

HB3785



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3785

by Rep. Jay Hoffman - Daniel V. Beiser

SYNOPSIS AS INTRODUCED:

70 ILCS 750/25

Amends the Flood Prevention District Act. In a Section concerning flood prevention retailers' and service occupation taxes, eliminates a deposit into the Tax Compliance and Administration Fund. Effective July 1, 2014.

LRB098 15906 HLH 50952 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Flood Prevention District Act is amended by
5 changing Section 25 as follows:

6 (70 ILCS 750/25)

7 Sec. 25. Flood prevention retailers' and service
8 occupation taxes.

9 (a) If the Board of Commissioners of a flood prevention
10 district determines that an emergency situation exists
11 regarding levee repair or flood prevention, and upon an
12 ordinance confirming the determination adopted by the
13 affirmative vote of a majority of the members of the county
14 board of the county in which the district is situated, the
15 county may impose a flood prevention retailers' occupation tax
16 upon all persons engaged in the business of selling tangible
17 personal property at retail within the territory of the
18 district to provide revenue to pay the costs of providing
19 emergency levee repair and flood prevention and to secure the
20 payment of bonds, notes, and other evidences of indebtedness
21 issued under this Act for a period not to exceed 25 years or as
22 required to repay the bonds, notes, and other evidences of
23 indebtedness issued under this Act. The tax rate shall be 0.25%

1 of the gross receipts from all taxable sales made in the course
2 of that business. The tax imposed under this Section and all
3 civil penalties that may be assessed as an incident thereof
4 shall be collected and enforced by the State Department of
5 Revenue. The Department shall have full power to administer and
6 enforce this Section; to collect all taxes and penalties so
7 collected in the manner hereinafter provided; and to determine
8 all rights to credit memoranda arising on account of the
9 erroneous payment of tax or penalty hereunder.

10 In the administration of and compliance with this
11 subsection, the Department and persons who are subject to this
12 subsection (i) have the same rights, remedies, privileges,
13 immunities, powers, and duties, (ii) are subject to the same
14 conditions, restrictions, limitations, penalties, and
15 definitions of terms, and (iii) shall employ the same modes of
16 procedure as are set forth in Sections 1 through 10, 2 through
17 2-70 (in respect to all provisions contained in those Sections
18 other than the State rate of tax), 2a through 2h, 3 (except as
19 to the disposition of taxes and penalties collected), 4, 5, 5a,
20 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10,
21 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act and
22 all provisions of the Uniform Penalty and Interest Act as if
23 those provisions were set forth in this subsection.

24 Persons subject to any tax imposed under this Section may
25 reimburse themselves for their seller's tax liability
26 hereunder by separately stating the tax as an additional

1 charge, which charge may be stated in combination in a single
2 amount with State taxes that sellers are required to collect
3 under the Use Tax Act, under any bracket schedules the
4 Department may prescribe.

5 If a tax is imposed under this subsection (a), a tax shall
6 also be imposed under subsection (b) of this Section.

7 (b) If a tax has been imposed under subsection (a), a flood
8 prevention service occupation tax shall also be imposed upon
9 all persons engaged within the territory of the district in the
10 business of making sales of service, who, as an incident to
11 making the sales of service, transfer tangible personal
12 property, either in the form of tangible personal property or
13 in the form of real estate as an incident to a sale of service
14 to provide revenue to pay the costs of providing emergency
15 levee repair and flood prevention and to secure the payment of
16 bonds, notes, and other evidences of indebtedness issued under
17 this Act for a period not to exceed 25 years or as required to
18 repay the bonds, notes, and other evidences of indebtedness.
19 The tax rate shall be 0.25% of the selling price of all
20 tangible personal property transferred.

21 The tax imposed under this subsection and all civil
22 penalties that may be assessed as an incident thereof shall be
23 collected and enforced by the State Department of Revenue. The
24 Department shall have full power to administer and enforce this
25 subsection; to collect all taxes and penalties due hereunder;
26 to dispose of taxes and penalties collected in the manner

1 hereinafter provided; and to determine all rights to credit
2 memoranda arising on account of the erroneous payment of tax or
3 penalty hereunder.

4 In the administration of and compliance with this
5 subsection, the Department and persons who are subject to this
6 subsection shall (i) have the same rights, remedies,
7 privileges, immunities, powers, and duties, (ii) be subject to
8 the same conditions, restrictions, limitations, penalties, and
9 definitions of terms, and (iii) employ the same modes of
10 procedure as are set forth in Sections 2 (except that the
11 reference to State in the definition of supplier maintaining a
12 place of business in this State means the district), 2a through
13 2d, 3 through 3-50 (in respect to all provisions contained in
14 those Sections other than the State rate of tax), 4 (except
15 that the reference to the State shall be to the district), 5,
16 7, 8 (except that the jurisdiction to which the tax is a debt
17 to the extent indicated in that Section 8 is the district), 9
18 (except as to the disposition of taxes and penalties
19 collected), 10, 11, 12 (except the reference therein to Section
20 2b of the Retailers' Occupation Tax Act), 13 (except that any
21 reference to the State means the district), Section 15, 16, 17,
22 18, 19, and 20 of the Service Occupation Tax Act and all
23 provisions of the Uniform Penalty and Interest Act, as fully as
24 if those provisions were set forth herein.

