

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 1. Short title. This Act may be cited as the
5 Tourism Preservation and Sustainability District Act.

6 Section 5. Definitions. As used in this Act:

7 "Benefit zone" means a zone (i) located within a district,
8 (ii) established by the governing body of the district based
9 upon the degree of benefit derived from the services to be
10 provided within the zone, and (iii) in which the governing
11 body may impose unique transaction charges based on the degree
12 of benefit intended to be provided.

13 "Business owner" means a hotel owner or the hotel owner's
14 representative.

15 "Clerk" means the clerk of a governing body or, if the
16 governing body has no clerk, the individual designated as the
17 clerk by the governing body.

18 "District" means a tourism preservation and sustainability
19 district created under this Act.

20 "Governing body" means the legislative body of a
21 governmental unit that establishes a district by resolution of
22 intent and ordinance under this Act.

23 "Governmental unit" means a municipality, county, or

1 township located in whole or part within the district.

2 "Hotel" means any building or buildings in which the
3 public may, for consideration, obtain living quarters or
4 sleeping or housekeeping accommodations that will benefit from
5 a district's services or improvements. "Hotel" includes, but
6 is not limited to, inns, motels, tourist homes or courts,
7 lodging houses, rooming houses, retreat centers, conference
8 centers, and hunting lodges. "Hotel" does not include a
9 short-term rental.

10 "Improvement" means the acquisition, construction,
11 installation, or maintenance of any tangible property that has
12 an estimated useful life of 5 years or more and that is
13 reasonably related to the enhancement of tourism.

14 "Local tourism and convention bureau" means either a unit
15 of local government or a nonprofit corporation (i) that has as
16 its sole purpose the promotion of tourism; (ii) that is
17 operating with a paid, full-time staff; (iii) that receives
18 local hotel or motel tax receipts from one or more
19 municipalities or counties; (iv) that represents one or more
20 municipalities or counties; and (v) that either is recognized
21 by the Department of Commerce and Economic Opportunity as a
22 certified local tourism and convention bureau or has been in
23 legal existence as a nonprofit corporation for a minimum of
24 two years before contracting with a governmental unit to
25 implement services and improvements in a district.

26 "Services" means marketing, promotions, sales efforts,

1 events, and other activities that are reasonably related to
2 the enhancement of tourism.

3 "Short-term rental" means a single-family dwelling or a
4 residential dwelling unit in a multi-unit apartment structure,
5 condominium, cooperative, timeshare, or similar joint property
6 ownership arrangement that is rented for a fee for less than 30
7 consecutive days. "Short-term rental" includes a dwelling unit
8 rented for business travel or recreation.

9 "Tourism" means travel by either State residents or
10 out-of-state visitors traveling away from home overnight in
11 paid accommodations or on day trips to places away from the
12 resident's or visitor's home.

13 "Transaction charge" means a special charge that is
14 imposed upon a hotel in a district that is either a fixed
15 dollar or percentage rate per hotel room per night.

16 Section 10. Petition and resolution of intent to create a
17 district.

18 (a) To initiate the process of creating a district,
19 business owners must file a written petition with the clerk of
20 a governmental unit in which the proposed district lies. The
21 petition must include a summary of the district plan, which
22 shall include all of the following:

23 (1) the name of the district;

24 (2) a map showing the boundaries of the district,
25 which need not be contiguous but shall not encompass more

1 than 6 counties;

2 (3) the initial and maximum rates of the transaction
3 charge for hotels within the boundaries of the district;

4 (4) the length of the proposed term of the district,
5 not to exceed 5 years upon formation or 10 additional
6 years upon each renewal;

7 (5) a brief description of the services and
8 improvements proposed to be provided by the local tourism
9 and convention bureau;

10 (6) information specifying where the complete district
11 plan can be obtained by the governing body; and

12 (7) information specifying that the complete district
13 plan shall be furnished to the governing body upon
14 request.

15 The business owners that file the petition under
16 subsection (a) must certify on the petition that they believe
17 they will pay more than 50% of the transaction charges
18 proposed to be levied by the district, as determined by the
19 last 12 months of State hotel operators' occupation taxes paid
20 preceding the date of the petition, for the proposed district.

21 Petitions may be filed with a county clerk only if more
22 than 50% of the land within the county is included in the
23 district.

