



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1848

Introduced 2/26/2021, by Sen. Mattie Hunter

SYNOPSIS AS INTRODUCED:

New Act

35 ILCS 5/232 new

215 ILCS 5/409

215 ILCS 5/444

from Ch. 73, par. 1021

from Ch. 73, par. 1056

Creates the Build Illinois Homes Tax Credit Act. Provides that owners of qualified low-income housing developments are eligible for credits against (i) State income taxes and (ii) any privilege tax or retaliatory tax, penalty, fee, charge, or payment imposed under the Illinois Insurance Code. Amends the Illinois Income Tax Act and the Illinois Insurance Code to make conforming changes. Effective immediately.

LRB102 11491 HLH 16825 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Article 1. Build Illinois Homes Tax Credit Act

5 Section 1-1. Short title. This Act may be cited as the
6 Build Illinois Homes Tax Credit Act. References in this
7 Article to "this Act" mean this Article.

8 Section 1-5. Definitions. As used in this Act, unless the
9 context clearly requires otherwise:

10 "Allocation" means an award of tax credits to the owner of
11 a qualified development in any allocation round, to be claimed
12 ratably annually over the credit period.

13 "Allocation round" means all allocations by the Authority
14 of credits under this Act to qualified developments in any
15 calendar year.

16 "Allocation schedule certification" means the
17 certification issued by the owner of a qualified development
18 or its designee pursuant to subsection (d) of Section 1-10 of
19 this Act.

20 "Authority" means:

- 21 (1) the Illinois Housing Development Authority; or
22 (2) the City of Chicago Department of Housing.

1 "Credit" means the credit allowed pursuant to this Act.

2 "Credit period" means the period of 10 taxable years
3 beginning with the taxable year in which a qualified
4 development is placed in service. If a qualified development
5 consists of more than one building, the qualified development
6 is deemed to be placed in service in the taxable year during
7 which the last building of the qualified development is placed
8 in service.

9 "Department" means the Department of Revenue.

10 "Federal tax credit" means the federal low-income housing
11 tax credit provided by Section 42 of the federal Internal
12 Revenue Code, including federal low-income housing tax credits
13 issued pursuant to 26 U.S.C. 42(h)(3) and 26 U.S.C. 42(h)(4).

14 "Qualified allocation plan" means the qualified allocation
15 plan adopted by the Authority pursuant to Section 42(m) of the
16 federal Internal Revenue Code of 1986.

17 "Qualified basis" means the qualified basis of the
18 qualified development as determined pursuant to Section 42 of
19 the federal Internal Revenue Code of 1986.

20 "Qualified development" means a qualified low-income
21 housing project, as that term is defined in Section 42 of the
22 federal Internal Revenue Code of 1986, that is located in the
23 State and is determined to be eligible for the federal tax
24 credit set forth in Section 42 of the Internal Revenue Code,
25 whether or not a federal tax credit is allocated with respect
26 to that qualified development.

1 "Qualified taxpayer" means an individual, person, firm,
2 corporation, or other entity that owns an interest, direct or
3 indirect, in a qualified development and is subject to any or
4 all of the following: (i) the taxes imposed by the Illinois
5 Income Tax Act; or (ii) any privilege tax or retaliatory tax,
6 penalty, fee, charge or payment imposed by the Illinois
7 Insurance Code.

8 "State credit eligibility statement" means a statement
9 issued by the Authority under Section 1-7.

10 "State tax return" means the income tax return filed with
11 the Department or the privilege and retaliatory tax return
12 filed with the Department of Insurance, as applicable.

13 Section 1-7. State credit eligibility statements. A State
14 credit eligibility statement shall be issued by the Authority
15 with respect to each building within the qualified development
16 following construction or rehabilitation of the qualified
17 development certifying that each such building within that
18 qualified development qualifies for the credit and specifying:

19 (1) the calendar year in which the last building of
20 the qualified development was placed in service;

21 (2) the amount of the credit allowed for each year of
22 the credit period;

23 (3) the maximum qualified basis of the qualified
24 development taken into account in determining such annual
25 credit amount; and

1 (4) a unique identification number for each State
2 credit eligibility statement issued.

