

## 102ND GENERAL ASSEMBLY State of Illinois 2021 and 2022 SB3716

Introduced 1/21/2022, by Sen. Steve Stadelman

## SYNOPSIS AS INTRODUCED:

New Act 35 ILCS 5/232 new

Creates the Revitalizing Downtowns Tax Credit Act. Creates an income tax credit in an aggregate amount equal to 25% of the qualified expenditures incurred by a qualified taxpayer undertaking a plan to substantially convert an office building from office use to residential, retail, or other commercial use. Provides that the total amount of such expenditures must equal \$15,000 or more. Provides that, if the conversion is to residential use, then: (i) 20% or more of the residential housing units must be both rent-restricted and occupied by individuals whose income is 80% or less of the municipality's median gross income; and (ii) the property must be subject to a written binding State or local agreement with respect to the provision of financing of affordable housing. Provides that the credit applies for tax years beginning on or after January 1, 2023 and ending on or before December 31, 2025. Amends the Illinois Income Tax to make conforming changes. Effective immediately.

LRB102 23468 HLH 32644 b

21

22

2.3

1 AN ACT concerning revenue.

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

- Section 1. Short title. This Act may be cited as the Revitalizing Downtowns Tax Credit Act.
- Section 5. Definitions. As used in this Act, unless the context clearly indicates otherwise:
- 8 "Board" means the Capital Development Board.
- 9 "Qualified office building" means commercial property, and 10 its structural components, that is leased or available for 11 lease to office tenants or is used primarily for office use.
- "Qualified expenditures" means 12 any amount 13 chargeable to a capital account. Qualified expenditures does 14 not include the cost of acquisition to the building or property to be converted, the cost to enlarge the building, 15 16 any expenditure which is allocable to the portion of such property which is tax-exempt use property, or any expenditure 17 of a lessee of a building on or after the day the conversion is 18 19 complete.
  - "Qualified conversion plan" means a plan to substantially convert a qualified office building from office use to residential, retail, or other commercial use. In the case of conversion to a residential use, such converted qualified

9

10

11

12

13

14

15

16

17

18

19

20

21

22

office building must meet the following requirements: (i) 20% or more of the residential housing units must be both rent-restricted and occupied by individuals whose income is 80% or less of the municipality's median gross income; and (ii) the property is subject to a written binding State or local agreement with respect to the provision of financing of affordable housing and such agreement is documented.

"Qualified taxpayer" means the owner of the qualified office building.

"Substantial rehabilitation" means that the qualified expenditures during the 24-month period selected by the taxpayer at the time and in the manner prescribed by rule and ending with or within the taxable year exceed the greater of: (i) the adjusted basis of the building and its structural components or (ii) \$15,000. The adjusted basis of the building and its structural components shall be determined as of the beginning of the first day of that 24-month period or the beginning of the first day of the holding period of the building, whichever is later. For purposes of determining the adjusted basis, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the qualified taxpayer.

- 23 Section 10. Allowable credit.
- 24 (a) To the extent authorized by this Act, for taxable 25 years beginning on or after January 1, 2023 and ending on or

before December 31, 2025, there shall be allowed a tax credit against the tax imposed by subsections (a) and (b) of Section 201 of the Illinois Income Tax Act in an aggregate amount equal to 25% of qualified expenditures incurred by a qualified taxpayer undertaking a qualified conversion plan of a qualified office building, provided that the total amount of such expenditures must equal \$15,000 or more. If the qualified conversion plan spans multiple years, the aggregate credit for the entire project shall be allowed in the last taxable year.

- (b) To obtain a tax credit pursuant to this Section, the taxpayer must apply with the Capital Development Board. The Capital Development Board shall determine the amount of eligible conversion expenditures within 45 days after receipt of a complete application. The taxpayer must provide to the Board a third-party cost certification conducted by a certified public accountant verifying (i) the qualified and non-qualified conversion expenses and (ii) that the qualified expenditures exceed the adjusted basis of the qualified office building on the first day the qualified conversion plan commenced. The accountant shall provide appropriate review and testing of invoices. The Board is authorized, but not required, to accept this third-party cost certification to determine the amount of qualified expenditures.
- (c) If the amount of any tax credit awarded under this Act exceeds the qualified taxpayer's income tax liability for the year in which the qualified conversion plan was placed in

