

AN ACT concerning revenue.

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

Section 5. The Illinois Income Tax Act is amended by changing Section 220 as follows:

(35 ILCS 5/220)

Sec. 220. Angel investment credit.

(a) As used in this Section:

"Applicant" means a corporation, partnership, limited liability company, or a natural person that makes an investment in a qualified new business venture. The term "applicant" does not include a corporation, partnership, limited liability company, or a natural person who has a direct or indirect ownership interest of at least 51% in the profits, capital, or value of the investment or a related member.

"Claimant" means an applicant certified by the Department who files a claim for a credit under this Section.

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

"Qualified new business venture" means a business that is registered with the Department under this Section.

"Related member" means a person that, with respect to the investment, is any one of the following:

(1) An individual, if the individual and the members of the individual's family (as defined in Section 318 of the Internal Revenue Code) own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the outstanding profits, capital, stock, or other ownership interest in the applicant.

(2) A partnership, estate, or trust and any partner or beneficiary, if the partnership, estate, or trust and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock, or other ownership interest in the applicant.

(3) A corporation, and any party related to the corporation in a manner that would require an attribution of stock from the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the applicant and any other related member own, in the aggregate, directly, indirectly, beneficially, or constructively, at least 50% of the value of the corporation's outstanding stock.

(4) A corporation and any party related to that corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the corporation and all such related parties own, in the

aggregate, at least 50% of the profits, capital, stock, or other ownership interest in the applicant.

(5) A person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code, except that for purposes of determining whether a person is a related member under this paragraph, "20%" shall be substituted for "5%" whenever "5%" appears in Section 1563(e) of the Internal Revenue Code.

(b) For taxable years beginning after December 31, 2010, and ending on or before December 31, 2016, subject to the limitations provided in this Section, a claimant may claim, as a credit against the tax imposed under subsections (a) and (b) of Section 201 of this Act, an amount equal to 25% of the claimant's investment made directly in a qualified new business venture. In order for an investment in a qualified new business venture to be eligible for tax credits, the business must have applied for and received certification under subsection (e) for the taxable year in which the investment was made prior to the date on which the investment was made. The credit under this Section may not exceed the taxpayer's Illinois income tax liability for the taxable year. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a tax

liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first. In the case of a partnership or Subchapter S Corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(c) The maximum amount of an applicant's investment that may be used as the basis for a credit under this Section is \$2,000,000 for each investment made directly in a qualified new business venture.

(d) The Department shall implement a program to certify an applicant for an angel investment credit. Upon satisfactory review, the Department shall issue a tax credit certificate stating the amount of the tax credit to which the applicant is entitled. The Department shall annually certify that the claimant's investment has been made and remains in the qualified new business venture for no less than 3 years.

If an investment for which a claimant is allowed a credit under subsection (b) is held by the claimant for less than 3 years, or, if within that period of time the qualified new business venture is moved from the State of Illinois, the claimant shall pay to the Department of Revenue, in the manner prescribed by the Department of Revenue, the amount of the credit that the claimant received related to the investment.

(e) The Department shall implement a program to register

qualified new business ventures for purposes of this Section. A business desiring registration shall submit an application to the Department in each taxable year for which the business desires registration. The Department may register the business only if the business satisfies all of the following conditions:

(1) it has its headquarters in this State;

(2) at least 51% of the employees employed by the business are employed in this State;

(3) it has the potential for increasing jobs in this State, increasing capital investment in this State, or both, and either of the following apply:

(A) it is principally engaged in innovation in any of the following: manufacturing; biotechnology; nanotechnology; communications; agricultural sciences; clean energy creation or storage technology; processing or assembling products, including medical devices, pharmaceuticals, computer software, computer hardware, semiconductors, other innovative technology products, or other products that are produced using manufacturing methods that are enabled by applying proprietary technology; or providing services that are enabled by applying proprietary technology; or

(B) it is undertaking pre-commercialization activity related to proprietary technology that includes conducting research, developing a new product or business process, or developing a service that is

principally reliant on applying proprietary technology;

(4) it is not principally engaged in real estate development, insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or construction, except construction of power production plants that derive energy from a renewable energy resource, as defined in Section 1 of the Illinois Power Agency Act;

(5) at the time it is first certified:

(A) it has fewer than 100 employees;

(B) it has been in operation in Illinois for not more than 10 consecutive years prior to the year of certification; and

(C) it has received not more than \$10,000,000 in aggregate private equity investment in cash;

(6) (blank); ~~it has been in operation in Illinois for not more than 10 consecutive years prior to the year of certification; and~~

(7) it has received not more than ~~(i) \$10,000,000 in aggregate private equity investment in cash or (ii) \$4,000,000~~ in investments that qualified for tax credits under this Section.

