

Examples of Clawback Provisions in State Subsidy Programs

| State | Programs covered | Description | Statute |
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| Arizona | <p>Economic development assistance above \$1 million, including loans, grants, loan guarantees, interest rate subsidies, tax credits, job training, and improvements</p> <p>Military Reuse Zone and Environmental Technology tax credits</p> | <p>Subsidy recipients enter into a memorandum of understanding with the state containing performance standards the company is expected to meet within the first five years after assistance is received. The company is required to submit an annual report of its compliance with those standards, and the state can stop, readjust or recapture all or part of the assistance given to the company either in full or in part on noncompliance with the terms of the agreement</p> <p>Recipients must enter into a memo of understanding laying out their employment goals. They must report on their actual employment numbers each year, and if they fall short the state can stop, readjust, or recapture all or part of their subsidy. Recipients are also required to report the amount of the tax credit they claim when they use the credit. Failure to do so disqualifies the company from eligibility for the credit.</p> | <p>41-1505.07</p> <p>41-1532; 41-1514.02.</p> |
| Colorado | Colorado FIRST and Existing Industry Customized Training grants | If companies fail to meet their job creation and wage commitments, the state can require prorated reimbursement of the subsidy. | Program guidelines |
| Connecticut | Any financial assistance | If a company receiving financial aid from the state's department of economic development, development authority, or Connecticut Innovations, Inc. relocates outside the state within ten years or during the term of the aid, whichever is longer, the company must repay the full value of the subsidy plus a 5% penalty. | Title 32, chapter 578, sec. 32-5a. |
| Georgia | Business Expansion Tax Credit | If a company fails to meet minimum job creation requirements, their subsidy can be recaptured. | 48-7-40.21 |
| Illinois | Corporate Accountability for Tax Expenditures Act | The law sets out the minimum recapture language that all development agreements must contain. If aid recipients fail to meet investment, wage, or job creation and retention commitments: High Impact Business are required to pay back the full amount of their tax exemption; grant recipients must repay a prorated share of grants reflecting the level of deficiency; Large Business Development, Business Development Public Infrastructure, and Industrial Training Programs recipients that cease operations within 5 years of receiving aid must repay the entire amount of grants and accelerate loan repayments; EDGE tax credit payments are suspended, and if a company discontinues operations on the site within the first 5 years of the credit, they must repay all credits claimed during that period to the state. The | 20 ILCS 15/25 |

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| | Community Investment Recovery Act | <p>law requires an annual report tallying the number of companies found in violation, the number that were penalized, and any waivers given.</p> <p>A companies receiving state or local aid to build, improve, or modify real property for projects that attract or retain jobs must refund the value of the assistance if it terminates operations at the site within two years of receiving the subsidy.</p> | 740 ILCS 30/5 |
| Iowa | Good Neighbor Agreement | Companies that sign an enforceable contract with community groups requiring the business to adhere to negotiated environmental, economic, labor, or other social and community standards receive extra points when being considered for competitive subsidies. If the business breaks that good neighbor agreement, it must repay all financial assistance received under the program. | 15A.4 |
| | New Jobs and Income Act | If a company fails to create the number of jobs promised, it is required to repay a percentage of its subsidy according to a formula contained in the law. If a company fails to meet wage and other requirements for two consecutive years, it forfeits its entire subsidy for the second year. | 15.330 |
| | Enterprise Zones | If companies do not meet job creation, wage, healthcare, and investment requirements, the state may recapture all or a portion of their subsidy, with interest and penalties. | 15E.193 |
| Maine | Jobs and Investment Tax Credit | If the qualified investment property is taken out of service before the end of the period used to calculate the credit, the credit is recalculated using the actual life of the property and applied retroactively to prior credit years. Companies must repay the difference. | 36-5215 |
| Maryland | Job Creation Tax Credit | If the number of qualified positions at a company decreases during the three years after the credit begins, a percentage of the subsidy is recaptured. If qualified positions fall below the threshold number, the entire subsidy is recaptured. | 83A-5:1102 |
| | Property Tax Credit | All credits claimed for a taxable year will be recaptured if, during the three years after the credit is claimed, a company fails to meet the thresholds for employment or physical size. | 9-230 |
| Michigan | Economic Growth Tax Credit | If a company moves 51% or more of the new qualified jobs out of state within three years of claiming the credit, the company must repay the entire subsidy. | 208.37c |
| Minnesota | All state and local subsidies | Requires all state and local subsidy agreements to contain clawback provisions. Minimally, these | 116J.994 |

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| | | provisions must require total or partial recapture of subsidies (with interest) if companies fail to meet agreement terms. Noncompliant companies cannot receive further subsidies in the state until their debt is repaid or five years have passed, whichever occurs first. | |
| Nebraska | Employment and Investment Growth Act | If a company fails to meet employment or investment commitments by the end of six years, the state will recapture the tax credit. If a company fails to maintain required levels, the state will recapture one seventh of the subsidy during each year of noncompliance. | 77:4107 |
| | Employment Expansion and Investment Incentive Act | If a company falls below 75% of its employment or investment requirement, it must repay the entire credit. | 77: 27,188 |
| Nevada | Business Tax Abatement | If a company ceases to operate or fails to meet investment, employment, wage, or health benefit requirements, the state can recapture the credit, plus interest. | 360.750 |
| North Carolina | Job Development Investment Grant | If companies fail to meet the terms of their agreement, their grant will be reduced proportionately (at minimum), and may be terminated. If a company fails to meet employment or other goals for two consecutive years, the agreement will be terminated. If a company attempts to manipulate employee withholdings to increase the subsidy, the subsidy will be recaptured and terminated. | 143B-437.59 |
| North Dakota | State and local subsidies above \$25,000 | Companies must sign incentive agreements in which they commit to job creation and average wage goals, and to remaining on the site for at least five years after receiving assistance. A company that fails to meet its goals must repay a prorated share of the subsidy and is barred from receiving further subsidies for the lesser of five years or until the subsidy debt is repaid. | 54-60.1 |
| Ohio | Corporate Franchise and State Income Tax Credits | If a company fails to maintain operations at the project location for at least twice the number of years as the term of the tax credit, up to 100% of the tax credit can be recaptured, depending on how long the business remained open relative to the length of the subsidy. | 122.17 |
| Oklahoma | Investment Tax Credit | If any portion of the eligible investment is subsequently refunded to the investor, a proportional fraction of the tax credit will be cancelled or, if already claimed, recaptured. | 68 Sec. 2357.28 |
| South Carolina | Economic Impact Zone Investment Tax Credit | If a company removes qualified equipment from the zone before the end of the applicable period, the | 12-14-60 |

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| | | company must pay an increased tax during that year, recapturing any unearned portion of the credit. | |
| Vermont | Economic Development Mortgage Loans | If a company with at least 50 employees transfers half or more of those jobs out of state within a three-year period, the state can require immediate repayment of all principal and interest of the mortgage loan. | 10:12.264 |
| Virginia | Major Business Facility Job Tax Credit | If the number of qualified full-time employees drops below the average number employed during the first year of the credit, the state recalculates the original credit with the lower number of employees, and increases the company's taxes by the difference between that amount and the credit claimed. If employment falls below the minimum threshold, all credits are recaptured. | 58.1:439 |
| West Virginia | Business Investment and Jobs Expansion Tax Credit | Companies that fail to meet investment and employment requirements must repay all or part of the subsidy, depending on the severity of the infraction. | 11-13C-8a |

Source: Good Jobs First
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