

AN ACT concerning local government.

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

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

Section 5. Definitions. As used in this Act:

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

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

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

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

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

"Governmental unit" means a municipality, county, or

township located in whole or part within the district.

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

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

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

"Services" means marketing, promotions, sales efforts,

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

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

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

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

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

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

- (1) the name of the district;
- (2) a map showing the boundaries of the district, which need not be contiguous but shall not encompass more

than 6 counties;

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

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

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

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

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

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

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

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

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

- (1) the name of the district;
- (2) a description of the boundaries of the district, which need not be contiguous but shall not encompass more than 6 counties;
- (3) the initial and maximum rates of the transaction charge for hotels within the boundaries of the district;
- (4) the length of the proposed term of the district, not to exceed 5 years upon formation or up to 10 additional years upon each renewal;
- (5) a brief description of the services and improvements proposed to be provided by the district;
- (6) the time and place of a public hearing on the formation of the proposed district; and
- (7) a statement that any hotel proposed to be subject to a transaction charge has the opportunity to be heard at the public hearing regarding the district formation and an opportunity to file objections to the district formation with the clerk at any time prior to the conclusion of the public hearing.

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

following:

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

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

(3) the method for calculating the transaction charge;

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

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

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

(7) the name of the district;

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

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

collection of penalties and interest;

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

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

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

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

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

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

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

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

any action authorized under this Act.

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

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

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

Section 25. Public hearing.

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

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

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

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

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

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

Section 30. Formation ordinance; management of funds.

(a) The formation ordinance shall contain:

- (1) the date the district is established;
- (2) a reference to the district plan, which shall be on file and available for inspection with the clerk;
- (3) a statement that the clerk determined that the total amount of written objections received from hotels that will be subjected to a transaction charge did not represent hotels that would pay 50% or more of the proposed transaction charges, as determined by the last 12 months of State hotel operators' occupation taxes paid

preceding the date of the petition;

(4) the name of the district;

(5) the effective date of the transaction charge;

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

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

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

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

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

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

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

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

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

Section 40. Annual report.

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

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

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

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

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

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

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

Section 45. Modification.

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 60. Termination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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