

1 AN ACT concerning local government.

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 Sections 8-11-1 and 8-11-5 as follows:

6 (65 ILCS 5/8-11-1) (from Ch. 24, par. 8-11-1)

7 Sec. 8-11-1. Home Rule Municipal Retailers' Occupation Tax
8 Act. The corporate authorities of a home rule municipality may
9 impose a tax upon all persons engaged in the business of
10 selling tangible personal property, other than an item of
11 tangible personal property titled or registered with an agency
12 of this State's government, at retail in the municipality on
13 the gross receipts from these sales made in the course of such
14 business. If imposed, the tax shall only be imposed in 1/4%
15 increments. On and after September 1, 1991, this additional tax
16 may not be imposed on the sales of food for human consumption
17 that is to be consumed off the premises where it is sold (other
18 than alcoholic beverages, soft drinks and food that has been
19 prepared for immediate consumption) and prescription and
20 nonprescription medicines, drugs, medical appliances and
21 insulin, urine testing materials, syringes and needles used by
22 diabetics. The tax imposed by a home rule municipality under
23 this Section and all civil penalties that may be assessed as an

1 incident of the tax shall be collected and enforced by the
2 State Department of Revenue. The certificate of registration
3 that is issued by the Department to a retailer under the
4 Retailers' Occupation Tax Act shall permit the retailer to
5 engage in a business that is taxable under any ordinance or
6 resolution enacted pursuant to this Section without
7 registering separately with the Department under such
8 ordinance or resolution or under this Section. The Department
9 shall have full power to administer and enforce this Section;
10 to collect all taxes and penalties due hereunder; to dispose of
11 taxes and penalties so collected in the manner hereinafter
12 provided; and to determine all rights to credit memoranda
13 arising on account of the erroneous payment of tax or penalty
14 hereunder. In the administration of, and compliance with, this
15 Section the Department and persons who are subject to this
16 Section shall have the same rights, remedies, privileges,
17 immunities, powers and duties, and be subject to the same
18 conditions, restrictions, limitations, penalties and
19 definitions of terms, and employ the same modes of procedure,
20 as are prescribed in Sections 1, 1a, 1d, 1e, 1f, 1i, 1j, 1k,
21 1m, 1n, 2 through 2-65 (in respect to all provisions therein
22 other than the State rate of tax), 2c, 3 (except as to the
23 disposition of taxes and penalties collected), 4, 5, 5a, 5b,
24 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9,
25 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
26 Section 3-7 of the Uniform Penalty and Interest Act, as fully

1 as if those provisions were set forth herein.

2 No tax may be imposed by a home rule municipality under
3 this Section unless the municipality also imposes a tax at the
4 same rate under Section 8-11-5 of this Act.

5 Persons subject to any tax imposed under the authority
6 granted in this Section may reimburse themselves for their
7 seller's tax liability hereunder by separately stating that tax
8 as an additional charge, which charge may be stated in
9 combination, in a single amount, with State tax which sellers
10 are required to collect under the Use Tax Act, pursuant to such
11 bracket schedules as the Department may prescribe.

12 Whenever the Department determines that a refund should be
13 made under this Section to a claimant instead of issuing a
14 credit memorandum, the Department shall notify the State
15 Comptroller, who shall cause the order to be drawn for the
16 amount specified and to the person named in the notification
17 from the Department. The refund shall be paid by the State
18 Treasurer out of the home rule municipal retailers' occupation
19 tax fund.

20 A municipality that has not otherwise imposed a tax under
21 this Section may impose a tax, for a defined and limited period
22 of time, under this Section that is limited to a defined
23 geographic area within the municipality and that is limited to
24 a tax at a rate not to exceed 2% on alcoholic beverages, soft
25 drinks, and food that has been prepared for immediate
26 consumption. The geographic area must be a defined, contiguous

1 area of no more than one square mile. At the time the ordinance
2 imposing the tax is adopted, the municipality must have
3 obtained the certified written consent of at least
4 three-fourths of the operators of the businesses upon which the
5 tax will be imposed. Proceeds of the tax shall be maintained by
6 the municipality in a separate account and may be used only for
7 the costs associated with land acquisition, design,
8 construction, and maintenance of parking facilities within the
9 defined geographic area. This tax may not be imposed for longer
10 than 25 years after the municipality first levies the tax.

