

AN ACT concerning local government.

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

Section 5. The Innovation Development and Economy Act is amended by changing Section 10 as follows:

(50 ILCS 470/10)

Sec. 10. Definitions. As used in this Act, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the context:

"Base year" means the calendar year immediately prior to the calendar year in which the STAR bond district is established.

"Commence work" means the manifest commencement of actual operations on the development site, such as, erecting a building, general on-site and off-site grading and utility installations, commencing design and construction documentation, ordering lead-time materials, excavating the ground to lay a foundation or a basement, or work of like description which a reasonable person would recognize as being done with the intention and purpose to continue work until the project is completed.

"County" means the county in which a proposed STAR bond district is located.

"De minimus" means an amount less than 15% of the land area within a STAR bond district.

"Department of Revenue" means the Department of Revenue of the State of Illinois.

"Destination user" means an owner, operator, licensee, co-developer, subdeveloper, or tenant (i) that operates a business within a STAR bond district that is a retail store having at least 150,000 square feet of sales floor area; (ii) that at the time of opening does not have another Illinois location within a 70 mile radius; (iii) that has an annual average of not less than 30% of customers who travel from at least 75 miles away or from out-of-state, as demonstrated by data from a comparable existing store or stores, or, if there is no comparable existing store, as demonstrated by an economic analysis that shows that the proposed retailer will have an annual average of not less than 30% of customers who travel from at least 75 miles away or from out-of-state; and (iv) that makes an initial capital investment, including project costs and other direct costs, of not less than \$30,000,000 for such retail store.

"Destination hotel" means a hotel (as that term is defined in Section 2 of the Hotel Operators' Occupation Tax Act) complex having at least 150 guest rooms and which also includes a venue for entertainment attractions, rides, or other activities oriented toward the entertainment and amusement of its guests and other patrons.

"Developer" means any individual, corporation, trust, estate, partnership, limited liability partnership, limited liability company, or other entity. The term does not include a not-for-profit entity, political subdivision, or other agency or instrumentality of the State.

"Director" means the Director of Revenue, who shall consult with the Director of Commerce and Economic Opportunity in any approvals or decisions required by the Director under this Act.

"Economic impact study" means a study conducted by an independent economist to project the financial benefit of the proposed STAR bond project to the local, regional, and State economies, consider the proposed adverse impacts on similar projects and businesses, as well as municipalities within the projected market area, and draw conclusions about the net effect of the proposed STAR bond project on the local, regional, and State economies. A copy of the economic impact study shall be provided to the Director for review.

"Eligible area" means any improved or vacant area that (i) is contiguous and is not, in the aggregate, less than 250 acres nor more than 500 acres which must include only parcels of real property directly and substantially benefited by the proposed STAR bond district plan, (ii) is adjacent to a federal interstate highway, (iii) is within one mile of 2 State highways, (iv) is within one mile of an entertainment user, or a major or minor league sports stadium or other similar entertainment venue that had an initial capital investment of

at least \$20,000,000, and (v) includes land that was previously surface or strip mined. The area may be bisected by streets, highways, roads, alleys, railways, bike paths, streams, rivers, and other waterways and still be deemed contiguous. In addition, in order to constitute an eligible area one of the following requirements must be satisfied and all of which are subject to the review and approval of the Director as provided in subsection (d) of Section 15:

(a) the governing body of the political subdivision shall have determined that the area meets the requirements of a "blighted area" as defined under the Tax Increment Allocation Redevelopment Act; or

(b) the governing body of the political subdivision shall have determined that the area is a blighted area as determined under the provisions of Section 11-74.3-5 of the Illinois Municipal Code; or

(c) the governing body of the political subdivision shall make the following findings:

(i) that the vacant portions of the area have remained vacant for at least one year, or that any building located on a vacant portion of the property was demolished within the last year and that the building would have qualified under item (ii) of this subsection;

(ii) if portions of the area are currently developed, that the use, condition, and character of

the buildings on the property are not consistent with the purposes set forth in Section 5;

(iii) that the STAR bond district is expected to create or retain job opportunities within the political subdivision;

(iv) that the STAR bond district will serve to further the development of adjacent areas;

(v) that without the availability of STAR bonds, the projects described in the STAR bond district plan would not be possible;

(vi) that the master developer meets high standards of creditworthiness and financial strength as demonstrated by one or more of the following: (i) corporate debenture ratings of BBB or higher by Standard & Poor's Corporation or Baa or higher by Moody's Investors Service, Inc.; (ii) a letter from a financial institution with assets of \$10,000,000 or more attesting to the financial strength of the master developer; or (iii) specific evidence of equity financing for not less than 10% of the estimated total STAR bond project costs;

(vii) that the STAR bond district will strengthen the commercial sector of the political subdivision;

(viii) that the STAR bond district will enhance the tax base of the political subdivision; and

(ix) that the formation of a STAR bond district is

in the best interest of the political subdivision.

