



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3952

Introduced 11/4/2010, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-74.3-2	from Ch. 24, par. 11-74.3-2
65 ILCS 5/11-74.3-3	from Ch. 24, par. 11-74.3-3
65 ILCS 5/11-74.3-5	
65 ILCS 5/11-74.3-6	

Amends the Illinois Municipal Code with respect to the Business District Development and Redevelopment Law. Corrects cross-references. Requires address information to be reported to the Department of Revenue by April 1. Effective immediately.

LRB096 23972 RLJ 43369 b

1 AN ACT concerning local government.

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

4 Section 5. The Illinois Municipal Code is amended by
5 changing Sections 11-74.3-2, 11-74.3-3, 11-74.3-5, and
6 11-74.3-6 as follows:

7 (65 ILCS 5/11-74.3-2) (from Ch. 24, par. 11-74.3-2)

8 Sec. 11-74.3-2. Procedures to designate business
9 districts; ordinances; notice; hearings.

10 (a) The corporate authorities of a municipality shall by
11 ordinance propose the approval of a business district plan and
12 designation of a business district and shall fix a time and
13 place for a public hearing on the proposals to approve a
14 business district plan and designate a business district.

15 (b) Notice of the public hearing shall be given by
16 publication at least twice, the first publication to be not
17 more than 30 nor less than 10 days prior to the hearing, in a
18 newspaper of general circulation within the municipality. Each
19 notice published pursuant to this Section shall include the
20 following:

21 (1) The time and place of the public hearing;

22 (2) The boundaries of the proposed business district by
23 legal description and, where possible, by street location;

1 (3) A notification that all interested persons will be
2 given an opportunity to be heard at the public hearing;

3 (4) A description of the business district plan if a
4 business district plan is a subject matter of the public
5 hearing;

6 (5) The rate of any tax to be imposed pursuant to
7 subsection (10) ~~(11)~~ or (11) ~~(12)~~ of Section 11-74.3-3;

8 (6) An invitation for any person to submit alternate
9 proposals or bids for any proposed conveyance, lease,
10 mortgage, or other disposition by the municipality of land
11 or rights in land owned by the municipality and located
12 within the proposed business district; and

13 (7) Such other matters as the municipality shall deem
14 appropriate.

15 (c) At the public hearing any interested person may file
16 written objections with the municipal clerk and may be heard
17 orally with respect to any matters embodied in the notice. The
18 municipality shall hear and determine all alternate proposals
19 or bids for any proposed conveyance, lease, mortgage, or other
20 disposition by the municipality of land or rights in land owned
21 by the municipality and located within the proposed business
22 district and all protests and objections at the hearing,
23 provided, however, that the corporate authorities of the
24 municipality may establish reasonable rules regarding the
25 length of time provided to members of the general public. The
26 hearing may be adjourned to another date without further notice

1 other than a motion to be entered upon the minutes fixing the
2 time and place of the adjourned hearing. Public hearings with
3 regard to approval of a business district plan or designation
4 of a business district may be held simultaneously.

5 (d) At the public hearing or at any time prior to the
6 adoption by the municipality of an ordinance approving a
7 business district plan, the municipality may make changes in
8 the business district plan. Changes which do not (i) alter the
9 exterior boundaries of the proposed business district, (ii)
10 substantially affect the general land uses described in the
11 proposed business district plan, (iii) substantially change
12 the nature of any proposed business district project, (iv)
13 change the description of any proposed developer, user, or
14 tenant of any property to be located or improved within the
15 proposed business district, (v) increase the total estimated
16 business district project costs set out in the business
17 district plan by more than 5%, (vi) add additional business
18 district costs to the itemized list of estimated business
19 district costs as proposed in the business district plan, or
20 (vii) impose or increase the rate of any tax to be imposed
21 pursuant to subsection (10) ~~(11)~~ or (11) ~~(12)~~ of Section
22 11-74.3-3 may be made by the municipality without further
23 public hearing, provided the municipality shall give notice of
24 its changes by publication in a newspaper of general
25 circulation within the municipality. Such notice by
26 publication shall be given not later than 30 days following the

1 adoption of an ordinance approving such changes. Changes which
2 (i) alter the exterior boundaries of the proposed business
3 district, (ii) substantially affect the general land uses
4 described in the proposed business district plan, (iii)
5 substantially change the nature of any proposed business
6 district project, (iv) change the description of any proposed
7 developer, user, or tenant of any property to be located or
8 improved within the proposed business district, (v) increase
9 the total estimated business district project costs set out in
10 the business district plan by more than 5%, (vi) add additional
11 business district costs to the itemized list of estimated
12 business district costs as proposed in the business district
13 plan, or (vii) impose or increase the rate of any tax to be
14 imposed pursuant to subsection (10) ~~(11)~~ or (11) ~~(12)~~ of
15 Section 11-74.3-3 may be made by the municipality only after
16 the municipality by ordinance fixes a time and place for, gives
17 notice by publication of, and conducts a public hearing
18 pursuant to the procedures set forth hereinabove.

19 (e) By ordinance adopted within 90 days of the final
20 adjournment of the public hearing a municipality may approve
21 the business district plan and designate the business district.
22 Any ordinance adopted which approves a business district plan
23 shall contain findings that the business district on the whole
24 has not been subject to growth and development through
25 investment by private enterprises and would not reasonably be
26 anticipated to be developed or redeveloped without the adoption

1 of the business district plan. Any ordinance adopted which
2 designates a business district shall contain the boundaries of
3 such business district by legal description and, where
4 possible, by street location, a finding that the business
5 district plan conforms to the comprehensive plan for the
6 development of the municipality as a whole, or, for
7 municipalities with a population of 100,000 or more, regardless
8 of when the business district plan was approved, the business
9 district plan either (i) conforms to the strategic economic
10 development or redevelopment plan issued by the designated
11 planning authority or the municipality or (ii) includes land
12 uses that have been approved by the planning commission of the
13 municipality, and, for any business district in which the
14 municipality intends to impose taxes as provided in subsection
15 (10) ~~(11)~~ or (11) ~~(12)~~ of Section 11-74.3-3, a specific finding
16 that the business district qualifies as a blighted area as
17 defined in Section 11-74.3-5.