3 The State credit eligibility statement shall be issued by
4 the Authority simultaneously with IRS Form 8609 if the
5 qualified development was also allocated federal tax credits.

6 The State credit eligibility statement shall include a
7 Section to be completed by the owner of the qualified
8 development annually for each year of the credit period
9 certifying that the qualified development was in conformance
10 with all compliance requirements. That certification shall be
11 filed with the project owner's State tax return annually of
12 each year of the credit period.

13 Section 1-10. Credit for low-income housing developments.

14 (a) The Authority shall include the credit in its annual
15 qualified allocation plan each year until expiration of this
16 Act. Each allocation round shall be simultaneous with
17 allocations of federal tax credits.

18 (b) For taxable years beginning on or after January 1,
19 2021, the Authority may allocate a credit to the owner of a
20 qualified development in any allocation round in an amount
21 determined by the Authority, subject to the following
22 guidelines:

23 (1) the Authority must find that the credit is
24 necessary for the financial feasibility of the qualified
25 development;

1 (2) the aggregate sum of credits allocated to
2 qualified developments in any allocation round shall not
3 exceed \$35,000,000, plus the amount of unallocated
4 credits, if any, from the preceding allocation round, plus
5 the amount of any credit recaptured or otherwise returned
6 to the Authority since the previous allocation round;

7 (3) of the \$35,000,000 annual allocation: (i) 75.5% of
8 the available credits in each allocation round shall be
9 allocated by the Illinois Housing Development Authority,
10 plus any credits the Illinois Housing Development
11 Authority did not allocate from the previous allocation
12 round, plus the amount of any credits recaptured or
13 otherwise returned to the Illinois Housing Development
14 Authority since the previous allocation round; and (ii)
15 24.5% of the available credits in each allocation round
16 shall be allocated by the City of Chicago Department of
17 Housing, plus any credits the City of Chicago Department
18 of Housing did not allocate from the previous allocation
19 round, plus the amount of any credits recaptured or
20 otherwise returned to the City of Chicago Department of
21 Housing since the previous allocation round; and

22 (4) unless otherwise provided in this Act, or unless
23 the context clearly requires otherwise, the Authority must
24 determine eligibility for credits and allocate credits in
25 accordance with the standards and requirements set forth
26 in Section 42 of the federal Internal Revenue Code of

1 1986.

2 (c) For tax years during the credit period, any qualified
3 taxpayer is allowed a credit as provided in this Act against
4 any or all of the following: (i) the taxes imposed by
5 subsections (a) and (b) of Section 201 of the Illinois Income
6 Tax Act; or (ii) any privilege tax or retaliatory tax,
7 penalty, fee, charge, or payment imposed under the Illinois
8 Insurance Code.

9 (d) If a taxpayer receiving an allocation of a credit is
10 (i) a corporation that has an election in effect under
11 Subchapter S of the federal Internal Revenue Code, (ii) a
12 partnership, or (iii) a limited liability company, that is
13 required to file a tax return, the credit provided under this
14 Act may be claimed by the shareholders of the corporation, the
15 partners of the partnership, or the members of the limited
16 liability company in the same manner as those shareholders,
17 partners, or members account for their proportionate shares of
18 the income or losses of the corporation, partnership, or
19 limited liability company, or as provided in the bylaws or
20 other executed agreement of the corporation, partnership, or
21 limited liability company. Credits granted to a partnership, a
22 limited liability company taxed as a partnership, or other
23 multiple owners of property shall be passed through to the
24 partners, members, or owners respectively on a pro rata basis
25 or pursuant to an executed agreement among the partners,
26 members, or owners documenting any alternative distribution

