



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5153

by Rep. Jay C. Hoffman

SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 5/218 new

Creates the Distressed Areas Land Assemblage Tax Credit Act and amends the Illinois Income Tax Act. Provides an income tax credit for taxpayers who incur certain costs related to the acquisition of economically distressed property for redevelopment purposes. Sets forth requirements for the credit. Provides that the total aggregate amount of tax credits issued under this Act may not exceed \$12,000,000 in any one calendar year and may not exceed \$100,000,000 for all calendar years. Provides that the credit may be sold or transferred and may be carried forward for 6 years.

LRB095 18315 BDD 44399 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 Distressed Areas Land Assemblage Tax Credit Act.

6 Section 5. Definitions. As used in this Section:

7 "Acquisition costs" means all costs and expenses incurred
8 in the acquisition of an eligible parcel. Acquisition costs
9 include, but are not limited to, the purchase price for the
10 eligible parcel, costs for title insurance and survey,
11 attorneys' fees, costs of environmental assessments, closing
12 costs, real estate brokerage fees, demolition costs of vacant
13 structures, relocation costs, and maintenance costs incurred
14 to maintain an acquired eligible parcel for a period of 5 years
15 after the acquisition of the eligible parcel.

16 "Applicant" means any person who has:

17 (1) incurred, within an eligible project area,
18 acquisition costs for the acquisition of land sufficient to
19 satisfy the requirements for an eligible project area; and

20 (2) been appointed or selected by a municipality as a
21 redeveloper or similar designation under an economic
22 incentive act to redevelop an urban renewal area or a
23 redevelopment area that includes all of an eligible project

1 area or whose redevelopment plan or redevelopment area,
2 which encompasses all of an eligible project area, has been
3 approved or adopted under an economic incentive act.

4 "Certificate" means a tax credit certificate issued under
5 this Act.

6 "Condemnation proceedings" means any action taken by or on
7 behalf of an applicant to initiate an action in a court of
8 competent jurisdiction to use the power of eminent domain to
9 acquire a parcel within the eligible project area. Condemnation
10 proceedings include any and all actions taken after the
11 submission of a notice of intended acquisition to an owner of a
12 parcel within the eligible project area by a municipality or
13 any other person under the Eminent Domain Act.

14 "Department" means the Department of Commerce and Economic
15 Opportunity.

16 "Economic incentive act" means any provision of Illinois
17 law under which economic incentives are provided to
18 redevelopers of a parcel or parcels to redevelop the land, such
19 as tax abatement or payments in lieu of taxes, or redevelopment
20 plans or redevelopment projects approved or adopted which
21 include the use of economic incentives to redevelop the land.

22 "Eligible parcel" means a parcel that is located within an
23 eligible project area and that has been acquired prior to the
24 commencement of any condemnation proceedings within the
25 eligible project area brought by or on behalf of the applicant.
26 Any parcel acquired by the applicant from a municipality is not

1 an eligible parcel.

2 "Eligible project area" means an area that satisfies all of
3 the following requirements:

4 (1) the eligible project area consists of at least 30
5 acres for municipalities with populations of 75,000 or less
6 and 75 acres for all other municipalities and counties and
7 may include parcels within its boundaries that do not
8 constitute eligible parcels;

9 (2) at least 80% of the eligible project area is
10 located within a qualified census tract area, as designated
11 by the United States Department of Housing and Urban
12 Development under 26 U.S.C. Section 42;

13 (3) the eligible parcels acquired by the applicant
14 within an eligible project area total at least 20 acres for
15 municipalities with populations of 75,000 or less and 50
16 acres for all other municipalities and counties, which may
17 consist of contiguous or noncontiguous parcels;

18 (4) with respect to an eligible project area located
19 within a municipality, the average number of parcels per
20 acre in an eligible project area are at least 2.5 for
21 municipalities with populations of 75,000 or less and 4 for
22 all other municipalities; and

23 (5) less than 5% of the acreage within the boundaries
24 of the eligible project area consist of owner-occupied
25 residences that the applicant has identified for
26 acquisition under the urban renewal plan or the

1 redevelopment plan pursuant to which the applicant was
2 appointed or selected as the redeveloper or by which the
3 person or entity was qualified as an applicant under this
4 Act on the date of the approval or adoption of such plan.

5 With respect to proposed project areas located within a
6 municipality with a population equal to or less than 50,000
7 inhabitants, the requirements for an eligible project area may
8 be modified or waived as deemed necessary and reasonable by the
9 Department based upon information provided in the application
10 required under this Act.

11 "Interest costs" means all costs and expenses of an
12 applicant for loans incurred by the applicant to finance the
13 acquisition of an eligible parcel. Interest costs include, but
14 are not limited to, interest, loan fees, closing costs, and
15 attorneys' fees.

16 "Parcel" means a single lot or tract of land, and the
17 improvements thereon, owned by, or recorded as the property of,
18 one or more persons or entities.