18 (f) After a municipality has by ordinance approved a
19 business district plan and designated a business district, the
20 plan may be amended, the boundaries of the business district
21 may be altered, and the taxes provided for in subsections (10)
22 ~~(11)~~ and (11) ~~(12)~~ of Section 11-74.3-3 may be imposed or
23 altered only as provided in this subsection. Changes which do
24 not (i) alter the exterior boundaries of the proposed business
25 district, (ii) substantially affect the general land uses
26 described in the business district plan, (iii) substantially

1 change the nature of any business district project, (iv) change
2 the description of any developer, user, or tenant of any
3 property to be located or improved within the proposed business
4 district, (v) increase the total estimated business district
5 project costs set out in the business district plan by more
6 than 5% after adjustment for inflation from the date the
7 business district plan was approved, (vi) add additional
8 business district costs to the itemized list of estimated
9 business district costs as approved in the business district
10 plan, or (vii) impose or increase the rate of any tax to be
11 imposed pursuant to subsection (10) ~~(11)~~ or (11) ~~(12)~~ of
12 Section 11-74.3-3 may be made by the municipality without
13 further public hearing, provided the municipality shall give
14 notice of its changes by publication in a newspaper of general
15 circulation within the municipality. Such notice by
16 publication shall be given not later than 30 days following the
17 adoption of an ordinance approving such changes. Changes which
18 (i) alter the exterior boundaries of the business district,
19 (ii) substantially affect the general land uses described in
20 the business district plan, (iii) substantially change the
21 nature of any business district project, (iv) change the
22 description of any developer, user, or tenant of any property
23 to be located or improved within the proposed business
24 district, (v) increase the total estimated business district
25 project costs set out in the business district plan by more
26 than 5% after adjustment for inflation from the date the

1 business district plan was approved, (vi) add additional
2 business district costs to the itemized list of estimated
3 business district costs as approved in the business district
4 plan, or (vii) impose or increase the rate of any tax to be
5 imposed pursuant to subsection (10) ~~(11)~~ or (11) ~~(12)~~ of
6 Section 11-74.3-3 may be made by the municipality only after
7 the municipality by ordinance fixes a time and place for, gives
8 notice by publication of, and conducts a public hearing
9 pursuant to the procedures set forth in this Section.

10 (Source: P.A. 96-1394, eff. 7-29-10; revised 9-7-10.)

11 (65 ILCS 5/11-74.3-3) (from Ch. 24, par. 11-74.3-3)

12 Sec. 11-74.3-3. Powers of municipalities. In addition to
13 the powers a municipality may now have, a municipality shall
14 have the following powers:

15 (1) To make and enter into all contracts necessary or
16 incidental to the implementation and furtherance of a
17 business district plan. A contract by and between the
18 municipality and any developer or other nongovernmental
19 person to pay or reimburse said developer or other
20 nongovernmental person for business district project costs
21 incurred or to be incurred by said developer or other
22 nongovernmental person shall not be deemed an economic
23 incentive agreement under Section 8-11-20, notwithstanding
24 the fact that such contract provides for the sharing,
25 rebate, or payment of retailers' occupation taxes or

1 service occupation taxes (including, without limitation,
2 taxes imposed pursuant to subsection (10) ~~(11)~~) the
3 municipality receives from the development or
4 redevelopment of properties in the business district.
5 Contracts entered into pursuant to this subsection shall be
6 binding upon successor corporate authorities of the
7 municipality and any party to such contract may seek to
8 enforce and compel performance of the contract by civil
9 action, mandamus, injunction, or other proceeding.

10 (2) Within a business district, to acquire by purchase,
11 donation, or lease, and to own, convey, lease, mortgage, or
12 dispose of land and other real or personal property or
13 rights or interests therein; and to grant or acquire
14 licenses, easements, and options with respect thereto, all
15 in the manner and at such price authorized by law. No
16 conveyance, lease, mortgage, disposition of land or other
17 property acquired by the municipality, or agreement
18 relating to the development of property, shall be made or
19 executed except pursuant to prior official action of the
20 municipality. No conveyance, lease, mortgage, or other
21 disposition of land owned by the municipality, and no
22 agreement relating to the development of property, within a
23 business district shall be made without making public
24 disclosure of the terms and disposition of all bids and
25 proposals submitted to the municipality in connection
26 therewith.

1 (2.5) To acquire property by eminent domain in
2 accordance with the Eminent Domain Act.

3 (3) To clear any area within a business district by
4 demolition or removal of any existing buildings,
5 structures, fixtures, utilities, or improvements, and to
6 clear and grade land.

7 (4) To install, repair, construct, reconstruct, or
8 relocate public streets, public utilities, and other
9 public site improvements within or without a business
10 district which are essential to the preparation of a
11 business district for use in accordance with a business
12 district plan.

13 (5) To renovate, rehabilitate, reconstruct, relocate,
14 repair, or remodel any existing buildings, structures,
15 works, utilities, or fixtures within any business
16 district.

17 (6) To construct public improvements, including but
18 not limited to buildings, structures, works, utilities, or
19 fixtures within any business district.

20 (7) To fix, charge, and collect fees, rents, and
21 charges for the use of any building, facility, or property
22 or any portion thereof owned or leased by the municipality
23 within a business district.

24 (8) To pay or cause to be paid business district
25 project costs. Any payments to be made by the municipality
26 to developers or other nongovernmental persons for

1 business district project costs incurred by such developer
2 or other nongovernmental person shall be made only pursuant
3 to the prior official action of the municipality evidencing
4 an intent to pay or cause to be paid such business district
5 project costs. A municipality is not required to obtain any
6 right, title, or interest in any real or personal property
7 in order to pay business district project costs associated
8 with such property. The municipality shall adopt such
9 accounting procedures as shall be necessary to determine
10 that such business district project costs are properly
11 paid.