1 method, regardless of whether any such person is deemed a
2 partner for federal income tax purposes, as long as the
3 partner, shareholder or member would be considered a partner,
4 shareholder, or member for State law purposes in accordance
5 with Chapter 805 of the Illinois Compiled Statutes, and
6 whether or not those persons are allocated or allowed any
7 portion of the federal tax credit with respect to the
8 qualified development, or whether the allocation of the credit
9 under the terms of the agreement has substantial economic
10 effect, within the meaning of Section 704(b) of the Internal
11 Revenue Code, relating to determination of distributive share.
12 In the case of multiple tiers of pass-through entities, the
13 credit may be so allocated through any number of pass-through
14 entities on a pro rata basis or pursuant to an executed
15 agreement among the partners, members, or owners documenting
16 any alternative distribution method. Notwithstanding the
17 foregoing, no credit shall be passed through an entity that is
18 considered a disregarded entity for tax purposes. A qualified
19 taxpayer may claim a credit so long as its direct or indirect
20 interest in the qualified development is acquired prior to the
21 filing of its tax return claiming the credit. On or before
22 February 28th following each year of the credit period, the
23 owner must submit an allocation schedule certification in an
24 electronic format prescribed by the Department and the
25 Department of Insurance to the Department and the Department
26 of Insurance detailing the amount of credit allocated to each

1 qualified taxpayer for the applicable year and whether each
2 qualified taxpayer intends to apply the credit to income tax
3 or insurance premium tax, or the owner must notify the
4 Department and the Department of Insurance that it has
5 assigned the duty of the allocation schedule certification to
6 its designee who must provide such allocation schedule
7 certification to the Department and the Department of
8 Insurance by the deadline. Such allocation schedule
9 certification may be amended in the event the State credit
10 eligibility statement for a project is received after the
11 deadline for filing the allocation schedule certification. Any
12 such amendment shall be filed prior to any taxpayer attempting
13 to claim tax credits associated with the applicable State
14 credit eligibility statement. Each qualified taxpayer is
15 allowed to claim its allocated amount of credit subject to any
16 restrictions set forth in this Section.

17 (e) No credit may be allocated pursuant to this Act unless
18 the qualified development is the subject of a recorded
19 restrictive covenant requiring the development to be
20 maintained and operated as a qualified development; this
21 requirement for a recorded restrictive covenant may be
22 satisfied by the agreement for an extended low-income housing
23 commitment required for the federal tax credits as defined in
24 Section 42(h)(6)(B) of the federal Internal Revenue Code of
25 1986.

26 (f) If, during a taxable year, there is a determination

1 that no recorded restrictive covenant meeting the requirements
2 of subsection (e) was in effect as of the beginning of that
3 year, such determination shall not apply to any period before
4 that year and subsection (e) shall be applied without regard
5 to that determination if the failure is corrected within one
6 year from the date of the determination.

7 (g) The credit amount may be taken against the taxes
8 imposed by the Illinois Income Tax Act for each taxable year of
9 the credit period. The credit amount may be taken against the
10 taxes, penalties, fees, charges, and payments imposed by the
11 Illinois Insurance Code for each reporting period in the
12 credit period. Any credit amount that exceeds the tax due for a
13 taxable year may be carried forward as a tax credit against
14 payments due for up to 5 taxable years following the tax year
15 to which the credit relates and must be applied first to the
16 earliest reporting periods possible. Credits that are not
17 claimed may not be refunded to the qualified taxpayer.

18 (h) By January 15, 2022 and by January 15 of each year
19 thereafter, the Authority shall provide to the Department and
20 the Department of Insurance an electronic file containing all
21 data related to all State credit eligibility statements issued
22 during the preceding year in the manner and form as provided by
23 the Department.

24 Section 1-15. Recapture. If, under Section 42 of the
25 Internal Revenue Code of 1986, a portion of any federal tax

1 credit claimed with respect to a qualified development is
2 required to be recaptured during the first 10 years after a
3 project is placed in service, then the Authority shall provide
4 written notice, upon a form created by the Authority, to the
5 Department and the Department of Insurance of the amount to be
6 recaptured. The amount of credit subject to recapture shall be
7 proportionately equal to the amount of the qualified
8 development's federal tax credits which are subject to
9 recapture. The Department and the Department of Insurance, as
10 applicable, shall notify the qualified taxpayer that claimed
11 the credit of the amount recaptured, and the qualified
12 taxpayer subject to recapture shall increase the qualified
13 taxpayer's tax by the amount of any credit wrongfully claimed
14 in the tax year the qualified taxpayer is notified of the
15 recapture.