(f) The Department, in consultation with the Department of

Revenue, shall adopt rules to administer this Section. The aggregate amount of the tax credits that may be claimed under this Section for investments made in qualified new business ventures shall be limited at \$10,000,000 per calendar year.

(g) A claimant may not sell or otherwise transfer a credit awarded under this Section to another person.

(h) On or before March 1 of each year, the Department shall report to the Governor and to the General Assembly on the tax credit certificates awarded under this Section for the prior calendar year.

(1) This report must include, for each tax credit certificate awarded:

(A) the name of the claimant and the amount of credit awarded or allocated to that claimant;

(B) the name and address of the qualified new business venture that received the investment giving rise to the credit and the county in which the qualified new business venture is located; and

(C) the date of approval by the Department of the applications for the tax credit certificate.

(2) The report must also include:

(A) the total number of applicants and amount for tax credit certificates awarded under this Section in the prior calendar year;

(B) the total number of applications and amount for which tax credit certificates were issued in the prior

calendar year; and

(C) the total tax credit certificates and amount authorized under this Section for all calendar years.

(Source: P.A. 96-939, eff. 1-1-11; 97-507, eff. 8-23-11.)

Section 10. The Business Location Efficiency Incentive Act is amended by adding Section 21 as follows:

(35 ILCS 11/21 new)

Sec. 21. Continuation of Act; validation.

(a) The General Assembly finds and declares that:

(1) Public Act 97-636, which takes effect on June 1, 2012, changed the repeal date set for the Business Location Efficiency Incentive Act from December 31, 2011 to December 31, 2016.

(2) The Statute on Statutes sets forth general rules on the repeal of statutes and the construction of multiple amendments, but Section 1 of that Act also states that these rules will not be observed when the result would be "inconsistent with the manifest intent of the General Assembly or repugnant to the context of the statute".

(3) This amendatory Act of the 97th General Assembly manifests the intention of the General Assembly to extend the repeal of the Business Location Efficiency Incentive Act and have the Business Location Efficiency Incentive Act continue in effect until December 31, 2016.

(4) The Business Location Efficiency Incentive Act was originally enacted to protect, promote, and preserve the general welfare. Any construction of this Act that results in the repeal of this Act on December 31, 2011 would be inconsistent with the manifest intent of the General Assembly and repugnant to the context of the Business Location Efficiency Incentive Act.

(b) It is hereby declared to have been the intent of the General Assembly that the Business Location Efficiency Incentive Act not be subject to repeal on December 31, 2011.

(c) The Business Location Efficiency Incentive Act shall be deemed to have been in continuous effect since January 1, 2007 (the effective date of Public Act 94-966), and it shall continue to be in effect henceforward until it is otherwise lawfully repealed. All previously enacted amendments to the Act taking effect on or after December 31, 2011, are hereby validated.

(d) All actions taken in reliance on or pursuant to the Business Location Efficiency Incentive Act by the Department of Revenue, the Department of Commerce and Economic Opportunity, or any other person or entity are hereby validated.

(e) In order to ensure the continuing effectiveness of the Business Location Efficiency Incentive Act, it is set forth in full and re-enacted by this amendatory Act of the 97th General Assembly. This re-enactment is intended as a continuation of the Act. It is not intended to supersede any amendment to the

Act that is enacted by the 97th General Assembly.

(f) The Business Location Efficiency Incentive Act applies to all claims, civil actions, and proceedings pending on or filed on or before the effective date of this Act.

Section 15. The Business Location Efficiency Incentive Act is re-enacted as follows:

(35 ILCS 11/Act title)

An Act concerning business incentives.

(35 ILCS 11/1)

(Section scheduled to be repealed on December 31, 2011)

Sec. 1. Short title. This Act may be cited as the Business Location Efficiency Incentive Act.

(Source: P.A. 94-966, eff. 1-1-07.)

(35 ILCS 11/5)

(Section scheduled to be repealed on December 31, 2011)

Sec. 5. Definitions. In this Act:

"Location efficient" means a project that maximizes the use of existing investments in infrastructure, avoids or minimizes additional government expenditures for new infrastructure, and has nearby housing affordable to the permanent workforce of the project or has accessible and affordable mass transit or its equivalent or some combination of both.

"Location efficiency report" means a report that is prepared by an applicant for increased State economic development assistance under Section 10 and follows this Act and any related Department guidelines, and that describes the existence of (i) affordable workforce housing or (ii) accessible and affordable mass transit or its equivalent.

"Employee housing or transportation remediation plan" means a plan to increase affordable housing or transportation options, or both, for employees earning up to the median annual salary of the workforce at the project. The plan may include, but is not limited to, an employer-financed or assisted housing program that can be supplemented by State or federal grants, shuttle services between the place of employment and existing transit stops or other reasonably accessible places, facilitation of employee carpooling, or similar services.

