



Rep. Jehan Gordon-Booth

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LRB101 04951 HLH 58272 a

1 AMENDMENT TO HOUSE BILL 3025

2 AMENDMENT NO. _____. Amend House Bill 3025 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 School Building Rehabilitation 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 "Phased rehabilitation" means a project that is completed
11 in phases.

12 "Placed in service" means the date when the property is
13 placed in a condition or state of readiness and availability
14 for a specifically assigned function.

15 "Qualified expenditures" means all the costs and expenses
16 for construction materials used to repurpose a qualified school

1 building.

2 "Qualified school building" means a vacant school building
3 located in Illinois.

4 "Qualified rehabilitation plan" means a project involving
5 a qualified school building that is approved by the Department.

6 "Qualified taxpayer" means the owner of the qualified
7 school building.

8 "Recapture event" means any of the following events
9 occurring during the recapture period:

10 (1) failure to place in service the rehabilitated
11 portions of the qualified school building, or failure to
12 maintain the rehabilitated portions of the qualified
13 school building in service after they are placed in
14 service; provided that a recapture event under this
15 paragraph (1) shall not include a removal from service for
16 a reasonable period of time to conduct maintenance and
17 repairs that are reasonably necessary to protect the health
18 and safety of the public or to protect the structural
19 integrity of the qualified school building or a neighboring
20 structure;

21 (2) demolition or other alteration of the qualified
22 school building in a manner that is inconsistent with the
23 qualified rehabilitation plan;

24 (3) disposition of the rehabilitated qualified school
25 building in whole or a proportional disposition of a
26 partnership interest therein, except as otherwise

1 permitted by this Section; or

2 (4) use of the qualified school building in a manner
3 that is inconsistent with the qualified rehabilitation
4 plan or that is otherwise inconsistent with the provisions
5 and intent of this Section.

6 A recapture event occurring in one taxable year shall be
7 deemed continuing to subsequent taxable years unless and until
8 corrected.

9 The following dispositions of a qualified school building
10 shall not be deemed to be a recapture event for purposes of
11 this Section:

12 (1) a transfer by reason of death;

13 (2) a transfer between spouses incident to divorce;

14 (3) a sale by and leaseback to an entity that, when the
15 rehabilitated portions of the qualified school building
16 are placed in service, will be a lessee of the qualified
17 school building, but only for so long as the entity
18 continues to be a lessee; and

19 (4) a mere change in the form of conducting the trade
20 or business by the owner (or, if applicable, the lessee) of
21 the qualified school building, so long as the property
22 interest in such qualified school building is retained in
23 such trade or business and the owner or lessee retains a
24 substantial interest in such trade or business.

25 "Recapture period" means the 5-year period beginning on the
26 date that the qualified school building or rehabilitated

1 portions of the qualified school building are placed in
2 service.

3 "Substantial rehabilitation" means that the qualified
4 expenditures during the 24-month period selected by the
5 taxpayer at the time and in the manner prescribed by rule and
6 ending with or within the taxable year exceed the greater of
7 (i) the adjusted basis of the building and its structural
8 components or (ii) \$5,000. The adjusted basis of the building
9 and its structural components shall be determined as of the
10 beginning of the first day of such 24-month period or as of the
11 beginning of the first day of the holding period of the
12 building, whichever is later. For purposes of determining the
13 adjusted basis, the determination of the beginning of the
14 holding period shall be made without regard to any
15 reconstruction by the taxpayer in connection with the
16 rehabilitation. In the case of any phased rehabilitation, with
17 phases set forth in architectural plans and specifications
18 completed before the rehabilitation begins, this definition
19 shall be applied by substituting "60-month period" for
20 "24-month period" wherever that term occurs in the definition.