16 Section 1-20. Filing requirements. An owner of a qualified
17 development that has received an allocation and each qualified
18 taxpayer claiming any portion of the credit must file with
19 their State tax returns a copy of the State credit eligibility
20 statement issued by the Authority for that qualified
21 development. A qualified taxpayer receiving an allocation of
22 credit through a pass-through entity shall attach to its State
23 tax return a copy of the Schedule K-1-P or other written
24 statement from the pass-through entity stating the portion of
25 the annual credit shown on the State credit eligibility

1 statement that is allocated to that partner, member or
2 shareholder for that taxable year. In addition, the owner of a
3 qualified development or its designee shall file a copy of the
4 allocation schedule certification prior to any tax return
5 being filed claiming a State credit for such qualified
6 development.

7 Section 1-25. Rules. The Illinois Housing Development
8 Authority, the Department, and the Department of Insurance, in
9 consultation with each other, shall adopt such rules as are
10 necessary to carry out their respective responsibilities under
11 this Act.

12 Section 1-30. Compliance monitoring. The Authority, in
13 consultation with the Department, shall monitor and oversee
14 compliance with the provisions of this Act and shall report
15 specific occurrences of noncompliance to the Department and
16 the Department of Insurance.

17 Section 1-35. Report to the General Assembly.

18 (a) The Illinois Housing Development Authority and the
19 Chicago Department of Housing must, by December 31 of each
20 allocation year, provide a written report to the General
21 Assembly and must publish that report on their websites.

22 (b) The report shall:

23 (1) set forth the number of qualified developments

1 that have been allocated tax credits under this Act during
2 the allocation year and the total number of units
3 supported by each qualified development;

4 (2) describe each qualified development that has been
5 allocated tax credits under this Act including, without
6 limitation, the geographic location of the qualified
7 development, the household type and any specific
8 demographic information available about residents intended
9 to be served by the qualified development, the income
10 levels intended to be served by the qualified development,
11 and the rents or set-asides authorized for each qualified
12 development;

13 (3) provide housing market and demographic information
14 that demonstrates how the qualified developments supported
15 by the tax credits are addressing the need for affordable
16 housing within the communities they are intended to serve
17 as well as information about any remaining disparities in
18 the affordability of housing within those communities; and

19 (4) provide information on the percentage of qualified
20 developments allocated credits that received incentive
21 scoring points in the qualified allocation plan as a
22 result of the general contractor, property manager,
23 architect, or sponsor being certified under the Business
24 Enterprise Program for Minorities, Females, and Persons
25 with a Disability.

1 Section 1-40. Exempt from automatic sunset. The credit
2 under this Act is exempt from the provisions of Section 250 of
3 the Illinois Income Tax Act.

4 Article 90. Amendatory Provisions

5 Section 90-10. The Illinois Income Tax Act is amended by
6 adding Section 232 as follows:

7 (35 ILCS 5/232 new)

8 Sec. 232. Build Illinois Homes Tax Credit Act.

9 (a) For taxable years beginning on or after January 1,
10 2022, any eligible taxpayer with respect to a credit awarded
11 in accordance with the Build Illinois Homes Tax Credit Act
12 that is named on the allocation schedule certification for a
13 particular tax year is entitled to a credit against the taxes
14 imposed by subsections (a) and (b) of Section 201 as provided
15 in the Build Illinois Homes Tax Credit Act.

16 (b) The taxpayer shall attach a copy of the allocation
17 schedule certification and the State credit eligibility
18 certificate issued under the Build Illinois Homes Tax Credit
19 Act to the tax return on which the credits are to be claimed.

20 (c) If, during any taxable year, a taxpayer is notified of
21 a recapture of a credit previously claimed on a State income
22 tax return in accordance with the Build Illinois Homes Tax
23 Credit Act, the tax imposed under subsections (a) and (b) of

1 Section 201 for that taxpayer for that taxable year shall be
2 increased. The amount of the increase shall be determined by
3 (i) recomputing the Build Illinois Homes Tax Credit that would
4 have been allowed for the year in which the credit was
5 originally allowed by eliminating the recaptured amount from
6 such computation, and (ii) subtracting that recomputed credit
7 from the amount of credit previously allowed. No Build
8 Illinois Homes tax Credit shall be allowed with respect to any
9 credit subject to a recapture notice for any taxable year
10 ending after the issuance of a recapture notice.

