



Rep. Dagmara Avelar

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10300HB4909ham001

LRB103 38199 HLH 71350 a

1 AMENDMENT TO HOUSE BILL 4909

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4909 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Build  
5 Illinois Homes Tax Credit Act.

6 Section 5. Definitions. As used in this Act, unless the  
7 context clearly requires otherwise:

8 "Allocation schedule certification" means a certification  
9 issued by the owner of a qualified development, or by the  
10 owner's designee, under subsection (d) of Section 15 of this  
11 Act. The certification shall include the following:

12 (1) the building identification number for each  
13 building included in the qualified development;

14 (2) the calendar year in which the last building of  
15 the qualified development was placed in service;

16 (3) the amount of the credit allowed for each year of

1 the credit period;

2 (4) the amount of credit allocated to each qualified  
3 taxpayer for the qualified development for the applicable  
4 tax year; and

5 (5) confirmation of whether each qualified taxpayer  
6 elects to apply the credit to income tax or insurance  
7 premium tax.

8 "Authority" means:

9 (1) the Illinois Housing Development Authority; or

10 (2) the City of Chicago Department of Housing.

11 "Building identification number" means the number assigned  
12 to a building within the qualified development by an Authority  
13 when allocating the federal tax credit.

14 "Credit" means the credit allowed under this Act.

15 "Credit period" means a period of 6 taxable years  
16 beginning with the taxable year in which a qualified  
17 development is placed in service. No credit period may include  
18 a taxable year beginning prior to January 1, 2025. If a  
19 qualified development consists of more than one building, then  
20 the qualified development is deemed to be placed in service in  
21 the taxable year in which the last building of the qualified  
22 development is placed in service.

23 "Department" means the Department of Revenue.

24 "Federal tax credit" means the federal low-income housing  
25 tax credit provided by Section 42 of the federal Internal  
26 Revenue Code, including federal low-income housing tax credits

1 issued under 26 U.S.C. 42(h) (3) and 26 U.S.C. 42(h) (4) .

2 "Qualified basis" means the qualified basis of the  
3 qualified development as determined under Section 42 of the  
4 federal Internal Revenue Code of 1986.

5 "Qualified development" means a qualified low-income  
6 housing project, as that term is defined in Section 42 of the  
7 federal Internal Revenue Code of 1986, that is located in the  
8 State and is determined to be eligible for the federal tax  
9 credit set forth in Section 42 of the Internal Revenue Code.

10 "Qualified taxpayer" means an individual, person, firm,  
11 corporation, or other entity that owns a direct or indirect  
12 interest in a qualified development and that is subject to the  
13 taxes imposed by subsections (a) and (b) of Section 201 of the  
14 Illinois Income Tax Act or any privilege tax or retaliatory  
15 tax, penalty, fee, charge, or payment imposed by the Illinois  
16 Insurance Code.

17 "Reservation letter" means a reservation letter issued by  
18 the Illinois Housing Development Authority or a reservation  
19 agreement issued by the City of Chicago Department of Housing.

20 "State credit eligibility statement" means a statement  
21 issued by an Authority under Section 10 or documents submitted  
22 in satisfaction of a statement as allowed under Section 10.

23 "State tax return" means the income tax return filed with  
24 the Department or the privilege and retaliatory tax return  
25 filed with the Department of Insurance, as applicable.

1           Section 10. State credit eligibility statements. Following  
2 construction or rehabilitation of the qualified development,  
3 the applicable Authority shall issue a State credit  
4 eligibility statement with respect to each building located in  
5 the qualified development certifying that the building  
6 qualifies for the credit under this Act and specifying:

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

9           (2) the amount of the credit allowed for each year of  
10 the credit period;

11           (3) the maximum qualified basis of the qualified  
12 development taken into account in determining such annual  
13 credit amount;

14           (4) a building identification number; and

15           (5) that the qualified development is eligible for and  
16 has applied to receive a federal tax credit.

