



Rep. Jim Sacia

Filed: 3/21/2012

09700HB4941ham001

LRB097 18482 HLH 66590 a

1 AMENDMENT TO HOUSE BILL 4941

2 AMENDMENT NO. _____. Amend House Bill 4941 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Economic Development for a Growing Economy
5 Tax Credit Act is amended by changing Section 5-15 as follows:

6 (35 ILCS 10/5-15)

7 (Text of Section before amendment by P.A. 97-636)

8 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
9 forth in this Act, a Taxpayer is entitled to a Credit against
10 or, as described in subsection (g) of this Section, a payment
11 towards taxes imposed pursuant to subsections (a) and (b) of
12 Section 201 of the Illinois Income Tax Act that may be imposed
13 on the Taxpayer for a taxable year beginning on or after
14 January 1, 1999, if the Taxpayer is awarded a Credit by the
15 Department under this Act for that taxable year.

16 (a) The Department shall make Credit awards under this Act

1 to foster job creation and retention in Illinois.

2 (b) A person that proposes a project to create new jobs in
3 Illinois must enter into an Agreement with the Department for
4 the Credit under this Act.

5 (c) The Credit shall be claimed for the taxable years
6 specified in the Agreement.

7 (d) The Credit shall not exceed the Incremental Income Tax
8 attributable to the project that is the subject of the
9 Agreement.

10 (e) Nothing herein shall prohibit a Tax Credit Award to an
11 Applicant that uses a PEO if all other award criteria are
12 satisfied.

13 (f) In lieu of the Credit allowed under this Act against
14 the taxes imposed pursuant to subsections (a) and (b) of
15 Section 201 of the Illinois Income Tax Act for any taxable year
16 ending on or after December 31, 2009, the Taxpayer may elect to
17 claim the Credit against its obligation to pay over withholding
18 under Section 704A of the Illinois Income Tax Act.

19 (1) The election under this subsection (f) may be made
20 only by a Taxpayer that (i) is primarily engaged in one of
21 the following business activities: water purification and
22 treatment, motor vehicle metal stamping, automobile
23 manufacturing, automobile and light duty motor vehicle
24 manufacturing, motor vehicle manufacturing, light truck
25 and utility vehicle manufacturing, heavy duty truck
26 manufacturing, motor vehicle body manufacturing, cable

1 television infrastructure design or manufacturing, or
2 wireless telecommunication or computing terminal device
3 design or manufacturing for use on public networks and (ii)
4 meets the following criteria:

5 (A) the Taxpayer (i) had an Illinois net loss or an
6 Illinois net loss deduction under Section 207 of the
7 Illinois Income Tax Act for the taxable year in which
8 the Credit is awarded, (ii) employed a minimum of 1,000
9 full-time employees in this State during the taxable
10 year in which the Credit is awarded, (iii) has an
11 Agreement under this Act on December 14, 2009 (the
12 effective date of Public Act 96-834), and (iv) is in
13 compliance with all provisions of that Agreement;

14 (B) the Taxpayer (i) had an Illinois net loss or an
15 Illinois net loss deduction under Section 207 of the
16 Illinois Income Tax Act for the taxable year in which
17 the Credit is awarded, (ii) employed a minimum of 1,000
18 full-time employees in this State during the taxable
19 year in which the Credit is awarded, and (iii) has
20 applied for an Agreement within 365 days after December
21 14, 2009 (the effective date of Public Act 96-834);

22 (C) the Taxpayer (i) had an Illinois net operating
23 loss carryforward under Section 207 of the Illinois
24 Income Tax Act in a taxable year ending during calendar
25 year 2008, (ii) has applied for an Agreement within 150
26 days after the effective date of this amendatory Act of

1 the 96th General Assembly, (iii) creates at least 400
2 new jobs in Illinois, (iv) retains at least 2,000 jobs
3 in Illinois that would have been at risk of relocation
4 out of Illinois over a 10-year period, and (v) makes a
5 capital investment of at least \$75,000,000;

6 (D) the Taxpayer (i) had an Illinois net operating
7 loss carryforward under Section 207 of the Illinois
8 Income Tax Act in a taxable year ending during calendar
9 year 2009, (ii) has applied for an Agreement within 150
10 days after the effective date of this amendatory Act of
11 the 96th General Assembly, (iii) creates at least 150
12 new jobs, (iv) retains at least 1,000 jobs in Illinois
13 that would have been at risk of relocation out of
14 Illinois over a 10-year period, and (v) makes a capital
15 investment of at least \$57,000,000; or

16 (E) the Taxpayer (i) employed at least 2,500
17 full-time employees in the State during the year in
18 which the Credit is awarded, (ii) commits to make at
19 least \$500,000,000 in combined capital improvements
20 and project costs under the Agreement, (iii) applies
21 for an Agreement between January 1, 2011 and June 30,
22 2011, (iv) executes an Agreement for the Credit during
23 calendar year 2011, and (v) was incorporated no more
24 than 5 years before the filing of an application for an
25 Agreement.

