

SB1712



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1712

Introduced 2/9/2011, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

50 ILCS 470/10
70 ILCS 750/25

Amends the Innovation Development and Economy Act. Changes the definition of "local sales taxes" to exclude any taxes authorized under the Flood Prevention District Act (now, the definition excludes taxes authorized under the Flood Prevention District Act for so long as the flood prevention district does not impose a tax on real property). Amends the Flood Prevention District Act. Deletes provisions concerning the monthly transfer to the STAR Bonds Revenue Fund of the local sales tax increment collected within a STAR bond district that is located within a flood prevention district. Effective immediately.

LRB097 09992 RLJ 50162 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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

6 (50 ILCS 470/10)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 in the best interest of the political subdivision.

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

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

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

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

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

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

1 and in the case of a municipality and county forming a STAR
2 bond district that is only partially within such municipality,
3 that portion of the local sales tax paid by taxpayers that are
4 not destination users, destination hotels, or entertainment
5 users that is in excess of the local sales tax paid by
6 taxpayers that are not destination users, destination hotels,
7 or entertainment users for the same month in the base year, as
8 determined by the Illinois Department of Revenue, and (iii) in
9 the case of a county in which a STAR bond district is formed
10 that is wholly within a municipality, that portion of the local
11 sales tax paid by taxpayers that are not destination users,
12 destination hotels, or entertainment users that is in excess of
13 the local sales tax paid by taxpayers that are not destination
14 users, destination hotels, or entertainment users for the same
15 month in the base year, as determined by the Illinois
16 Department of Revenue, but only if the corporate authorities of
17 the county adopts an ordinance, and files a copy with the
18 Department within the same time frames as required for STAR
19 bond occupation taxes under Section 31, that designates the
20 taxes referenced in this clause (iii) as part of the local
21 sales tax increment under this Act. "Local sales tax increment"
22 means, with respect to local sales taxes administered by a
23 municipality, county, or other unit of local government, that
24 portion of the local sales tax that is in excess of the local
25 sales tax for the same month in the base year, as determined by
26 the respective municipality, county, or other unit of local

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

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

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

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

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

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

1 State sales tax increment or local sales tax increment from a
2 retail entity initiating operations in a STAR bond district
3 while terminating operations at another Illinois location
4 within 25 miles of the STAR bond district. For purposes of this
5 paragraph, "terminating operations" means a closing of a retail
6 operation that is directly related to the opening of the same
7 operation or like retail entity owned or operated by more than
8 50% of the original ownership in a STAR bond district within
9 one year before or after initiating operations in the STAR bond
10 district, but it does not mean closing an operation for reasons
11 beyond the control of the retail entity, as documented by the
12 retail entity, subject to a reasonable finding by the
13 municipality (or county if such retail operation is not located
14 within a municipality) in which the terminated operations were
15 located that the closed location contained inadequate space,
16 had become economically obsolete, or was no longer a viable
17 location for the retailer or serviceman.

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

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

1 serve the public purposes set forth in Section 5 of this Act.
2 Such costs include without limitation the following:

3 (a) costs of studies, surveys, development of plans and
4 specifications, formation, implementation, and
5 administration of a STAR bond district, STAR bond district
6 plan, any STAR bond projects, or any STAR bond project
7 plans, including, but not limited to, staff and
8 professional service costs for architectural, engineering,
9 legal, financial, planning, or other services, provided
10 however that no charges for professional services may be
11 based on a percentage of the tax increment collected and no
12 contracts for professional services, excluding
13 architectural and engineering services, may be entered
14 into if the terms of the contract extend beyond a period of
15 3 years;

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

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

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

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

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

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

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

1 deemed project costs;

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

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

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

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

1 provided that:

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

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

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

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

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

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

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

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

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

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

11 (iv) lobbying costs; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 other vertical improvement.

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

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

5 (70 ILCS 750/25)

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

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

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

8 In the administration of and compliance with this
9 subsection, the Department and persons who are subject to this
10 subsection (i) have the same rights, remedies, privileges,
11 immunities, powers, and duties, (ii) are subject to the same
12 conditions, restrictions, limitations, penalties, and
13 definitions of terms, and (iii) shall employ the same modes of
14 procedure as are set forth in Sections 1 through 10, 2 through
15 2-70 (in respect to all provisions contained in those Sections
16 other than the State rate of tax), 2a through 2h, 3 (except as
17 to the disposition of taxes and penalties collected), 4, 5, 5a,
18 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10,
19 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act and
20 all provisions of the Uniform Penalty and Interest Act as if
21 those provisions were set forth in this subsection.

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

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

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

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

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

1 penalty hereunder.

2 In the administration of and compliance with this
3 subsection, the Department and persons who are subject to this
4 subsection shall (i) have the same rights, remedies,
5 privileges, immunities, powers, and duties, (ii) be subject to
6 the same conditions, restrictions, limitations, penalties, and
7 definitions of terms, and (iii) employ the same modes of
8 procedure as are set forth in Sections 2 (except that the
9 reference to State in the definition of supplier maintaining a
10 place of business in this State means the district), 2a through
11 2d, 3 through 3-50 (in respect to all provisions contained in
12 those Sections other than the State rate of tax), 4 (except
13 that the reference to the State shall be to the district), 5,
14 7, 8 (except that the jurisdiction to which the tax is a debt
15 to the extent indicated in that Section 8 is the district), 9
16 (except as to the disposition of taxes and penalties
17 collected), 10, 11, 12 (except the reference therein to Section
18 2b of the Retailers' Occupation Tax Act), 13 (except that any
19 reference to the State means the district), Section 15, 16, 17,
20 18, 19, and 20 of the Service Occupation Tax Act and all
21 provisions of the Uniform Penalty and Interest Act, as fully as
22 if those provisions were set forth herein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (Source: P.A. 95-719, eff. 5-21-08; 95-723, eff. 6-23-08;
2 96-939, eff. 6-24-10.)

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