

1 AMENDMENT TO HOUSE BILL 6012

2 AMENDMENT NO. _____. Amend House Bill 6012, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Simplified Municipal Telecommunications
6 Tax Act is amended by adding Section 5-42 as follows:

7 (35 ILCS 636/5-42 new)

8 Sec. 5-42. Procedure for correcting tax jurisdiction
9 errors.

10 (a) If a person believes that he or she is improperly
11 being charged a tax imposed under this Act because his or her
12 service address for non-mobile telecommunications or his or
13 her place of primary use for mobile telecommunications
14 service is located outside of the jurisdictional boundaries
15 of the municipality for which he or she is being charged tax
16 under this Act, that person may make a written request to the
17 Department for a determination of whether the person's place
18 of primary use for mobile telecommunications service or the
19 service address for non-mobile telecommunications is located
20 within the jurisdictional boundaries of the municipality for
21 which he or she is being charged tax under this Act. The
22 notification shall be on a form prescribed by the Department

1 and shall include the street address for her or his place of
2 primary use for mobile telecommunications service or the
3 service address for non-mobile telecommunications, the name
4 and address of the telecommunications retailer who is
5 collecting the tax imposed by this Act, the account name and
6 number for which the person seeks a correction of the tax
7 assignment, a description of the error asserted by that
8 person, and any other information that the Department may
9 reasonably require to process the request.

10 For purposes of this Section, the terms "place of primary
11 use" and "mobile telecommunications service" shall have the
12 same meanings as those terms are defined in the Mobile
13 Telecommunications Sourcing Conformity Act.

14 (b) The Department shall review the request for
15 determination and make all reasonable efforts to determine if
16 the person's place of primary use for mobile
17 telecommunications service or the service address for
18 non-mobile telecommunications is located within the
19 jurisdictional boundaries of the municipality for which he or
20 she is being charged tax under this Act. Upon request by the
21 Department, municipalities that have imposed a tax under this
22 Act shall timely provide information to the Department
23 regarding the requests for determination. The municipality
24 shall have 30 days to respond to the request submitted by the
25 Department.

26 (c) Within 90 days after receipt of a request for
27 determination under subsection (a) of this Section, the
28 Department shall issue a letter of determination to the
29 person stating whether that person's place of primary use for
30 mobile telecommunications service or the service address for
31 non-mobile telecommunications is located within the
32 jurisdictional boundaries of the municipality for which the
33 person is being charged tax under this Act. The Department
34 shall also list on the letter of determination its findings

1 as to the limit of the jurisdictional boundary for the
2 municipality in relation to the street listed in the request
3 for a letter of determination. A copy of the letter of
4 determination shall be provided by the Department to the
5 telecommunications retailer listed on the request for
6 determination.

7 (d) If the telecommunications retailer receives a copy
8 of the letter of determination from the Department described
9 in subsection (c) of this Section that states that the
10 person's place of primary use for mobile telecommunications
11 service or the service address for non-mobile
12 telecommunications is not located within the jurisdictional
13 boundaries of the municipality for which the person is being
14 charged tax under this Act, the telecommunications retailer
15 shall correct the error and refund or credit the appropriate
16 amount of tax paid in error by the person in any period still
17 available for the filing of a claim for credit or refund by
18 the telecommunications retailer under this Act. The
19 telecommunications retailer shall retain a copy of the letter
20 of determination in its books and records. The Department may
21 not assess tax, penalty, or interest on the service addresses
22 or places of primary use on that street that are disclosed in
23 the letter as being outside the municipality's jurisdictional
24 boundaries. If the Department subsequently receives
25 information that discloses that the service addresses or
26 places of primary use on that street are within the
27 jurisdictional boundaries of the municipality, the Department
28 shall notify the telecommunications retailer in writing that
29 they are to begin collecting tax on the accounts associated
30 with those service addresses or places of primary use. The
31 notification to begin collecting tax on the accounts sent by
32 the Department to the telecommunications retailers prior to
33 any April 1 or October 1 shall be effective with respect to
34 gross charges billed to those accounts on or after the

1 following July 1 or January 1, respectively.

2 (e) If the telecommunications retailer receives a copy
3 of the letter of determination from the Department described
4 in subsection (c) of this Section that states that the
5 person's place of primary use for mobile telecommunications
6 service or the service address for non-mobile
7 telecommunications is not located within the jurisdictional
8 boundaries of the municipality for which the person is being
9 charged tax under this Act and the telecommunications
10 retailer fails to correct the error and refund or credit the
11 appropriate amount of tax paid in error within 60 days after
12 the date the copy of the letter of determination was sent by
13 the Department, the person shall have a cause of action in
14 the circuit court of the person's county of residence to
15 compel the telecommunications retailer to correct the alleged
16 error and refund or credit the appropriate amount of tax. If
17 the person prevails in circuit court, he or she shall be
18 entitled to attorney's fees, costs, and 4 times the amount of
19 the improperly charged tax.

20 (f) If the telecommunications retailer receives a copy
21 of the letter of determination from the Department described
22 in subsection (c) of this Section that states that the
23 person's place of primary use for mobile telecommunications
24 service or the service address for non-mobile
25 telecommunications is located within the jurisdictional
26 boundaries of the municipality for which the person is being
27 charged tax under this Act, the telecommunications retailer
28 shall continue to charge the tax. If the person seeking the
29 determination is dissatisfied with the Department's
30 determination, the person shall have a cause of action in the
31 circuit court of his or her county of residence to compel the
32 telecommunications retailer to correct the alleged error and
33 refund or credit the appropriate amount of tax.

1 Section 99. Effective date. This Act takes effect on July
2 1, 2002."