"Entertainment user" means an owner, operator, licensee, co-developer, subdeveloper, or tenant that operates a business within a STAR bond district that has a primary use of providing a venue for entertainment attractions, rides, or other activities oriented toward the entertainment and amusement of its patrons, occupies at least 20 acres of land in the STAR bond district, and makes an initial capital investment, including project costs and other direct and indirect costs, of not less than \$25,000,000 for that venue.

"Feasibility study" means a feasibility study as defined in subsection (b) of Section 20.

"Infrastructure" means the public improvements and private improvements that serve the public purposes set forth in Section 5 of this Act and that benefit the STAR bond district or any STAR bond projects, including, but not limited to, streets, drives and driveways, traffic and directional signs and signals, parking lots and parking facilities, interchanges, highways, sidewalks, bridges, underpasses and overpasses, bike and walking trails, sanitary storm sewers and lift stations, drainage conduits, channels, levees, canals, storm water detention and retention facilities, utilities and utility connections, water mains and extensions, and street and parking lot lighting and connections.

"Local sales taxes" means any locally imposed taxes received by a municipality, county, or other local governmental

entity arising from sales by retailers and servicemen within a STAR bond district, including business district sales taxes and STAR bond occupation taxes, and that portion of the net revenue realized under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act from transactions at places of business located within a STAR bond district that is deposited into the Local Government Tax Fund and the County and Mass Transit District Fund. For the purpose of this Act, "local sales taxes" does not include (i) any taxes authorized pursuant to the Local Mass Transit District Act or ~~7~~ the Metro-East Park and Recreation District Act, ~~or the Flood Prevention District Act~~ for so long as the applicable taxing district does not impose a tax on real property, ~~or~~ (ii) county school facility occupation taxes imposed pursuant to Section 5-1006.7 of the Counties Code, or (iii) any taxes authorized under the Flood Prevention District Act.

"Local sales tax increment" means, with respect to local sales taxes administered by the Illinois Department of Revenue, (i) all of the local sales tax paid by destination users, destination hotels, and entertainment users that is in excess of the local sales tax paid by destination users, destination hotels, and entertainment users for the same month in the base year, as determined by the Illinois Department of Revenue, (ii) in the case of a municipality forming a STAR bond district that is wholly within the corporate boundaries of the municipality

and in the case of a municipality and county forming a STAR bond district that is only partially within such municipality, that portion of the local sales tax paid by taxpayers that are not destination users, destination hotels, or entertainment users that is in excess of the local sales tax paid by taxpayers that are not destination users, destination hotels, or entertainment users for the same month in the base year, as determined by the Illinois Department of Revenue, and (iii) in the case of a county in which a STAR bond district is formed that is wholly within a municipality, that portion of the local sales tax paid by taxpayers that are not destination users, destination hotels, or entertainment users that is in excess of the local sales tax paid by taxpayers that are not destination users, destination hotels, or entertainment users for the same month in the base year, as determined by the Illinois Department of Revenue, but only if the corporate authorities of the county adopts an ordinance, and files a copy with the Department within the same time frames as required for STAR bond occupation taxes under Section 31, that designates the taxes referenced in this clause (iii) as part of the local sales tax increment under this Act. "Local sales tax increment" means, with respect to local sales taxes administered by a municipality, county, or other unit of local government, that portion of the local sales tax that is in excess of the local sales tax for the same month in the base year, as determined by the respective municipality, county, or other unit of local

government. If any portion of local sales taxes are, at the time of formation of a STAR bond district, already subject to tax increment financing under the Tax Increment Allocation Redevelopment Act, then the local sales tax increment for such portion shall be frozen at the base year established in accordance with this Act, and all future incremental increases shall be included in the "local sales tax increment" under this Act. Any party otherwise entitled to receipt of incremental local sales tax revenues through an existing tax increment financing district shall be entitled to continue to receive such revenues up to the amount frozen in the base year. Nothing in this Act shall affect the prior qualification of existing redevelopment project costs incurred that are eligible for reimbursement under the Tax Increment Allocation Redevelopment Act. In such event, prior to approving a STAR bond district, the political subdivision forming the STAR bond district shall take such action as is necessary, including amending the existing tax increment financing district redevelopment plan, to carry out the provisions of this Act. The Illinois Department of Revenue shall allocate the local sales tax increment only if the local sales tax is administered by the Department.