11 (d) This Section is exempt from the provisions of Section
12 250.

13 Section 90-25. The Illinois Insurance Code is amended by
14 changing Sections 409 and 444 as follows:

15 (215 ILCS 5/409) (from Ch. 73, par. 1021)

16 Sec. 409. Annual privilege tax payable by companies.

17 (1) As of January 1, 1999 for all health maintenance
18 organization premiums written; as of July 1, 1998 for all
19 premiums written as accident and health business, voluntary
20 health service plan business, dental service plan business, or
21 limited health service organization business; and as of
22 January 1, 1998 for all other types of insurance premiums
23 written, every company doing any form of insurance business in
24 this State, including, but not limited to, every risk

1 retention group, and excluding all fraternal benefit
2 societies, all farm mutual companies, all religious charitable
3 risk pooling trusts, and excluding all statutory residual
4 market and special purpose entities in which companies are
5 statutorily required to participate, whether incorporated or
6 otherwise, shall pay, for the privilege of doing business in
7 this State, to the Director for the State treasury a State tax
8 equal to 0.5% of the net taxable premium written, together
9 with any amounts due under Section 444 of this Code, except
10 that the tax to be paid on any premium derived from any
11 accident and health insurance or on any insurance business
12 written by any company operating as a health maintenance
13 organization, voluntary health service plan, dental service
14 plan, or limited health service organization shall be equal to
15 0.4% of such net taxable premium written, together with any
16 amounts due under Section 444. Upon the failure of any company
17 to pay any such tax due, the Director may, by order, revoke or
18 suspend the company's certificate of authority after giving 20
19 days written notice to the company, or commence proceedings
20 for the suspension of business in this State under the
21 procedures set forth by Section 401.1 of this Code. The gross
22 taxable premium written shall be the gross amount of premiums
23 received on direct business during the calendar year on
24 contracts covering risks in this State, except premiums on
25 annuities, premiums on which State premium taxes are
26 prohibited by federal law, premiums paid by the State for

1 health care coverage for Medicaid eligible insureds as
2 described in Section 5-2 of the Illinois Public Aid Code,
3 premiums paid for health care services included as an element
4 of tuition charges at any university or college owned and
5 operated by the State of Illinois, premiums on group insurance
6 contracts under the State Employees Group Insurance Act of
7 1971, and except premiums for deferred compensation plans for
8 employees of the State, units of local government, or school
9 districts. The net taxable premium shall be the gross taxable
10 premium written reduced only by the following:

11 (a) the amount of premiums returned thereon which
12 shall be limited to premiums returned during the same
13 preceding calendar year and shall not include the return
14 of cash surrender values or death benefits on life
15 policies including annuities;

16 (b) dividends on such direct business that have been
17 paid in cash, applied in reduction of premiums or left to
18 accumulate to the credit of policyholders or annuitants.
19 In the case of life insurance, no deduction shall be made
20 for the payment of deferred dividends paid in cash to
21 policyholders on maturing policies; dividends left to
22 accumulate to the credit of policyholders or annuitants
23 shall be included as gross taxable premium written when
24 such dividend accumulations are applied to purchase
25 paid-up insurance or to shorten the endowment or premium
26 paying period.

1 (2) The annual privilege tax payment due from a company
2 under subsection (4) of this Section may be reduced by: (a) the
3 excess amount, if any, by which the aggregate income taxes
4 paid by the company, on a cash basis, for the preceding
5 calendar year under Sections 601 and 803 of the Illinois
6 Income Tax Act exceed 1.5% of the company's net taxable
7 premium written for that prior calendar year, as determined
8 under subsection (1) of this Section; and (b) the amount of any
9 fire department taxes paid by the company during the preceding
10 calendar year under Section 11-10-1 of the Illinois Municipal
11 Code. Any deductible amount or offset allowed under items (a)
12 and (b) of this subsection for any calendar year will not be
13 allowed as a deduction or offset against the company's
14 privilege tax liability for any other taxing period or
15 calendar year.

