rehabilitation, the applicant shall receive tax  
7 credits for all qualified expenditures incurred within the time  
8 periods allowed in this Act. All applicants for tax credits  
9 under this Act shall comply with the Prevailing Wage Act, and  
10 no tax credits shall be granted under this Act unless there has  
11 been a certification that the applicant has complied with the  
12 Prevailing Wage Act.

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

21 (e) The Department shall determine the amount of qualified  
22 expenditures and the amount of credits to be issued to the  
23 applicant. The issuance of certificates of credits to  
24 applicants shall be performed by the Department. The Department  
25 shall coordinate with the Illinois Department of Revenue to  
26 determine if the applicant has any outstanding Illinois tax

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

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

24 Section 40. Appeals process. An applicant may appeal an

1 adverse decision made by the Department, other than a decision  
2 related to the qualifications of the structure, rehabilitation  
3 plan, or rehabilitation project, by requesting a hearing under  
4 the terms of Article 10 of the Illinois Administrative  
5 Procedure Act. A petition for hearing must be postmarked no  
6 later than 30 days from the date of the adverse decision.

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

9 (30 ILCS 605/7.1) (from Ch. 127, par. 133b10.1)

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

19 (b) All responsible officers shall submit an Annual Real  
20 Property Utilization Report to the Administrator, or annual  
21 update of such report, on forms required by the Administrator,  
22 by July 31 of each year. The Administrator may require such  
23 documentation as he deems reasonably necessary in connection  
24 with this Report, and shall require that such Report include

1 the following information:

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

4 (2) A description of the use of the real property listed  
5 under (1).

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

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

11 (5) Plans for the future use of currently unused real  
12 property.

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

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

24 (c) Following receipt of the Annual Real Property  
25 Utilization Report required under paragraph (b), the  
26 Administrator shall notify all State agencies by October 31 of

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

16 (d) Any surplus real property ~~which is not transferred to~~  
17 ~~the control of another State agency under paragraph (e)~~ shall  
18 be disposed of by the Administrator. No appraisal is required  
19 if during his initial survey of surplus real property the  
20 Administrator determines such property has a fair market value  
21 of less than \$5,000. If the value of such property is  
22 determined by the Administrator in his initial survey to be  
23 \$5,000 or more, then the Administrator shall obtain 2 ~~3~~  
24 appraisals of such real property, which shall include any known  
25 liabilities, including, but not limited to, environmental  
26 costs ~~one of which shall be performed by an appraiser residing~~

1 ~~in the county in which said surplus real property is located.~~  
2 The average of these 2 ~~3~~ appraisals, ~~plus the costs of~~  
3 ~~obtaining the appraisals,~~ shall represent the fair market value  
4 of the surplus real property. However, if the 2 appraisals  
5 differ by more than 15%, then the Administrator shall obtain a  
6 third appraisal, and the fair market value shall be the average  
7 of these 3 appraisals.

8 No surplus real property may be conveyed by the  
9 Administrator for less than the fair market value, unless the  
10 Administrator makes a written determination that it is in the  
11 best interests of the State to establish a different value.  
12 That written determination shall be published in the Illinois  
13 Procurement Bulletin. Such written determination, along with  
14 an affidavit setting forth the conditions and circumstances  
15 that make the use of a different value in the best interests of  
16 the State, shall also be filed with the Executive Ethics  
17 Commission. The Executive Ethics Commission shall have at least  
18 30 days to review the written determination. The Executive  
19 Ethics Commission may order an additional 30 days to review the  
20 written determination. The Administrator shall provide the  
21 Executive Ethics Commission with any information requested by  
22 the Executive Ethics Commission related to the Administrator's  
23 determination of the value of the surplus real property. If the  
24 Executive Ethics Commission objects in writing to the value  
25 determined by the Administrator, then the Administrator shall  
26 not convey the surplus real property for less than either the

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

13 Prior to offering the surplus real property for sale to the  
14 public the Administrator shall give notice in writing of the  
15 existence ~~and fair market value~~ of the surplus real property to  
16 each State agency and to the governing bodies of the county and  
17 of all cities, villages and incorporated towns in the county in  
18 which such real property is located. Any such State agency or  
19 governing body may notify the Administrator of its interest in  
20 acquiring ~~exercise its option to acquire~~ the surplus real  
21 property ~~for the fair market value~~ within the notice period set  
22 by the Administrator of at least 14 days ~~60 days of the notice.~~  
23 If any State agency or governing body notifies the  
24 Administrator of its interest in acquiring the property, then  
25 the Administrator shall wait a minimum of 30 additional days  
26 during which to engage in negotiations with that State agency

1 or governing body for the sale of the surplus real property.

2 After the notice period ~~60-day period~~ has passed, the

3 Administrator may sell the surplus real property by public

4 auction, which may include an electronic auction or the use of

5 sealed bids, following notice of such sale by publication on 3

6 separate days not less than 15 nor more than 30 days prior to

7 the sale in the State newspaper and in a newspaper having

8 general circulation in the county in which the surplus real

9 property is located. The Administrator shall post "For Sale"

10 signs of a conspicuous nature on such surplus real property

11 offered for sale to the public. If no acceptable offers for the

12 surplus real property are received, the Administrator may have

13 new appraisals of such property made. The Administrator shall

14 have all power necessary to convey surplus real property under

15 this Section. All moneys received for the sale of surplus real

16 property shall be deposited in the General Revenue Fund, except

17 that:

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

24 (2) Whenever a State mental health facility operated by  
25 the Department of Human Services is closed and the real  
26 estate on which the facility is located is sold by the



1 State, the net proceeds of the sale of the real estate  
2 shall be deposited into the Community Mental Health  
3 Medicaid Trust Fund.

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

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

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

22 (Source: P.A. 96-527, eff. 1-1-10; 96-660, eff. 8-25-09;  
23 96-1000, eff. 7-2-10.)

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

1 (35 ILCS 5/224 new)

2 Sec. 224. Rehabilitation and revitalization credit. For  
3 tax years commencing on or after January 1, 2015, a taxpayer  
4 who qualifies for a credit under the Illinois Rehabilitation  
5 and Revitalization Tax Credit Act is entitled to a credit  
6 against the taxes imposed under subsections (a) and (b) of  
7 Section 201 of this Act. If the taxpayer is a partnership or  
8 Subchapter S corporation, the credit shall be allowed to the  
9 partners or shareholders in accordance with the determination  
10 of income and distributive share of income under Sections 702  
11 and 704 and Subchapter S of the Internal Revenue Code or the  
12 credit shall be allowed to the partners or shareholders  
13 pursuant to an executed agreement among the partners or  
14 shareholders documenting any alternate distribution method.  
15 This Section is exempt from the provisions of Section 250 of  
16 this Act.

17 Section 75. The Illinois Insurance Code is amended by  
18 adding Section 409.2 as follows:

19 (215 ILCS 5/409.2 new)

20 Sec. 409.2. Rehabilitation and revitalization credit. For  
21 taxes payable after January 1, 2015, credits may be granted  
22 against the taxes imposed under Section 409, 413, 444, and  
23 444.1 of this Act as provided in the Illinois Rehabilitation

1 and Revitalization Tax Credit Act.

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