

1 AN ACT in relation to economic development.

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

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 11-74.3-6 as follows:

6 (65 ILCS 5/11-74.3-6)

7 Sec. 11-74.3-6. Business district revenue and obligations.

8 (a) If the corporate authorities of a municipality have
9 approved a business district development or redevelopment plan
10 and have elected to impose a tax by ordinance pursuant to
11 subsections (b), (c), or (d) of this Section, each year after
12 the date of the approval of the ordinance and until all
13 business district project costs and all municipal obligations
14 financing the business district project costs, if any, have
15 been paid in accordance with the business district development
16 or redevelopment plan, but in no event longer than 23 years
17 after the date of adoption of the ordinance approving the
18 business district development or redevelopment plan, all
19 amounts generated by the retailers' occupation tax and service
20 occupation tax shall be collected and the tax shall be enforced
21 by the Department of Revenue in the same manner as all
22 retailers' occupation taxes and service occupation taxes
23 imposed in the municipality imposing the tax and all amounts
24 generated by the hotel operators' occupation tax shall be
25 collected and the tax shall be enforced by the municipality in
26 the same manner as all hotel operators' occupation taxes
27 imposed in the municipality imposing the tax. The corporate
28 authorities of the municipality shall deposit the proceeds of
29 the taxes imposed under subsections (b), (c), and (d) into a
30 special fund held by the corporate authorities of the
31 municipality called the Business District Tax Allocation Fund
32 for the purpose of paying business district project costs and

1 obligations incurred in the payment of those costs.

2 (b) The corporate authorities of a municipality that has
3 established a business district under this Division 74.3 may,
4 by ordinance or resolution, impose a Business District
5 Retailers' Occupation Tax upon all persons engaged in the
6 business of selling tangible personal property, other than an
7 item of tangible personal property titled or registered with an
8 agency of this State's government, at retail in the business
9 district at a rate not to exceed 1% of the gross receipts from
10 the sales made in the course of such business, to be imposed
11 only in 0.25% increments. The tax may not be imposed on food
12 for human consumption that is to be consumed off the premises
13 where it is sold (other than alcoholic beverages, soft drinks,
14 and food that has been prepared for immediate consumption),
15 prescription and nonprescription medicines, drugs, medical
16 appliances, modifications to a motor vehicle for the purpose of
17 rendering it usable by a disabled person, and insulin, urine
18 testing materials, syringes, and needles used by diabetics, for
19 human use.

20 The tax imposed under this subsection and all civil
21 penalties that may be assessed as an incident thereof shall be
22 collected and enforced by the Department of Revenue. The
23 certificate of registration that is issued by the Department to
24 a retailer under the Retailers' Occupation Tax Act shall permit
25 the retailer to engage in a business that is taxable under any
26 ordinance or resolution enacted pursuant to this subsection
27 without registering separately with the Department under such
28 ordinance or resolution or under this subsection. The
29 Department of Revenue shall have full power to administer and
30 enforce this subsection; to collect all taxes and penalties due
31 under this subsection in the manner hereinafter provided; and
32 to determine all rights to credit memoranda arising on account
33 of the erroneous payment of tax or penalty under this
34 subsection. In the administration of, and compliance with, this
35 subsection, the Department and persons who are subject to this
36 subsection shall have the same rights, remedies, privileges,

1 immunities, powers and duties, and be subject to the same
2 conditions, restrictions, limitations, penalties, exclusions,
3 exemptions, and definitions of terms and employ the same modes
4 of procedure, as are prescribed in Sections 1, 1a through 1o, 2
5 through 2-65 (in respect to all provisions therein other than
6 the State rate of tax), 2c through 2h, 3 (except as to the
7 disposition of taxes and penalties collected), 4, 5, 5a, 5c,
8 5d, 5e, 5f, 5g, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11,
9 12, 13, and 14 of the Retailers' Occupation Tax Act and all
10 provisions of the Uniform Penalty and Interest Act, as fully as
11 if those provisions were set forth herein.

12 Persons subject to any tax imposed under this subsection
13 may reimburse themselves for their seller's tax liability under
14 this subsection by separately stating the tax as an additional
15 charge, which charge may be stated in combination, in a single
16 amount, with State taxes that sellers are required to collect
17 under the Use Tax Act, in accordance with such bracket
18 schedules as the Department may prescribe.