11 The Department shall immediately pay over to the State
12 Treasurer, ex officio, as trustee, all taxes and penalties
13 collected hereunder. On or before the 25th day of each calendar
14 month, the Department shall prepare and certify to the
15 Comptroller the disbursement of stated sums of money to named
16 municipalities, the municipalities to be those from which
17 retailers have paid taxes or penalties hereunder to the
18 Department during the second preceding calendar month. The
19 amount to be paid to each municipality shall be the amount (not
20 including credit memoranda) collected hereunder during the
21 second preceding calendar month by the Department plus an
22 amount the Department determines is necessary to offset any
23 amounts that were erroneously paid to a different taxing body,
24 and not including an amount equal to the amount of refunds made
25 during the second preceding calendar month by the Department on
26 behalf of such municipality, and not including any amount that

1 the Department determines is necessary to offset any amounts
2 that were payable to a different taxing body but were
3 erroneously paid to the municipality. Within 10 days after
4 receipt by the Comptroller of the disbursement certification to
5 the municipalities provided for in this Section to be given to
6 the Comptroller by the Department, the Comptroller shall cause
7 the orders to be drawn for the respective amounts in accordance
8 with the directions contained in the certification.

9 In addition to the disbursement required by the preceding
10 paragraph and in order to mitigate delays caused by
11 distribution procedures, an allocation shall, if requested, be
12 made within 10 days after January 14, 1991, and in November of
13 1991 and each year thereafter, to each municipality that
14 received more than \$500,000 during the preceding fiscal year,
15 (July 1 through June 30) whether collected by the municipality
16 or disbursed by the Department as required by this Section.
17 Within 10 days after January 14, 1991, participating
18 municipalities shall notify the Department in writing of their
19 intent to participate. In addition, for the initial
20 distribution, participating municipalities shall certify to
21 the Department the amounts collected by the municipality for
22 each month under its home rule occupation and service
23 occupation tax during the period July 1, 1989 through June 30,
24 1990. The allocation within 10 days after January 14, 1991,
25 shall be in an amount equal to the monthly average of these
26 amounts, excluding the 2 months of highest receipts. The

1 monthly average for the period of July 1, 1990 through June 30,
2 1991 will be determined as follows: the amounts collected by
3 the municipality under its home rule occupation and service
4 occupation tax during the period of July 1, 1990 through
5 September 30, 1990, plus amounts collected by the Department
6 and paid to such municipality through June 30, 1991, excluding
7 the 2 months of highest receipts. The monthly average for each
8 subsequent period of July 1 through June 30 shall be an amount
9 equal to the monthly distribution made to each such
10 municipality under the preceding paragraph during this period,
11 excluding the 2 months of highest receipts. The distribution
12 made in November 1991 and each year thereafter under this
13 paragraph and the preceding paragraph shall be reduced by the
14 amount allocated and disbursed under this paragraph in the
15 preceding period of July 1 through June 30. The Department
16 shall prepare and certify to the Comptroller for disbursement
17 the allocations made in accordance with this paragraph.

18 For the purpose of determining the local governmental unit
19 whose tax is applicable, a retail sale by a producer of coal or
20 other mineral mined in Illinois is a sale at retail at the
21 place where the coal or other mineral mined in Illinois is
22 extracted from the earth. This paragraph does not apply to coal
23 or other mineral when it is delivered or shipped by the seller
24 to the purchaser at a point outside Illinois so that the sale
25 is exempt under the United States Constitution as a sale in
26 interstate or foreign commerce.

1 Nothing in this Section shall be construed to authorize a
2 municipality to impose a tax upon the privilege of engaging in
3 any business which under the Constitution of the United States
4 may not be made the subject of taxation by this State.

5 An ordinance or resolution imposing or discontinuing a tax
6 hereunder or effecting a change in the rate thereof shall be
7 adopted and a certified copy thereof filed with the Department
8 on or before the first day of June, whereupon the Department
9 shall proceed to administer and enforce this Section as of the
10 first day of September next following the adoption and filing.
11 Beginning January 1, 1992, an ordinance or resolution imposing
12 or discontinuing the tax hereunder or effecting a change in the
13 rate thereof shall be adopted and a certified copy thereof
14 filed with the Department on or before the first day of July,
15 whereupon the Department shall proceed to administer and
16 enforce this Section as of the first day of October next
17 following such adoption and filing. Beginning January 1, 1993,
18 an ordinance or resolution imposing or discontinuing the tax
19 hereunder or effecting a change in the rate thereof shall be
20 adopted and a certified copy thereof filed with the Department
21 on or before the first day of October, whereupon the Department
22 shall proceed to administer and enforce this Section as of the
23 first day of January next following the adoption and filing.
24 However, a municipality located in a county with a population
25 in excess of 3,000,000 that elected to become a home rule unit
26 at the general primary election in 1994 may adopt an ordinance

