

1 AN ACT to create the Home Rule Integrity Act.

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

4 Section 1. Short title. This Act may be cited as the
5 Home Rule Integrity Act.

6 Section 95. The Illinois Municipal Code is amended by
7 changing Sections 8-3-19, 8-11-6a, and 8-11-6b as follows:

8 (65 ILCS 5/8-3-19)

9 Sec. 8-3-19. Home rule real estate transfer taxes.

10 (a) After the effective date of this amendatory Act of
11 1996 and subject to this Section, a home rule municipality
12 may impose or may increase a tax or other fee on the
13 privilege of transferring title to real estate, as
14 represented by the deed that is filed for recordation, and on
15 the privilege of transferring a beneficial interest in a land
16 trust holding legal title to real property, as represented by
17 the trust document that is filed for recordation. A tax or
18 other fee on the privilege of transferring title to real
19 estate, as represented by the deed that is filed for
20 recordation, and on the privilege of transferring a
21 beneficial interest in a land trust holding legal title to
22 real property, as represented by the trust document that is
23 filed for recordation, shall hereafter be referred to as a
24 real estate transfer tax.

25 (b) Before adopting a resolution to submit the question
26 of imposing or increasing a real estate transfer tax to
27 referendum, the corporate authorities shall give public
28 notice of and hold a public hearing on the intent to submit
29 the question to referendum. This hearing may be part of a
30 regularly scheduled meeting of the corporate authorities.

1 The notice shall be published not more than 30 nor less than
2 10 days prior to the hearing in a newspaper of general
3 circulation within the municipality. The notice shall be
4 published in the following form:

5 Notice of Proposed (Increased) Real Estate Transfer
6 Tax for (commonly known name of municipality).

7 A public hearing on a resolution to submit to
8 referendum the question of a proposed (increased) real
9 estate transfer tax for (legal name of the municipality)
10 in an amount of (rate) to be paid by the buyer (seller)
11 of the real estate transferred will be held on (date) at
12 (time) at (location). The current rate of real estate
13 transfer tax imposed by (name of municipality) is (rate).

14 Any person desiring to appear at the public hearing
15 and present testimony to the taxing district may do so.

16 (c) A notice that includes any information not specified
17 and required by this Section is an invalid notice. All
18 hearings shall be open to the public. At the public hearing,
19 the corporate authorities of the municipality shall explain
20 the reasons for the proposed or increased real estate
21 transfer tax and shall permit persons desiring to be heard an
22 opportunity to present testimony within reasonable time
23 limits determined by the corporate authorities. A copy of the
24 proposed ordinance shall be made available to the general
25 public for inspection before the public hearing.

26 (d) No home rule municipality shall impose a new real
27 estate transfer tax after the effective date of this
28 amendatory Act of 1996 without prior approval by referendum.
29 No home rule municipality shall impose an increase of the
30 rate of a current real estate transfer tax without prior
31 approval by referendum. A home rule municipality may impose
32 a new real estate transfer tax or may increase an existing
33 real estate transfer tax with prior referendum approval. The
34 referendum shall be conducted as provided in subsection (e).

1 (e) The home rule municipality shall, by resolution,
2 provide for submission of the proposition to the voters. The
3 home rule municipality shall certify the resolution and the
4 proposition to the proper election officials in accordance
5 with the general election law. If the proposition is to
6 impose a new real estate transfer tax, it shall be in
7 substantially the following form: "Shall (name of
8 municipality) impose a real estate transfer tax at a rate of
9 (rate) to be paid by the buyer (seller) of the real estate
10 transferred, with the revenue of the proposed transfer tax to
11 be used for (purpose)?" If the proposition is to increase
12 an existing real estate transfer tax, it shall be in the
13 following form: "Shall (name of municipality) impose a real
14 estate transfer tax increase of (percent increase) to
15 establish a new transfer tax rate of (rate) to be paid by the
16 buyer (seller) of the real estate transferred? The current
17 rate of the real estate transfer tax is (rate), and the
18 revenue is used for (purpose). The revenue from the increase
19 is to be used for (purpose).".

20 If a majority of the electors voting on the proposition
21 vote in favor of it, the municipality may impose or increase
22 the municipal real estate transfer tax or fee.

