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1 AMENDMENT TO SENATE BILL 1894

2 AMENDMENT NO. _____. Amend Senate Bill 1894 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Illinois Rehabilitation and Revitalization Tax Credit Act.

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

8 (a) "Agency" means the Historic Preservation Agency.

9 (b) "Department" means the Department of Commerce and
10 Economic Opportunity.

11 (c) "Qualified expenditures" means all the costs and
12 expenses defined as qualified rehabilitation expenditures
13 under Section 47 of the federal Internal Revenue Code.
14 Applicants may incur qualified expenditures, at their own risk,
15 from the earlier of (i) the commencement of construction or
16 (ii) one year prior to receipt of preliminary approval of an

1 application pursuant to Section 40.

2 (d) "Qualified structure" means any building located in
3 Illinois that is defined as a certified historic structure
4 under Section 47(c)(3) of the federal Internal Revenue Code.

5 (e) "Qualified rehabilitation plan" means a proposed
6 rehabilitation design that is approved by the Agency and
7 certified by the National Park Service as being consistent with
8 the Secretary of the Interior's Standards for Rehabilitation,
9 as adopted by the United States Secretary of the Interior.

10 (f) "Qualified rehabilitation project" means a completed
11 rehabilitation project that is approved by the Agency and
12 certified by the National Park Service as being consistent with
13 the Secretary of the Interior's Standards for Rehabilitation,
14 as adopted by the United States Secretary of the Interior.

15 (g) "Qualified taxpayer" means any owner of the qualified
16 structure or any other person who may qualify for the federal
17 rehabilitation credit allowed by Section 47 of the federal
18 Internal Revenue Code. If the taxpayer is (i) a corporation
19 having an election in effect under subchapter S of the federal
20 Internal Revenue Code, (ii) a partnership, or (iii) a limited
21 liability company, the credit provided by this subsection may
22 be claimed by the shareholders of the corporation, the partners
23 of the partnership, or the members of the limited liability
24 company in the same manner as those shareholders, partners, or
25 members account for their proportionate shares of the income or
26 losses of the corporation, partnership, or limited liability

1 company, or as provided in the bylaws or other executed
2 agreement of the corporation, partnership, or limited
3 liability company. Credits granted to a partnership, a limited
4 liability company taxed as a partnership, or other multiple
5 owners of property shall be passed through to the partners,
6 members, or owners respectively on a pro rata basis or pursuant
7 to an executed agreement among the partners, members, or owners
8 documenting any alternate distribution method. Nothing in this
9 Act is intended to prohibit a non-profit entity with a Section
10 501(c)(3) designation under the federal Internal Revenue Code
11 from serving as a shareholder, partner, member or other owner
12 of a qualified taxpayer.

13 Section 10. Functional obsolescence test. When the credits
14 requested with respect to a qualified rehabilitation plan are
15 \$1,000,000 or more, the Department must confirm that the
16 property satisfies at least 2 of the following factors:

17 (1) Dilapidation. Dilapidation means that the primary
18 structural components of buildings or improvements on the
19 property are in an advanced state of disrepair or neglect
20 of necessary repairs such that a documented building
21 condition analysis determines that major repair is
22 required or the defects are so serious and so extensive
23 that the buildings must be removed.

24 (2) Obsolescence. Obsolescence means that the property
25 has fallen or is in the process of falling into disuse,

1 that structures on the property have become ill suited for
2 the original use, or both.

3 (3) Deterioration. Deterioration means: that buildings
4 located on the property contain defects including, but not
5 limited to, major defects in the secondary building
6 components such as doors, windows, porches, gutters and
7 downspouts, and fascia; that surface improvements,
8 roadways, alleys, curbs, gutters, sidewalks, off-street
9 parking, and surface storage areas evidence deterioration,
10 including, but not limited to, surface cracking,
11 crumbling, potholes, depressions, loose paving material,
12 or weeds protruding through paved surfaces; or that any
13 combination of these problems exists.

14 (4) Presence of structures below minimum code
15 standards. The property contains structures that do not
16 meet the standards of zoning, subdivision, building, fire,
17 and other governmental codes applicable to property, but
18 not including housing and property maintenance codes.

19 (5) Illegal use of individual structures. The use of
20 structures in violation of applicable federal, State, or
21 local laws, exclusive of those applicable to the presence
22 of structures below minimum code standards.