21 Section 10. Allowable credit.

22 (a) To the extent authorized by this Act, for taxable years
23 beginning on or after January 1, 2020 and ending on or before
24 December 31, 2024, there shall be allowed a tax credit against
25 the tax imposed by subsections (a) and (b) of Section 201 of

1 the Illinois Income Tax Act in an aggregate amount equal to 25%
2 of qualified expenditures incurred by a qualified taxpayer
3 undertaking a qualified rehabilitation plan of a qualified
4 school building, provided that the total amount of such
5 expenditures must (i) equal \$5,000 or more or (ii) exceed the
6 adjusted basis of the qualified school building on the first
7 day the qualified rehabilitation plan commenced. If the
8 qualified rehabilitation plan spans multiple years, the
9 aggregate credit for the entire project shall be allowed in the
10 last taxable year.

11 (b) To obtain a tax credit pursuant to this Section, the
12 taxpayer must apply with the Department. The Department shall
13 determine the amount of eligible rehabilitation expenditures
14 within 45 days after receipt of a complete application. The
15 taxpayer must provide to the Department a third-party cost
16 certification conducted by a certified public accountant
17 verifying (i) the qualified and non-qualified rehabilitation
18 expenses and (ii) that the qualified expenditures exceed the
19 adjusted basis of the qualified school building on the first
20 day the qualified rehabilitation plan commenced. The
21 accountant shall provide appropriate review and testing of
22 invoices. The Department is authorized, but not required, to
23 accept this third-party cost certification to determine the
24 amount of qualified expenditures.

25 (c) If the amount of any tax credit awarded under this Act
26 exceeds the qualified taxpayer's income tax liability for the

1 year in which the qualified rehabilitation plan was placed in
2 service, the excess amount may be carried forward for a credit
3 against the taxpayer's income tax liability in the next
4 succeeding year or years until the total amount of the credit
5 has been used, except that a credit may not be carried forward
6 for deduction after the tenth taxable year after the taxable
7 year in which the qualified rehabilitation plan was placed in
8 service. Upon completion and review of the project, the
9 Department shall issue a single certificate in the amount of
10 the eligible credits equal to 25% of the qualified expenditures
11 incurred during the eligible taxable years. At the time the
12 certificate is issued, an issuance fee up to the maximum amount
13 of 2% of the amount of the credits issued by the certificate
14 may be collected from the applicant to administer the Act. If
15 collected, this issuance fee shall be paid into the School
16 Building Rehabilitation Tax Credit Fund for use of the
17 Department in the administration of this program. The taxpayer
18 must attach the certificate or legal documentation of her or
19 his proportional share of the certificate to the tax return on
20 which the credits are to be claimed. The tax credit under this
21 Section may not reduce the taxpayer's liability to less than
22 zero. If the amount of the credit exceeds the tax liability for
23 the year, the excess credit may be carried forward and applied
24 to the tax liability of the 10 taxable years following the
25 excess credit year.

26 (d) If the taxpayer is (i) a corporation having an election

1 in effect under Subchapter S of the federal Internal Revenue
2 Code, (ii) a partnership, or (iii) a limited liability company,
3 the credit provided under this Act may be claimed by the
4 shareholders of the corporation, the partners of the
5 partnership, or the members of the limited liability company in
6 the same manner as those shareholders, partners, or members
7 account for their proportionate shares of the income or losses
8 of the corporation, partnership, or limited liability company,
9 or as provided in the by-laws or other executed agreement of
10 the corporation, partnership, or limited liability company.
11 Credits granted to a partnership, a limited liability company
12 taxed as a partnership, or other multiple owners of property
13 shall be passed through to the partners, members, or owners
14 respectively on a pro rata basis or pursuant to an executed
15 agreement among the partners, members, or owners documenting
16 any alternate distribution method.

17 (e) If a recapture event occurs during the recapture period
18 with respect to a qualified school building, then, for any
19 taxable year in which the credits are allowed as specified in
20 this Act, the tax under the applicable Section of this Act
21 shall be increased by applying the recapture percentage set
22 forth below to the tax decrease resulting from the application
23 of credits allowed under this Act to the taxable year in
24 question.