12 (9) To apply for and accept grants, guarantees,
13 donations of property or labor or any other thing of value
14 for use in connection with a business district project.

15 (10) If the municipality has by ordinance found and
16 determined that the business district is a blighted area
17 under this Law, to impose a retailers' occupation tax and a
18 service occupation tax in the business district for the
19 planning, execution, and implementation of business
20 district plans and to pay for business district project
21 costs as set forth in the business district plan approved
22 by the municipality.

23 (11) If the municipality has by ordinance found and
24 determined that the business district is a blighted area
25 under this Law, to impose a hotel operators' occupation tax
26 in the business district for the planning, execution, and

1 implementation of business district plans and to pay for
2 the business district project costs as set forth in the
3 business district plan approved by the municipality. ▯

4 (Source: P.A. 96-1394, eff. 7-29-10; revised 9-7-10.)

5 (65 ILCS 5/11-74.3-5)

6 Sec. 11-74.3-5. Definitions. The following terms as used in
7 this Law shall have the following meanings:

8 "Blighted area" means an area that is a blighted area
9 which, by reason of the predominance of defective,
10 non-existent, or inadequate street layout, unsanitary or
11 unsafe conditions, deterioration of site improvements,
12 improper subdivision or obsolete platting, or the existence of
13 conditions which endanger life or property by fire or other
14 causes, or any combination of those factors, retards the
15 provision of housing accommodations or constitutes an economic
16 or social liability, an economic underutilization of the area,
17 or a menace to the public health, safety, morals, or welfare.

18 "Business district" means a contiguous area which includes
19 only parcels of real property directly and substantially
20 benefited by the proposed business district plan. A business
21 district may, but need not be, a blighted area, but no
22 municipality shall be authorized to impose taxes pursuant to
23 subsection (10) ~~(11)~~ or (11) ~~(12)~~ of Section 11-74.3-3 in a
24 business district which has not been determined by ordinance to
25 be a blighted area under this Law.

1 "Business district plan" shall mean the written plan for
2 the development or redevelopment of a business district. Each
3 business district plan shall set forth in writing: (i) a
4 specific description of the boundaries of the proposed business
5 district, including a map illustrating the boundaries; (ii) a
6 general description of each project proposed to be undertaken
7 within the business district, including a description of the
8 approximate location of each project and a description of any
9 developer, user, or tenant of any property to be located or
10 improved within the proposed business district; (iii) the name
11 of the proposed business district; (iv) the estimated business
12 district project costs; (v) the anticipated source of funds to
13 pay business district project costs; (vi) the anticipated type
14 and terms of any obligations to be issued; and (vii) the rate
15 of any tax to be imposed pursuant to subsection (10) ~~(11)~~ or
16 (11) ~~(12)~~ of Section 11-74.3-3 and the period of time for which
17 the tax shall be imposed.

18 "Business district project costs" shall mean and include
19 the sum total of all costs incurred by a municipality, other
20 governmental entity, or nongovernmental person in connection
21 with a business district, in the furtherance of a business
22 district plan, including, without limitation, the following:

23 (1) costs of studies, surveys, development of plans and
24 specifications, implementation and administration of a
25 business district plan, and personnel and professional
26 service costs including architectural, engineering, legal,

1 marketing, financial, planning, or other professional
2 services, provided that no charges for professional
3 services may be based on a percentage of tax revenues
4 received by the municipality;

5 (2) property assembly costs, including but not limited
6 to, acquisition of land and other real or personal property
7 or rights or interests therein, and specifically including
8 payments to developers or other nongovernmental persons as
9 reimbursement for property assembly costs incurred by that
10 developer or other nongovernmental person;

11 (3) site preparation costs, including but not limited
12 to clearance, demolition or removal of any existing
13 buildings, structures, fixtures, utilities, and
14 improvements and clearing and grading of land;

15 (4) costs of installation, repair, construction,
16 reconstruction, extension, or relocation of public
17 streets, public utilities, and other public site
18 improvements within or without the business district which
19 are essential to the preparation of the business district
20 for use in accordance with the business district plan, and
21 specifically including payments to developers or other
22 nongovernmental persons as reimbursement for site
23 preparation costs incurred by the developer or
24 nongovernmental person;

25 (5) costs of renovation, rehabilitation,
26 reconstruction, relocation, repair, or remodeling of any

1 existing buildings, improvements, and fixtures within the
2 business district, and specifically including payments to
3 developers or other nongovernmental persons as
4 reimbursement for costs incurred by those developers or
5 nongovernmental persons;

6 (6) costs of installation or construction within the
7 business district of buildings, structures, works,
8 streets, improvements, equipment, utilities, or fixtures,
9 and specifically including payments to developers or other
10 nongovernmental persons as reimbursements for such costs
11 incurred by such developer or nongovernmental person;

12 (7) financing costs, including but not limited to all
13 necessary and incidental expenses related to the issuance
14 of obligations, payment of any interest on any obligations
15 issued under this Law that accrues during the estimated
16 period of construction of any development or redevelopment
17 project for which those obligations are issued and for not
18 exceeding 36 months thereafter, and any reasonable
19 reserves related to the issuance of those obligations; and

20 (8) relocation costs to the extent that a municipality
21 determines that relocation costs shall be paid or is
22 required to make payment of relocation costs by federal or
23 State law.

24 "Business district tax allocation fund" means the special
25 fund to be established by a municipality for a business
26 district as provided in Section 11-74.3-6.

1 "Dissolution date" means the date on which the business
2 district tax allocation fund shall be dissolved. The
3 dissolution date shall be not later than 270 days following
4 payment to the municipality of the last distribution of taxes
5 as provided in Section 11-74.3-6.