23 (6) Excessive vacancies. Buildings on the property are
24 unoccupied or underused and represent an adverse influence
25 on the area because of the frequency, extent, or duration
26 of the vacancies.

1 (7) Inadequate ventilation, natural light, or sanitary
2 facilities. Inadequate ventilation means the absence of
3 ventilation for air circulation in spaces or rooms that
4 lack windows or require the removal of dust, odor, gas,
5 smoke, or other noxious airborne materials. Inadequate
6 natural light means the absence of skylights or windows for
7 interior spaces or rooms or improper window sizes or
8 amounts as determined by room area to window area ratios.
9 Inadequate sanitary facilities refers to the absence or
10 inadequacy of garbage storage and enclosure, bathroom
11 facilities, hot water and kitchens, or structural
12 inadequacies preventing ingress and egress to and from all
13 rooms and units within a building.

14 (8) Inadequate utilities. Inadequate utilities are
15 underground and overhead utilities such as storm sewers and
16 storm drainage, sanitary sewers, water lines, and gas,
17 telephone, and electrical services that are: (1) of
18 insufficient capacity to serve the uses in the
19 redevelopment project area; (2) deteriorated, antiquated,
20 obsolete, or in disrepair; or (3) lacking within the
21 redevelopment project area.

22 Section 15. Allowable credit. There shall be allowed a tax
23 credit against (i) the tax imposed by subsections (a) and (b)
24 of Section 201 of the Illinois Income Tax Act and (ii) the
25 taxes imposed under Sections 409, 413, 444, and 444.1 of the

1 Illinois Insurance Code in an aggregate amount equal to 20% of
2 qualified expenditures incurred by a qualified taxpayer
3 pursuant to a qualified rehabilitation plan on a qualified
4 structure, provided that the total amount of such qualified
5 expenditures exceeds the greater of \$5,000 or the adjusted
6 basis of the property. While a tax credit may be earned before
7 this date, no tax credit shall be actually issued by the
8 Department before July 1, 2015. If the amount of any tax credit
9 awarded under this Act exceeds the taxpayer's tax liability for
10 the year in which the qualified rehabilitation project was
11 placed in service, the excess amount may be carried forward for
12 deduction from the taxpayer's tax liability in the next
13 succeeding year or years or may be carried back for deduction
14 from the taxpayer's tax liability for the immediately preceding
15 year until the total amount of the credit has been used, except
16 that a credit may not be carried forward for deduction after
17 the fifth taxable year after the taxable year in which the
18 qualified rehabilitation project was placed in service or
19 carried back for deduction more than one year before the
20 taxable year in which the qualified rehabilitation project was
21 placed in service.

22 Section 20. Economic needs test. When the credits requested
23 with respect to a qualified rehabilitation plan will be
24 \$1,000,000 or more, the Department shall evaluate whether,
25 without public intervention, the economic development project

1 would not otherwise benefit from private sector investment. The
2 Department shall have the power to adopt rules for such
3 evaluation purpose.

4 Section 25. Transfer of credits. Any qualified taxpayer,
5 referred to in this Section as the assignor, may allocate,
6 sell, assign, convey, or otherwise transfer tax credits allowed
7 and earned under this Act, to any individual or entity,
8 including without limitation, a non-profit entity with a
9 Section 501(c)(3) designation under the federal Internal
10 Revenue Code. The individual or entity acquiring the credits,
11 referred to in this Section as the assignee, may use the amount
12 of the acquired credits to offset up to 100% of its tax
13 liability, if any, for either the taxable year in which the
14 qualified rehabilitation project was first placed into service
15 or the taxable year in which the credits were acquired, or any
16 years in between. Unused credit amounts may be carried forward
17 for up to 5 years and carried back for up to one year, except
18 that all credits must be claimed within 5 years after the tax
19 year in which the qualified rehabilitation project was first
20 placed into service. The assignor shall enter into a written
21 agreement with the assignee establishing the terms and
22 conditions of the agreement and shall perfect the transfer by
23 notifying the Department in writing within 30 calendar days
24 after the effective date of the transfer and shall provide any
25 information as may be required by the Department to administer