25 Persons subject to any tax imposed under the authority
26 granted in this subsection may reimburse themselves for their

1 serviceman's tax liability hereunder by separately stating the
2 tax as an additional charge, that charge may be stated in
3 combination in a single amount with State tax that servicemen
4 are authorized to collect under the Service Use Tax Act, under
5 any bracket schedules the Department may prescribe.

6 (c) The taxes imposed in subsections (a) and (b) may not be
7 imposed on personal property titled or registered with an
8 agency of the State; food for human consumption that is to be
9 consumed off the premises where it is sold (other than
10 alcoholic beverages, soft drinks, and food that has been
11 prepared for immediate consumption); prescription and
12 non-prescription medicines, drugs, and medical appliances;
13 modifications to a motor vehicle for the purpose of rendering
14 it usable by a disabled person; or insulin, urine testing
15 materials, and syringes and needles used by diabetics.

16 (d) Nothing in this Section shall be construed to authorize
17 the district to impose a tax upon the privilege of engaging in
18 any business that under the Constitution of the United States
19 may not be made the subject of taxation by the State.

20 (e) The certificate of registration that is issued by the
21 Department to a retailer under the Retailers' Occupation Tax
22 Act or a serviceman under the Service Occupation Tax Act
23 permits the retailer or serviceman to engage in a business that
24 is taxable without registering separately with the Department
25 under an ordinance or resolution under this Section.

26 (f) The Department shall immediately pay over to the State

1 Treasurer, ex officio, as trustee, all taxes and penalties
2 collected under this Section to be deposited into the Flood
3 Prevention Occupation Tax Fund, which shall be an
4 unappropriated trust fund held outside the State treasury.

5 On or before the 25th day of each calendar month, the
6 Department shall prepare and certify to the Comptroller the
7 disbursement of stated sums of money to the counties from which
8 retailers or servicemen have paid taxes or penalties to the
9 Department during the second preceding calendar month. The
10 amount to be paid to each county is equal to the amount (not
11 including credit memoranda) collected from the county under
12 this Section during the second preceding calendar month by the
13 Department, (i) ~~less 2% of that amount, which shall be~~
14 ~~deposited into the Tax Compliance and Administration Fund and~~
15 ~~shall be used by the Department in administering and enforcing~~
16 ~~the provisions of this Section on behalf of the county, (ii)~~
17 plus an amount that the Department determines is necessary to
18 offset any amounts that were erroneously paid to a different
19 taxing body; (ii) ~~(iii)~~ less an amount equal to the amount of
20 refunds made during the second preceding calendar month by the
21 Department on behalf of the county; and (iii) ~~(iv)~~ less any
22 amount that the Department determines is necessary to offset
23 any amounts that were payable to a different taxing body but
24 were erroneously paid to the county. When certifying the amount
25 of a monthly disbursement to a county under this Section, the
26 Department shall increase or decrease the amounts by an amount

1 necessary to offset any miscalculation of previous
2 disbursements within the previous 6 months from the time a
3 miscalculation is discovered.

4 Within 10 days after receipt by the Comptroller from the
5 Department of the disbursement certification to the counties
6 provided for in this Section, the Comptroller shall cause the
7 orders to be drawn for the respective amounts in accordance
8 with directions contained in the certification.

9 If the Department determines that a refund should be made
10 under this Section to a claimant instead of issuing a credit
11 memorandum, then the Department shall notify the Comptroller,
12 who shall cause the order to be drawn for the amount specified
13 and to the person named in the notification from the
14 Department. The refund shall be paid by the Treasurer out of
15 the Flood Prevention Occupation Tax Fund.

16 (g) If a county imposes a tax under this Section, then the
17 county board shall, by ordinance, discontinue the tax upon the
18 payment of all indebtedness of the flood prevention district.
19 The tax shall not be discontinued until all indebtedness of the
20 District has been paid.

21 (h) Any ordinance imposing the tax under this Section, or
22 any ordinance that discontinues the tax, must be certified by
23 the county clerk and filed with the Illinois Department of
24 Revenue either (i) on or before the first day of April,
25 whereupon the Department shall proceed to administer and
26 enforce the tax or change in the rate as of the first day of

1 July next following the filing; or (ii) on or before the first
2 day of October, whereupon the Department shall proceed to
3 administer and enforce the tax or change in the rate as of the
4 first day of January next following the filing.

5 (j) County Flood Prevention Occupation Tax Fund. All
6 proceeds received by a county from a tax distribution under
7 this Section must be maintained in a special fund known as the
8 [name of county] flood prevention occupation tax fund. The
9 county shall, at the direction of the flood prevention
10 district, use moneys in the fund to pay the costs of providing
11 emergency levee repair and flood prevention and to pay bonds,
12 notes, and other evidences of indebtedness issued under this
13 Act.

14 (k) This Section may be cited as the Flood Prevention
15 Occupation Tax Law.

16 (Source: P.A. 96-939, eff. 6-24-10; 97-188, eff. 7-22-11.)

17 Section 99. Effective date. This Act takes effect July 1,
18 2014.