26 (1.5) The election under this subsection (f) may also

1 be made by a Taxpayer for any Credit awarded pursuant to an
2 agreement that was executed between January 1, 2011 and
3 June 30, 2011, if the Taxpayer (i) is primarily engaged in
4 the manufacture of inner tubes or tires, or both, from
5 natural and synthetic rubber, (ii) employs a minimum of
6 2,400 full-time employees in Illinois at the time of
7 application, (iii) creates at least 350 full-time jobs and
8 retains at least 250 full-time jobs in Illinois that would
9 have been at risk of being created or retained outside of
10 Illinois, and (iv) makes a capital investment of at least
11 \$200,000,000 at the project location.

12 (1.8) The election under this subsection (f) may also
13 be made by a Taxpayer that is primarily engaged in the
14 manufacturing of food products if the Taxpayer: (i) employs
15 a minimum of 300 full-time employees in Illinois at the
16 time of application; (ii) intends to create at least 5
17 additional jobs in Illinois after the approval of the
18 Taxpayer's application; (iii) pledges to make a capital
19 investment of at least \$4,000,000 at either the project
20 location or elsewhere in Illinois; (iv) states, as a part
21 of its application, that, as a consequence of tax laws in
22 jurisdictions located outside of Illinois, the election is
23 necessary for the Taxpayer's maximum enjoyment of net
24 benefits under this Act; and (v) states, as a part of its
25 application, that it has received an offer of tax
26 incentives to relocate the facility to another state. The

1 election under this item (1.8) must be made between
2 September 1, 2012 and December 31, 2012.

3 (2) An election under this subsection shall allow the
4 credit to be taken against payments otherwise due under
5 Section 704A of the Illinois Income Tax Act during the
6 first calendar year beginning after the end of the taxable
7 year in which the credit is awarded under this Act.

8 (3) The election shall be made in the form and manner
9 required by the Illinois Department of Revenue and, once
10 made, shall be irrevocable.

11 (4) If a Taxpayer who meets the requirements of
12 subparagraph (A) of paragraph (1) of this subsection (f)
13 elects to claim the Credit against its withholdings as
14 provided in this subsection (f), then, on and after the
15 date of the election, the terms of the Agreement between
16 the Taxpayer and the Department may not be further amended
17 during the term of the Agreement.

18 (g) A pass-through entity that has been awarded a credit
19 under this Act, its shareholders, or its partners may treat
20 some or all of the credit awarded pursuant to this Act as a tax
21 payment for purposes of the Illinois Income Tax Act. The term
22 "tax payment" means a payment as described in Article 6 or
23 Article 8 of the Illinois Income Tax Act or a composite payment
24 made by a pass-through entity on behalf of any of its
25 shareholders or partners to satisfy such shareholders' or
26 partners' taxes imposed pursuant to subsections (a) and (b) of

1 Section 201 of the Illinois Income Tax Act. In no event shall
2 the amount of the award credited pursuant to this Act exceed
3 the Illinois income tax liability of the pass-through entity or
4 its shareholders or partners for the taxable year.

5 (Source: P.A. 96-834, eff. 12-14-09; 96-836, eff. 12-16-09;
6 96-905, eff. 6-4-10; 96-1000, eff. 7-2-10; 96-1534, eff.
7 3-4-11; 97-2, eff. 5-6-11.)

8 (Text of Section after amendment by P.A. 97-636)

9 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
10 forth in this Act, a Taxpayer is entitled to a Credit against
11 or, as described in subsection (g) of this Section, a payment
12 towards taxes imposed pursuant to subsections (a) and (b) of
13 Section 201 of the Illinois Income Tax Act that may be imposed
14 on the Taxpayer for a taxable year beginning on or after
15 January 1, 1999, if the Taxpayer is awarded a Credit by the
16 Department under this Act for that taxable year.

17 (a) The Department shall make Credit awards under this Act
18 to foster job creation and retention in Illinois.

19 (b) A person that proposes a project to create new jobs in
20 Illinois must enter into an Agreement with the Department for
21 the Credit under this Act.

22 (c) The Credit shall be claimed for the taxable years
23 specified in the Agreement.