2

3

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

service, the excess amount may be carried forward deduction from the taxpayer's income tax liability in the next succeeding year or years until the total amount of the credit has been used, except that a credit may not be carried forward for deduction after the tenth taxable year after the taxable year in which the qualified conversion plan was placed in service. Upon completion and review of the project, the Board shall issue a single certificate in the amount of the eligible credits equal to 25% of the qualified expenditures incurred during the eligible taxable years. At the time the certificate is issued, an issuance fee up to the maximum amount of 2% of the amount of the credits issued by the certificate may be collected from the applicant to administer the Act. collected, this issuance fee shall be directed to the Capital Development Fund or other such fund as appropriate for use by the Board in the administration of the program under this Act. attach the certificate The taxpayer must or legal her or his proportional share of the documentation of certificate to the tax return on which the credits are to be claimed. The tax credit under this Section may not reduce the taxpayer's liability to less than zero. If the amount of the credit exceeds the tax liability for the year, the excess credit may be carried forward and applied to the tax liability of the 10 taxable years following the excess credit year.

(d) If the taxpayer is (i) a corporation having an election in effect under Subchapter S of the federal Internal

Revenue Code, (ii) a partnership, or (iii) a limited liability company, the credit provided under this Act may be claimed by the shareholders of the corporation, the partners of the partnership, or the members of the limited liability company in the same manner as those shareholders, partners, or members account for their proportionate shares of the income or losses of the corporation, partnership, or limited liability company, or as provided in the bylaws or other executed agreement of the corporation, partnership, or limited liability company. Credits granted to a partnership, a limited liability company taxed as a partnership, or other multiple owners of property shall be passed through to the partners, members, or owners respectively on a pro rata basis or pursuant to an executed agreement among the partners, members, or owners documenting any alternate distribution method.

Section 15. Limitations, reporting, and monitoring.

- (a) The Division shall award not more than an aggregate of \$15,000,000 in total annual tax credits pursuant to qualified conversion plans for qualified office buildings. The Board shall award not more than \$3,000,000 in tax credits with regard to a single qualified conversion plan. In awarding tax credits under this Act, the Board must prioritize projects that meet one or more of the following:
- (1) the qualified office building is located in a county that borders a State with a similar conversion tax

1 credit;

- (2) the qualified office building was previously owned by a federal, State, or local governmental entity;
  - (3) the qualified office building is located in a census tract that has a median family income at or below the State median family income; data from the most recent 5-year estimate from the American Community Survey (ACS), published by the U.S. Census Bureau, shall be used to determine eligibility;
  - (4) the qualified conversion plan includes in the development partnership a Community Development Entity or a low-profit (B Corporation) or not-for-profit organization, as defined by Section 501(c)(3) of the Internal Revenue Code; or
  - (5) the qualified office building is located in an area declared under an Emergency Declaration or Major Disaster Declaration under the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act.
- (b) The annual aggregate program allocation of \$15,000,000 set forth in subsection (a) shall be allocated by the Board, in such proportion as determined by the Board, on a per calendar basis twice in each year that the program is in effect, provided that: (i) the amount initially allocated by the Board for any one calendar application period shall not exceed 65% of the total allowable amount and (ii) any portion of the allocated allowable amount remaining unused as of the end of

2

3

5

6

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

- any of the second calendar application period of a given calendar year shall be rolled into and added to the total allocated amount for the next available calendar year. Applicants that qualify under this Act will be placed in a queue based on the date and time the application is received until the application period total allowable amount is 7 reached. Applicants must reapply for each application period.
  - (c) On or before December 31, 2022 and on or before December 31 of each odd-numbered year thereafter through 2025, subject to appropriation and prior to equal disbursement to the Board, moneys in the Capital Development Fund shall be used, beginning at the end of the first fiscal year after the effective date of this Act, to hire a qualified third party to prepare a biennial report to assess the overall effectiveness of this Act from the qualified conversion projects under this Act completed in that year and in previous years. Baseline data of the metrics in the report shall be collected at the initiation of a qualified conversion project. The overall economic impact shall include at least:
    - (1) the number of applications, project locations, and proposed use of to be converted qualified office buildings;
    - (2) the amount of credits awarded and the number and location of projects receiving credit allocations;
    - (3) the status of ongoing projects and projected qualifying expenditures for ongoing projects;