17           The State credit eligibility statement shall be issued by  
18 an Authority simultaneously with IRS Form 8609. For taxable  
19 years beginning on or after January 1, 2025 and ending on or  
20 before December 31, 2025, an Authority may issue, and the  
21 Department and Department of Insurance may accept, an IRS Form  
22 8609, including any additional statements attached to the IRS  
23 Form 8609, and the reservation letter issued by the Authority  
24 for the qualified development as the State credit eligibility  
25 statement in satisfaction of both federal requirements and the  
26 requirements set forth in this Section.

1           The State credit eligibility statement shall include a  
2 section to be completed by the owner of the qualified  
3 development annually for each year of the credit period  
4 certifying that the qualified development conforms with all  
5 compliance requirements, including all federal compliance  
6 requirements for the federal tax credit. The State credit  
7 eligibility statement shall be filed with the project owner's  
8 State tax return annually for each year of the credit period.

9           Section 15. Credit for low-income housing developments.

10           (a) An Authority shall administer the credit in accordance  
11 with the federal tax credit and shall award the credit  
12 simultaneously with the award of the federal tax credit.

13           (a-5) For taxable years beginning on or after January 1,  
14 2025 and beginning before January 1, 2030, an Authority may  
15 award a credit to the owner of a qualified development  
16 simultaneous with the federal tax credit in an amount  
17 determined by an Authority, subject to the following  
18 guidelines:

19           (1) an Authority must find that the credit is  
20 necessary for the financial feasibility of the qualified  
21 development;

22           (2) the aggregate amount of credits awarded to  
23 qualified developments for each calendar year shall not  
24 exceed \$20,000,000, plus the amount of unallocated  
25 credits, if any, from the preceding calendar year, plus

1 the amount of any credit recaptured or otherwise returned  
2 to an Authority since the preceding calendar year;

3 (3) of the \$20,000,000 annual allocation:

4 (A) 75.5% of the available credits for each  
5 calendar year shall be awarded by the Illinois Housing  
6 Development Authority, plus any credits the Illinois  
7 Housing Development Authority did not award from prior  
8 calendar years, plus the amount of any credits  
9 recaptured or otherwise returned to the Illinois  
10 Housing Development Authority from prior calendar  
11 years; and

12 (B) 24.5% of the available credits in each  
13 calendar year shall be awarded by the City of Chicago  
14 Department of Housing, plus any credits the City of  
15 Chicago Department of Housing did not award from prior  
16 calendar years, plus the amount of any credits  
17 recaptured or otherwise returned to the City of  
18 Chicago Department of Housing since the prior calendar  
19 year; and

20 (4) unless otherwise provided in this Act, or unless  
21 the context clearly requires otherwise, an Authority must  
22 determine eligibility for credits and award credits in  
23 accordance with the standards and requirements set forth  
24 in Section 42 of the federal Internal Revenue Code of 1986  
25 and, to the extent possible, use the same forms that are  
26 used in administering the credit under Section 42 of the

1 federal Internal Revenue Code of 1986.

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

9 (b-5) The amount of credit awarded pursuant to a  
10 reservation letter shall be claimable in each year of the  
11 credit period.

12 (c) A qualified taxpayer may claim a credit under this Act  
13 so long as the taxpayer's direct or indirect interest in the  
14 qualified development is acquired prior to the filing of its  
15 tax return claiming the credit. On or before March 31  
16 following each year of the credit period, the owner must  
17 submit to the Department, the Department of Insurance, and the  
18 applicable Authority an allocation schedule certification, in  
19 an electronic format prescribed by the Department, the  
20 Department of Insurance, and the Authority, respectively,  
21 detailing the amount of the credit allocated to the qualified  
22 taxpayer for the applicable year and stating whether the  
23 qualified taxpayer has elected to claim the credit against the  
24 taxpayer's State income tax or insurance privilege tax or  
25 retaliatory tax liability. The taxpayer may assign to a  
26 designee the duty of preparing and submitting the allocation

1 schedule certification. In that case, the designee must  
2 provide the allocation schedule certification to the  
3 Department, the Department of Insurance, and the applicable  
4 Authority on or before the deadline for submission. The  
5 qualified taxpayer must notify the Department, the Department  
6 of Insurance, and the applicable Authority if it assigns that  
7 duty to its designee.