25 For the purposes of this subsection, the recapture
26 percentage shall be determined as follows:

1 (1) if the recapture event occurs within the first year
2 after commencement of the recapture period, then the
3 recapture percentage is 100%;

4 (2) if the recapture event occurs within the second
5 year after commencement of the recapture period, then the
6 recapture percentage is 80%;

7 (3) if the recapture event occurs within the third year
8 after commencement of the recapture period, then the
9 recapture percentage is 60%;

10 (4) if the recapture event occurs within the fourth
11 year after commencement of the recapture period, then the
12 recapture percentage is 40%; and

13 (5) if the recapture event occurs within the fifth year
14 after commencement of the recapture period, then the
15 recapture percentage is 20%.

16 In the case of any recapture event, the carryforwards under
17 this Act shall be adjusted by reason of such event.

18 (d) The Department may adopt rules to implement this
19 Section in addition to the rules expressly authorized herein.

20 Section 20. Limitations, reporting, and monitoring.

21 (a) The Department shall award not more than an aggregate
22 of \$15,000,000 in total annual tax credits pursuant to
23 qualified rehabilitation plans for qualified school building.
24 The Department shall award not more than \$3,000,000 in tax
25 credits with regard to a single qualified rehabilitation plan.

1 In awarding tax credits under this Act, the Department must
2 prioritize projects that meet one or more of the following:

3 (1) the qualified school building was previously owned
4 by a federal, State, or local governmental entity;

5 (2) the qualified school building is located in a
6 census tract that has a median family income at or below
7 the State median family income; data from the most recent
8 5-year estimate from the American Community Survey (ACS),
9 published by the U.S. Census Bureau, shall be used to
10 determine eligibility;

11 (3) the qualified rehabilitation plan includes in the
12 development partnership a Community Development Entity or
13 a low-profit (B Corporation) or not-for-profit
14 organization, as defined by Section 501(c)(3) of the
15 Internal Revenue Code; or

16 (4) the qualified school building is located in an area
17 declared under an Emergency Declaration or Major Disaster
18 Declaration under the federal Robert T. Stafford Disaster
19 Relief and Emergency Assistance Act.

20 (b) The annual aggregate program allocation of \$15,000,000
21 set forth in subsection (a) shall be allocated by the
22 Department, in such proportion as determined by the Department,
23 on a per calendar basis twice in each year that the program is
24 in effect, provided that: (i) the amount initially allocated by
25 the Department for any one calendar application period shall
26 not exceed 65% of the total allowable amount and (ii) any

1 portion of the allocated allowable amount remaining unused as
2 of the end of any of the second calendar application period of
3 a given calendar year shall be rolled into and added to the
4 total allocated amount for the next available calendar year.
5 The qualified rehabilitation plan must meet a readiness test,
6 as defined in the rules created by the Department, in order for
7 the Applicant to qualify. Applicants that qualify under this
8 Act will be placed in a queue based on the date and time the
9 application is received until the application period total
10 allowable amount is reached. Applicants must reapply for each
11 application period.

12 (c) On or before December 31, 2020, and on or before
13 December 31 of each even-numbered year thereafter through 2024,
14 subject to appropriation and prior to equal disbursement to the
15 Department, moneys in the School Building Rehabilitation Tax
16 Credit Fund attributable to fees under this Act shall be used,
17 beginning at the end of the first fiscal year after the
18 effective date of this Act, to hire a qualified third party to
19 prepare a biennial report to assess the overall effectiveness
20 of this Act from the qualified rehabilitation projects under
21 this Act completed in that year and in previous years. Baseline
22 data of the metrics in the report shall be collected at the
23 initiation of a qualified rehabilitation project. The overall
24 economic impact shall include at least:

25 (1) the number of applications, project locations, and
26 proposed use of qualified school building;

1 (2) the amount of credits awarded and the number and
2 location of projects receiving credit allocations;

3 (3) the status of ongoing projects and projected
4 qualifying expenditures for ongoing projects;

5 (4) for completed projects, the total amount of
6 qualifying rehabilitation expenditures and non-qualifying
7 expenditures, the number of housing units created and the
8 number of housing units that qualify as affordable, and the
9 total square footage rehabilitated and developed;

10 (5) direct, indirect, and induced economic impacts;

11 (6) temporary, permanent, and construction jobs
12 created; and

13 (7) sales, income, and property tax generation before
14 construction, during construction, and after completion.

