

# SB2168



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB2168

Introduced 2/10/2011, by Sen. James F. Clayborne, Jr.

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Historic Rehabilitation Tax Credit Act. Authorizes tax credits against Illinois income taxes and insurance company privilege taxes for 25% of the costs of rehabilitating certain historic property located in a River Edge Redevelopment Zone. Allows excess credits to be carried back and forward. Allows credits to be transferred, sold, or assigned. Administered by the Department of Commerce and Economic Opportunity. Sets forth application and award procedures. Effective immediately.

LRB097 09058 HLH 49192 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 Historic Rehabilitation Tax Credit Act.

6 Section 5. Definitions.

7 As used in this Act, unless the context requires otherwise:

8 (1) "Certified historic structure" means a property  
9 located in Illinois that is listed individually on the National  
10 Register of Historic Places or is designated as a historic  
11 structure by a unit of local government.

12 (2) "Eligible property" means property located in a River  
13 Edge Redevelopment Zone that is offered or used for  
14 residential, non-profit, local governmental, or business  
15 purposes.

16 (3) "Structure in a historic district" means a structure  
17 located in a River Edge Redevelopment Zone that is certified by  
18 the United States Department of the Interior as contributing to  
19 the historic significance of a certified historic district  
20 listed on the National Register of Historic Places, a local  
21 district that has been certified by the United States  
22 Department of the Interior, or a local district that has been  
23 designated by a local government, either municipal or county.

1           Section 10. Rehabilitation of eligible property. Any  
2 person, firm, partnership, trust, estate, corporation, or  
3 association incurring costs and expenses for the  
4 rehabilitation of eligible property, when that eligible  
5 property is a certified historic structure or a structure in a  
6 certified historic district, is entitled to a credit against  
7 the taxes imposed under the Illinois Income Tax Act (35 ILCS  
8 5/), except Article 7 of that Act, and under Section 409 of the  
9 Illinois Insurance Code (215 ILCS 5/409) in an amount equal to  
10 25% of the total costs and expenses of rehabilitation incurred  
11 after July 1, 2010. Expenses of rehabilitation include, but are  
12 not limited to, qualified rehabilitation expenditures as  
13 defined under Section 47(c)(2)(A) of the Internal Revenue Code  
14 of 1986, as amended, and the related regulations thereunder,  
15 provided the rehabilitation costs associated with  
16 rehabilitation and the expenses exceed 50% of the total basis  
17 in the property and the rehabilitation meets standards  
18 consistent with the standards of the Secretary of the United  
19 States Department of the Interior for rehabilitation as  
20 determined by the Department of Commerce and Economic  
21 Opportunity in consultation with the State Historic  
22 Preservation Officer.

23           Section 15. Use of tax credits, carried forward or carried  
24 back, assignment.

1           (a) If the amount of the credit exceeds the total tax  
2 liability for the year in which the rehabilitated property is  
3 placed in service, the amount that exceeds the tax liability  
4 may be carried back to any of the 3 preceding years and carried  
5 forward for any of the succeeding 10 years as a credit against  
6 the taxes imposed under the Illinois Income Tax Act (except  
7 Article 7) and Section 409 of the Illinois Insurance Code, or  
8 until the full credit is used, whichever occurs first.  
9 Taxpayers eligible for the credits may transfer, sell, or  
10 assign the credits. Not-for-profit entities are eligible to  
11 receive, transfer, sell, or assign the credits. Credits granted  
12 to a partnership, a limited liability company taxed as a  
13 partnership, or multiple owners of property shall be passed  
14 through to the partners, members, or owners respectively pro  
15 rata or pursuant to an executed agreement among the partners,  
16 members, or owners documenting an alternate distribution  
17 method.

18           (b) The assignor of the credits may transfer, sell, or  
19 assign any or all of the credits to the assignee who may use  
20 the acquired credits to offset tax liabilities imposed under  
21 the Illinois Income Tax Act (except Article 7) and Section 409  
22 of the Illinois Insurance Code. The assignor must perfect the  
23 transfer, sale, or assignment by notifying the Department of  
24 Commerce and Economic Opportunity in writing within 30 calendar  
25 days following the effective date of the transfer, sale, or  
26 assignment, and must provide any information that is required

1 by the Department of Commerce and Economic Opportunity to  
2 administer and carry out the provisions of this Section. The  
3 credits may be transferred more than once.

4 (c) If credits that have been transferred are subsequently  
5 reduced, adjusted, or recaptured by the Department of Commerce  
6 and Economic Opportunity, Department of Revenue, or any other  
7 applicable government agency, only the transferor originally  
8 allowed the credits, and not any subsequent transferee of the  
9 credits, shall be held liable to repay any amount of that  
10 reduction, adjustment, or recapture of the credits.

11 Section 20. Application to claim tax credit; certificates  
12 of eligible credits.

13 (a) To obtain the credit, an application must be made to  
14 the Department of Commerce and Economic Opportunity. The  
15 Department, in consultation with the Director of Historic Sites  
16 and Preservation and the United States Department of the  
17 Interior, shall determine the amount of eligible  
18 rehabilitation costs and expenses and whether the  
19 rehabilitation meets the standards of the Secretary of the  
20 United States Department of the Interior for rehabilitation.  
21 The Department of Commerce and Economic Opportunity shall issue  
22 a certificate in the amount of the eligible credits. The  
23 taxpayer must attach the certificate to the tax return on which  
24 the credits are to be claimed.

25 (b) The Department of Commerce and Economic Opportunity

1 shall determine, on an annual basis, the overall economic  
2 impact to the State from the rehabilitation of eligible  
3 property.

4 (c) The Department of Commerce and Economic Opportunity is  
5 granted and has all powers necessary or convenient to carry out  
6 the provisions of this Act, including, but not limited to, the  
7 power to adopt rules for the administration of this Act and the  
8 power to establish application forms and other agreements.

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