

1 AMENDMENT TO SENATE BILL 55

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 55 by replacing  
3 the title with the following:

4 "AN ACT concerning taxes."; and

5 by replacing everything after the enacting clause with the  
6 following:

7 "Section 5. The Use Tax Act is amended by adding Section  
8 3-46 as follows:

9 (35 ILCS 105/3-46 new)

10 Sec. 3-46. Bad Debts.

11 (a) A retailer is relieved from liability for the tax  
12 under this Act that became due and payable, insofar as the  
13 measure of the tax is represented by accounts that have been  
14 found to be worthless and charged off for income tax purposes  
15 by the retailer or, if the retailer is not required to file  
16 income tax returns, charged off in accordance with generally  
17 accepted accounting principles. A retailer that has  
18 previously paid the tax may, under rules adopted by the  
19 Department, take as a deduction the amount found worthless  
20 and charged off by the retailer. If these accounts are  
21 thereafter in whole or in part collected by the retailer, the

1 amount collected shall be included in the first return filed  
2 after the collection and the tax shall be paid with the  
3 return. For purposes of this subdivision, the term  
4 "retailer" includes any entity affiliated with the retailer  
5 under Section 1504 of Title 26 of the United States Code.

6 (b) (1) In the case of accounts held by a lender, a  
7 retailer or lender who makes a proper election under  
8 subdivision (b)(4) shall be entitled to a deduction or  
9 refund of the tax that the retailer has previously  
10 reported and paid if all of the following conditions are  
11 met:

12 (A) No deduction is claimed or allowed for any  
13 portion of the account for which a previous  
14 deduction was claimed or allowed.

15 (B) The accounts have been found worthless and  
16 written off by the lender in accordance with the  
17 requirements of subsection (a).

18 (C) The account was written off as a bad debt  
19 on or after January 1, 2001.

20 (D) The party electing to claim the deduction  
21 or refund under subdivision (b)(4) files a claim in  
22 a manner prescribed by the Department.

23 (2) If the retailer or the lender thereafter  
24 collects in whole or in part any accounts, one of the  
25 following shall apply:

26 (A) If the retailer is entitled to the  
27 deduction or refund under the election specified in  
28 subdivision (b)(4), the retailer shall include the  
29 amount collected in its first return filed after the  
30 collection and pay tax on that amount with the  
31 return.

32 (B) If the lender is entitled to the deduction  
33 or refund under the election specified in  
34 subdivision (b)(4), the lender shall pay the tax to

1 the Department.

2 (3) For purposes of this subsection (b), the term  
3 "lender" means any of the following:

4 (A) Any person who holds a retail account  
5 which that person purchased directly from a retailer  
6 who reported the tax.

7 (B) Any person who holds a retail account  
8 pursuant to that person's contract directly with the  
9 retailer who reported the tax.

10 (C) Any person who is either an affiliated  
11 entity, under Section 1504 of Title 26 of the United  
12 States Code, of a person described in subdivision  
13 (3)(A) or (3)(B), or an assignee of a person  
14 described in subdivision (3)(A) or (3)(B).

15 (4) Prior to claiming any deduction or refund under  
16 this subsection (b), the retailer who reported the tax  
17 and the lender shall file an election with the  
18 Department, signed by both parties, designating which  
19 party is entitled to claim the deduction or refund. This  
20 election may not be amended or revoked unless a new  
21 election, signed by both parties, is filed with the  
22 Department.

23 (5) A lender as defined above may have its  
24 deduction or refund for bad debts claimed on a return  
25 filed by an affiliated retailer.

26 Section 10. The Service Use Tax Act is amended by adding  
27 Section 3-41 as follows:

28 (35 ILCS 110/3-41 new)

29 Sec. 3-41. Bad debts.

30 (a) A retailer is relieved from liability for the tax  
31 under this Act that became due and payable, insofar as the  
32 measure of the tax is represented by accounts that have been

1 found to be worthless and charged off for income tax purposes  
2 by the retailer or, if the retailer is not required to file  
3 income tax returns, charged off in accordance with generally  
4 accepted accounting principles. A retailer that has  
5 previously paid the tax may, under rules adopted by the  
6 Department, take as a deduction the amount found worthless  
7 and charged off by the retailer. If these accounts are  
8 thereafter in whole or in part collected by the retailer, the  
9 amount collected shall be included in the first return filed  
10 after the collection and the tax shall be paid with the  
11 return. For purposes of this subdivision, the term  
12 "retailer" includes any entity affiliated with the retailer  
13 under Section 1504 of Title 26 of the United States Code.