16 (3) If a company survives or was formed by a merger,
17 consolidation, reorganization, or reincorporation, the
18 premiums received and amounts returned or paid by all
19 companies party to the merger, consolidation, reorganization,
20 or reincorporation shall, for purposes of determining the
21 amount of the tax imposed by this Section, be regarded as
22 received, returned, or paid by the surviving or new company.

23 (4) (a) All companies subject to the provisions of this
24 Section shall make an annual return for the preceding calendar
25 year on or before March 15 setting forth such information on
26 such forms as the Director may reasonably require. Payments of

1 quarterly installments of the taxpayer's total estimated tax
2 for the current calendar year shall be due on or before April
3 15, June 15, September 15, and December 15 of such year, except
4 that all companies transacting insurance in this State whose
5 annual tax for the immediately preceding calendar year was
6 less than \$5,000 shall make only an annual return. Failure of a
7 company to make the annual payment, or to make the quarterly
8 payments, if required, of at least 25% of either (i) the total
9 tax paid during the previous calendar year or (ii) 80% of the
10 actual tax for the current calendar year shall subject it to
11 the penalty provisions set forth in Section 412 of this Code.

12 (b) Notwithstanding the foregoing provisions, no annual
13 return shall be required or made on March 15, 1998, under this
14 subsection. For the calendar year 1998:

15 (i) each health maintenance organization shall have no
16 estimated tax installments;

17 (ii) all companies subject to the tax as of July 1,
18 1998 as set forth in subsection (1) shall have estimated
19 tax installments due on September 15 and December 15 of
20 1998 which installments shall each amount to no less than
21 one-half of 80% of the actual tax on its net taxable
22 premium written during the period July 1, 1998, through
23 December 31, 1998; and

24 (iii) all other companies shall have estimated tax
25 installments due on June 15, September 15, and December 15
26 of 1998 which installments shall each amount to no less

1 than one-third of 80% of the actual tax on its net taxable
2 premium written during the calendar year 1998.

3 In the year 1999 and thereafter all companies shall make
4 annual and quarterly installments of their estimated tax as
5 provided by paragraph (a) of this subsection.

6 (5) In addition to the authority specifically granted
7 under Article XXV of this Code, the Director shall have such
8 authority to adopt rules and establish forms as may be
9 reasonably necessary for purposes of determining the
10 allocation of Illinois corporate income taxes paid under
11 subsections (a) through (d) of Section 201 of the Illinois
12 Income Tax Act amongst members of a business group that files
13 an Illinois corporate income tax return on a unitary basis,
14 for purposes of regulating the amendment of tax returns, for
15 purposes of defining terms, and for purposes of enforcing the
16 provisions of Article XXV of this Code. The Director shall
17 also have authority to defer, waive, or abate the tax imposed
18 by this Section if in his opinion the company's solvency and
19 ability to meet its insured obligations would be immediately
20 threatened by payment of the tax due.

21 (6) This Section is subject to the provisions of Section
22 10 of the New Markets Development Program Act.

23 (7) This Section is subject to the provisions of the Build
24 Illinois Homes Tax Credit Act. For taxable years beginning on
25 or after January 1, 2022, qualified taxpayers are entitled to
26 claim credits against the taxes imposed by this Section as

1 provided in the Build Illinois Homes Tax Credit Act. Companies
2 claiming a credit under the Build Illinois Homes Tax Credit
3 Act are not required to pay any additional tax as a result of
4 claiming the credit. The credit may fully offset any amounts
5 imposed under this Section.

6 (Source: P.A. 97-813, eff. 7-13-12; 98-1169, eff. 1-9-15.)