8 The allocation schedule certification submitted under this  
9 Section may be amended if the State credit eligibility  
10 statement for a project is received after the deadline for  
11 filing the allocation schedule certification or if all credits  
12 have not been awarded by the deadline for filing the  
13 allocation schedule certification. Any amendment to an  
14 allocation schedule certification shall be filed before the  
15 taxpayer attempts to claim tax credits associated with the  
16 applicable State credit eligibility statement. Each qualified  
17 taxpayer is allowed to claim its awarded amount of credit  
18 subject to any restrictions set forth in this Section. If the  
19 credit is to be taken against the income tax and the qualified  
20 taxpayer is a pass-through entity, then the provisions of  
21 Section 251 of the Illinois Income Tax Act apply.

22 (d) No credit may be awarded under this Act unless the  
23 qualified development is the subject of a recorded restrictive  
24 covenant requiring the development to be maintained and  
25 operated as a qualified development; this requirement for a  
26 recorded restrictive covenant may be satisfied by the



1 agreement for an extended low-income housing commitment  
2 required for the federal tax credits as defined in Section  
3 42(h)(6)(B) of the federal Internal Revenue Code of 1986.

4 (e) If, during a taxable year, there is a determination  
5 that no recorded restrictive covenant meeting the requirements  
6 of subsection (d) was in effect as of the beginning of that  
7 year, the determination shall not apply to any period before  
8 that year and subsection (e) shall be applied without regard  
9 to that determination if the failure is corrected within one  
10 year after the date of the determination.

11 (e-5) For tax years ending during the credit period, any  
12 qualified taxpayer is allowed a credit as provided in this Act  
13 against the taxes imposed by subsections (a) and (b) of  
14 Section 201 of the Illinois Income Tax Act, unless the  
15 qualified taxpayer elects to claim the credit against any  
16 privilege tax or retaliatory tax, penalty, fee, charge, or  
17 payment imposed under the Illinois Insurance Code. Those  
18 elections shall be submitted by the owner of the qualified  
19 development in the annual allocation schedule certification as  
20 provided in subsection (c) of this Section.

21 (f) The tax credit under this Act may not reduce the  
22 taxpayer's liability to less than zero. If the amount of the  
23 tax credit exceeds the tax liability for the year, the excess  
24 may be carried forward and applied to the tax liability of the  
25 5 taxable years following the excess credit year. The credit  
26 must be applied to the earliest year for which there is a tax

1 liability. If there are credits from more than one tax year  
2 that are available to offset a liability, then the earlier  
3 credit must be applied first. Credits that are initially  
4 claimed against taxes imposed by the Illinois Income Tax Act  
5 may be carried forward only against the taxpayer's future  
6 Illinois Income Tax liability. Credits that are initially  
7 claimed against taxes, penalties, fees, charges, and payments  
8 imposed by the Illinois Insurance Code may be carried forward  
9 only against taxes, penalties, fees, charges, and payments  
10 imposed by the Illinois Insurance Code. Credits that are not  
11 claimed or carried forward may not be refunded to the  
12 taxpayer. The qualified taxpayer is solely responsible for  
13 correctly filing tax returns, and an Authority is not  
14 responsible for monitoring the calculation of taxes under this  
15 Section.

16 (g) By March 31, 2025 and by March 31 of each year  
17 thereafter, each Authority shall provide to the Department and  
18 the Department of Insurance an electronic file containing all  
19 data related to all State credit eligibility statements issued  
20 during the preceding year in the manner and form as provided by  
21 each respective Department.

22 (h) Each Authority is entitled to a reservation fee of 1%  
23 of the credit awarded under this Section for each year of the  
24 award to support the cost of compliance monitoring. An  
25 Authority may exercise the option to impose a compliance fee  
26 or a penalty in the exercise of its compliance monitoring

1 function under this Act.