"Accessible and affordable mass transit" means access to transit stops with regular and frequent service within one mile from the project site and pedestrian access to transit stops.

"Affordable workforce housing" means owner-occupied or rental housing that costs, based on current census data for the municipality where the project is located or any municipality within 3 miles of the municipality where the project is located, no more than 35% of the median salary at the project site, exclusive of the highest 10% of the site's salaries. If the project is located in an unincorporated area, "affordable workforce housing" means no more than 35% of the median salary

at the project site, excluding the highest 10% of the site's salaries, based on the median cost of rental or of owner-occupied housing in the county where the unincorporated area is located.

"Department" means the Department of Commerce and Economic Opportunity (DCEO) or its successor agency.

"Applicant" means a company or its representative that negotiates or applies for economic development assistance from DCEO.

"Economic development assistance" means State tax credits and tax exemptions given as an incentive to an eligible company after certification by DCEO under the Economic Development for a Growing Economy Tax Credit Act (EDGE).

"Existence of infrastructure" means the existence within 1,500 feet of the proposed site of roads, sewers, sidewalks, and other utilities and a description of the investments or improvements, if any, that an applicant expects State or local government to make to that infrastructure.

(Source: P.A. 94-966, eff. 1-1-07.)

(35 ILCS 11/10)

(Section scheduled to be repealed on December 31, 2011)

Sec. 10. Economic development assistance awards.

(a) An applicant that also wants to be considered for increased economic development assistance under this Act shall submit a location efficiency report.

(b) DCEO may give an applicant an increased tax credit or extension if the applicant's location efficiency report demonstrates that the applicant is seeking assistance for a project to be located in an area that satisfies this Act's standards for affordable workforce housing or affordable and accessible mass transit. If the Department determines from the location efficiency report that the applicant is seeking assistance in an area that is not location efficient, the Department may award an increase in State economic development assistance if an applicant (i) submits, and the Department accepts, an applicant's employee housing and transportation remediation plan or (ii) creates jobs in a labor surplus area as defined by the Department of Employment Security at the end of each calendar year.

(c) Applicants locating or expanding at location-efficient sites, with approved location efficiency plans, or creating jobs in labor surplus areas may receive (i) up to 10% more than the maximum allowable tax credits for which they are eligible under the Economic Development for a Growing Economy Tax Credit Act (EDGE), but not to equal or exceed 100% of the applicant's tax liability, or (ii) such other adjustment of those tax credits, including but not limited to extensions, as the Department deems appropriate.

(d) The Department may provide technical assistance to employers requesting assistance in developing an appropriate employee housing or transportation plan.

(Source: P.A. 94-966, eff. 1-1-07.)

(35 ILCS 11/15)

(Section scheduled to be repealed on December 31, 2011)

Sec. 15. Summaries; progress reports.

(a) DCEO shall include summaries of the initial employee housing or transportation plans for each assisted project in the annual compilation and publication of project progress reports required under subsection (d) of Section 20 of the Corporate Accountability for Tax Expenditures Act. Companies that fail to do so or that make inadequate progress shall have their increased tax credit or extension eliminated. Applicants and submitted data are subject to all disclosure, reporting, and recapture provisions set forth in Public Act 93-552.

(b) By June 1, 2008 and by June 1 of each year thereafter through 2011, the Department shall include, when appropriate, data on the outcomes or status of approved employee housing or transportation plans in the project progress reports required under the Corporate Accountability for Tax Expenditure Act.

(Source: P.A. 94-966, eff. 1-1-07.)

(35 ILCS 11/20)

(Section scheduled to be repealed on December 31, 2011)

Sec. 20. Duration of incentives; report to General Assembly.

(a) Any multi-year incentive awarded under this Act shall

continue for the time period called for in the agreement with the Department and shall not be altered by the repeal of this Act.

(b) By January 1, 2011, the Department shall submit to the Speaker of the House of Representatives and the President of the Senate, for assignment to the appropriate committees, a report on the incentives awarded under this Act and the Department's activities, findings, and recommendations with respect to this Act and its extension, amendment, or repeal. The report, when acted upon by those committees, shall be distributed to each member of the General Assembly.

(Source: P.A. 94-966, eff. 1-1-07.)

(35 ILCS 11/25)

(Section scheduled to be repealed on December 31, 2011)

Sec. 25. Repeal. This Act is repealed on December 31, 2016.

(Source: P.A. 97-636, eff. 6-1-12.)

(35 ILCS 11/99)

(Section scheduled to be repealed on December 31, 2011)

Sec. 99. Effective date. This Act takes effect January 1, 2007.

(Source: P.A. 94-966, eff. 1-1-07.)

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