"Market study" means a study to determine the ability of the proposed STAR bond project to gain market share locally and regionally and to remain profitable past the term of repayment of STAR bonds.

"Master developer" means a developer cooperating with a political subdivision to plan, develop, and implement a STAR bond project plan for a STAR bond district. Subject to the limitations of Section 25, the master developer may work with and transfer certain development rights to other developers for the purpose of implementing STAR bond project plans and achieving the purposes of this Act. A master developer for a STAR bond district shall be appointed by a political subdivision in the resolution establishing the STAR bond district, and the master developer must, at the time of appointment, own or have control of, through purchase agreements, option contracts, or other means, not less than 50% of the acreage within the STAR bond district and the master developer or its affiliate must have ownership or control on June 1, 2010.

"Master development agreement" means an agreement between the master developer and the political subdivision to govern a STAR bond district and any STAR bond projects.

"Municipality" means the city, village, or incorporated town in which a proposed STAR bond district is located.

"Pledged STAR revenues" means those sales tax and revenues and other sources of funds pledged to pay debt service on STAR bonds or to pay project costs pursuant to Section 30. Notwithstanding any provision to the contrary, the following revenues shall not constitute pledged STAR revenues or be available to pay principal and interest on STAR bonds: any

State sales tax increment or local sales tax increment from a retail entity initiating operations in a STAR bond district while terminating operations at another Illinois location within 25 miles of the STAR bond district. For purposes of this paragraph, "terminating operations" means a closing of a retail operation that is directly related to the opening of the same operation or like retail entity owned or operated by more than 50% of the original ownership in a STAR bond district within one year before or after initiating operations in the STAR bond district, but it does not mean closing an operation for reasons beyond the control of the retail entity, as documented by the retail entity, subject to a reasonable finding by the municipality (or county if such retail operation is not located within a municipality) in which the terminated operations were located that the closed location contained inadequate space, had become economically obsolete, or was no longer a viable location for the retailer or serviceman.

"Political subdivision" means a municipality or county which undertakes to establish a STAR bond district pursuant to the provisions of this Act.

"Project costs" means and includes the sum total of all costs incurred or estimated to be incurred on or following the date of establishment of a STAR bond district that are reasonable or necessary to implement a STAR bond district plan or any STAR bond project plans, or both, including costs incurred for public improvements and private improvements that

serve the public purposes set forth in Section 5 of this Act.

Such costs include without limitation the following:

(a) costs of studies, surveys, development of plans and specifications, formation, implementation, and administration of a STAR bond district, STAR bond district plan, any STAR bond projects, or any STAR bond project plans, including, but not limited to, staff and professional service costs for architectural, engineering, legal, financial, planning, or other services, provided however that no charges for professional services may be based on a percentage of the tax increment collected and no contracts for professional services, excluding architectural and engineering services, may be entered into if the terms of the contract extend beyond a period of 3 years;

(b) property assembly costs, including, but not limited to, acquisition of land and other real property or rights or interests therein, located within the boundaries of a STAR bond district, demolition of buildings, site preparation, site improvements that serve as an engineered barrier addressing ground level or below ground environmental contamination, including, but not limited to, parking lots and other concrete or asphalt barriers, the clearing and grading of land, and importing additional soil and fill materials, or removal of soil and fill materials from the site;

(c) subject to paragraph (d), costs of buildings and other vertical improvements that are located within the boundaries of a STAR bond district and owned by a political subdivision or other public entity, including without limitation police and fire stations, educational facilities, and public restrooms and rest areas;

(c-1) costs of buildings and other vertical improvements that are located within the boundaries of a STAR bond district and owned by a destination user or destination hotel; except that only 2 destination users in a STAR bond district and one destination hotel are eligible to include the cost of those vertical improvements as project costs;