6 (Source: P.A. 96-1394, eff. 7-29-10; revised 9-7-10.)

7 (65 ILCS 5/11-74.3-6)

8 Sec. 11-74.3-6. Business district revenue and obligations;
9 business district tax allocation fund.

10 (a) If the corporate authorities of a municipality have
11 approved a business district plan, have designated a business
12 district, and have elected to impose a tax by ordinance
13 pursuant to subsection (10) ~~(11)~~ or (11) ~~(12)~~ of Section
14 11-74.3-3, then each year after the date of the approval of the
15 ordinance but terminating upon the date all business district
16 project costs and all obligations paying or reimbursing
17 business district project costs, if any, have been paid, but in
18 no event later than the dissolution date, all amounts generated
19 by the retailers' occupation tax and service occupation tax
20 shall be collected and the tax shall be enforced by the
21 Department of Revenue in the same manner as all retailers'
22 occupation taxes and service occupation taxes imposed in the
23 municipality imposing the tax and all amounts generated by the
24 hotel operators' occupation tax shall be collected and the tax
25 shall be enforced by the municipality in the same manner as all

1 hotel operators' occupation taxes imposed in the municipality
2 imposing the tax. The corporate authorities of the municipality
3 shall deposit the proceeds of the taxes imposed under
4 subsections (10) ~~(11)~~ and (11) ~~(12)~~ of Section 11-74.3-3 into a
5 special fund of the municipality called the "[Name of] Business
6 District Tax Allocation Fund" for the purpose of paying or
7 reimbursing business district project costs and obligations
8 incurred in the payment of those costs.

9 (b) The corporate authorities of a municipality that has
10 designated a business district under this Law may, by
11 ordinance, impose a Business District Retailers' Occupation
12 Tax upon all persons engaged in the business of selling
13 tangible personal property, other than an item of tangible
14 personal property titled or registered with an agency of this
15 State's government, at retail in the business district at a
16 rate not to exceed 1% of the gross receipts from the sales made
17 in the course of such business, to be imposed only in 0.25%
18 increments. The tax may not be imposed on food for human
19 consumption that is to be consumed off the premises where it is
20 sold (other than alcoholic beverages, soft drinks, and food
21 that has been prepared for immediate consumption),
22 prescription and nonprescription medicines, drugs, medical
23 appliances, modifications to a motor vehicle for the purpose of
24 rendering it usable by a disabled person, and insulin, urine
25 testing materials, syringes, and needles used by diabetics, for
26 human use.

1 The tax imposed under this subsection and all civil
2 penalties that may be assessed as an incident thereof shall be
3 collected and enforced by the Department of Revenue. The
4 certificate of registration that is issued by the Department to
5 a retailer under the Retailers' Occupation Tax Act shall permit
6 the retailer to engage in a business that is taxable under any
7 ordinance or resolution enacted pursuant to this subsection
8 without registering separately with the Department under such
9 ordinance or resolution or under this subsection. The
10 Department of Revenue shall have full power to administer and
11 enforce this subsection; to collect all taxes and penalties due
12 under this subsection in the manner hereinafter provided; and
13 to determine all rights to credit memoranda arising on account
14 of the erroneous payment of tax or penalty under this
15 subsection. In the administration of, and compliance with, this
16 subsection, the Department and persons who are subject to this
17 subsection shall have the same rights, remedies, privileges,
18 immunities, powers and duties, and be subject to the same
19 conditions, restrictions, limitations, penalties, exclusions,
20 exemptions, and definitions of terms and employ the same modes
21 of procedure, as are prescribed in Sections 1, 1a through 1o, 2
22 through 2-65 (in respect to all provisions therein other than
23 the State rate of tax), 2c through 2h, 3 (except as to the
24 disposition of taxes and penalties collected), 4, 5, 5a, 5c,
25 5d, 5e, 5f, 5g, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11,
26 12, 13, and 14 of the Retailers' Occupation Tax Act and all

1 provisions of the Uniform Penalty and Interest Act, as fully as
2 if those provisions were set forth herein.

3 Persons subject to any tax imposed under this subsection
4 may reimburse themselves for their seller's tax liability under
5 this subsection by separately stating the tax as an additional
6 charge, which charge may be stated in combination, in a single
7 amount, with State taxes that sellers are required to collect
8 under the Use Tax Act, in accordance with such bracket
9 schedules as the Department may prescribe.

10 Whenever the Department determines that a refund should be
11 made under this subsection to a claimant instead of issuing a
12 credit memorandum, the Department shall notify the State
13 Comptroller, who shall cause the order to be drawn for the
14 amount specified and to the person named in the notification
15 from the Department. The refund shall be paid by the State
16 Treasurer out of the business district retailers' occupation
17 tax fund.

18 The Department shall immediately pay over to the State
19 Treasurer, ex officio, as trustee, all taxes, penalties, and
20 interest collected under this subsection for deposit into the
21 business district retailers' occupation tax fund.

22 As soon as possible after the first day of each month,
23 beginning January 1, 2011, upon certification of the Department
24 of Revenue, the Comptroller shall order transferred, and the
25 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
26 local sales tax increment, as defined in the Innovation

1 Development and Economy Act, collected under this subsection
2 during the second preceding calendar month for sales within a
3 STAR bond district.