1 or resolution imposing the tax under this Section and file a
2 certified copy of the ordinance or resolution with the
3 Department on or before July 1, 1994. The Department shall then
4 proceed to administer and enforce this Section as of October 1,
5 1994. Beginning April 1, 1998, an ordinance or resolution
6 imposing or discontinuing the tax hereunder or effecting a
7 change in the rate thereof shall either (i) be adopted and a
8 certified copy thereof filed with the Department on or before
9 the first day of April, whereupon the Department shall proceed
10 to administer and enforce this Section as of the first day of
11 July next following the adoption and filing; or (ii) be adopted
12 and a certified copy thereof filed with the Department on or
13 before the first day of October, whereupon the Department shall
14 proceed to administer and enforce this Section as of the first
15 day of January next following the adoption and filing.

16 When certifying the amount of a monthly disbursement to a
17 municipality under this Section, the Department shall increase
18 or decrease the amount by an amount necessary to offset any
19 misallocation of previous disbursements. The offset amount
20 shall be the amount erroneously disbursed within the previous 6
21 months from the time a misallocation is discovered.

22 Any unobligated balance remaining in the Municipal
23 Retailers' Occupation Tax Fund on December 31, 1989, which fund
24 was abolished by Public Act 85-1135, and all receipts of
25 municipal tax as a result of audits of liability periods prior
26 to January 1, 1990, shall be paid into the Local Government Tax

1 Fund for distribution as provided by this Section prior to the
2 enactment of Public Act 85-1135. All receipts of municipal tax
3 as a result of an assessment not arising from an audit, for
4 liability periods prior to January 1, 1990, shall be paid into
5 the Local Government Tax Fund for distribution before July 1,
6 1990, as provided by this Section prior to the enactment of
7 Public Act 85-1135; and on and after July 1, 1990, all such
8 receipts shall be distributed as provided in Section 6z-18 of
9 the State Finance Act.

10 As used in this Section, "municipal" and "municipality"
11 means a city, village or incorporated town, including an
12 incorporated town that has superseded a civil township.

13 This Section shall be known and may be cited as the Home
14 Rule Municipal Retailers' Occupation Tax Act.

15 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

16 (65 ILCS 5/8-11-5) (from Ch. 24, par. 8-11-5)

17 Sec. 8-11-5. Home Rule Municipal Service Occupation Tax
18 Act. The corporate authorities of a home rule municipality may
19 impose a tax upon all persons engaged, in such municipality, in
20 the business of making sales of service at the same rate of tax
21 imposed pursuant to Section 8-11-1, of the selling price of all
22 tangible personal property transferred by such servicemen
23 either in the form of tangible personal property or in the form
24 of real estate as an incident to a sale of service. If imposed,
25 such tax shall only be imposed in 1/4% increments. On and after

1 September 1, 1991, this additional tax may not be imposed on
2 the sales of food for human consumption which is to be consumed
3 off the premises where it is sold (other than alcoholic
4 beverages, soft drinks and food which has been prepared for
5 immediate consumption) and prescription and nonprescription
6 medicines, drugs, medical appliances and insulin, urine
7 testing materials, syringes and needles used by diabetics. The
8 tax imposed by a home rule municipality pursuant to this
9 Section and all civil penalties that may be assessed as an
10 incident thereof shall be collected and enforced by the State
11 Department of Revenue. The certificate of registration which is
12 issued by the Department to a retailer under the Retailers'
13 Occupation Tax Act or under the Service Occupation Tax Act
14 shall permit such registrant to engage in a business which is
15 taxable under any ordinance or resolution enacted pursuant to
16 this Section without registering separately with the
17 Department under such ordinance or resolution or under this
18 Section. The Department shall have full power to administer and
19 enforce this Section; to collect all taxes and penalties due
20 hereunder; to dispose of taxes and penalties so collected in
21 the manner hereinafter provided, and to determine all rights to
22 credit memoranda arising on account of the erroneous payment of
23 tax or penalty hereunder. In the administration of, and
24 compliance with, this Section the Department and persons who
25 are subject to this Section shall have the same rights,
26 remedies, privileges, immunities, powers and duties, and be