19 Whenever the Department determines that a refund should be
20 made under this subsection to a claimant instead of issuing a
21 credit memorandum, the Department shall notify the State
22 Comptroller, who shall cause the order to be drawn for the
23 amount specified and to the person named in the notification
24 from the Department. The refund shall be paid by the State
25 Treasurer out of the business district retailers' occupation
26 tax fund.

27 The Department shall immediately pay over to the State
28 Treasurer, ex officio, as trustee, all taxes, penalties, and
29 interest collected under this subsection for deposit into the
30 business district retailers' occupation tax fund. On or before
31 the 25th day of each calendar month, the Department shall
32 prepare and certify to the Comptroller the disbursement of
33 stated sums of money to named municipalities from the business
34 district retailers' occupation tax fund, the municipalities to
35 be those from which retailers have paid taxes or penalties
36 under this subsection to the Department during the second

1 preceding calendar month. The amount to be paid to each
2 municipality shall be the amount (not including credit
3 memoranda) collected under this subsection during the second
4 preceding calendar month by the Department plus an amount the
5 Department determines is necessary to offset any amounts that
6 were erroneously paid to a different taxing body, and not
7 including an amount equal to the amount of refunds made during
8 the second preceding calendar month by the Department, less 2%
9 of that amount, which shall be deposited into the Tax
10 Compliance and Administration Fund and shall be used by the
11 Department, subject to appropriation, to cover the costs of the
12 Department in administering and enforcing the provisions of
13 this subsection, on behalf of such municipality, and not
14 including any amount that the Department determines is
15 necessary to offset any amounts that were payable to a
16 different taxing body but were erroneously paid to the
17 municipality. Within 10 days after receipt by the Comptroller
18 of the disbursement certification to the municipalities
19 provided for in this subsection to be given to the Comptroller
20 by the Department, the Comptroller shall cause the orders to be
21 drawn for the respective amounts in accordance with the
22 directions contained in the certification. The proceeds of the
23 tax paid to municipalities under this subsection shall be
24 deposited into the Business District Tax Allocation Fund by the
25 municipality.

26 An ordinance or resolution imposing or discontinuing the
27 tax under this subsection or effecting a change in the rate
28 thereof shall either (i) be adopted and a certified copy
29 thereof filed with the Department on or before the first day of
30 April, whereupon the Department, if all other requirements of
31 this subsection are met, shall proceed to administer and
32 enforce this subsection as of the first day of July next
33 following the adoption and filing; or (ii) be adopted and a
34 certified copy thereof filed with the Department on or before
35 the first day of October, whereupon, if all other requirements
36 of this subsection are met, the Department shall proceed to

1 administer and enforce this subsection as of the first day of
2 January next following the adoption and filing.

3 The Department of Revenue shall not administer or enforce
4 an ordinance imposing, discontinuing, or changing the rate of
5 the tax under this subsection, until the municipality also
6 provides, in the manner prescribed by the Department, the
7 boundaries of the business district in such a way that the
8 Department can determine by its address whether a business is
9 located in the business district. The municipality must provide
10 this boundary information to the Department on or before April
11 1 for administration and enforcement of the tax under this
12 subsection by the Department beginning on the following July 1
13 and on or before October 1 for administration and enforcement
14 of the tax under this subsection by the Department beginning on
15 the following January 1. The Department of Revenue shall not
16 administer or enforce any change made to the boundaries of a
17 business district until the municipality reports the boundary
18 change to the Department in the manner prescribed by the
19 Department. The municipality must provide this boundary change
20 information to the Department on or before April 1 for
21 administration and enforcement by the Department of the change
22 beginning on the following July 1 and on or before October 1
23 for administration and enforcement by the Department of the
24 change beginning on the following January 1. The retailers in
25 the business district shall be responsible for charging the tax
26 imposed under this subsection. If a retailer is incorrectly
27 included or excluded from the list of those required to collect
28 the tax under this subsection, both the Department of Revenue
29 and the retailer shall be held harmless if they reasonably
30 relied on information provided by the municipality.

31 A municipality that imposes the tax under this subsection
32 must submit to the Department of Revenue any other information
33 as the Department may require for the administration and
34 enforcement of the tax.