24 (b) Within 60 days after the filing of the written
25 petition under subsection (a), the governing body may adopt a
26 resolution that expresses the intention to create the district

1 proposed in the written petition. The resolution of intent
2 shall include the following information:

3 (1) the name of the district;

4 (2) a description of the boundaries of the district,
5 which need not be contiguous but shall not encompass more
6 than 6 counties;

7 (3) the initial and maximum rates of the transaction
8 charge for hotels within the boundaries of the district;

9 (4) the length of the proposed term of the district,
10 not to exceed 5 years upon formation or up to 10 additional
11 years upon each renewal;

12 (5) a brief description of the services and
13 improvements proposed to be provided by the district;

14 (6) the time and place of a public hearing on the
15 formation of the proposed district; and

16 (7) a statement that any hotel proposed to be subject
17 to a transaction charge has the opportunity to be heard at
18 the public hearing regarding the district formation and an
19 opportunity to file objections to the district formation
20 with the clerk at any time prior to the conclusion of the
21 public hearing.

22 Section 15. District plan. A district plan shall be
23 prepared by the business owners who submitted the petition
24 under Section 10 before the public hearing on the proposed
25 district. The district plan shall include or identify the

1 following:

2 (1) the estimated annual budget of the district, which may
3 include specific allocations to expedite the recovery of the
4 tourism industry;

5 (2) the initial and maximum rates of the transaction
6 charge for each business that will be subject to the
7 transaction charge, in sufficient detail for each of those
8 business owners to estimate the amount of transaction charges
9 for which each hotel would be responsible;

10 (3) the method for calculating the transaction charge;

11 (4) a statement that, after the first imposition of a
12 transaction charge within the district, the transaction charge
13 may continue to be imposed until the end of the district's term
14 without the requirement of an additional public hearing if the
15 transaction charge rate does not exceed the rate specified in
16 the district plan;

17 (5) the frequency and manner that the governmental unit
18 shall collect the transaction charges;

19 (6) the frequency and manner that the governmental unit
20 shall remit the transaction charges to the local tourism and
21 convention bureau;

22 (7) the name of the district;

23 (8) the manner by which a business owner may contest the
24 calculation of the transaction charge;

25 (9) the amount or rate of penalties and interest
26 applicable to delinquent payments, if any, and the method of

1 collection of penalties and interest;

2 (10) a description of the proposed services and
3 improvements to be provided;

4 (11) a map that depicts the district's proposed boundaries
5 but need not depict every hotel;

6 (12) a map showing the district's benefit zones, if any;

7 (13) a statement that a hotel may pass a transaction
8 charge onto customers and the specific title to be used when
9 the transaction charge is passed on to the customer;

10 (14) the name and general structure of the local tourism
11 and convention bureau proposed to receive and use the revenues
12 of the transaction charges for the proposed services and
13 improvements; and

14 (15) the term of the district, which shall not exceed 5
15 years upon formation or 10 additional years upon each renewal.

16 Section 20. Territory of other governmental units in a
17 district.

18 (a) Except as provided in subsection (b), if the proposed
19 district's boundaries include territory of a governmental unit
20 other than the governmental unit in which the petition was
21 filed under Section 10, the governmental unit in which the
22 petition was filed must enter into an intergovernmental
23 agreement with the other governmental unit authorizing, on
24 mutually agreed terms, the governmental unit in which the
25 petition was filed to form or renew the district and to perform

1 any action authorized under this Act.

2 (b) If a petition under Section 10 is filed with the clerk
3 of a municipality and the proposed district boundaries do not
4 extend beyond the boundaries of the municipality, the
5 municipality may form or renew the district without an
6 intergovernmental agreement with a county or township that has
7 territory within the municipality.

8 If a petition under Section 10 is filed with the clerk of a
9 township and the proposed district boundaries do not extend
10 beyond the boundaries of the township, the township may form
11 or renew the district without an intergovernmental agreement
12 with the county in which the township lies, but the township
13 must enter into an intergovernmental agreement with any
14 municipality that has territory within the township.

15 If a petition under Section 10 is filed with the clerk of a
16 county and the proposed district boundaries are solely within
17 the county, the county may form or renew the district without
18 an intergovernmental agreement with any municipalities or
19 townships with territory within the county. If a petition
20 under Section 10 is filed with the clerk of a county and the
21 proposed district boundaries includes portions of another
22 county, the county in which the petition was filed must only
23 enter into an intergovernmental agreement with the county or
24 counties in which the other territory is situated in order to
25 form or renew a district.