1 subject to the same conditions, restrictions, limitations,
2 penalties and definitions of terms, and employ the same modes
3 of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3
4 through 3-50 (in respect to all provisions therein other than
5 the State rate of tax), 4 (except that the reference to the
6 State shall be to the taxing municipality), 5, 7, 8 (except
7 that the jurisdiction to which the tax shall be a debt to the
8 extent indicated in that Section 8 shall be the taxing
9 municipality), 9 (except as to the disposition of taxes and
10 penalties collected, and except that the returned merchandise
11 credit for this municipal tax may not be taken against any
12 State tax), 10, 11, 12 (except the reference therein to Section
13 2b of the Retailers' Occupation Tax Act), 13 (except that any
14 reference to the State shall mean the taxing municipality), the
15 first paragraph of Section 15, 16, 17 (except that credit
16 memoranda issued hereunder may not be used to discharge any
17 State tax liability), 18, 19 and 20 of the Service Occupation
18 Tax Act and Section 3-7 of the Uniform Penalty and Interest
19 Act, as fully as if those provisions were set forth herein.

20 No tax may be imposed by a home rule municipality pursuant
21 to this Section unless such municipality also imposes a tax at
22 the same rate pursuant to Section 8-11-1 of this Act.

23 Persons subject to any tax imposed pursuant to the
24 authority granted in this Section may reimburse themselves for
25 their serviceman's tax liability hereunder by separately
26 stating such tax as an additional charge, which charge may be

1 stated in combination, in a single amount, with State tax which
2 servicemen are authorized to collect under the Service Use Tax
3 Act, pursuant to such bracket schedules as the Department may
4 prescribe.

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

12 A municipality that has not otherwise imposed a tax under
13 this Section may impose a tax, for a defined and limited period
14 of time, under this Section that is limited to a defined
15 geographic area within the municipality and that is limited to
16 a tax at a rate not to exceed 2% on alcoholic beverages, soft
17 drinks, and food that has been prepared for immediate
18 consumption. The geographic area must be a defined, contiguous
19 area of no more than one square mile. At the time the ordinance
20 imposing the tax is adopted, the municipality must have
21 obtained the certified written consent of at least
22 three-fourths of the operators of the businesses upon which the
23 tax will be imposed. Proceeds of the tax shall be maintained by
24 the municipality in a separate account and may be used only for
25 the costs associated with land acquisition, design,
26 construction, and maintenance of parking facilities within the

1 defined geographic area. This tax may not be imposed for longer
2 than 25 years after the municipality first levies the tax.

3 The Department shall forthwith pay over to the State
4 Treasurer, ex-officio, as trustee, all taxes and penalties
5 collected hereunder. On or before the 25th day of each calendar
6 month, the Department shall prepare and certify to the
7 Comptroller the disbursement of stated sums of money to named
8 municipalities, the municipalities to be those from which
9 suppliers and servicemen have paid taxes or penalties hereunder
10 to the Department during the second preceding calendar month.
11 The amount to be paid to each municipality shall be the amount
12 (not including credit memoranda) collected hereunder during
13 the second preceding calendar month by the Department, and not
14 including an amount equal to the amount of refunds made during
15 the second preceding calendar month by the Department on behalf
16 of such municipality. Within 10 days after receipt, by the
17 Comptroller, of the disbursement certification to the
18 municipalities, provided for in this Section to be given to the
19 Comptroller by the Department, the Comptroller shall cause the
20 orders to be drawn for the respective amounts in accordance
21 with the directions contained in such certification.