35 When certifying the amount of a monthly disbursement to a
36 municipality under this subsection, the Department shall

1 increase or decrease the amount by an amount necessary to
2 offset any misallocation of previous disbursements. The offset
3 amount shall be the amount erroneously disbursed within the
4 previous 6 months from the time a misallocation is discovered.

5 Nothing in this subsection shall be construed to authorize
6 the municipality to impose a tax upon the privilege of engaging
7 in any business which under the Constitution of the United
8 States may not be made the subject of taxation by this State.

9 If a tax is imposed under this subsection (b), a tax shall
10 also be imposed under subsection (c) of this Section.

11 (c) If a tax has been imposed under subsection (b), a
12 Business District Service Occupation Tax shall also be imposed
13 upon all persons engaged, in the business district, in the
14 business of making sales of service, who, as an incident to
15 making those sales of service, transfer tangible personal
16 property within the business district, either in the form of
17 tangible personal property or in the form of real estate as an
18 incident to a sale of service. The tax shall be imposed at the
19 same rate as the tax imposed in subsection (b) and shall not
20 exceed 1% of the selling price of tangible personal property so
21 transferred within the business district, to be imposed only in
22 0.25% increments. The tax may not be imposed on food for human
23 consumption that is to be consumed off the premises where it is
24 sold (other than alcoholic beverages, soft drinks, and food
25 that has been prepared for immediate consumption),
26 prescription and nonprescription medicines, drugs, medical
27 appliances, modifications to a motor vehicle for the purpose of
28 rendering it usable by a disabled person, and insulin, urine
29 testing materials, syringes, and needles used by diabetics, for
30 human use.

31 The tax imposed under this subsection and all civil
32 penalties that may be assessed as an incident thereof shall be
33 collected and enforced by the Department of Revenue. The
34 certificate of registration which is issued by the Department
35 to a retailer under the Retailers' Occupation Tax Act or under
36 the Service Occupation Tax Act shall permit such registrant to

1 engage in a business which is taxable under any ordinance or
2 resolution enacted pursuant to this subsection without
3 registering separately with the Department under such
4 ordinance or resolution or under this subsection. The
5 Department of Revenue shall have full power to administer and
6 enforce this subsection; to collect all taxes and penalties due
7 under this subsection; to dispose of taxes and penalties so
8 collected in the manner hereinafter provided; and to determine
9 all rights to credit memoranda arising on account of the
10 erroneous payment of tax or penalty under this subsection. In
11 the administration of, and compliance with this subsection, the
12 Department and persons who are subject to this subsection shall
13 have the same rights, remedies, privileges, immunities, powers
14 and duties, and be subject to the same conditions,
15 restrictions, limitations, penalties, exclusions, exemptions,
16 and definitions of terms and employ the same modes of procedure
17 as are prescribed in Sections 2, 2a through 2d, 3 through 3-50
18 (in respect to all provisions therein other than the State rate
19 of tax), 4 (except that the reference to the State shall be to
20 the business district), 5, 7, 8 (except that the jurisdiction
21 to which the tax shall be a debt to the extent indicated in
22 that Section 8 shall be the municipality), 9 (except as to the
23 disposition of taxes and penalties collected, and except that
24 the returned merchandise credit for this tax may not be taken
25 against any State tax), 10, 11, 12 (except the reference
26 therein to Section 2b of the Retailers' Occupation Tax Act), 13
27 (except that any reference to the State shall mean the
28 municipality), the first paragraph of Section 15, and Sections
29 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and all
30 provisions of the Uniform Penalty and Interest Act, as fully as
31 if those provisions were set forth herein.

32 Persons subject to any tax imposed under the authority
33 granted in this subsection may reimburse themselves for their
34 serviceman's tax liability hereunder by separately stating the
35 tax as an additional charge, which charge may be stated in
36 combination, in a single amount, with State tax that servicemen

1 are authorized to collect under the Service Use Tax Act, in
2 accordance with such bracket schedules as the Department may
3 prescribe.