24 (d) The Credit shall not exceed the Incremental Income Tax
25 attributable to the project that is the subject of the

1 Agreement.

2 (e) Nothing herein shall prohibit a Tax Credit Award to an
3 Applicant that uses a PEO if all other award criteria are
4 satisfied.

5 (f) In lieu of the Credit allowed under this Act against
6 the taxes imposed pursuant to subsections (a) and (b) of
7 Section 201 of the Illinois Income Tax Act for any taxable year
8 ending on or after December 31, 2009, the Taxpayer may elect to
9 claim the Credit against its obligation to pay over withholding
10 under Section 704A of the Illinois Income Tax Act.

11 (1) The election under this subsection (f) may be made
12 only by a Taxpayer that (i) is primarily engaged in one of
13 the following business activities: water purification and
14 treatment, motor vehicle metal stamping, automobile
15 manufacturing, automobile and light duty motor vehicle
16 manufacturing, motor vehicle manufacturing, light truck
17 and utility vehicle manufacturing, heavy duty truck
18 manufacturing, motor vehicle body manufacturing, cable
19 television infrastructure design or manufacturing, or
20 wireless telecommunication or computing terminal device
21 design or manufacturing for use on public networks and (ii)
22 meets the following criteria:

23 (A) the Taxpayer (i) had an Illinois net loss or an
24 Illinois net loss deduction under Section 207 of the
25 Illinois Income Tax Act for the taxable year in which
26 the Credit is awarded, (ii) employed a minimum of 1,000

1 full-time employees in this State during the taxable
2 year in which the Credit is awarded, (iii) has an
3 Agreement under this Act on December 14, 2009 (the
4 effective date of Public Act 96-834), and (iv) is in
5 compliance with all provisions of that Agreement;

6 (B) the Taxpayer (i) had an Illinois net loss or an
7 Illinois net loss deduction under Section 207 of the
8 Illinois Income Tax Act for the taxable year in which
9 the Credit is awarded, (ii) employed a minimum of 1,000
10 full-time employees in this State during the taxable
11 year in which the Credit is awarded, and (iii) has
12 applied for an Agreement within 365 days after December
13 14, 2009 (the effective date of Public Act 96-834);

14 (C) the Taxpayer (i) had an Illinois net operating
15 loss carryforward under Section 207 of the Illinois
16 Income Tax Act in a taxable year ending during calendar
17 year 2008, (ii) has applied for an Agreement within 150
18 days after the effective date of this amendatory Act of
19 the 96th General Assembly, (iii) creates at least 400
20 new jobs in Illinois, (iv) retains at least 2,000 jobs
21 in Illinois that would have been at risk of relocation
22 out of Illinois over a 10-year period, and (v) makes a
23 capital investment of at least \$75,000,000;

24 (D) the Taxpayer (i) had an Illinois net operating
25 loss carryforward under Section 207 of the Illinois
26 Income Tax Act in a taxable year ending during calendar

1 year 2009, (ii) has applied for an Agreement within 150
2 days after the effective date of this amendatory Act of
3 the 96th General Assembly, (iii) creates at least 150
4 new jobs, (iv) retains at least 1,000 jobs in Illinois
5 that would have been at risk of relocation out of
6 Illinois over a 10-year period, and (v) makes a capital
7 investment of at least \$57,000,000; or

8 (E) the Taxpayer (i) employed at least 2,500
9 full-time employees in the State during the year in
10 which the Credit is awarded, (ii) commits to make at
11 least \$500,000,000 in combined capital improvements
12 and project costs under the Agreement, (iii) applies
13 for an Agreement between January 1, 2011 and June 30,
14 2011, (iv) executes an Agreement for the Credit during
15 calendar year 2011, and (v) was incorporated no more
16 than 5 years before the filing of an application for an
17 Agreement.

18 (1.5) The election under this subsection (f) may also
19 be made by a Taxpayer for any Credit awarded pursuant to an
20 agreement that was executed between January 1, 2011 and
21 June 30, 2011, if the Taxpayer (i) is primarily engaged in
22 the manufacture of inner tubes or tires, or both, from
23 natural and synthetic rubber, (ii) employs a minimum of
24 2,400 full-time employees in Illinois at the time of
25 application, (iii) creates at least 350 full-time jobs and
26 retains at least 250 full-time jobs in Illinois that would

1 have been at risk of being created or retained outside of
2 Illinois, and (iv) makes a capital investment of at least
3 \$200,000,000 at the project location.