1 and carry out the provisions of this Section. The Department
2 shall develop a system to track the transfer of credits and to
3 certify the ownership of credits, and the Department may adopt
4 rules to permit verification of the ownership of credits but
5 shall not adopt any rules which unduly restrict or hinder the
6 transfer of credits. The assignee also may sell, assign,
7 convey, or otherwise transfer the credits, and the credits may
8 be transferred more than once. The credits may be bifurcated to
9 be transferred to more than one assignee. If credits that have
10 been transferred are subsequently reduced, adjusted, or
11 cancelled, in whole or in part, by the Department, the
12 Department of Revenue, or any other applicable government
13 agency, only the original qualified taxpayer that was awarded
14 the credits, and not any subsequent assignee of the credits,
15 shall be held liable to repay any amount of such reduction,
16 adjustment, or cancellation of the credits. The credits are not
17 subject to recapture.

18 Section 30. Maximum limits. The credits awarded for each
19 qualified rehabilitation project shall be limited to a maximum
20 of \$3,000,000. A qualified rehabilitation project shall not
21 receive credits pursuant to this Act if the qualified
22 rehabilitation project has received credits pursuant to the
23 River Edge Redevelopment Zone Act.

24 Section 40. Application Process.

1 (a) To obtain the credits allowed under this Act, the
2 applicant shall submit an application for tax credits to the
3 Department. The application shall be in such form as the
4 Department and the Agency shall reasonably require, and the
5 application shall include sufficient information to permit the
6 Agency to approve, approve with conditions, or reject the
7 structure, rehabilitation plan, or rehabilitation project. The
8 Department may charge an application fee of up to \$1,000 per
9 application per project. All application fees will be deposited
10 into the Department's Administrative Fund, with the fee to be
11 equally divided between the Department and the Agency.

12 (b) If the Agency approves the applicant's rehabilitation
13 plan for a qualified structure as meeting the Secretary of
14 Interior's Standards for Rehabilitation and if the application
15 is otherwise complete, the plan shall be forwarded to the
16 National Park Service for review. If the National Park Service
17 certifies the rehabilitation plan, the plan shall be considered
18 qualified for this Act. The Department shall notify the
19 applicant in writing of the preliminary approval for an amount
20 of credits equal to the amount provided under this Section.
21 Such preliminary approval requires full compliance thereafter
22 with all other requirements of law as a condition to any claim
23 for such credits. If the Agency or the National Park Service
24 deems the applicant's rehabilitation plan to not be qualified,
25 or if the application is not complete, the applicant shall be
26 notified in writing of the rejection of the application. A

1 rejected application may be resubmitted.

2 (c) All applicants with applications receiving preliminary
3 approval on or after the effective date of this Act shall
4 commence rehabilitation within 2 years of the date of issue of
5 the letter from the Department granting preliminary approval
6 for credits. Commencement of rehabilitation means that, as of
7 the date in which actual physical work has begun, the applicant
8 has incurred no less than 10% of the estimated costs of
9 rehabilitation provided in the application. The applicant may
10 commence and incur qualified expenditures, at its own risk,
11 before the property becomes a qualified structure. If the
12 rehabilitation receives final approval under this Section,
13 including the necessary verification of the total costs and
14 expenses of rehabilitation, the applicant shall receive tax
15 credits for all qualified expenditures incurred within the time
16 periods allowed in this Act.

17 (d) If the Agency approves the completed rehabilitation
18 project as meeting the Secretary of Interior's Standards for
19 Rehabilitation, the completed rehabilitation project shall be
20 forwarded to the National Park Service for review. If the
21 National Park Service certifies the completed rehabilitation
22 project, the project shall be considered qualified for this
23 Act. For qualified rehabilitation projects, the applicant
24 shall submit a cost certification, and when the credits
25 requested with respect to a qualified rehabilitation project
26 are \$250,000 or more, the Department shall require an outside

1 audit of the cost certification. The Department shall determine
2 the amount of qualified expenditures and the amount of credits
3 to be issued to the applicant. The issuance of certificates of
4 credits to applicants shall be performed by the Department. The
5 Department shall coordinate with the Illinois Department of
6 Revenue to determine if the applicant has any outstanding
7 Illinois tax obligations that can be satisfied by the credits
8 to be issued. The Department shall inform the applicant of
9 final approval and of final credit amount by letter. An
10 issuance fee of up to 2% of the amount of the credits issued by
11 the tax credit certificate may be collected from the applicant
12 and remitted to the Department, with the fee to be divided
13 equally between the Department and the Agency, for the purpose
14 of administering the Act. When the Department has received the
15 issuance fee from the applicant and deposited it into the
16 Department's Administrative Fund, the Department shall issue
17 the tax credit certificates to the applicant. The taxpayer must
18 attach the tax credit certificate to the tax return on which
19 the credits are to be claimed.