15 The report to the General Assembly shall be filed with the
16 Clerk of the House of Representatives and the Secretary of the
17 Senate in electronic form only, in the manner that the Clerk
18 and the Secretary shall direct.

19 (d) Any time prior to issuance of a tax credit certificate,
20 the Director of the Department, the State Historic Preservation
21 Officer, or staff of the Department may, upon reasonable notice
22 to the project owner of not less than 3 business days, conduct
23 a site visit to the project to inspect and evaluate the
24 project.

25 (e) Any time prior to the issuance of a tax credit
26 certificate and for a period of 4 years following the effective

1 date of a project tax credit certificate, the Director may,
2 upon reasonable notice of not less than 30 calendar days,
3 request a status report from the Applicant consisting of
4 information and updates relevant to the status of the project.
5 Status reports shall not be requested more than twice yearly.

6 (f) In order to demonstrate sufficient evidence of
7 reviewable progress within 12 months after the date the
8 Applicant received notification of approval from the
9 Department, the Applicant shall provide all of the following:

10 (1) a viable financial plan which demonstrates by way
11 of an executed agreement that all financing has been
12 secured for the project; such financing shall include, but
13 not be limited to, equity investment as demonstrated by
14 letters of commitment from the owner of the property,
15 investment partners, and equity investors; and

16 (2) final construction drawings or approved building
17 permits that demonstrate the complete rehabilitation of
18 the full scope of the application.

19 The Director shall review the submitted evidence and may
20 request additional documentation from the Applicant if
21 necessary. The Applicant will have 30 calendar days to provide
22 the information requested, otherwise the approval may be
23 rescinded at the discretion of the Director.

24 (g) In order to demonstrate sufficient evidence of
25 reviewable progress within 18 months after the date the
26 application received notification of approval from the

1 Department, the Applicant is required to provide detailed
2 evidence that the Applicant has secured and closed on financing
3 for the complete scope of rehabilitation for the project. To
4 demonstrate evidence that the Applicant has secured and closed
5 on financing, the Applicant will need to provide signed and
6 processed loan agreements, bank financing documents or other
7 legal and contractual evidence to demonstrate that adequate
8 financing is available to complete the project. The Director
9 shall review the submitted evidence and may request additional
10 documentation from the Applicant if necessary. The Applicant
11 will have 30 calendar days to provide the information
12 requested, otherwise the approval may be rescinded at the
13 discretion of the Director.

14 If the Applicant fails to document reviewable progress
15 within 18 months of approval, the Director may notify the
16 Applicant that the application is rescinded. However, should
17 financing and construction be imminent, the Director may elect
18 to grant the Applicant no more than 5 months to close on
19 financing and commence construction. If the Applicant fails to
20 meet these conditions in the required timeframe, the Director
21 shall notify the Applicant that the application is rescinded.
22 Any such rescinded allocation shall be added to the aggregate
23 amount of credits available for allocation for the year in
24 which the forfeiture occurred.

25 The amount of the qualified expenditures identified in the
26 Applicant's certification of completion and reflected on the

1 certificate issued by the Department is subject to inspection,
2 examination, and audit.

3 The Applicant shall establish and maintain for a period of
4 4 years following the effective date on a project tax credit
5 certificate such records as required by the Department.

6 Section 25. Powers. The Department shall adopt rules for
7 the administration of this Act.

8 Section 60. The Illinois Income Tax Act is amended by
9 adding Section 229 as follows:

10 (35 ILCS 5/229 new)

11 Sec. 229. School Building Rehabilitation Tax Credit. For
12 taxable years beginning on or after January 1, 2020 and ending
13 on or before December 31, 2024, each taxpayer that is awarded a
14 credit under the School Building Rehabilitation Tax Credit Act
15 is entitled to a credit as provided in that Act.

16 Section 65. The State Finance Act is amended by adding
17 Section 5.891 as follows:

18 (30 ILCS 105/5.891 new)

19 Sec. 5.891. The School Building Rehabilitation Tax Credit
20 Fund.

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