4 After the monthly transfer to the STAR Bonds Revenue Fund,
5 on or before the 25th day of each calendar month, the
6 Department shall prepare and certify to the Comptroller the
7 disbursement of stated sums of money to named municipalities
8 from the business district retailers' occupation tax fund, the
9 municipalities to be those from which retailers have paid taxes
10 or penalties under this subsection to the Department during the
11 second preceding calendar month. The amount to be paid to each
12 municipality shall be the amount (not including credit
13 memoranda) collected under this subsection during the second
14 preceding calendar month by the Department plus an amount the
15 Department determines is necessary to offset any amounts that
16 were erroneously paid to a different taxing body, and not
17 including an amount equal to the amount of refunds made during
18 the second preceding calendar month by the Department, less 2%
19 of that amount, which shall be deposited into the Tax
20 Compliance and Administration Fund and shall be used by the
21 Department, subject to appropriation, to cover the costs of the
22 Department in administering and enforcing the provisions of
23 this subsection, on behalf of such municipality, and not
24 including any amount that the Department determines is
25 necessary to offset any amounts that were payable to a
26 different taxing body but were erroneously paid to the

1 municipality, and not including any amounts that are
2 transferred to the STAR Bonds Revenue Fund. Within 10 days
3 after receipt by the Comptroller of the disbursement
4 certification to the municipalities provided for in this
5 subsection to be given to the Comptroller by the Department,
6 the Comptroller shall cause the orders to be drawn for the
7 respective amounts in accordance with the directions contained
8 in the certification. The proceeds of the tax paid to
9 municipalities under this subsection shall be deposited into
10 the Business District Tax Allocation Fund by the municipality.

11 An ordinance imposing or discontinuing the tax under this
12 subsection or effecting a change in the rate thereof shall
13 either (i) be adopted and a certified copy thereof filed with
14 the Department on or before the first day of April, whereupon
15 the Department, if all other requirements of this subsection
16 are met, shall proceed to administer and enforce this
17 subsection as of the first day of July next following the
18 adoption and filing; or (ii) be adopted and a certified copy
19 thereof filed with the Department on or before the first day of
20 October, whereupon, if all other requirements of this
21 subsection are met, the Department shall proceed to administer
22 and enforce this subsection as of the first day of January next
23 following the adoption and filing.

24 The Department of Revenue shall not administer or enforce
25 an ordinance imposing, discontinuing, or changing the rate of
26 the tax under this subsection, until the municipality also

1 provides, in the manner prescribed by the Department, the
2 boundaries of the business district and each address in the
3 business district in such a way that the Department can
4 determine by its address whether a business is located in the
5 business district. The municipality must provide this boundary
6 and address information to the Department on or before April 1
7 for administration and enforcement of the tax under this
8 subsection by the Department beginning on the following July 1
9 and on or before October 1 for administration and enforcement
10 of the tax under this subsection by the Department beginning on
11 the following January 1. The Department of Revenue shall not
12 administer or enforce any change made to the boundaries of a
13 business district or address change, addition, or deletion
14 until the municipality reports the boundary change or address
15 change, addition, or deletion to the Department in the manner
16 prescribed by the Department. The municipality must provide
17 this boundary change information or address change, addition,
18 or deletion to the Department on or before April 1 for
19 administration and enforcement by the Department of the change
20 beginning on the following July 1 and on or before October 1
21 for administration and enforcement by the Department of the
22 change beginning on the following January 1. The retailers in
23 the business district shall be responsible for charging the tax
24 imposed under this subsection. If a retailer is incorrectly
25 included or excluded from the list of those required to collect
26 the tax under this subsection, both the Department of Revenue

1 and the retailer shall be held harmless if they reasonably
2 relied on information provided by the municipality.

3 A municipality that imposes the tax under this subsection
4 must submit to the Department of Revenue any other information
5 as the Department may require for the administration and
6 enforcement of the tax.

7 When certifying the amount of a monthly disbursement to a
8 municipality under this subsection, the Department shall
9 increase or decrease the amount by an amount necessary to
10 offset any misallocation of previous disbursements. The offset
11 amount shall be the amount erroneously disbursed within the
12 previous 6 months from the time a misallocation is discovered.

13 Nothing in this subsection shall be construed to authorize
14 the municipality to impose a tax upon the privilege of engaging
15 in any business which under the Constitution of the United
16 States may not be made the subject of taxation by this State.

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

19 (c) If a tax has been imposed under subsection (b), a
20 Business District Service Occupation Tax shall also be imposed
21 upon all persons engaged, in the business district, in the
22 business of making sales of service, who, as an incident to
23 making those sales of service, transfer tangible personal
24 property within the business district, either in the form of
25 tangible personal property or in the form of real estate as an
26 incident to a sale of service. The tax shall be imposed at the

1 same rate as the tax imposed in subsection (b) and shall not
2 exceed 1% of the selling price of tangible personal property so
3 transferred within the business district, to be imposed only in
4 0.25% increments. The tax may not be imposed on food for human
5 consumption that is to be consumed off the premises where it is
6 sold (other than alcoholic beverages, soft drinks, and food
7 that has been prepared for immediate consumption),
8 prescription and nonprescription medicines, drugs, medical
9 appliances, modifications to a motor vehicle for the purpose of
10 rendering it usable by a disabled person, and insulin, urine
11 testing materials, syringes, and needles used by diabetics, for
12 human use.

13 The tax imposed under this subsection and all civil
14 penalties that may be assessed as an incident thereof shall be
15 collected and enforced by the Department of Revenue. The
16 certificate of registration which is issued by the Department
17 to a retailer under the Retailers' Occupation Tax Act or under
18 the Service Occupation Tax Act shall permit such registrant to
19 engage in a business which is taxable under any ordinance or
20 resolution enacted pursuant to this subsection without
21 registering separately with the Department under such
22 ordinance or resolution or under this subsection. The
23 Department of Revenue shall have full power to administer and
24 enforce this subsection; to collect all taxes and penalties due
25 under this subsection; to dispose of taxes and penalties so
26 collected in the manner hereinafter provided; and to determine

1 all rights to credit memoranda arising on account of the
2 erroneous payment of tax or penalty under this subsection. In
3 the administration of, and compliance with this subsection, the
4 Department and persons who are subject to this subsection shall
5 have the same rights, remedies, privileges, immunities, powers
6 and duties, and be subject to the same conditions,
7 restrictions, limitations, penalties, exclusions, exemptions,
8 and definitions of terms and employ the same modes of procedure
9 as are prescribed in Sections 2, 2a through 2d, 3 through 3-50
10 (in respect to all provisions therein other than the State rate
11 of tax), 4 (except that the reference to the State shall be to
12 the business district), 5, 7, 8 (except that the jurisdiction
13 to which the tax shall be a debt to the extent indicated in
14 that Section 8 shall be the municipality), 9 (except as to the
15 disposition of taxes and penalties collected, and except that
16 the returned merchandise credit for this tax may not be taken
17 against any State tax), 10, 11, 12 (except the reference
18 therein to Section 2b of the Retailers' Occupation Tax Act), 13
19 (except that any reference to the State shall mean the
20 municipality), the first paragraph of Section 15, and Sections
21 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and all
22 provisions of the Uniform Penalty and Interest Act, as fully as
23 if those provisions were set forth herein.