1 Section 25. Public hearing.

2 (a) The governing body shall hold a public hearing on the
3 proposed district at the day and time indicated in the
4 resolution of intent. The governing body shall give notice of
5 the public hearing by United States mail to each governmental
6 unit within the district and each business owner that may be
7 subjected to a transaction charge, based on the governmental
8 unit's most recent records. The notice shall include the
9 resolution of intent and the name, address, email address, and
10 phone number of the clerk of the governing body, and it shall
11 be mailed not less than 30 days before the public hearing.

12 (b) At the hearing, the governing body shall consider
13 public testimony regarding the proposed district. Any business
14 owner that may be subjected to a transaction charge may submit
15 a written objection to the formation of the district to the
16 clerk at any time before voting has begun on the formation
17 ordinance. If written objections are received from hotels that
18 would pay 50% or more of the proposed transaction charges in
19 the proposed district, as determined by the last 12 months of
20 State hotel operators' occupation taxes paid preceding the
21 date of the petition, the hearing shall end and no further
22 proceedings to form a district may be undertaken by the
23 governmental unit for a period of one year from the date of the
24 hearing.

25 The hearing may be adjourned to another date without
26 further notice, other than a motion to be entered upon the

1 minutes fixing the time and place the governing body will
2 reconvene.

3 (c) At the public hearing, the governing body may remove
4 territory or hotels from the district that will not benefit
5 from the district's services or improvements, reduce a
6 transaction charge rate, or make administrative clarifications
7 to the district plan.

8 (d) If, at the conclusion of the public hearing, the clerk
9 determines that the written objections submitted under
10 subsection (b) do not represent hotels that would pay 50% or
11 more of the proposed transaction charges, as determined by the
12 last 12 months of State hotel operators' occupation taxes paid
13 preceding the date of the petition, then the governing body
14 may adopt an ordinance forming the district under Section 30.

15 Section 30. Formation ordinance; management of funds.

16 (a) The formation ordinance shall contain:

17 (1) the date the district is established;

18 (2) a reference to the district plan, which shall be
19 on file and available for inspection with the clerk;

20 (3) a statement that the clerk determined that the
21 total amount of written objections received from hotels
22 that will be subjected to a transaction charge did not
23 represent hotels that would pay 50% or more of the
24 proposed transaction charges, as determined by the last 12
25 months of State hotel operators' occupation taxes paid

1 preceding the date of the petition;

2 (4) the name of the district;

3 (5) the effective date of the transaction charge;

4 (6) the term of the district, not to exceed 5 years
5 upon formation or up to 10 additional years upon each
6 renewal;

7 (7) a description of the boundaries of the district,
8 which need not be contiguous but shall not encompass more
9 than 6 counties;

10 (8) the name of the local tourism and convention
11 bureau and authorization for the governmental unit to
12 remit the collected transaction charges to the local
13 tourism and convention bureau in exchange for the local
14 tourism and convention bureau providing services and
15 improvements; and

16 (9) the amount, if any, that the governmental unit
17 will retain of the total amount of transaction charges
18 collected to defray (in whole or in part) the governmental
19 unit's administrative costs related to the district, in an
20 amount not more than 2% of the collected transaction
21 charges.

22 (b) Before a tourism and convention bureau may receive
23 transaction charges under this Act, the tourism and convention
24 bureau must be organized as follows:

25 (1) for a local tourism and convention bureau that is
26 a unit of local government that does not have a nonprofit

1 corporation existing on the date the formation ordinance
2 is adopted, the local tourism and convention bureau must
3 create a nonprofit corporation solely for purposes of this
4 Act and that corporation's certificate of incorporation or
5 bylaws must provide that the Board of Directors of the
6 nonprofit corporation must be composed of the business
7 owners subject to the transaction charge, or their
8 designees, and the Board of Directors shall be responsible
9 for managing funds raised by the district for the local
10 tourism and convention bureau, which shall fulfill the
11 obligations of the district plan; or

12 (2) for a local tourism and convention bureau that is
13 a nonprofit corporation, the local tourism and convention
14 bureau must create a committee composed of the business
15 owners subject to the transaction charge, or their
16 designees, and the committee shall be responsible for
17 managing funds raised by the district and fulfilling the
18 obligations of the district plan.