2 Section 20. Recapture. If, under Section 42 of the  
3 Internal Revenue Code, a portion of any federal tax credit  
4 claimed with respect to a qualified development for which a  
5 credit has been awarded under this Act is required by a final  
6 determination by the Internal Revenue Service or a court of  
7 law with competent jurisdiction to be recaptured during the  
8 first 6 years after a project is placed in service, then,  
9 within 60 days after becoming aware of the federal tax credit  
10 recapture, the project owner shall provide the Department, the  
11 Department of Insurance, and the applicable Authority with  
12 notice of the federal tax credit recapture. Notice shall be  
13 provided in the manner and form as provided by the Department,  
14 the Department of Insurance, and the Authority, respectively.  
15 If an Authority issues a federal Form 8823 to the owner of a  
16 qualified development that has been awarded a credit under  
17 this Act, and an Authority has not been notified within 6  
18 months of filing the Form 8823 that the noncompliance has been  
19 remedied, an Authority shall submit the Form 8823 to the  
20 Department or Department of Insurance, as applicable. The  
21 amount of credit subject to recapture shall be proportionately  
22 equal to the amount of the qualified development's federal tax  
23 credits that are subject to recapture. If the project owner  
24 (or one of the project owner's direct or indirect members)  
25 fails to notify the Department or the Department of Insurance,

1 as applicable, of any final determination of recapture of the  
2 federal tax credit, then the entire amount of the State tax  
3 credit awarded for the qualified development may be subject to  
4 recapture. The qualified taxpayer subject to recapture shall  
5 increase the qualified taxpayer's tax by the amount of any  
6 credit subject to recapture in the tax year the qualified  
7 taxpayer is notified of the recapture. If multiple taxpayers  
8 claimed credit with respect to the building for which credit  
9 is to be recaptured, each of those taxpayers shall be liable  
10 for a portion of the recapture equal to the percentages of  
11 credit with respect to the building originally claimed by the  
12 taxpayer.

13 Section 25. Filing requirements. An owner of a qualified  
14 development that has been awarded a credit and each qualified  
15 taxpayer claiming any portion of the credit must file with  
16 their State tax returns a copy of the State credit eligibility  
17 statement issued by an Authority for that qualified  
18 development. In addition, the owner of a qualified development  
19 or its designee shall file a copy of the allocation schedule  
20 certification and reservation letter prior to any tax return  
21 being filed claiming a State credit for such qualified  
22 development. A qualified taxpayer receiving any allocated  
23 portion of a credit through a pass-through entity shall attach  
24 to its State tax return a copy of the Schedule K-1-P for that  
25 taxable year.

1           Section 30. Compliance monitoring. An Authority, in  
2 consultation with the Department and Department of Insurance,  
3 shall monitor and oversee compliance with the provisions of  
4 this Act and shall report specific occurrences of  
5 noncompliance to the Department and the Department of  
6 Insurance in the manner and form as provided by the Department  
7 and the Department of Insurance. An Authority shall make every  
8 effort to monitor and report noncompliance using the same  
9 procedures used for compliance monitoring of the federal tax  
10 credits.

11           Section 35. Report to the General Assembly.

12           (a) Each Authority must, by March 31, 2026 and by March 31  
13 of each year thereafter, provide a written report to the  
14 General Assembly and must publish that report on its website.

15           (b) The report shall:

16           (1) set forth the number of qualified developments  
17 that have been awarded tax credits under this Act during  
18 the calendar year and the total number of units supported  
19 by each qualified development;

20           (2) describe each qualified development that has been  
21 awarded tax credits under this Act, including, without  
22 limitation, the geographic location of the qualified  
23 development, the household type, the income levels  
24 intended to be served by the qualified development, and

1 the rents or set-asides authorized for each qualified  
2 development;

3 (3) provide housing market information that  
4 demonstrates how the qualified developments supported by  
5 the tax credits are addressing the need for affordable  
6 housing within the communities they are intended to serve  
7 as well as information about any remaining disparities in  
8 the affordability of housing within those communities; and

9 (4) provide information about the percentage of  
10 qualified developments that were awarded credits and that  
11 received incentive scoring points as a result of the  
12 general contractor, property manager, architect, or  
13 sponsor being certified under the Business Enterprise  
14 Program for Minorities, Females, and Persons with a  
15 Disability.