19 Section 10. Income tax credit granted. Any applicant is
20 entitled to a credit against the taxes imposed under
21 subsections (a) and (b) of Section 201 of the Illinois Income
22 Tax Act in an amount equal to 50% of the acquisition costs and
23 100% of the interest costs incurred for a period of 5 years
24 after the acquisition of an eligible parcel. No tax credits may
25 be certified under this Act until after January 1, 2009.

1 Section 15. Carryforward; transferability; pass-through
2 entities.

3 (a) The credit may not be carried back. If the amount of
4 the credit exceeds the tax liability for the year, then the
5 excess may be carried forward and applied to the tax liability
6 of the 6 taxable years following the excess credit year. The
7 tax credit shall be applied to the earliest year for which
8 there is a tax liability.

9 (b) Applicants who are entitled to receive the credit may
10 transfer, sell, or assign the credits.

11 (c) For partners, shareholders of Subchapter S
12 corporations, and owners of limited liability companies, if the
13 liability company is treated as a partnership for purposes of
14 federal and State income taxation, there is allowed a credit
15 under this Section to be determined in accordance with the
16 determination of income and distributive share of income under
17 Sections 702 and 704 and Subchapter S of the Internal Revenue
18 Code.

19 Section 20. Purchase of the credit. A purchaser,
20 transferee, or assignee of the tax credits may use acquired
21 credits to offset up to 100% of the tax liabilities otherwise
22 imposed under subsections (a) and (b) of Section 201 of the
23 Illinois Income Tax Act. A seller, transferor, or assignor
24 shall perfect the transfer by notifying the Department in

1 writing within 30 calendar days following the effective date of
2 the transfer and shall provide any information as may be
3 required by the Department to administer and to carry out the
4 provisions of this Act.

5 Section 25. Certification by the Department. To claim
6 credits authorized under this Act, an applicant must submit to
7 the Department an application for a certificate. The applicant
8 must identify the boundaries of the eligible project area in
9 the application. The Department shall verify that the applicant
10 has submitted a valid application in the form and format
11 required by the Department. On an annual basis, an applicant
12 may file for the credit for the acquisition costs and for the
13 credit for the interest costs, subject to the limitations of
14 this section. If an applicant applying for the tax credit meets
15 the criteria required under this Act, the Department shall
16 issue a certificate in the appropriate amount.

17 Section 30. Limitation on credits.

18 (a) The total aggregate amount of tax credits issued under
19 this Act may not exceed \$100,000,000 for all calendar years.

20 (b) The total aggregate amount of tax credits issued under
21 this Act may not exceed \$12,000,000 in any one calendar year.
22 If the claims for tax credits under this Act exceed \$12,000,000
23 in any one calendar year, then the Department shall either:

24 (1) certify the credit to the applicant in the amount

1 of \$12,000,000 if there is only one applicant entitled to
2 receive the credit in that year; or

3 (2) certify the tax credits on a pro-rata basis to all
4 applicants who are entitled to receive tax credits in that
5 year.

6 Any credit amount of tax credits to which an applicant is
7 entitled that is not certified due to the \$12,000,000
8 limitation shall be carried forward for the benefit of the
9 applicant to subsequent years.

10 Section 35. Rules. The Department, in cooperation with the
11 Department of Revenue, shall adopt any rules necessary for the
12 implementation and administration of this Act.

13 Section 40. Sunset. The Department may not certify any
14 credit under this Act for any taxable year that begins after
15 January 1 of the 6th year after the effective date of this Act.

16 Section 900. The Illinois Income Tax Act is amended by
17 adding Section 218 as follows:

18 (35 ILCS 5/218 new)

19 Sec. 218. Distressed Areas Land Assemblage Tax Credit.

20 (a) A taxpayer who has been awarded a tax credit under the
21 Distressed Areas Land Assemblage Tax Credit Act is entitled to
22 a credit against the taxes imposed under subsections (a) and

1 (b) of Section 201 of this Act in an amount certified by the
2 Department of Commerce and Economic Opportunity under that Act.

3 (b) If the taxpayer is a partnership or Subchapter S
4 corporation, the credit is allowed to the partners or
5 shareholders in accordance with the determination of income and
6 distributive share of income under Sections 702 and 704 and
7 Subchapter S of the Internal Revenue Code.

8 (c) The credit may not be carried back. If the amount of
9 the credit exceeds the tax liability for the year, the excess
10 may be carried forward and applied to the tax liability of the
11 6 taxable years following the excess credit year. The credit
12 shall be applied to the earliest year for which there is a tax
13 liability. If there are credits from more than one tax year
14 that are available to offset a liability, the earlier credit
15 shall be applied first. In no event shall a credit under this
16 Section reduce the taxpayer's liability to less than zero. A
17 transfer of this credit may be made by the taxpayer earning the
18 credit as set forth under Section 15 of Distressed Areas Land
19 Assemblage Tax Credit Act.

20 (d) The Department, in cooperation with the Department of
21 Commerce and Economic Opportunity, must prescribe rules to
22 enforce and administer the provisions of this Section.

23 (e) This Section is exempt from the provisions of Section
24 250 of this Act.