23 (f) Nothing in this amendatory Act of 1996 shall limit
24 the purposes for which real estate transfer tax revenues may
25 be collected or expended.

26 (g) A home rule municipality may not impose real estate
27 transfer taxes other than as authorized by this Section. This
28 Section is a denial and limitation of home rule powers and
29 functions under subsection (g) of Section 6 of Article VII of
30 the Illinois Constitution.

31 (Source: P.A. 89-701, eff. 1-17-97.)

32 (65 ILCS 5/8-11-6a) (from Ch. 24, par. 8-11-6a)
33 Sec. 8-11-6a. Home rule municipalities; preemption of

1 certain taxes. Except as provided in Sections 8-11-1,
2 8-11-5, 8-11-6, and 8-11-6b of this Code on and after
3 September 1, 1990, no home rule municipality has the
4 authority to impose, pursuant to its home rule authority, a
5 retailer's occupation tax, service occupation tax, use tax,
6 sales tax or other tax on the use, sale or purchase of
7 tangible personal property based on the gross receipts from
8 such sales or the selling or purchase price of said tangible
9 personal property. Notwithstanding the foregoing, this
10 Section does not preempt any home rule imposed tax such as
11 the following: (1) a tax on alcoholic beverages, whether
12 based on gross receipts, volume sold or any other
13 measurement; (2) a tax based on the number of units of
14 cigarettes or tobacco products (provided, however, that a
15 home rule municipality that has not imposed a tax based on
16 the number of units of cigarettes or tobacco products before
17 July 1, 1993, shall not impose such a tax after that date);
18 (3) a tax, however measured, based on the use of a hotel or
19 motel room or similar facility; (4) a tax, however measured,
20 on the sale or transfer of real property; (5) a tax, however
21 measured, on lease receipts; (6) a tax on food prepared for
22 immediate consumption and on alcoholic beverages sold by a
23 business which provides for on premise consumption of said
24 food or alcoholic beverages; or (7) other taxes not based on
25 the selling or purchase price or gross receipts from the use,
26 sale or purchase of tangible personal property. This Section
27 is not intended to affect any existing tax on food and
28 beverages prepared for immediate consumption on the premises
29 where the sale occurs, or any existing tax on alcoholic
30 beverages, or any existing tax imposed on the charge for
31 renting a hotel or motel room, which was in effect January
32 15, 1988, or any extension of the effective date of such an
33 existing tax by ordinance of the municipality imposing the
34 tax, which extension is hereby authorized, in any non-home

1 rule municipality in which the imposition of such a tax has
2 been upheld by judicial determination, nor is this Section
3 intended to preempt the authority granted by Public Act
4 85-1006. This Section is a limitation, pursuant to subsection
5 (g) of Section 6 of Article VII of the Illinois Constitution,
6 on the power of home rule units to tax.

7 (Source: P.A. 91-51, eff. 6-30-99.)

8 (65 ILCS 5/8-11-6b)

9 Sec. 8-11-6b. Home rule soft drink taxes.

10 (a) Except as provided in Sections 8-11-1, 8-11-5 and
11 8-11-6 of this Code, or as provided in this Section, no home
12 rule municipality has the authority to impose, pursuant to
13 its home rule authority, a tax on the sale, purchase, or use
14 of soft drinks regardless of whether the measure of the tax
15 is selling price, purchase price, gross receipts, unit of
16 volumetric measure, or any other measure. For purposes of
17 this subsection, the term "soft drink" has the meaning set
18 forth in Section 2-10 of the Retailers' Occupation Tax Act,
19 as may be amended from time to time, except that the term
20 shall not be limited to drinks contained in a closed or
21 sealed bottle, can, carton, or container. This Section is a
22 denial and limitation, under subsection (g) of Section 6 of
23 Article VII of the Illinois Constitution, on the power of
24 home rule units to tax.