4 Whenever the Department determines that a refund should be
5 made under this subsection to a claimant instead of issuing
6 credit memorandum, the Department shall notify the State
7 Comptroller, who shall cause the order to be drawn for the
8 amount specified, and to the person named, in such notification
9 from the Department. Such refund shall be paid by the State
10 Treasurer out of the business district retailers' occupation
11 tax fund.

12 The Department shall forthwith pay over to the State
13 Treasurer, ex-officio, as trustee, all taxes, penalties, and
14 interest collected under this subsection for deposit into the
15 business district retailers' occupation tax fund. On or before
16 the 25th day of each calendar month, the Department shall
17 prepare and certify to the Comptroller the disbursement of
18 stated sums of money to named municipalities from the business
19 district retailers' occupation tax fund, the municipalities to
20 be those from which suppliers and servicemen have paid taxes or
21 penalties under this subsection to the Department during the
22 second preceding calendar month. The amount to be paid to each
23 municipality shall be the amount (not including credit
24 memoranda) collected under this subsection during the second
25 preceding calendar month by the Department, less 2% of that
26 amount, which shall be deposited into the Tax Compliance and
27 Administration Fund and shall be used by the Department,
28 subject to appropriation, to cover the costs of the Department
29 in administering and enforcing the provisions of this
30 subsection, and not including an amount equal to the amount of
31 refunds made during the second preceding calendar month by the
32 Department on behalf of such municipality. Within 10 days after
33 receipt, by the Comptroller, of the disbursement certification
34 to the municipalities, provided for in this subsection to be
35 given to the Comptroller by the Department, the Comptroller
36 shall cause the orders to be drawn for the respective amounts

1 in accordance with the directions contained in such
2 certification. The proceeds of the tax paid to municipalities
3 under this subsection shall be deposited into the Business
4 District Tax Allocation Fund by the municipality.

5 An ordinance or resolution imposing or discontinuing the
6 tax under this subsection or effecting a change in the rate
7 thereof shall either (i) be adopted and a certified copy
8 thereof filed with the Department on or before the first day of
9 April, whereupon the Department, if all other requirements of
10 this subsection are met, shall proceed to administer and
11 enforce this subsection as of the first day of July next
12 following the adoption and filing; or (ii) be adopted and a
13 certified copy thereof filed with the Department on or before
14 the first day of October, whereupon, if all other conditions of
15 this subsection are met, the Department shall proceed to
16 administer and enforce this subsection as of the first day of
17 January next following the adoption and filing.

18 The Department of Revenue shall not administer or enforce
19 an ordinance imposing, discontinuing, or changing the rate of
20 the tax under this subsection, until the municipality also
21 provides, in the manner prescribed by the Department, the
22 boundaries of the business district in such a way that the
23 Department can determine by its address whether a business is
24 located in the business district. The municipality must provide
25 this boundary information to the Department on or before April
26 1 for administration and enforcement of the tax under this
27 subsection by the Department beginning on the following July 1
28 and on or before October 1 for administration and enforcement
29 of the tax under this subsection by the Department beginning on
30 the following January 1. The Department of Revenue shall not
31 administer or enforce any change made to the boundaries of a
32 business district until the municipality reports the boundary
33 change to the Department in the manner prescribed by the
34 Department. The municipality must provide this boundary change
35 information to the Department on or before April 1 for
36 administration and enforcement by the Department of the change

1 beginning on the following July 1 and on or before October 1
2 for administration and enforcement by the Department of the
3 change beginning on the following January 1. The retailers in
4 the business district shall be responsible for charging the tax
5 imposed under this subsection. If a retailer is incorrectly
6 included or excluded from the list of those required to collect
7 the tax under this subsection, both the Department of Revenue
8 and the retailer shall be held harmless if they reasonably
9 relied on information provided by the municipality.

10 A municipality that imposes the tax under this subsection
11 must submit to the Department of Revenue any other information
12 as the Department may require for the administration and
13 enforcement of the tax.

14 Nothing in this subsection shall be construed to authorize
15 the municipality to impose a tax upon the privilege of engaging
16 in any business which under the Constitution of the United
17 States may not be made the subject of taxation by the State.