4 (1.6) The election under this subsection (f) may also
5 be made by a Taxpayer for any Credit awarded pursuant to an
6 agreement that was executed within 150 days after the
7 effective date of this amendatory Act of the 97th General
8 Assembly, if the Taxpayer (i) is primarily engaged in the
9 operation of a discount department store, (ii) maintains
10 its corporate headquarters in Illinois, (iii) employs a
11 minimum of 4,250 full-time employees at its corporate
12 headquarters in Illinois at the time of application, (iv)
13 retains at least 4,250 full-time jobs in Illinois that
14 would have been at risk of being relocated outside of
15 Illinois, (v) had a minimum of \$40,000,000,000 in total
16 revenue in 2010, and (vi) makes a capital investment of at
17 least \$300,000,000 at the project location.

18 (1.7) Notwithstanding any other provision of law, the
19 election under this subsection (f) may also be made by a
20 Taxpayer for any Credit awarded pursuant to an agreement
21 that was executed or applied for on or after July 1, 2011
22 and on or before March 31, 2012, if the Taxpayer is
23 primarily engaged in the manufacture of original and
24 aftermarket filtration parts and products for automobiles,
25 motor vehicles, light duty motor vehicles, light trucks and
26 utility vehicles, and heavy duty trucks, (ii) employs a

1 minimum of 1,000 full-time employees in Illinois at the
2 time of application, (iii) creates at least 250 full-time
3 jobs in Illinois, (iv) relocates its corporate
4 headquarters to Illinois from another state, and (v) makes
5 a capital investment of at least \$4,000,000 at the project
6 location.

7 (1.8) The election under this subsection (f) may also
8 be made by a Taxpayer that is primarily engaged in the
9 manufacturing of food products if the Taxpayer: (i) employs
10 a minimum of 300 full-time employees in Illinois at the
11 time of application; (ii) intends to create at least 5
12 additional jobs in Illinois after the approval of the
13 Taxpayer's application; (iii) pledges to make a capital
14 investment of at least \$4,000,000 at either the project
15 location or elsewhere in Illinois; (iv) states, as a part
16 of its application, that, as a consequence of tax laws in
17 jurisdictions located outside of Illinois, the election is
18 necessary for the Taxpayer's maximum enjoyment of net
19 benefits under this Act; and (v) states, as a part of its
20 application, that it has received an offer of tax
21 incentives to relocate the facility to another state. The
22 election under this item (1.8) must be made between
23 September 1, 2012 and December 31, 2012.

24 (2) An election under this subsection shall allow the
25 credit to be taken against payments otherwise due under
26 Section 704A of the Illinois Income Tax Act during the

1 first calendar year beginning after the end of the taxable
2 year in which the credit is awarded under this Act.

3 (3) The election shall be made in the form and manner
4 required by the Illinois Department of Revenue and, once
5 made, shall be irrevocable.

6 (4) If a Taxpayer who meets the requirements of
7 subparagraph (A) of paragraph (1) of this subsection (f)
8 elects to claim the Credit against its withholdings as
9 provided in this subsection (f), then, on and after the
10 date of the election, the terms of the Agreement between
11 the Taxpayer and the Department may not be further amended
12 during the term of the Agreement.

13 (g) A pass-through entity that has been awarded a credit
14 under this Act, its shareholders, or its partners may treat
15 some or all of the credit awarded pursuant to this Act as a tax
16 payment for purposes of the Illinois Income Tax Act. The term
17 "tax payment" means a payment as described in Article 6 or
18 Article 8 of the Illinois Income Tax Act or a composite payment
19 made by a pass-through entity on behalf of any of its
20 shareholders or partners to satisfy such shareholders' or
21 partners' taxes imposed pursuant to subsections (a) and (b) of
22 Section 201 of the Illinois Income Tax Act. In no event shall
23 the amount of the award credited pursuant to this Act exceed
24 the Illinois income tax liability of the pass-through entity or
25 its shareholders or partners for the taxable year.

26 (Source: P.A. 96-834, eff. 12-14-09; 96-836, eff. 12-16-09;

1 96-905, eff. 6-4-10; 96-1000, eff. 7-2-10; 96-1534, eff.
2 3-4-11; 97-2, eff. 5-6-11; 97-636, eff. 6-1-12.)

3 Section 95. No acceleration or delay. Where this Act makes
4 changes in a statute that is represented in this Act by text
5 that is not yet or no longer in effect (for example, a Section
6 represented by multiple versions), the use of that text does
7 not accelerate or delay the taking effect of (i) the changes
8 made by this Act or (ii) provisions derived from any other
9 Public Act.

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