25 (b) The corporate authorities of a home rule
26 municipality with a population in excess of 1,000,000 may
27 impose a tax, which shall not take effect prior to April 1,
28 1994, upon all persons engaged in the business of selling
29 soft drinks (other than fountain soft drinks) at retail in
30 the municipality based on the gross receipts from those sales
31 made in the course of such business. If imposed, the tax
32 shall only be in 1/4% increments and shall not exceed 3%. For
33 purposes of this subsection, the term "soft drink" has the

1 meaning set forth in Section 2-10 of the Retailers'
2 Occupation Tax Act, as may be amended from time to time,
3 except that the term shall not be limited to drinks contained
4 in a closed or sealed bottle, can, carton or container; the
5 term "fountain soft drinks" means soft drinks which are
6 prepared by the retail seller of the soft drinks by mixing
7 syrup or concentrate with water, by hand or through a soft
8 drink dispensing machine, at or near the point and time of
9 sale to the retail purchaser; and the term "soft drink
10 dispensing machine" means a device which mixes soft drink
11 syrup or concentrate with water and dispenses the mixture
12 into an open container as a ready to drink soft drink.

13 The tax imposed under this subsection and all civil
14 penalties that may be assessed as an incident to that tax
15 shall be collected and enforced by the Illinois Department of
16 Revenue. The Department shall have full power to administer
17 and enforce this subsection, to collect all taxes and
18 penalties so collected in the manner provided in this
19 subsection, and to determine all rights to credit memoranda
20 arising on account of the erroneous payment of tax or penalty
21 under this subsection. In the administration of and
22 compliance with this subsection, the Department and persons
23 who are subject to this subsection shall have the same
24 rights, remedies, privileges, immunities, powers and duties,
25 shall be subject to the same conditions, restrictions,
26 limitations, penalties, exclusions, exemptions, and
27 definitions of terms, and shall employ the same modes of
28 procedure applicable to the Retailers' Occupation Tax as are
29 prescribed in Sections 1, 2 through 2-65 (in respect to all
30 provisions of those Sections other than the State rate of
31 taxes), 2c, 2h, 2i, 3 (except as to the disposition of taxes
32 and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g,
33 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12, 13 and, until
34 January 1, 1994, 13.5 of the Retailers' Occupation Tax Act,

1 and on and after January 1, 1994, all applicable provisions
2 of the Uniform Penalty and Interest Act that are not
3 inconsistent with this subsection, as fully as if provisions
4 contained in those Sections of the Retailers' Occupation Tax
5 Act were set forth in this subsection.

6 Persons subject to any tax imposed under the authority
7 granted by this subsection may reimburse themselves for their
8 seller's tax liability under this subsection by separately
9 stating that tax as an additional charge, which charge may be
10 stated in combination, in a single amount, with State taxes
11 that sellers are required to collect under the Use Tax Act
12 pursuant to bracket schedules as the Department may
13 prescribe. The retailer filing the return shall, at the time
14 of filing the return, pay to the Department the amount of tax
15 imposed under this subsection, less the discount of 1.75%,
16 which is allowed to reimburse the retailer for the expenses
17 incurred in keeping records, preparing the filing returns,
18 remitting the tax, and supplying data to the Department on
19 request.

20 Whenever the Department determines that a refund should
21 be made under this subsection to a claimant instead of
22 issuing a credit memoranda, the Department shall notify the
23 State Comptroller, who shall cause a warrant to be drawn for
24 the amount specified and to the person named in the
25 notification from the Department. The refund shall be paid
26 by the State Treasurer out of the Home Rule Municipal Soft
27 Drink Retailers' Occupation Tax Fund.

28 The Department shall forthwith pay over to the State
29 Treasurer, ex officio, as trustee, all taxes and penalties
30 collected hereunder. On or before the 25th day of each
31 calendar month, the Department shall prepare and certify to
32 the Comptroller the amount to be paid to named
33 municipalities, the municipalities to be those from which
34 retailers have paid taxes or penalties hereunder to the

1 Department during the second preceding calendar month. The
2 amount to be paid to each municipality shall be the amount
3 collected hereunder during the second preceding calendar
4 month by the Department, less any amounts determined by the
5 Department to be necessary for the payment of refunds, and
6 less 4% for the first year the tax is in effect and 2%
7 thereafter of such balance, which sum shall be deposited by
8 the State Treasurer into the Tax Compliance and
9 Administration Fund in the State treasury from which it shall
10 be appropriated to the Department to cover the costs of the
11 Department in administering and enforcing the provisions of
12 this subsection. Within 10 days after receipt by the
13 Comptroller of the certification, the Comptroller shall cause
14 the orders to be drawn for the respective amount in
15 accordance with the directions contained in such
16 certification.