19 Section 35. Baseline funding and services. The funds for
20 services and improvements that are provided to a local tourism
21 and convention bureau for purposes of this Act shall be
22 considered supplemental funding and services and shall not
23 supplant existing funding or services provided by the State or
24 any unit of local government.

1 Section 40. Annual report.

2 (a) Each year, a local tourism and convention bureau that
3 receives transaction charges shall submit to the governing
4 body a report of the bureau's activities and expenditures. The
5 report shall be submitted no later than 30 days after the
6 anniversary of the date upon which the transaction charge is
7 first imposed. The report shall include:

8 (1) a summary of the activities provided in the
9 previous year through use of the transaction charges;

10 (2) a summary of the expenditures for the previous
11 year showing the use of the transaction charges;

12 (3) the amount of any revenue from transaction charges
13 to be carried over from prior years;

14 (4) a list of the directors and officers of the local
15 tourism and convention bureau; and

16 (5) a list of the accomplishments, improvements, and
17 services attributable to the district.

18 (b) The governing body shall also submit to the Department
19 of Commerce and Economic Opportunity, no later than 60 days
20 after the anniversary of the date upon which the transaction
21 charge is first imposed, the annual report provided by the
22 local tourism and convention bureau and a report of the amount
23 of total revenue received from the transaction charges and how
24 much the governmental unit, if any, withheld for
25 administrative costs related to the district under the
26 district plan.

1 Section 45. Modification.

2 (a) Upon a written request from business owners whose
3 hotels pay the majority of the transaction charges proposed to
4 be levied by a district, as determined by the last 12 months of
5 State and local taxes paid from the date of the written
6 request, the governing body of the district shall, after
7 providing notice, hold a public hearing as provided in Section
8 25 for modifications to the district for any one or more of the
9 following purposes:

10 (1) to increase, in any year other than the initial
11 year, the rate of a transaction charge to an amount
12 exceeding the maximum rate described in the district plan;

13 (2) to change the boundaries of the district; or

14 (3) for any other purpose that is agreed to by the
15 governing body.

16 (b) Any modification shall be reflected in an updated
17 district plan to be on file and available for inspection with
18 the clerk.

19 (c) If the governmental unit is a county, the county may
20 not modify the district boundaries to include less than 50% of
21 the land within the county.

22 Section 50. Transaction charges; collection and
23 remittance. Transaction charges paid by a hotel shall be
24 collected by the governmental unit that passed the ordinance

1 creating the district. The collected transaction charges shall
2 be remitted on a prompt basis by the governmental unit that
3 passed the ordinance creating the district to the local
4 tourism and convention bureau in accordance with the district
5 plan and the formation ordinance. During any period that the
6 governmental unit that passed the ordinance creating the
7 district may hold the collected transaction charges, the
8 governmental unit shall at all times maintain the collected
9 transaction charges in a specially designated fund segregated
10 from all other funds.

11 Collected transaction charges held by the governmental
12 unit that passed the ordinance creating the district may not
13 be commingled with other funds of the governmental unit or
14 units.

15 A transaction charge may not exceed 5% of the hotel room
16 rate per occupied hotel room per night and may not be imposed
17 upon any customer transactions at restaurants or for food,
18 drinks, or merchandise. In addition, a transaction charge may
19 not be charged for the rental of hotel rooms to a permanent
20 occupant of a hotel. As used in this paragraph, "permanent
21 occupant" means a person or company that occupies or has the
22 right to occupy a hotel room for at least 30 consecutive days.

23 Section 55. Renewal. Before a district's term expires, the
24 district may be renewed by following the petition process
25 outlined in Section 10, creating a new district plan under

1 Section 15, and adopting a new formation ordinance following
2 the procedures detailed in Sections 25, 30, and 35 on or before
3 the date the district's term expires. The governmental unit
4 that passed the ordinance creating the district must enter
5 into, amend, or extend all intergovernmental agreements, if
6 applicable, as required by Section 20 before renewing a
7 district.

8 If the district's term expires, any funds remaining from
9 transaction charges shall be used in accordance with the
10 district plan or refunded to the hotels in equal proportion to
11 the amount of transaction charges paid by each hotel.