18 If a tax is imposed under this subsection (c), a tax shall
19 also be imposed under subsection (b) of this Section.

20 (d) By ordinance, a municipality that has established a
21 business district under this Division 74.3 may impose an
22 occupation tax upon all persons engaged in the business
23 district in the business of renting, leasing, or letting rooms
24 in a hotel, as defined in the Hotel Operators' Occupation Tax
25 Act, at a rate not to exceed 1% of the gross rental receipts
26 from the renting, leasing, or letting of hotel rooms within the
27 business district, to be imposed only in 0.25% increments,
28 excluding, however, from gross rental receipts the proceeds of
29 renting, leasing, or letting to permanent residents of a hotel,
30 as defined in the Hotel Operators' Occupation Tax Act, and
31 proceeds from the tax imposed under subsection (c) of Section
32 13 of the Metropolitan Pier and Exposition Authority Act.

33 The tax imposed by the municipality under this subsection
34 and all civil penalties that may be assessed as an incident to
35 that tax shall be collected and enforced by the municipality
36 imposing the tax. The municipality shall have full power to

1 administer and enforce this subsection, to collect all taxes
2 and penalties due under this subsection, to dispose of taxes
3 and penalties so collected in the manner provided in this
4 subsection, and to determine all rights to credit memoranda
5 arising on account of the erroneous payment of tax or penalty
6 under this subsection. In the administration of and compliance
7 with this subsection, the municipality and persons who are
8 subject to this subsection shall have the same rights,
9 remedies, privileges, immunities, powers, and duties, shall be
10 subject to the same conditions, restrictions, limitations,
11 penalties, and definitions of terms, and shall employ the same
12 modes of procedure as are employed with respect to a tax
13 adopted by the municipality under Section 8-3-14 of this Code.

14 Persons subject to any tax imposed under the authority
15 granted in this subsection may reimburse themselves for their
16 tax liability for that tax by separately stating that tax as an
17 additional charge, which charge may be stated in combination,
18 in a single amount, with State taxes imposed under the Hotel
19 Operators' Occupation Tax Act, and with any other tax.

20 Nothing in this subsection shall be construed to authorize
21 a municipality to impose a tax upon the privilege of engaging
22 in any business which under the Constitution of the United
23 States may not be made the subject of taxation by this State.

24 The proceeds of the tax imposed under this subsection shall
25 be deposited into the Business District Tax Allocation Fund.

26 (e) Obligations issued pursuant to subsection (14) of
27 Section 11-74.3-3 shall be retired in the manner provided in
28 the ordinance authorizing the issuance of those obligations by
29 the receipts of taxes levied as authorized in subsections (12)
30 and (13) of Section 11-74.3-3. The ordinance shall pledge all
31 of the amounts in and to be deposited in the Business District
32 Tax Allocation Fund to the payment of business district project
33 costs and obligations. Obligations issued pursuant to
34 subsection (14) of Section 11-74.3-3 may be sold at public or
35 private sale at a price determined by the corporate authorities
36 of the municipality and no referendum approval of the electors

1 shall be required as a condition to the issuance of those
2 obligations. The ordinance authorizing the obligations may
3 require that the obligations contain a recital that they are
4 issued pursuant to subsection (14) of Section 11-74.3-3 and
5 this recital shall be conclusive evidence of their validity and
6 of the regularity of their issuance. The corporate authorities
7 of the municipality may also issue its obligations to refund,
8 in whole or in part, obligations previously issued by the
9 municipality under the authority of this Code, whether at or
10 prior to maturity. All obligations issued pursuant to
11 subsection (14) of Section 11-74.3-3 shall not be regarded as
12 indebtedness of the municipality issuing the obligations for
13 the purpose of any limitation imposed by law.

14 (f) When business district costs, including, without
15 limitation, all municipal obligations financing business
16 district project costs incurred under Section 11-74.3-3 have
17 been paid, any surplus funds then remaining in the Business
18 District Tax Allocation Fund shall be distributed to the
19 municipal treasurer for deposit into the municipal general
20 corporate fund. Upon payment of all business district project
21 costs and retirement of obligations, but in no event more than
22 23 years after the date of adoption of the ordinance approving
23 the business district development or redevelopment plan, the
24 municipality shall adopt an ordinance immediately rescinding
25 the taxes imposed pursuant to subsections (12) and (13) of
26 Section 11-74.3-3.

27 (Source: P.A. 93-1053, eff. 1-1-05.)

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