24 Persons subject to any tax imposed under the authority
25 granted in this subsection may reimburse themselves for their
26 serviceman's tax liability hereunder by separately stating the

1 tax as an additional charge, which charge may be stated in
2 combination, in a single amount, with State tax that servicemen
3 are authorized to collect under the Service Use Tax Act, in
4 accordance with such bracket schedules as the Department may
5 prescribe.

6 Whenever the Department determines that a refund should be
7 made under this subsection to a claimant instead of issuing
8 credit memorandum, the Department shall notify the State
9 Comptroller, who shall cause the order to be drawn for the
10 amount specified, and to the person named, in such notification
11 from the Department. Such refund shall be paid by the State
12 Treasurer out of the business district retailers' occupation
13 tax fund.

14 The Department shall forthwith pay over to the State
15 Treasurer, ex-officio, as trustee, all taxes, penalties, and
16 interest collected under this subsection for deposit into the
17 business district retailers' occupation tax fund.

18 As soon as possible after the first day of each month,
19 beginning January 1, 2011, upon certification of the Department
20 of Revenue, the Comptroller shall order transferred, and the
21 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
22 local sales tax increment, as defined in the Innovation
23 Development and Economy Act, collected under this subsection
24 during the second preceding calendar month for sales within a
25 STAR bond district.

26 After the monthly transfer to the STAR Bonds Revenue Fund,

1 on or before the 25th day of each calendar month, the
2 Department shall prepare and certify to the Comptroller the
3 disbursement of stated sums of money to named municipalities
4 from the business district retailers' occupation tax fund, the
5 municipalities to be those from which suppliers and servicemen
6 have paid taxes or penalties under this subsection to the
7 Department during the second preceding calendar month. The
8 amount to be paid to each municipality shall be the amount (not
9 including credit memoranda) collected under this subsection
10 during the second preceding calendar month by the Department,
11 less 2% of that amount, which shall be deposited into the Tax
12 Compliance and Administration Fund and shall be used by the
13 Department, subject to appropriation, to cover the costs of the
14 Department in administering and enforcing the provisions of
15 this subsection, and not including an amount equal to the
16 amount of refunds made during the second preceding calendar
17 month by the Department on behalf of such municipality, and not
18 including any amounts that are transferred to the STAR Bonds
19 Revenue Fund. Within 10 days after receipt, by the Comptroller,
20 of the disbursement certification to the municipalities,
21 provided for in this subsection to be given to the Comptroller
22 by the Department, the Comptroller shall cause the orders to be
23 drawn for the respective amounts in accordance with the
24 directions contained in such certification. The proceeds of the
25 tax paid to municipalities under this subsection shall be
26 deposited into the Business District Tax Allocation Fund by the

1 municipality.

2 An ordinance imposing or discontinuing the tax under this
3 subsection or effecting a change in the rate thereof shall
4 either (i) be adopted and a certified copy thereof filed with
5 the Department on or before the first day of April, whereupon
6 the Department, if all other requirements of this subsection
7 are met, shall proceed to administer and enforce this
8 subsection as of the first day of July next following the
9 adoption and filing; or (ii) be adopted and a certified copy
10 thereof filed with the Department on or before the first day of
11 October, whereupon, if all other conditions of this subsection
12 are met, the Department shall proceed to administer and enforce
13 this subsection as of the first day of January next following
14 the adoption and filing.

15 The Department of Revenue shall not administer or enforce
16 an ordinance imposing, discontinuing, or changing the rate of
17 the tax under this subsection, until the municipality also
18 provides, in the manner prescribed by the Department, the
19 boundaries of the business district in such a way that the
20 Department can determine by its address whether a business is
21 located in the business district. The municipality must provide
22 this boundary and address information to the Department on or
23 before April 1 for administration and enforcement of the tax
24 under this subsection by the Department beginning on the
25 following July 1 and on or before October 1 for administration
26 and enforcement of the tax under this subsection by the

1 Department beginning on the following January 1. The Department
2 of Revenue shall not administer or enforce any change made to
3 the boundaries of a business district or address change,
4 addition, or deletion until the municipality reports the
5 boundary change or address change, addition, or deletion to the
6 Department in the manner prescribed by the Department. The
7 municipality must provide this boundary change information or
8 address change, addition, or deletion to the Department on or
9 before April 1 for administration and enforcement by the
10 Department of the change beginning on the following July 1 and
11 on or before October 1 for administration and enforcement by
12 the Department of the change beginning on the following January
13 1. The retailers in the business district shall be responsible
14 for charging the tax imposed under this subsection. If a
15 retailer is incorrectly included or excluded from the list of
16 those required to collect the tax under this subsection, both
17 the Department of Revenue and the retailer shall be held
18 harmless if they reasonably relied on information provided by
19 the municipality.

20 A municipality that imposes the tax under this subsection
21 must submit to the Department of Revenue any other information
22 as the Department may require for the administration and
23 enforcement of the tax.