14 (b) (1) In the case of accounts held by a lender, a  
15 retailer or lender who makes a proper election under  
16 subdivision (b)(4) shall be entitled to a deduction or  
17 refund of the tax that the retailer has previously  
18 reported and paid if all of the following conditions are  
19 met:

20 (A) No deduction is claimed or allowed for any  
21 portion of the account for which a previous  
22 deduction was claimed or allowed.

23 (B) The accounts have been found worthless and  
24 written off by the lender in accordance with the  
25 requirements of subsection (a).

26 (C) The account was written off as a bad debt  
27 on or after January 1, 2001.

28 (D) The party electing to claim the deduction  
29 or refund under subdivision (b)(4) files a claim in  
30 a manner prescribed by the Department.

31 (2) If the retailer or the lender thereafter  
32 collects in whole or in part any accounts, one of the  
33 following shall apply:

34 (A) If the retailer is entitled to the

1           deduction or refund under the election specified in  
2           subdivision (b)(4), the retailer shall include the  
3           amount collected in its first return filed after the  
4           collection and pay tax on that amount with the  
5           return.

6           (B) If the lender is entitled to the deduction  
7           or refund under the election specified in  
8           subdivision (b)(4), the lender shall pay the tax to  
9           the Department.

10          (3) For purposes of this subsection (b), the term  
11          "lender" means any of the following:

12           (A) Any person who holds a retail account  
13           which that person purchased directly from a retailer  
14           who reported the tax.

15           (B) Any person who holds a retail account  
16           pursuant to that person's contract directly with the  
17           retailer who reported the tax.

18           (C) Any person who is either an affiliated  
19           entity, under Section 1504 of Title 26 of the United  
20           States Code, of a person described in subdivision  
21           (3)(A) or (3)(B), or an assignee of a person  
22           described in subdivision (3)(A) or (3)(B).

23          (4) Prior to claiming any deduction or refund under  
24          this subsection (b), the retailer who reported the tax  
25          and the lender shall file an election with the  
26          Department, signed by both parties, designating which  
27          party is entitled to claim the deduction or refund. This  
28          election may not be amended or revoked unless a new  
29          election, signed by both parties, is filed with the  
30          Department.

31          (5) A lender as defined above may have its  
32          deduction or refund for bad debts claimed on a return  
33          filed by an affiliated retailer.

1 Section 15. The Service Occupation Tax Act is amended by  
2 adding Section 3-41 as follows:

3 (35 ILCS 115/3-41 new)

4 Sec. 3-41. Bad debts.

5 (a) A retailer is relieved from liability for the tax  
6 under this Act that became due and payable, insofar as the  
7 measure of the tax is represented by accounts that have been  
8 found to be worthless and charged off for income tax purposes  
9 by the retailer or, if the retailer is not required to file  
10 income tax returns, charged off in accordance with generally  
11 accepted accounting principles. A retailer that has  
12 previously paid the tax may, under rules adopted by the  
13 Department, take as a deduction the amount found worthless  
14 and charged off by the retailer. If these accounts are  
15 thereafter in whole or in part collected by the retailer, the  
16 amount collected shall be included in the first return filed  
17 after the collection and the tax shall be paid with the  
18 return. For purposes of this subdivision, the term  
19 "retailer" includes any entity affiliated with the retailer  
20 under Section 1504 of Title 26 of the United States Code.

21 (b) (1) In the case of accounts held by a lender, a  
22 retailer or lender who makes a proper election under  
23 subdivision (b)(4) shall be entitled to a deduction or  
24 refund of the tax that the retailer has previously  
25 reported and paid if all of the following conditions are  
26 met:

27 (A) No deduction is claimed or allowed for any  
28 portion of the account for which a previous  
29 deduction was claimed or allowed.

30 (B) The accounts have been found worthless and  
31 written off by the lender in accordance with the  
32 requirements of subsection (a).

33 (C) The account was written off as a bad debt

1           on or after January 1, 2001.

2           (D) The party electing to claim the deduction  
3           or refund under subdivision (b)(4) files a claim in  
4           a manner prescribed by the Department.

5           (2) If the retailer or the lender thereafter  
6           collects in whole or in part any accounts, one of the  
7           following shall apply:

8           (A) If the retailer is entitled to the  
9           deduction or refund under the election specified in  
10           subdivision (b)(4), the retailer shall include the  
11           amount collected in its first return filed after the  
12           collection and pay tax on that amount with the  
13           return.

14           (B) If the lender is entitled to the deduction  
15           or refund under the election specified in  
16           subdivision (b)(4), the lender shall pay the tax to  
17           the Department.