(c-5) costs of buildings; rides and attractions, which include carousels, slides, roller coasters, displays, models, towers, works of art, and similar theme and amusement park improvements; and other vertical improvements that are located within the boundaries of a STAR bond district and owned by an entertainment user; except that only one entertainment user in a STAR bond district is eligible to include the cost of those vertical improvements as project costs;

(d) costs of the design and construction of infrastructure and public works located within the boundaries of a STAR bond district that are reasonable or necessary to implement a STAR bond district plan or any

STAR bond project plans, or both, except that project costs shall not include the cost of constructing a new municipal public building principally used to provide offices, storage space, or conference facilities or vehicle storage, maintenance, or repair for administrative, public safety, or public works personnel and that is not intended to replace an existing public building unless the political subdivision makes a reasonable determination in a STAR bond district plan or any STAR bond project plans, supported by information that provides the basis for that determination, that the new municipal building is required to meet an increase in the need for public safety purposes anticipated to result from the implementation of the STAR bond district plan or any STAR bond project plans;

(e) costs of the design and construction of the following improvements located outside the boundaries of a STAR bond district, provided that the costs are essential to further the purpose and development of a STAR bond district plan and either (i) part of and connected to sewer, water, or utility service lines that physically connect to the STAR bond district or (ii) significant improvements for adjacent offsite highways, streets, roadways, and interchanges that are approved by the Illinois Department of Transportation. No other cost of infrastructure and public works improvements located outside the boundaries of a STAR bond district may be

deemed project costs;

(f) costs of job training and retraining projects, including the cost of "welfare to work" programs implemented by businesses located within a STAR bond district;

(g) financing costs, including, but not limited to, all necessary and incidental expenses related to the issuance of obligations and which may include payment of interest on any obligations issued hereunder including interest accruing during the estimated period of construction of any improvements in a STAR bond district or any STAR bond projects for which such obligations are issued and for not exceeding 36 months thereafter and including reasonable reserves related thereto;

(h) to the extent the political subdivision by written agreement accepts and approves the same, all or a portion of a taxing district's capital costs resulting from a STAR bond district or STAR bond projects necessarily incurred or to be incurred within a taxing district in furtherance of the objectives of a STAR bond district plan or STAR bond project plans;

(i) interest cost incurred by a developer for project costs related to the acquisition, formation, implementation, development, construction, and administration of a STAR bond district, STAR bond district plan, STAR bond projects, or any STAR bond project plans

provided that:

(i) payment of such costs in any one year may not exceed 30% of the annual interest costs incurred by the developer with regard to the STAR bond district or any STAR bond projects during that year; and

(ii) the total of such interest payments paid pursuant to this Act may not exceed 30% of the total cost paid or incurred by the developer for a STAR bond district or STAR bond projects, plus project costs, excluding any property assembly costs incurred by a political subdivision pursuant to this Act;

(j) costs of common areas located within the boundaries of a STAR bond district;

(k) costs of landscaping and plantings, retaining walls and fences, man-made lakes and ponds, shelters, benches, lighting, and similar amenities located within the boundaries of a STAR bond district;

(l) costs of mounted building signs, site monument, and pylon signs located within the boundaries of a STAR bond district; or

(m) if included in the STAR bond district plan and approved in writing by the Director, salaries or a portion of salaries for local government employees to the extent the same are directly attributable to the work of such employees on the establishment and management of a STAR bond district or any STAR bond projects.

Except as specified in items (a) through (m), "project costs" shall not include:

(i) the cost of construction of buildings that are privately owned or owned by a municipality and leased to a developer or retail user for non-entertainment retail uses;

(ii) moving expenses for employees of the businesses locating within the STAR bond district;

(iii) property taxes for property located in the STAR bond district;

(iv) lobbying costs; and

(v) general overhead or administrative costs of the political subdivision that would still have been incurred by the political subdivision if the political subdivision had not established a STAR bond district.

"Project development agreement" means any one or more agreements, including any amendments thereto, between a master developer and any co-developer or subdeveloper in connection with a STAR bond project, which project development agreement may include the political subdivision as a party.

"Projected market area" means any area within the State in which a STAR bond district or STAR bond project is projected to have a significant fiscal or market impact as determined by the Director.