12 Section 60. Termination.

13 (a) The governing body of a district may initiate
14 termination of the district by either of the following
15 methods:

16 (1) The governing body may hold a public hearing to
17 determine if there has been a violation of law,
18 malfeasance, or misappropriation of funds.

19 (2) If written objections are filed with the clerk
20 from the business owners that, in the most recently
21 completed fiscal year, paid 50% or more of the transaction
22 charges or if, in the case of a district that has not
23 completed a fiscal year, written objections are received
24 from business owners that paid 50% or more of the
25 transaction charges following the initial imposition of

1 the transaction charges would be expected to pay, as
2 determined by the last 12 months of State hotel operators'
3 occupation taxes paid, then the governing body may hold a
4 public hearing within 45 days after the anniversary of the
5 district's formation to discuss the written objections. A
6 written objection under this paragraph must be signed by
7 the business owner and dated within 30 days before
8 submission to the clerk and must contain a statement as to
9 why the district should be terminated. Written objections
10 under this paragraph may be submitted only during the 30
11 days before the anniversary of the district's formation.

12 (b) After holding a hearing under paragraph (1) of
13 subsection (a) at which the governing body finds that there
14 has been a violation of law, malfeasance, or misappropriation
15 of funds, the governing body shall: (i) notify the local
16 tourism and convention bureau to remedy the violation within
17 30 days; or (ii) either in the public meeting held under
18 paragraph (1) of subsection (a) or a separate public meeting,
19 approve a plan for the local tourism and convention bureau to
20 remedy violations. If the local tourism and convention bureau
21 does not remedy the violations within 30 days after
22 notification or the violations are not remedied according to
23 the governing body's plan to remedy the violation, the
24 governing body may terminate the district by ordinance or
25 resolution.

26 In a hearing under paragraph (2) of subsection (a), the

1 governing body shall determine if the reasons for termination
2 in the written objections justify termination of the district
3 and, if the governing body finds that the reasons do justify
4 termination, may terminate the district by ordinance or
5 resolution.

6 (c) A public hearing held under this Section shall be held
7 only after notice has been given to the business owners and the
8 local tourism and convention bureau not less than 30 days
9 before the hearing.

10 (d) Upon termination, any funds remaining shall be used by
11 the local tourism and convention bureau in accordance with the
12 district plan or refunded to the hotels in equal proportion to
13 the amount of transaction charges paid by each hotel, as
14 required by the governing body in the ordinance or resolution
15 terminating the district.

16 Section 65. Contesting validity. The validity of a
17 district created, district plan established, or transaction
18 charge imposed under this Act may not be contested in any
19 action or proceeding unless the action or proceeding is
20 commenced within 30 days after the formation ordinance is
21 adopted or, with respect to modifications to a district plan,
22 within 30 days after a district plan has been modified. If a
23 party appeals a final judgment, the party filing the appeal
24 shall request discretionary acceleration under Supreme Court
25 Rule 311(b).

1 Section 70. No limitation on home rule. The powers granted
2 to a governmental unit in this Act are not a limitation on the
3 powers of a home rule unit granted by Article VII of the
4 Illinois Constitution.

5 Section 75. Special service areas and business improvement
6 districts. Nothing in this Act prevents a tourism preservation
7 and sustainability district from sharing area with a special
8 service area or a business improvement district.

9 Section 80. Hotel operator's occupation tax information.
10 Upon request of a governmental unit for information relating
11 to the amount of State hotel operators' occupation taxes paid
12 by hotels within a proposed or existing tourism preservation
13 and sustainability district, the Department of Revenue shall
14 provide information or documents to the governmental unit so
15 that the governmental unit may determine State hotel
16 operators' occupation taxes paid as needed under this Act. The
17 Department shall make available to the governmental unit
18 information contained on transaction reporting returns
19 required to be filed under Section 6 of the Hotel Operators'
20 Occupation Tax Act that report the amount of rental receipts
21 received within the proposed or existing tourism preservation
22 and sustainability district. The disclosure shall be made
23 pursuant to a written agreement between the Department and the

1 governmental unit, which is an official purpose within the
2 meaning of Section 11 of the Retailers' Occupation Tax Act.
3 The written agreement between the Department and the
4 governmental unit shall provide for reciprocity, limitations
5 on access, disclosure, and procedures for requesting
6 information. Information so provided shall be subject to all
7 confidentiality provisions of Section 11 of the Retailers'
8 Occupation Tax Act.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.