SB3716

- (4) for completed projects, the total amount of qualifying conversion expenditures and non-qualifying expenditures, the number of new businesses created, the number of new jobs created, a number of new housing units created, and the total square footage converted and developed;
  - (5) direct, indirect, and induced economic impacts;
  - (6) temporary and permanent construction jobs created;
- 10 (7) sales, income, and property tax generation before 11 construction, during construction, and after completion.
  - The report to the General Assembly shall be filed with the Clerk of the House of Representatives and the Secretary of the Senate as provided in Section 3.1 of the General Assembly Organization Act.
  - (d) Any time prior to issuance of a tax credit certificate, the Director of the Board or staff of the Board may, upon reasonable notice to the project owner of not less than 3 business days, conduct a site visit to the project to inspect and evaluate the project.
  - (e) Any time prior to the issuance of a tax credit certificate and for a period of 4 years following the effective date of a project tax credit certificate, the Director may, upon reasonable notice of not less than 30 calendar days, request a status report from the applicant consisting of information and updates relevant to the status

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

- of the project. Status reports shall not be requested more 1 2 than twice yearly.
  - In order to demonstrate sufficient evidence reviewable progress within 12 months after the date the applicant received notification of approval from the Board, the applicant shall provide all of the following:
    - (1) a viable financial plan which demonstrates by way of an executed agreement that all financing has been secured for the project; such financing shall include, but not be limited to, equity investment as demonstrated by letters of commitment from the owner of the property, investment partners, and equity investors;
    - (2) final construction drawings or approved building permits that demonstrate the complete conversion of the full scope of the application; and
    - (3) all historic approvals, including all federal and State documents required by the Board.
    - The Director shall review the submitted evidence and may request additional documentation from the applicant necessary. The applicant will have 30 calendar days to provide the information requested, otherwise the approval may be rescinded at the discretion of the Director.
    - In order to demonstrate sufficient evidence reviewable progress within 18 months after the date the application received notification of approval from the Board, the applicant is required to provide detailed evidence that

the applicant has secured and closed on financing for the complete scope of conversion for the project. To demonstrate evidence that the applicant has secured and closed on financing, the applicant will need to provide signed and processed loan agreements, bank financing documents or other legal and contractual evidence to demonstrate that adequate financing is available to complete the project. The Director shall review the submitted evidence and may request additional documentation from the applicant if necessary. The applicant will have 30 calendar days to provide the information requested, otherwise the approval may be rescinded at the discretion of the Director.

If the applicant fails to document reviewable progress within 18 months of approval, the Director may notify the applicant that the application is rescinded. However, should financing and construction be imminent, the Director may elect to grant the applicant no more than 5 months to close on financing and commence construction. If the applicant fails to meet these conditions in the required timeframe, the Director shall notify the applicant that the application is rescinded. Any such rescinded allocation shall be added to the aggregate amount of credits available for allocation for the year in which the forfeiture occurred.

The amount of the qualified expenditures identified in the applicant's certification of completion and reflected on the Revitalizing Downtowns Tax Credit certificate issued by the

Director is subject to inspection, examination, and audit by the Department of Revenue.

The applicant shall establish and maintain for a period of 4 years following the effective date on a project tax credit certificate such records as required by the Director. Such records include, but are not limited to, records documenting project expenditures and compliance with the U.S. Secretary of the Interior's Standards. The applicant shall make such records available for review and verification by the Director, the Department of Revenue, or appropriate staff, as well as other appropriate State agencies. In the event the Director determines an applicant has submitted an annual report containing erroneous information or data not supported by records established and maintained under this Act, the Director may, after providing notice, require the applicant to resubmit corrected reports.

Section 20. Powers. The Board shall adopt rules for the administration of this Act. The Board may enter into an intergovernmental agreement with the Department of Commerce and Economic Opportunity, the Department of Revenue, or both, for the administration of this Act. Such intergovernmental agreement may allow for the distribution of all or a portion of the issuance fee to the Department of Commerce and Economic Opportunity or the Department of Revenue, as applicable.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

Section 50. The Illinois Income Tax Act is amended by adding Section 232 as follows:

3 (35 ILCS 5/232 new)

Sec. 232. Revitalizing Downtowns Tax Credit. For tax years beginning on or after January 1, 2023 and ending on or before December 31, 2025, a taxpayer who qualifies for a credit under the Revitalizing Downtowns Credit Act is entitled to a credit against the taxes imposed under subsections (a) and (b) of Section 201 of this Act as provided in that Act. If the taxpayer is a partnership or Subchapter S corporation, the credit shall be 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. If the amount of any tax credit awarded under this Section exceeds the qualified taxpayer's income tax liability for the year in which the qualified rehabilitation plan was placed in service, the excess amount may be carried forward as provided in the Revitalizing Downtowns Tax Credit Act.

20 Section 99. Effective date. This Act takes effect upon 21 becoming law.