"Resolution" means a resolution, order, ordinance, or other appropriate form of legislative action of a political

subdivision or other applicable public entity approved by a vote of a majority of a quorum at a meeting of the governing body of the political subdivision or applicable public entity.

"STAR bond" means a sales tax and revenue bond, note, or other obligation payable from pledged STAR revenues and issued by a political subdivision, the proceeds of which shall be used only to pay project costs as defined in this Act.

"STAR bond district" means the specific area declared to be an eligible area as determined by the political subdivision, and approved by the Director, in which the political subdivision may develop one or more STAR bond projects.

"STAR bond district plan" means the preliminary or conceptual plan that generally identifies the proposed STAR bond project areas and identifies in a general manner the buildings, facilities, and improvements to be constructed or improved in each STAR bond project area.

"STAR bond project" means a project within a STAR bond district which is approved pursuant to Section 20.

"STAR bond project area" means the geographic area within a STAR bond district in which there may be one or more STAR bond projects.

"STAR bond project plan" means the written plan adopted by a political subdivision for the development of a STAR bond project in a STAR bond district; the plan may include, but is not limited to, (i) project costs incurred prior to the date of the STAR bond project plan and estimated future STAR bond

project costs, (ii) proposed sources of funds to pay those costs, (iii) the nature and estimated term of any obligations to be issued by the political subdivision to pay those costs, (iv) the most recent equalized assessed valuation of the STAR bond project area, (v) an estimate of the equalized assessed valuation of the STAR bond district or applicable project area after completion of a STAR bond project, (vi) a general description of the types of any known or proposed developers, users, or tenants of the STAR bond project or projects included in the plan, (vii) a general description of the type, structure, and character of the property or facilities to be developed or improved, (viii) a description of the general land uses to apply to the STAR bond project, and (ix) a general description or an estimate of the type, class, and number of employees to be employed in the operation of the STAR bond project.

"State sales tax" means all of the net revenue realized under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act from transactions at places of business located within a STAR bond district, excluding that portion of the net revenue realized under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act from transactions at places of business located within a STAR bond district that is deposited into the Local Government Tax Fund and the County and Mass Transit District Fund.

"State sales tax increment" means (i) 100% of that portion of the State sales tax that is in excess of the State sales tax for the same month in the base year, as determined by the Department of Revenue, from transactions at up to 2 destination users, one destination hotel, and one entertainment user located within a STAR bond district, which destination users, destination hotel, and entertainment user shall be designated by the master developer and approved by the political subdivision and the Director in conjunction with the applicable STAR bond project approval, and (ii) 25% of that portion of the State sales tax that is in excess of the State sales tax for the same month in the base year, as determined by the Department of Revenue, from all other transactions within a STAR bond district. If any portion of State sales taxes are, at the time of formation of a STAR bond district, already subject to tax increment financing under the Tax Increment Allocation Redevelopment Act, then the State sales tax increment for such portion shall be frozen at the base year established in accordance with this Act, and all future incremental increases shall be included in the State sales tax increment under this Act. Any party otherwise entitled to receipt of incremental State sales tax revenues through an existing tax increment financing district shall be entitled to continue to receive such revenues up to the amount frozen in the base year. Nothing in this Act shall affect the prior qualification of existing redevelopment project costs incurred that are eligible for

reimbursement under the Tax Increment Allocation Redevelopment Act. In such event, prior to approving a STAR bond district, the political subdivision forming the STAR bond district shall take such action as is necessary, including amending the existing tax increment financing district redevelopment plan, to carry out the provisions of this Act.

"Substantial change" means a change wherein the proposed STAR bond project plan differs substantially in size, scope, or use from the approved STAR bond district plan or STAR bond project plan.

"Taxpayer" means an individual, partnership, corporation, limited liability company, trust, estate, or other entity that is subject to the Illinois Income Tax Act.

"Total development costs" means the aggregate public and private investment in a STAR bond district, including project costs and other direct and indirect costs related to the development of the STAR bond district.

"Traditional retail use" means the operation of a business that derives at least 90% of its annual gross revenue from sales at retail, as that phrase is defined by Section 1 of the Retailers' Occupation Tax Act, but does not include the operations of destination users, entertainment users, restaurants, hotels, retail uses within hotels, or any other non-retail uses.

"Vacant" means that portion of the land in a proposed STAR bond district that is not occupied by a building, facility, or

other vertical improvement.