18           (3) For purposes of this subsection (b), the term  
19           "lender" means any of the following:

20           (A) Any person who holds a retail account  
21           which that person purchased directly from a retailer  
22           who reported the tax.

23           (B) Any person who holds a retail account  
24           pursuant to that person's contract directly with the  
25           retailer who reported the tax.

26           (C) Any person who is either an affiliated  
27           entity, under Section 1504 of Title 26 of the United  
28           States Code, of a person described in subdivision  
29           (3)(A) or (3)(B), or an assignee of a person  
30           described in subdivision (3)(A) or (3)(B).

31           (4) Prior to claiming any deduction or refund under  
32           this subsection (b), the retailer who reported the tax  
33           and the lender shall file an election with the  
34           Department, signed by both parties, designating which

1 party is entitled to claim the deduction or refund. This  
2 election may not be amended or revoked unless a new  
3 election, signed by both parties, is filed with the  
4 Department.

5 (5) A lender as defined above may have its  
6 deduction or refund for bad debts claimed on a return  
7 filed by an affiliated retailer.

8 Section 20. The Retailers' Occupation Tax Act is amended  
9 by adding Section 3a as follows:

10 (35 ILCS 120/3a new)

11 Sec. 3a. Bad debts.

12 (a) A retailer is relieved from liability for the tax  
13 under this Act that became due and payable, insofar as the  
14 measure of the tax is represented by accounts that have been  
15 found to be worthless and charged off for income tax purposes  
16 by the retailer or, if the retailer is not required to file  
17 income tax returns, charged off in accordance with generally  
18 accepted accounting principles. A retailer that has  
19 previously paid the tax may, under rules adopted by the  
20 Department, take as a deduction the amount found worthless  
21 and charged off by the retailer. If these accounts are  
22 thereafter in whole or in part collected by the retailer, the  
23 amount collected shall be included in the first return filed  
24 after the collection and the tax shall be paid with the  
25 return. For purposes of this subdivision, the term  
26 "retailer" includes any entity affiliated with the retailer  
27 under Section 1504 of Title 26 of the United States Code.

28 (b) (1) In the case of accounts held by a lender, a  
29 retailer or lender who makes a proper election under  
30 subdivision (b)(4) shall be entitled to a deduction or  
31 refund of the tax that the retailer has previously  
32 reported and paid if all of the following conditions are



1 met:

2 (A) No deduction is claimed or allowed for any  
3 portion of the account for which a previous  
4 deduction was claimed or allowed.

5 (B) The accounts have been found worthless and  
6 written off by the lender in accordance with the  
7 requirements of subsection (a).

8 (C) The account was written off as a bad debt  
9 on or after January 1, 2001.

10 (D) The party electing to claim the deduction  
11 or refund under subdivision (b)(4) files a claim in  
12 a manner prescribed by the Department.

13 (2) If the retailer or the lender thereafter  
14 collects in whole or in part any accounts, one of the  
15 following shall apply:

16 (A) If the retailer is entitled to the  
17 deduction or refund under the election specified in  
18 subdivision (b)(4), the retailer shall include the  
19 amount collected in its first return filed after the  
20 collection and pay tax on that amount with the  
21 return.

22 (B) If the lender is entitled to the deduction  
23 or refund under the election specified in  
24 subdivision (b)(4), the lender shall pay the tax to  
25 the Department.

26 (3) For purposes of this subsection (b), the term  
27 "lender" means any of the following:

28 (A) Any person who holds a retail account  
29 which that person purchased directly from a retailer  
30 who reported the tax.

31 (B) Any person who holds a retail account  
32 pursuant to that person's contract directly with the  
33 retailer who reported the tax.

34 (C) Any person who is either an affiliated

1 entity, under Section 1504 of Title 26 of the United  
2 States Code, of a person described in subdivision  
3 (3)(A) or (3)(B), or an assignee of a person  
4 described in subdivision (3)(A) or (3)(B).

5 (4) Prior to claiming any deduction or refund under  
6 this subsection (b), the retailer who reported the tax  
7 and the lender shall file an election with the  
8 Department, signed by both parties, designating which  
9 party is entitled to claim the deduction or refund. This  
10 election may not be amended or revoked unless a new  
11 election, signed by both parties, is filed with the  
12 Department.

13 (5) A lender as defined above may have its  
14 deduction or refund for bad debts claimed on a return  
15 filed by an affiliated retailer.

16 Section 99. Effective date. This Act takes effect on  
17 January 1, 2002."