24 Nothing in this subsection shall be construed to authorize
25 the municipality to impose a tax upon the privilege of engaging
26 in any business which under the Constitution of the United

1 States may not be made the subject of taxation by the State.

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

4 (d) By ordinance, a municipality that has designated a
5 business district under this Law may impose an occupation tax
6 upon all persons engaged in the business district in the
7 business of renting, leasing, or letting rooms in a hotel, as
8 defined in the Hotel Operators' Occupation Tax Act, at a rate
9 not to exceed 1% of the gross rental receipts from the renting,
10 leasing, or letting of hotel rooms within the business
11 district, to be imposed only in 0.25% increments, excluding,
12 however, from gross rental receipts the proceeds of renting,
13 leasing, or letting to permanent residents of a hotel, as
14 defined in the Hotel Operators' Occupation Tax Act, and
15 proceeds from the tax imposed under subsection (c) of Section
16 13 of the Metropolitan Pier and Exposition Authority Act.

17 The tax imposed by the municipality under this subsection
18 and all civil penalties that may be assessed as an incident to
19 that tax shall be collected and enforced by the municipality
20 imposing the tax. The municipality shall have full power to
21 administer and enforce this subsection, to collect all taxes
22 and penalties due under this subsection, to dispose of taxes
23 and penalties so collected in the manner provided in this
24 subsection, and to determine all rights to credit memoranda
25 arising on account of the erroneous payment of tax or penalty
26 under this subsection. In the administration of and compliance

1 with this subsection, the municipality and persons who are
2 subject to this subsection shall have the same rights,
3 remedies, privileges, immunities, powers, and duties, shall be
4 subject to the same conditions, restrictions, limitations,
5 penalties, and definitions of terms, and shall employ the same
6 modes of procedure as are employed with respect to a tax
7 adopted by the municipality under Section 8-3-14 of this Code.

8 Persons subject to any tax imposed under the authority
9 granted in this subsection may reimburse themselves for their
10 tax liability for that tax by separately stating that tax as an
11 additional charge, which charge may be stated in combination,
12 in a single amount, with State taxes imposed under the Hotel
13 Operators' Occupation Tax Act, and with any other tax.

14 Nothing in this subsection shall be construed to authorize
15 a municipality to impose a tax upon the privilege of engaging
16 in any business which under the Constitution of the United
17 States may not be made the subject of taxation by this State.

18 The proceeds of the tax imposed under this subsection shall
19 be deposited into the Business District Tax Allocation Fund.

20 (e) Obligations secured by the Business District Tax
21 Allocation Fund may be issued to provide for the payment or
22 reimbursement of business district project costs. Those
23 obligations, when so issued, shall be retired in the manner
24 provided in the ordinance authorizing the issuance of those
25 obligations by the receipts of taxes imposed pursuant to
26 subsections (10) ~~(11)~~ and (11) ~~(12)~~ of Section 11-74.3-3 and by

1 other revenue designated or pledged by the municipality. A
2 municipality may in the ordinance pledge, for any period of
3 time up to and including the dissolution date, all or any part
4 of the funds in and to be deposited in the Business District
5 Tax Allocation Fund to the payment of business district project
6 costs and obligations. Whenever a municipality pledges all of
7 the funds to the credit of a business district tax allocation
8 fund to secure obligations issued or to be issued to pay or
9 reimburse business district project costs, the municipality
10 may specifically provide that funds remaining to the credit of
11 such business district tax allocation fund after the payment of
12 such obligations shall be accounted for annually and shall be
13 deemed to be "surplus" funds, and such "surplus" funds shall be
14 expended by the municipality for any business district project
15 cost as approved in the business district plan. Whenever a
16 municipality pledges less than all of the monies to the credit
17 of a business district tax allocation fund to secure
18 obligations issued or to be issued to pay or reimburse business
19 district project costs, the municipality shall provide that
20 monies to the credit of the business district tax allocation
21 fund and not subject to such pledge or otherwise encumbered or
22 required for payment of contractual obligations for specific
23 business district project costs shall be calculated annually
24 and shall be deemed to be "surplus" funds, and such "surplus"
25 funds shall be expended by the municipality for any business
26 district project cost as approved in the business district

1 plan.

2 No obligation issued pursuant to this Law and secured by a
3 pledge of all or any portion of any revenues received or to be
4 received by the municipality from the imposition of taxes
5 pursuant to subsection (10) ~~(11)~~ of Section 11-74.3-3, shall be
6 deemed to constitute an economic incentive agreement under
7 Section 8-11-20, notwithstanding the fact that such pledge
8 provides for the sharing, rebate, or payment of retailers'
9 occupation taxes or service occupation taxes imposed pursuant
10 to subsection (10) ~~(11)~~ of Section 11-74.3-3 and received or to
11 be received by the municipality from the development or
12 redevelopment of properties in the business district.

13 Without limiting the foregoing in this Section, the
14 municipality may further secure obligations secured by the
15 business district tax allocation fund with a pledge, for a
16 period not greater than the term of the obligations and in any
17 case not longer than the dissolution date, of any part or any
18 combination of the following: (i) net revenues of all or part
19 of any business district project; (ii) taxes levied or imposed
20 by the municipality on any or all property in the municipality,
21 including, specifically, taxes levied or imposed by the
22 municipality in a special service area pursuant to the Special
23 Service Area Tax Law; (iii) the full faith and credit of the
24 municipality; (iv) a mortgage on part or all of the business
25 district project; or (v) any other taxes or anticipated
26 receipts that the municipality may lawfully pledge.