(Source: P.A. 96-939, eff. 6-24-10.)

Section 10. The Flood Prevention District Act is amended by changing Section 25 as follows:

(70 ILCS 750/25)

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

(a) If the Board of Commissioners of a flood prevention district determines that an emergency situation exists regarding levee repair or flood prevention, and upon an ordinance confirming the determination adopted by the affirmative vote of a majority of the members of the county board of the county in which the district is situated, the county may impose a flood prevention retailers' occupation tax upon all persons engaged in the business of selling tangible personal property at retail within the territory of the district to provide revenue to pay the costs of providing emergency levee repair and flood prevention and to secure the payment of bonds, notes, and other evidences of indebtedness issued under this Act for a period not to exceed 25 years or as required to repay the bonds, notes, and other evidences of indebtedness issued under this Act. The tax rate shall be 0.25% of the gross receipts from all taxable sales made in the course of that business. The tax imposed under this Section and all

civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The Department shall have full power to administer and enforce this Section; to collect all taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder.

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

Persons subject to any tax imposed under this Section may reimburse themselves for their seller's tax liability hereunder by separately stating the tax as an additional charge, which charge may be stated in combination in a single amount with State taxes that sellers are required to collect

under the Use Tax Act, under any bracket schedules the Department may prescribe.

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

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

The tax imposed under this subsection and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The Department shall have full power to administer and enforce this subsection; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or

penalty hereunder.

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

Persons subject to any tax imposed under the authority granted in this subsection may reimburse themselves for their serviceman's tax liability hereunder by separately stating the tax as an additional charge, that charge may be stated in

combination in a single amount with State tax that servicemen are authorized to collect under the Service Use Tax Act, under any bracket schedules the Department may prescribe.

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

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

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

(f) The Department shall immediately pay over to the State Treasurer, ex officio, as trustee, all taxes and penalties collected under this Section to be deposited into the Flood

Prevention Occupation Tax Fund, which shall be an unappropriated trust fund held outside the State treasury.

~~As soon as possible after the first day of each month, beginning January 1, 2011, upon certification of the Department of Revenue, the Comptroller shall order transferred, and the Treasurer shall transfer, to the STAR Bonds Revenue Fund the local sales tax increment, as defined in the Innovation Development and Economy Act, collected under this Section during the second preceding calendar month for sales within a STAR bond district. The Department shall make this certification only if the flood prevention district imposes a tax on real property as provided in the definition of "local sales taxes" under the Innovation Development and Economy Act.~~

~~On~~ After the monthly transfer to the STAR Bonds Revenue Fund, ~~on~~ or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to the counties from which retailers or servicemen have paid taxes or penalties to the Department during the second preceding calendar month. The amount to be paid to each county is equal to the amount (not including credit memoranda) collected from the county under this Section during the second preceding calendar month by the Department, (i) less 2% of that amount, which shall be deposited into the Tax Compliance and Administration Fund and shall be used by the Department in administering and enforcing the provisions of this Section on behalf of the county, (ii)

plus an amount that the Department determines is necessary to offset any amounts that were erroneously paid to a different taxing body; (iii) less an amount equal to the amount of refunds made during the second preceding calendar month by the Department on behalf of the county; and (iv) less any amount that the Department determines is necessary to offset any amounts that were payable to a different taxing body but were erroneously paid to the county; ~~and (v) less any amounts that are transferred to the STAR Bonds Revenue Fund.~~ When certifying the amount of a monthly disbursement to a county under this Section, the Department shall increase or decrease the amounts by an amount necessary to offset any miscalculation of previous disbursements within the previous 6 months from the time a miscalculation is discovered.

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

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

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

(h) Any ordinance imposing the tax under this Section, or any ordinance that discontinues the tax, must be certified by the county clerk and filed with the Illinois Department of Revenue either (i) on or before the first day of April, whereupon the Department shall proceed to administer and enforce the tax or change in the rate as of the first day of July next following the filing; or (ii) on or before the first day of October, whereupon the Department shall proceed to administer and enforce the tax or change in the rate as of the first day of January next following the filing.

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

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

Public Act 097-0188

SB1712 Enrolled

LRB097 09992 RLJ 50162 b

(Source: P.A. 95-719, eff. 5-21-08; 95-723, eff. 6-23-08;
96-939, eff. 6-24-10.)

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