16 Section 900. The Illinois Income Tax Act is amended by  
17 adding Section 241 as follows:

18 (35 ILCS 5/241 new)

19 Sec. 241. Build Illinois Homes Tax Credit Act.

20 (a) For taxable years beginning on or after January 1,  
21 2025 and until the expiration of the program under the Build  
22 Illinois Homes Tax Credit Act, any eligible taxpayer with  
23 respect to a credit awarded in accordance with the Build  
24 Illinois Homes Tax Credit Act that is named on an allocation

1 schedule certification for a particular tax year is entitled  
2 to a credit against the taxes imposed by subsections (a) and  
3 (b) of Section 201 as provided in the Build Illinois Homes Tax  
4 Credit Act.

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

9 (c) If, during any taxable year, a taxpayer is notified of  
10 a final determination that a credit previously claimed on a  
11 State income tax return in accordance with 42 U.S.C. 42 has  
12 been recaptured, the tax imposed under subsections (a) and (b)  
13 of Section 201 for that taxpayer for that taxable year shall be  
14 increased. The amount of the increase shall be determined by  
15 (i) recomputing the Build Illinois Homes Tax Credit that would  
16 have been allowed for the year in which the credit was  
17 originally allowed by eliminating the recaptured amount from  
18 such computation, and (ii) subtracting that recomputed credit  
19 from the amount of credit previously allowed. No Build  
20 Illinois Homes Tax Credit shall be allowed with respect to any  
21 credit subject to a final determination of recapture for any  
22 taxable year ending after the issuance of a recapture notice.

23 Section 905. The Illinois Insurance Code is amended by  
24 changing Sections 409 and 444 as follows:

1 (215 ILCS 5/409) (from Ch. 73, par. 1021)

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

3 (1) As of January 1, 1999 for all health maintenance  
4 organization premiums written; as of July 1, 1998 for all  
5 premiums written as accident and health business, voluntary  
6 health service plan business, dental service plan business, or  
7 limited health service organization business; and as of  
8 January 1, 1998 for all other types of insurance premiums  
9 written, every company doing any form of insurance business in  
10 this State, including, but not limited to, every risk  
11 retention group, and excluding all fraternal benefit  
12 societies, all farm mutual companies, all religious charitable  
13 risk pooling trusts, and excluding all statutory residual  
14 market and special purpose entities in which companies are  
15 statutorily required to participate, whether incorporated or  
16 otherwise, shall pay, for the privilege of doing business in  
17 this State, to the Director for the State treasury a State tax  
18 equal to 0.5% of the net taxable premium written, together  
19 with any amounts due under Section 444 of this Code, except  
20 that the tax to be paid on any premium derived from any  
21 accident and health insurance or on any insurance business  
22 written by any company operating as a health maintenance  
23 organization, voluntary health service plan, dental service  
24 plan, or limited health service organization shall be equal to  
25 0.4% of such net taxable premium written, together with any  
26 amounts due under Section 444. Upon the failure of any company



1 to pay any such tax due, the Director may, by order, revoke or  
2 suspend the company's certificate of authority after giving 20  
3 days written notice to the company, or commence proceedings  
4 for the suspension of business in this State under the  
5 procedures set forth by Section 401.1 of this Code. The gross  
6 taxable premium written shall be the gross amount of premiums  
7 received on direct business during the calendar year on  
8 contracts covering risks in this State, except premiums on  
9 annuities, premiums on which State premium taxes are  
10 prohibited by federal law, premiums paid by the State for  
11 health care coverage for Medicaid eligible insureds as  
12 described in Section 5-2 of the Illinois Public Aid Code,  
13 premiums paid for health care services included as an element  
14 of tuition charges at any university or college owned and  
15 operated by the State of Illinois, premiums on group insurance  
16 contracts under the State Employees Group Insurance Act of  
17 1971, and except premiums for deferred compensation plans for  
18 employees of the State, units of local government, or school  
19 districts. The net taxable premium shall be the gross taxable  
20 premium written reduced only by the following:

21 (a) the amount of premiums returned thereon which  
22 shall be limited to premiums returned during the same  
23 preceding calendar year and shall not include the return  
24 of cash surrender values or death benefits on life  
25 policies including annuities;

26 (b) dividends on such direct business that have been

1       paid in cash, applied in reduction of premiums or left to  
2       accumulate to the credit of policyholders or annuitants.  
3       In the case of life insurance, no deduction shall be made  
4       for the payment of deferred dividends paid in cash to  
5       policyholders on maturing policies; dividends left to  
6       accumulate to the credit of policyholders or annuitants  
7       shall be included as gross taxable premium written when  
8       such dividend accumulations are applied to purchase  
9       paid-up insurance or to shorten the endowment or premium  
10      paying period.