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

21 A certificate of registration issued by the Illinois
22 Department of Revenue to a retailer under the Retailers'
23 Occupation Tax Act shall permit the registrant to engage in a
24 business that is taxed under the tax imposed under this
25 subsection and no additional registration shall be required
26 under the ordinance imposing a tax or under this subsection.

27 A certified copy of any ordinance imposing or
28 discontinuing any tax under this subsection or effecting a
29 change in the rate of that tax shall be filed with the
30 Department, whereupon the Department shall proceed to
31 administer and enforce this subsection on behalf of such
32 municipality as of the first day of February following the
33 date of filing. This tax shall be known and cited as the
34 Home Rule Municipal Soft Drink Retailers' Occupation Tax.

1 (c) The corporate authorities of a home rule
2 municipality with a population in excess of 1,000,000 may
3 impose a tax, which shall not take effect prior to April 1,
4 1994, on persons engaged in the business of selling fountain
5 soft drinks at retail at a rate not to exceed 9% of the cost
6 price of the fountain soft drinks at retail in such
7 municipality. For purposes of this subsection, the term
8 "soft drink" has the meaning set forth in Section 2-10 of the
9 Retailers' Occupation Tax Act, as may be amended from time to
10 time, except that the term shall not be limited to drinks
11 contained in a closed or sealed bottle, can, carton, or
12 container; the term "fountain soft drinks" means soft drinks
13 which are prepared by the retail seller of the soft drinks by
14 mixing soft drink syrup or concentrate with water, by hand or
15 through a soft drink dispensing machine at or near the point
16 and time of sale to the retail purchaser; the term "soft
17 drink dispensing machine" means a device which mixes soft
18 drink syrup or concentrate with water and dispenses such
19 mixture into an open container as a ready to drink soft
20 drink; the term "sold at retail" shall mean any transfer of
21 the ownership or title to tangible personal property to a
22 purchaser, for the purpose of use or consumption, and not for
23 the purpose of resale, for valuable consideration; the term
24 "cost price of the fountain soft drinks" means the
25 consideration paid by the retail seller of the fountain soft
26 drink, valued in money, whether paid in money or otherwise,
27 including cash, credits and services, and shall be determined
28 without any deduction on account of the supplier's cost of
29 the property sold or on account or any other expenses
30 incurred by the supplier, for the purchase of soft drink
31 syrup or concentrate which is designed to be further mixed
32 with water before it is consumed as a soft drink; and the
33 term "supplier" means any person who makes sales of soft
34 drink syrup or concentrate to a retail seller of fountain

1 soft drinks for purposes of resale as fountain soft drinks.
2 The tax authorized by this subsection shall be collected,
3 enforced, and administered by the municipality imposing the
4 tax. Persons subject to the tax may reimburse themselves for
5 their tax liability hereunder by separately stating an amount
6 equal to the tax as an additional charge to their retail
7 purchasers or may include such amount as part of the selling
8 price of the soft drink. The municipality imposing the tax
9 shall provide for its collection from the person subject to
10 the tax by requiring that the supplier to the person subject
11 to the tax collect and remit the tax to the municipality. If
12 the supplier fails to collect the tax or if the person
13 subject to the tax fails to pay the tax to its supplier, the
14 person subject to the tax shall make the tax payment directly
15 to the municipality. Payment of the tax by the retailer to
16 the supplier shall relieve the retailer of any further
17 liability for the tax.

18 (d) If either tax imposed or authorized by this Section
19 8-11-6b is repealed by the General Assembly or has its
20 maximum rate reduced by the General Assembly, or is declared
21 unlawful or unconstitutional on its face by any court of
22 competent jurisdiction after all appeals have been exhausted
23 or the time to appeal has expired, then this Section 8-11-6b
24 is automatically repealed and no longer effective without
25 further action by the General Assembly.

26 (e) Notwithstanding the preemption of taxes on the sale,
27 purchase or use of soft drinks, taxes on the sale, purchase,
28 or use of soft drinks which had been imposed by a
29 municipality prior to the effective date of this amendatory
30 Act of 1993 are specifically authorized under this Section
31 for sales made on or after the effective date of this
32 amendatory Act of 1993 through March 31, 1994.

33 (Source: P.A. 88-507.)