



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2918

by Rep. Emanuel Chris Welch

SYNOPSIS AS INTRODUCED:

35 ILCS 145/3	from Ch. 120, par. 481b.33
35 ILCS 145/6	from Ch. 120, par. 481b.36
30 ILCS 105/5.891 new	

Amends the Hotel Operators' Occupation Tax Act. Provides that an additional tax shall be imposed at the rate of 1% of 94% of the gross rental receipts from the renting, leasing, or letting of hotel rooms. Provides that the proceeds from the additional tax shall be deposited into the Illinois Experience Fund. Provides that moneys in the Illinois Experience Fund shall be used to create, enhance, and promote artistic and cultural events and expositions in the State. Amends the State Finance Act to create the Fund. Effective immediately.

LRB101 09921 HLH 55023 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Hotel Operators' Occupation Tax Act is
5 amended by changing Sections 3 and 6 as follows:

6 (35 ILCS 145/3) (from Ch. 120, par. 481b.33)

7 Sec. 3. Rate; exemptions.

8 (a) A tax is imposed upon persons engaged in the business
9 of renting, leasing or letting rooms in a hotel at the rate of
10 5% of 94% of the gross rental receipts from such renting,
11 leasing or letting, excluding, however, from gross rental
12 receipts, the proceeds of such renting, leasing or letting to
13 permanent residents of that hotel and proceeds from the tax
14 imposed under subsection (c) of Section 13 of the Metropolitan
15 Pier and Exposition Authority Act.

16 (b) There shall be imposed an additional tax upon persons
17 engaged in the business of renting, leasing or letting rooms in
18 a hotel at the rate of 1% of 94% of the gross rental receipts
19 from such renting, leasing or letting, excluding, however, from
20 gross rental receipts, the proceeds of such renting, leasing or
21 letting to permanent residents of that hotel and proceeds from
22 the tax imposed under subsection (c) of Section 13 of the
23 Metropolitan Pier and Exposition Authority Act.

1 (b-5) Beginning on July 1, 2019, there shall be imposed an
2 additional tax upon persons engaged in the business of renting,
3 leasing, or letting rooms in a hotel at the rate of 1% of 94% of
4 the gross rental receipts from such renting, leasing, or
5 letting, excluding, however, from gross rental receipts, the
6 proceeds of such renting, leasing, or letting to permanent
7 residents of that hotel and proceeds from the tax imposed under
8 subsection (c) of Section 13 of the Metropolitan Pier and
9 Exposition Authority Act.

10 (c) No funds received pursuant to this Act shall be used to
11 advertise for or otherwise promote new competition in the hotel
12 business.

13 (d) However, such tax is not imposed upon the privilege of
14 engaging in any business in Interstate Commerce or otherwise,
15 which business may not, under the Constitution and Statutes of
16 the United States, be made the subject of taxation by this
17 State. In addition, the tax is not imposed upon gross rental
18 receipts for which the hotel operator is prohibited from
19 obtaining reimbursement for the tax from the customer by reason
20 of a federal treaty.

21 (d-5) On and after July 1, 2017, the tax imposed by this
22 Act shall not apply to gross rental receipts received by an
23 entity that is organized and operated exclusively for religious
24 purposes and possesses an active Exemption Identification
25 Number issued by the Department pursuant to the Retailers'
26 Occupation Tax Act when acting as a hotel operator renting,

1 leasing, or letting rooms:

2 (1) in furtherance of the purposes for which it is
3 organized; or

4 (2) to entities that (i) are organized and operated
5 exclusively for religious purposes, (ii) possess an active
6 Exemption Identification Number issued by the Department
7 pursuant to the Retailers' Occupation Tax Act, and (iii)
8 rent the rooms in furtherance of the purposes for which
9 they are organized.

10 No gross rental receipts are exempt under paragraph (2) of
11 this subsection (d-5) unless the hotel operator obtains the
12 active Exemption Identification Number from the exclusively
13 religious entity to whom it is renting and maintains that
14 number in its books and records. Gross rental receipts from all
15 rentals other than those described in items (1) or (2) of this
16 subsection (d-5) are subject to the tax imposed by this Act
17 unless otherwise exempt under this Act.