7 (215 ILCS 5/444) (from Ch. 73, par. 1056)

8 Sec. 444. Retaliation.

9 (1) Whenever the existing or future laws of any other
10 state or country shall require of companies incorporated or
11 organized under the laws of this State as a condition
12 precedent to their doing business in such other state or
13 country, compliance with laws, rules, regulations, and
14 prohibitions more onerous or burdensome than the rules and
15 regulations imposed by this State on foreign or alien
16 companies, or shall require any deposit of securities or other
17 obligations in such state or country, for the protection of
18 policyholders or otherwise or require of such companies or
19 agents thereof or brokers the payment of penalties, fees,
20 charges, or taxes greater than the penalties, fees, charges,
21 or taxes required in the aggregate for like purposes by this
22 Code or any other law of this State, of foreign or alien
23 companies, agents thereof or brokers, then such laws, rules,
24 regulations, and prohibitions of said other state or country
25 shall apply to companies incorporated or organized under the

1 laws of such state or country doing business in this State, and
2 all such companies, agents thereof, or brokers doing business
3 in this State, shall be required to make deposits, pay
4 penalties, fees, charges, and taxes, in amounts equal to those
5 required in the aggregate for like purposes of Illinois
6 companies doing business in such state or country, agents
7 thereof or brokers. Whenever any other state or country shall
8 refuse to permit any insurance company incorporated or
9 organized under the laws of this State to transact business
10 according to its usual plan in such other state or country, the
11 director may, if satisfied that such company of this State is
12 solvent, properly managed, and can operate legally under the
13 laws of such other state or country, forthwith suspend or
14 cancel the license of every insurance company doing business
15 in this State which is incorporated or organized under the
16 laws of such other state or country to the extent that it
17 insures in this State against any of the risks or hazards which
18 are sought to be insured against by the company of this State
19 in such other state or country.

20 (2) The provisions of this Section shall not apply to
21 residual market or special purpose assessments or guaranty
22 fund or guaranty association assessments, both under the laws
23 of this State and under the laws of any other state or country,
24 and any tax offset or credit for any such assessment shall, for
25 purposes of this Section, be treated as a tax paid both under
26 the laws of this State and under the laws of any other state or

1 country.

2 (3) The terms "penalties", "fees", "charges", and "taxes"
3 in subsection (1) of this Section shall include: the
4 penalties, fees, charges, and taxes collected on a cash basis
5 under State law and referenced within Article XXV exclusive of
6 any items referenced by subsection (2) of this Section, but
7 including any tax offset allowed under Section 531.13 of this
8 Code; the aggregate Illinois corporate income taxes paid under
9 Sections 601 and 803 of the Illinois Income Tax Act during the
10 calendar year for which the retaliatory tax calculation is
11 being made, less the recapture of any Illinois corporate
12 income tax cash refunds to the extent that the amount of tax
13 refunded was reported as part of the Illinois basis in the
14 calculation of the retaliatory tax for a prior tax year,
15 provided that such recaptured refund shall not exceed the
16 amount necessary for equivalence of the Illinois basis with
17 the state of incorporation basis in such tax year, and after
18 any tax offset allowed under Section 531.13 of this Code;
19 income or personal property taxes imposed by other states or
20 countries; penalties, fees, charges, and taxes of other states
21 or countries imposed for purposes like those of the penalties,
22 fees, charges, and taxes specified in Article XXV of this Code
23 exclusive of any item referenced in subsection (2) of this
24 Section; and any penalties, fees, charges, and taxes required
25 as a franchise, privilege, or licensing tax for conducting the
26 business of insurance whether calculated as a percentage of

1 income, gross receipts, premium, or otherwise.

2 (4) Nothing contained in this Section or Section 409 or
3 Section 444.1 is intended to authorize or expand any power of
4 local governmental units or municipalities to impose taxes,
5 fees, or charges.

6 (5) This Section is subject to the provisions of Section
7 10 of the New Markets Development Program Act.

8 (6) This Section is subject to the provisions of the Build
9 Illinois Homes Tax Credit Act. For taxable years beginning on
10 or after January 1, 2022, qualified taxpayers are entitled to
11 claim credits against the taxes imposed by this Section as
12 provided in the Build Illinois Homes Tax Credit Act. Companies
13 claiming a credit under the Build Illinois Homes Tax Credit
14 Act are not required to pay any additional tax as a result of
15 claiming the credit. The credit may fully offset any amounts
16 imposed under this Section.

17 (Source: P.A. 98-1169, eff. 1-9-15.)

18 Article 99. Effective Date

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