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

26       (3) If a company survives or was formed by a merger,

1 consolidation, reorganization, or reincorporation, the  
2 premiums received and amounts returned or paid by all  
3 companies party to the merger, consolidation, reorganization,  
4 or reincorporation shall, for purposes of determining the  
5 amount of the tax imposed by this Section, be regarded as  
6 received, returned, or paid by the surviving or new company.

7 (4) (a) All companies subject to the provisions of this  
8 Section shall make an annual return for the preceding calendar  
9 year on or before March 15 setting forth such information on  
10 such forms as the Director may reasonably require. Payments of  
11 quarterly installments of the taxpayer's total estimated tax  
12 for the current calendar year shall be due on or before April  
13 15, June 15, September 15, and December 15 of such year, except  
14 that all companies transacting insurance in this State whose  
15 annual tax for the immediately preceding calendar year was  
16 less than \$5,000 shall make only an annual return. Failure of a  
17 company to make the annual payment, or to make the quarterly  
18 payments, if required, of at least 25% of either (i) the total  
19 tax paid during the previous calendar year or (ii) 80% of the  
20 actual tax for the current calendar year shall subject it to  
21 the penalty provisions set forth in Section 412 of this Code.

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

25 (i) each health maintenance organization shall have no  
26 estimated tax installments;

1           (ii) all companies subject to the tax as of July 1,  
2           1998 as set forth in subsection (1) shall have estimated  
3           tax installments due on September 15 and December 15 of  
4           1998 which installments shall each amount to no less than  
5           one-half of 80% of the actual tax on its net taxable  
6           premium written during the period July 1, 1998, through  
7           December 31, 1998; and

8           (iii) all other companies shall have estimated tax  
9           installments due on June 15, September 15, and December 15  
10          of 1998 which installments shall each amount to no less  
11          than one-third of 80% of the actual tax on its net taxable  
12          premium written during the calendar year 1998.

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

16          (5) In addition to the authority specifically granted  
17          under Article XXV of this Code, the Director shall have such  
18          authority to adopt rules and establish forms as may be  
19          reasonably necessary for purposes of determining the  
20          allocation of Illinois corporate income taxes paid under  
21          subsections (a) through (d) of Section 201 of the Illinois  
22          Income Tax Act amongst members of a business group that files  
23          an Illinois corporate income tax return on a unitary basis,  
24          for purposes of regulating the amendment of tax returns, for  
25          purposes of defining terms, and for purposes of enforcing the  
26          provisions of Article XXV of this Code. The Director shall

1 also have authority to defer, waive, or abate the tax imposed  
2 by this Section if in his opinion the company's solvency and  
3 ability to meet its insured obligations would be immediately  
4 threatened by payment of the tax due.

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

7 (7) This Section is subject to the provisions of the Build  
8 Illinois Homes Tax Credit Act.

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

10 (215 ILCS 5/444) (from Ch. 73, par. 1056)

11 Sec. 444. Retaliation.

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

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

23 (2) The provisions of this Section shall not apply to  
24 residual market or special purpose assessments or guaranty  
25 fund or guaranty association assessments, both under the laws  
26 of this State and under the laws of any other state or country,

1 and any tax offset or credit for any such assessment shall, for  
2 purposes of this Section, be treated as a tax paid both under  
3 the laws of this State and under the laws of any other state or  
4 country.

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

1 Section; and any penalties, fees, charges, and taxes required  
2 as a franchise, privilege, or licensing tax for conducting the  
3 business of insurance whether calculated as a percentage of  
4 income, gross receipts, premium, or otherwise.

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

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

11 (6) This Section is subject to the provisions of the Build  
12 Illinois Homes Tax Credit Act.

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

14 Section 999. Effective date. This Act takes effect upon  
15 becoming law."