18 This subsection (d-5) is exempt from the sunset provisions
19 of Section 3-5 of this Act.

20 (e) Persons subject to the tax imposed by this Act may
21 reimburse themselves for their tax liability under this Act by
22 separately stating such tax as an additional charge, which
23 charge may be stated in combination, in a single amount, with
24 any tax imposed pursuant to Sections 8-3-13 and 8-3-14 of the
25 Illinois Municipal Code, and Section 25.05-10 of "An Act to
26 revise the law in relation to counties".

1 (f) If any hotel operator collects an amount (however
2 designated) which purports to reimburse such operator for hotel
3 operators' occupation tax liability measured by receipts which
4 are not subject to hotel operators' occupation tax, or if any
5 hotel operator, in collecting an amount (however designated)
6 which purports to reimburse such operator for hotel operators'
7 occupation tax liability measured by receipts which are subject
8 to tax under this Act, collects more from the customer than the
9 operators' hotel operators' occupation tax liability in the
10 transaction is, the customer shall have a legal right to claim
11 a refund of such amount from such operator. However, if such
12 amount is not refunded to the customer for any reason, the
13 hotel operator is liable to pay such amount to the Department.
14 (Source: P.A. 100-213, eff. 8-18-17.)

15 (35 ILCS 145/6) (from Ch. 120, par. 481b.36)

16 Sec. 6. Filing of returns and distribution of proceeds.

17 Except as provided hereinafter in this Section, on or
18 before the last day of each calendar month, every person
19 engaged in the business of renting, leasing or letting rooms in
20 a hotel in this State during the preceding calendar month shall
21 file a return with the Department, stating:

22 1. The name of the operator;

23 2. His residence address and the address of his
24 principal place of business and the address of the
25 principal place of business (if that is a different

1 address) from which he engages in the business of renting,
2 leasing or letting rooms in a hotel in this State;

3 3. Total amount of rental receipts received by him
4 during the preceding calendar month from renting, leasing
5 or letting rooms during such preceding calendar month;

6 4. Total amount of rental receipts received by him
7 during the preceding calendar month from renting, leasing
8 or letting rooms to permanent residents during such
9 preceding calendar month;

10 5. Total amount of other exclusions from gross rental
11 receipts allowed by this Act;

12 6. Gross rental receipts which were received by him
13 during the preceding calendar month and upon the basis of
14 which the tax is imposed;

15 7. The amount of tax due;

16 8. Such other reasonable information as the Department
17 may require.

18 If the operator's average monthly tax liability to the
19 Department does not exceed \$200, the Department may authorize
20 his returns to be filed on a quarter annual basis, with the
21 return for January, February and March of a given year being
22 due by April 30 of such year; with the return for April, May
23 and June of a given year being due by July 31 of such year; with
24 the return for July, August and September of a given year being
25 due by October 31 of such year, and with the return for
26 October, November and December of a given year being due by

1 January 31 of the following year.

2 If the operator's average monthly tax liability to the
3 Department does not exceed \$50, the Department may authorize
4 his returns to be filed on an annual basis, with the return for
5 a given year being due by January 31 of the following year.

6 Such quarter annual and annual returns, as to form and
7 substance, shall be subject to the same requirements as monthly
8 returns.

9 Notwithstanding any other provision in this Act concerning
10 the time within which an operator may file his return, in the
11 case of any operator who ceases to engage in a kind of business
12 which makes him responsible for filing returns under this Act,
13 such operator shall file a final return under this Act with the
14 Department not more than 1 month after discontinuing such
15 business.

16 Where the same person has more than 1 business registered
17 with the Department under separate registrations under this
18 Act, such person shall not file each return that is due as a
19 single return covering all such registered businesses, but
20 shall file separate returns for each such registered business.

21 In his return, the operator shall determine the value of
22 any consideration other than money received by him in
23 connection with the renting, leasing or letting of rooms in the
24 course of his business and he shall include such value in his
25 return. Such determination shall be subject to review and
26 revision by the Department in the manner hereinafter provided

1 for the correction of returns.

2 Where the operator is a corporation, the return filed on
3 behalf of such corporation shall be signed by the president,
4 vice-president, secretary or treasurer or by the properly
5 accredited agent of such corporation.