22 In addition to the disbursement required by the preceding
23 paragraph and in order to mitigate delays caused by
24 distribution procedures, an allocation shall, if requested, be
25 made within 10 days after January 14, 1991, and in November of
26 1991 and each year thereafter, to each municipality that

1 received more than \$500,000 during the preceding fiscal year,
2 (July 1 through June 30) whether collected by the municipality
3 or disbursed by the Department as required by this Section.
4 Within 10 days after January 14, 1991, participating
5 municipalities shall notify the Department in writing of their
6 intent to participate. In addition, for the initial
7 distribution, participating municipalities shall certify to
8 the Department the amounts collected by the municipality for
9 each month under its home rule occupation and service
10 occupation tax during the period July 1, 1989 through June 30,
11 1990. The allocation within 10 days after January 14, 1991,
12 shall be in an amount equal to the monthly average of these
13 amounts, excluding the 2 months of highest receipts. Monthly
14 average for the period of July 1, 1990 through June 30, 1991
15 will be determined as follows: the amounts collected by the
16 municipality under its home rule occupation and service
17 occupation tax during the period of July 1, 1990 through
18 September 30, 1990, plus amounts collected by the Department
19 and paid to such municipality through June 30, 1991, excluding
20 the 2 months of highest receipts. The monthly average for each
21 subsequent period of July 1 through June 30 shall be an amount
22 equal to the monthly distribution made to each such
23 municipality under the preceding paragraph during this period,
24 excluding the 2 months of highest receipts. The distribution
25 made in November 1991 and each year thereafter under this
26 paragraph and the preceding paragraph shall be reduced by the

1 amount allocated and disbursed under this paragraph in the
2 preceding period of July 1 through June 30. The Department
3 shall prepare and certify to the Comptroller for disbursement
4 the allocations made in accordance with this paragraph.

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

9 An ordinance or resolution imposing or discontinuing a tax
10 hereunder or effecting a change in the rate thereof shall be
11 adopted and a certified copy thereof filed with the Department
12 on or before the first day of June, whereupon the Department
13 shall proceed to administer and enforce this Section as of the
14 first day of September next following such adoption and filing.
15 Beginning January 1, 1992, an ordinance or resolution imposing
16 or discontinuing the tax hereunder or effecting a change in the
17 rate thereof shall be adopted and a certified copy thereof
18 filed with the Department on or before the first day of July,
19 whereupon the Department shall proceed to administer and
20 enforce this Section as of the first day of October next
21 following such adoption and filing. Beginning January 1, 1993,
22 an ordinance or resolution imposing or discontinuing the tax
23 hereunder or effecting a change in the rate thereof shall be
24 adopted and a certified copy thereof filed with the Department
25 on or before the first day of October, whereupon the Department
26 shall proceed to administer and enforce this Section as of the

1 first day of January next following such adoption and filing.
2 However, a municipality located in a county with a population
3 in excess of 3,000,000 that elected to become a home rule unit
4 at the general primary election in 1994 may adopt an ordinance
5 or resolution imposing the tax under this Section and file a
6 certified copy of the ordinance or resolution with the
7 Department on or before July 1, 1994. The Department shall then
8 proceed to administer and enforce this Section as of October 1,
9 1994. Beginning April 1, 1998, an ordinance or resolution
10 imposing or discontinuing the tax hereunder or effecting a
11 change in the rate thereof shall either (i) be adopted and a
12 certified copy thereof filed with the Department on or before
13 the first day of April, whereupon the Department shall proceed
14 to administer and enforce this Section as of the first day of
15 July next following the adoption and filing; or (ii) be adopted
16 and a certified copy thereof filed with the Department on or
17 before the first day of October, whereupon the Department shall
18 proceed to administer and enforce this Section as of the first
19 day of January next following the adoption and filing.

20 Any unobligated balance remaining in the Municipal
21 Retailers' Occupation Tax Fund on December 31, 1989, which fund
22 was abolished by Public Act 85-1135, and all receipts of
23 municipal tax as a result of audits of liability periods prior
24 to January 1, 1990, shall be paid into the Local Government Tax
25 Fund, for distribution as provided by this Section prior to the
26 enactment of Public Act 85-1135. All receipts of municipal tax

1 as a result of an assessment not arising from an audit, for
2 liability periods prior to January 1, 1990, shall be paid into
3 the Local Government Tax Fund for distribution before July 1,
4 1990, as provided by this Section prior to the enactment of
5 Public Act 85-1135, and on and after July 1, 1990, all such
6 receipts shall be distributed as provided in Section 6z-18 of
7 the State Finance Act.

8 As used in this Section, "municipal" and "municipality"
9 means a city, village or incorporated town, including an
10 incorporated town which has superseded a civil township.

11 This Section shall be known and may be cited as the Home
12 Rule Municipal Service Occupation Tax Act.

13 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

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