1 Such obligations may be issued in one or more series, bear
2 such date or dates, become due at such time or times as therein
3 provided, but in any case not later than (i) 20 years after the
4 date of issue or (ii) the dissolution date, whichever is
5 earlier, bear interest payable at such intervals and at such
6 rate or rates as set forth therein, except as may be limited by
7 applicable law, which rate or rates may be fixed or variable,
8 be in such denominations, be in such form, either coupon,
9 registered, or book-entry, carry such conversion, registration
10 and exchange privileges, be subject to defeasance upon such
11 terms, have such rank or priority, be executed in such manner,
12 be payable in such medium or payment at such place or places
13 within or without the State, make provision for a corporate
14 trustee within or without the State with respect to such
15 obligations, prescribe the rights, powers, and duties thereof
16 to be exercised for the benefit of the municipality and the
17 benefit of the owners of such obligations, provide for the
18 holding in trust, investment, and use of moneys, funds, and
19 accounts held under an ordinance, provide for assignment of and
20 direct payment of the moneys to pay such obligations or to be
21 deposited into such funds or accounts directly to such trustee,
22 be subject to such terms of redemption with or without premium,
23 and be sold at such price, all as the corporate authorities
24 shall determine. No referendum approval of the electors shall
25 be required as a condition to the issuance of obligations
26 pursuant to this Law except as provided in this Section.

1 In the event the municipality authorizes the issuance of
2 obligations pursuant to the authority of this Law secured by
3 the full faith and credit of the municipality, or pledges ad
4 valorem taxes pursuant to this subsection, which obligations
5 are other than obligations which may be issued under home rule
6 powers provided by Section 6 of Article VII of the Illinois
7 Constitution or which ad valorem taxes are other than ad
8 valorem taxes which may be pledged under home rule powers
9 provided by Section 6 of Article VII of the Illinois
10 Constitution or which are levied in a special service area
11 pursuant to the Special Service Area Tax Law, the ordinance
12 authorizing the issuance of those obligations or pledging those
13 taxes shall be published within 10 days after the ordinance has
14 been adopted, in a newspaper having a general circulation
15 within the municipality. The publication of the ordinance shall
16 be accompanied by a notice of (i) the specific number of voters
17 required to sign a petition requesting the question of the
18 issuance of the obligations or pledging such ad valorem taxes
19 to be submitted to the electors; (ii) the time within which the
20 petition must be filed; and (iii) the date of the prospective
21 referendum. The municipal clerk shall provide a petition form
22 to any individual requesting one.

23 If no petition is filed with the municipal clerk, as
24 hereinafter provided in this Section, within 21 days after the
25 publication of the ordinance, the ordinance shall be in effect.
26 However, if within that 21-day period a petition is filed with

1 the municipal clerk, signed by electors numbering not less than
2 15% of the number of electors voting for the mayor or president
3 at the last general municipal election, asking that the
4 question of issuing obligations using full faith and credit of
5 the municipality as security for the cost of paying or
6 reimbursing business district project costs, or of pledging
7 such ad valorem taxes for the payment of those obligations, or
8 both, be submitted to the electors of the municipality, the
9 municipality shall not be authorized to issue obligations of
10 the municipality using the full faith and credit of the
11 municipality as security or pledging such ad valorem taxes for
12 the payment of those obligations, or both, until the
13 proposition has been submitted to and approved by a majority of
14 the voters voting on the proposition at a regularly scheduled
15 election. The municipality shall certify the proposition to the
16 proper election authorities for submission in accordance with
17 the general election law.

18 The ordinance authorizing the obligations may provide that
19 the obligations shall contain a recital that they are issued
20 pursuant to this Law, which recital shall be conclusive
21 evidence of their validity and of the regularity of their
22 issuance.

23 In the event the municipality authorizes issuance of
24 obligations pursuant to this Law secured by the full faith and
25 credit of the municipality, the ordinance authorizing the
26 obligations may provide for the levy and collection of a direct

1 annual tax upon all taxable property within the municipality
2 sufficient to pay the principal thereof and interest thereon as
3 it matures, which levy may be in addition to and exclusive of
4 the maximum of all other taxes authorized to be levied by the
5 municipality, which levy, however, shall be abated to the
6 extent that monies from other sources are available for payment
7 of the obligations and the municipality certifies the amount of
8 those monies available to the county clerk.

9 A certified copy of the ordinance shall be filed with the
10 county clerk of each county in which any portion of the
11 municipality is situated, and shall constitute the authority
12 for the extension and collection of the taxes to be deposited
13 in the business district tax allocation fund.

14 A municipality may also issue its obligations to refund, in
15 whole or in part, obligations theretofore issued by the
16 municipality under the authority of this Law, whether at or
17 prior to maturity. However, the last maturity of the refunding
18 obligations shall not be expressed to mature later than the
19 dissolution date.

20 In the event a municipality issues obligations under home
21 rule powers or other legislative authority, the proceeds of
22 which are pledged to pay or reimburse business district project
23 costs, the municipality may, if it has followed the procedures
24 in conformance with this Law, retire those obligations from
25 funds in the business district tax allocation fund in amounts
26 and in such manner as if those obligations had been issued

1 pursuant to the provisions of this Law.

2 No obligations issued pursuant to this Law shall be
3 regarded as indebtedness of the municipality issuing those
4 obligations or any other taxing district for the purpose of any
5 limitation imposed by law.

6 Obligations issued pursuant to this Law shall not be
7 subject to the provisions of the Bond Authorization Act.

8 (f) When business district project costs, including,
9 without limitation, all obligations paying or reimbursing
10 business district project costs have been paid, any surplus
11 funds then remaining in the Business District Tax Allocation
12 Fund shall be distributed to the municipal treasurer for
13 deposit into the general corporate fund of the municipality.
14 Upon payment of all business district project costs and
15 retirement of all obligations paying or reimbursing business
16 district project costs, but in no event more than 23 years
17 after the date of adoption of the ordinance imposing taxes
18 pursuant to subsection (10) ~~subsections (11) or (11) (12)~~ of
19 Section 11-74.3-3, the municipality shall adopt an ordinance
20 immediately rescinding the taxes imposed pursuant to
21 subsection (10) or (11) of Section 11-74.3-3 ~~said subsections~~.

22 (Source: P.A. 96-939, eff. 6-24-10; 96-1394, eff. 7-29-10;
23 revised 9-2-10.)

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