6 The person filing the return herein provided for shall, at
7 the time of filing such return, pay to the Department the
8 amount of tax herein imposed. The operator filing the return
9 under this Section shall, at the time of filing such return,
10 pay to the Department the amount of tax imposed by this Act
11 less a discount of 2.1% or \$25 per calendar year, whichever is
12 greater, which is allowed to reimburse the operator for the
13 expenses incurred in keeping records, preparing and filing
14 returns, remitting the tax and supplying data to the Department
15 on request.

16 If any payment provided for in this Section exceeds the
17 operator's liabilities under this Act, as shown on an original
18 return, the Department may authorize the operator to credit
19 such excess payment against liability subsequently to be
20 remitted to the Department under this Act, in accordance with
21 reasonable rules adopted by the Department. If the Department
22 subsequently determines that all or any part of the credit
23 taken was not actually due to the operator, the operator's
24 discount shall be reduced by an amount equal to the difference
25 between the discount as applied to the credit taken and that
26 actually due, and that operator shall be liable for penalties

1 and interest on such difference.

2 Beginning on July 1, 2019, the additional tax imposed by
3 subsection (b-5) of Section 3 shall be deposited into the
4 Illinois Experience Fund, a special fund created in the State
5 treasury. Moneys in the Illinois Experience Fund shall be used
6 to create, enhance, and promote artistic and cultural events
7 and expositions in the State.

8 There shall be deposited in the Build Illinois Fund in the
9 State Treasury for each State fiscal year 40% of the amount of
10 total net proceeds from the tax imposed by subsection (a) of
11 Section 3. Of the remaining 60%, \$5,000,000 shall be deposited
12 in the Illinois Sports Facilities Fund and credited to the
13 Subsidy Account each fiscal year by making monthly deposits in
14 the amount of 1/8 of \$5,000,000 plus cumulative deficiencies in
15 such deposits for prior months, and an additional \$8,000,000
16 shall be deposited in the Illinois Sports Facilities Fund and
17 credited to the Advance Account each fiscal year by making
18 monthly deposits in the amount of 1/8 of \$8,000,000 plus any
19 cumulative deficiencies in such deposits for prior months;
20 provided, that for fiscal years ending after June 30, 2001, the
21 amount to be so deposited into the Illinois Sports Facilities
22 Fund and credited to the Advance Account each fiscal year shall
23 be increased from \$8,000,000 to the then applicable Advance
24 Amount and the required monthly deposits beginning with July
25 2001 shall be in the amount of 1/8 of the then applicable
26 Advance Amount plus any cumulative deficiencies in those

1 deposits for prior months. (The deposits of the additional
2 \$8,000,000 or the then applicable Advance Amount, as
3 applicable, during each fiscal year shall be treated as
4 advances of funds to the Illinois Sports Facilities Authority
5 for its corporate purposes to the extent paid to the Authority
6 or its trustee and shall be repaid into the General Revenue
7 Fund in the State Treasury by the State Treasurer on behalf of
8 the Authority pursuant to Section 19 of the Illinois Sports
9 Facilities Authority Act, as amended. If in any fiscal year the
10 full amount of the then applicable Advance Amount is not repaid
11 into the General Revenue Fund, then the deficiency shall be
12 paid from the amount in the Local Government Distributive Fund
13 that would otherwise be allocated to the City of Chicago under
14 the State Revenue Sharing Act.)

15 For purposes of the foregoing paragraph, the term "Advance
16 Amount" means, for fiscal year 2002, \$22,179,000, and for
17 subsequent fiscal years through fiscal year 2032, 105.615% of
18 the Advance Amount for the immediately preceding fiscal year,
19 rounded up to the nearest \$1,000.

20 Of the remaining 60% of the amount of total net proceeds
21 prior to August 1, 2011 from the tax imposed by subsection (a)
22 of Section 3 after all required deposits in the Illinois Sports
23 Facilities Fund, the amount equal to 8% of the net revenue
24 realized from this Act plus an amount equal to 8% of the net
25 revenue realized from any tax imposed under Section 4.05 of the
26 Chicago World's Fair-1992 Authority Act during the preceding