20 Section 45. Biennial report; powers of the Department and
21 Agency. The Department shall determine, on a biennial basis
22 beginning at the end of the second fiscal year after the date
23 this Act takes effect, the overall economic impact to the State
24 from the qualified rehabilitation projects. The Department and
25 the Agency are granted and have all the powers necessary or

1 convenient to carry out the provisions of this Act, including,
2 but not limited to, the power to promulgate rules for the
3 administration of this Act and the power to establish
4 application forms and other agreements.

5 Section 50. Appeals process. Decisions of the National Park
6 Service on whether a structure, rehabilitation plan or
7 rehabilitation project meets the Secretary of the Interior's
8 Standards for Rehabilitation shall be considered final and
9 shall determine whether a structure, rehabilitation plan or
10 rehabilitation project is considered qualified for the
11 purposes of this Act. The applicant may appeal the decision of
12 the National Park Service in the manner described in 36 C.F.R.
13 67 - Historic Preservation Certifications Pursuant to Sec.
14 48(g) and Sec. 170(h) of the Internal Revenue Code of 1986, as
15 amended. The applicant may appeal any official decision other
16 than the qualification of the structure, rehabilitation plan,
17 or rehabilitation project to the Department with regard to an
18 application submitted under this Act to an independent,
19 third-party appeals officer to be identified by the Department
20 and the Agency.

21 Appeals must be submitted to the designated appeals officer
22 in writing within 30 days of receipt by the applicant of the
23 decision which is the subject of the appeal, and shall include
24 all information the applicant wishes the appeals officer to
25 consider in deciding the appeal.

1 Upon receipt of an appeal, the appeals officer shall notify
2 the Department and the Agency that an appeal is pending,
3 identify the decision being appealed and forward a copy of the
4 information submitted by the applicant. The Department or the
5 Agency, or both, may submit a written response to the appeal.

6 The applicant shall be entitled to one meeting with the
7 appeals officer to discuss the appeal, but the appeals officer
8 may schedule additional meetings at their discretion. The
9 Department and the Agency shall be permitted to appear at all
10 meetings.

11 The appeals officer shall consider the record of the
12 decision in question, any further written submissions by the
13 applicant, the Department, or the Agency, and other available
14 information and shall deliver a written decision to all parties
15 as promptly as circumstances permit.

16 Appeals under this Section constitute an administrative
17 review of the decision appealed from and are not conducted as
18 an adjudicative proceeding.

19 Section 80. The Illinois Income Tax Act is amended by
20 adding Section 224 as follows:

21 (35 ILCS 5/224 new)

22 Sec. 224. Rehabilitation and revitalization credit. For
23 tax years commencing on or after January 1, 2014, a taxpayer
24 who qualifies for a credit under the Illinois Rehabilitation

1 and Revitalization Tax Credit Act is entitled to a credit
2 against the taxes imposed under subsections (a) and (b) of
3 Section 201 of this Act. If the taxpayer is a partnership or
4 Subchapter S corporation, the credit shall be allowed to the
5 partners or shareholders in accordance with the determination
6 of income and distributive share of income under Sections 702
7 and 704 and Subchapter S of the Internal Revenue Code or the
8 credit shall be allowed to the partners or shareholders
9 pursuant to an executed agreement among the partners or
10 shareholders documenting any alternate distribution method.
11 This Section is exempt from the provisions of Section 250 of
12 this Act.

13 Section 85. The Illinois Insurance Code is amended by
14 adding Section 409.1 as follows:

15 (215 ILCS 5/409.1 new)

16 Sec. 409.1. Rehabilitation and revitalization credit. For
17 taxes payable after January 1, 2014, credits may be granted
18 against the taxes imposed under Section 409, 413, 444, and
19 444.1 of this Act as provided in the Illinois Rehabilitation
20 and Revitalization Tax Credit Act.

21 Section 99. Effective date. This Act takes effect January
22 1, 2014."