1 month shall be deposited in the Local Tourism Fund each month
2 for purposes authorized by Section 605-705 of the Department of
3 Commerce and Economic Opportunity Law (20 ILCS 605/605-705). Of
4 the remaining 60% of the amount of total net proceeds beginning
5 on August 1, 2011 from the tax imposed by subsection (a) of
6 Section 3 after all required deposits in the Illinois Sports
7 Facilities Fund, an amount equal to 8% of the net revenue
8 realized from this Act plus an amount equal to 8% of the net
9 revenue realized from any tax imposed under Section 4.05 of the
10 Chicago World's Fair-1992 Authority Act during the preceding
11 month shall be deposited as follows: 18% of such amount shall
12 be deposited into the Chicago Travel Industry Promotion Fund
13 for the purposes described in subsection (n) of Section 5 of
14 the Metropolitan Pier and Exposition Authority Act and the
15 remaining 82% of such amount shall be deposited into the Local
16 Tourism Fund each month for purposes authorized by Section
17 605-705 of the Department of Commerce and Economic Opportunity
18 Law. Beginning on August 1, 1999 and ending on July 31, 2011,
19 an amount equal to 4.5% of the net revenue realized from the
20 Hotel Operators' Occupation Tax Act during the preceding month
21 shall be deposited into the International Tourism Fund for the
22 purposes authorized in Section 605-707 of the Department of
23 Commerce and Economic Opportunity Law. Beginning on August 1,
24 2011, an amount equal to 4.5% of the net revenue realized from
25 this Act during the preceding month shall be deposited as
26 follows: 55% of such amount shall be deposited into the Chicago

1 Travel Industry Promotion Fund for the purposes described in
2 subsection (n) of Section 5 of the Metropolitan Pier and
3 Exposition Authority Act and the remaining 45% of such amount
4 deposited into the International Tourism Fund for the purposes
5 authorized in Section 605-707 of the Department of Commerce and
6 Economic Opportunity Law. "Net revenue realized for a month"
7 means the revenue collected by the State under that Act during
8 the previous month less the amount paid out during that same
9 month as refunds to taxpayers for overpayment of liability
10 under that Act.

11 After making all these deposits, all other proceeds of the
12 tax imposed under subsection (a) of Section 3 shall be
13 deposited in the Tourism Promotion Fund in the State Treasury.
14 All moneys received by the Department from the additional tax
15 imposed under subsection (b) of Section 3 shall be deposited
16 into the Build Illinois Fund in the State Treasury.

17 The Department may, upon separate written notice to a
18 taxpayer, require the taxpayer to prepare and file with the
19 Department on a form prescribed by the Department within not
20 less than 60 days after receipt of the notice an annual
21 information return for the tax year specified in the notice.
22 Such annual return to the Department shall include a statement
23 of gross receipts as shown by the operator's last State income
24 tax return. If the total receipts of the business as reported
25 in the State income tax return do not agree with the gross
26 receipts reported to the Department for the same period, the

1 operator shall attach to his annual information return a
2 schedule showing a reconciliation of the 2 amounts and the
3 reasons for the difference. The operator's annual information
4 return to the Department shall also disclose pay roll
5 information of the operator's business during the year covered
6 by such return and any additional reasonable information which
7 the Department deems would be helpful in determining the
8 accuracy of the monthly, quarterly or annual tax returns by
9 such operator as hereinbefore provided for in this Section.

10 If the annual information return required by this Section
11 is not filed when and as required the taxpayer shall be liable
12 for a penalty in an amount determined in accordance with
13 Section 3-4 of the Uniform Penalty and Interest Act until such
14 return is filed as required, the penalty to be assessed and
15 collected in the same manner as any other penalty provided for
16 in this Act.

17 The chief executive officer, proprietor, owner or highest
18 ranking manager shall sign the annual return to certify the
19 accuracy of the information contained therein. Any person who
20 willfully signs the annual return containing false or
21 inaccurate information shall be guilty of perjury and punished
22 accordingly. The annual return form prescribed by the
23 Department shall include a warning that the person signing the
24 return may be liable for perjury.

25 The foregoing portion of this Section concerning the filing
26 of an annual information return shall not apply to an operator

1 who is not required to file an income tax return with the
2 United States Government.

3 (Source: P.A. 100-23, eff. 7-6-17; 100-1171, eff. 1-4-19.)

4 Section 90. The State Finance Act is amended by adding
5 Section 5.891 as follows:

6 (30 ILCS 105/5.891 new)

7 Sec. 5.891. The Illinois Experience Fund.

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