



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB3382

Introduced 2/7/2012, by Sen. Michael Noland

#### SYNOPSIS AS INTRODUCED:

20 ILCS 620/4

from Ch. 67 1/2, par. 1004

20 ILCS 620/7.5 new

Amends the Economic Development Area Tax Increment Allocation Act. Provides that no economic development area may be established or extended without the written approval of the taxing districts comprising a majority of the total amount of taxes extended within the economic development area in the previous taxable year. Provides that no direct or indirect rights or privileges conveyed to any corporation under an economic development plan or agreement may be transferred to a developer's successor entity without the express, written approval of each taxing district located within the economic development area. Provides that the portion of the taxes extended by a school district located in an economic development project area may not be paid into the special tax allocation fund without the express written permission of the school district. Provides that assets purchased by the Administrator to further the development of the economic development area may not be transferred out of the economic development area or otherwise used by the Administrator for development activities or services that are not related to the economic development area.

LRB097 18949 HLH 64187 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Economic Development Area Tax Increment  
5 Allocation Act is amended by changing Sections 4 and 7.5 as  
6 follows:

7 (20 ILCS 620/4) (from Ch. 67 1/2, par. 1004)

8 (Text of Section before amendment by P.A. 97-636)

9 Sec. 4. Establishment of economic development project  
10 areas; ordinance; notice; hearing; changes in economic  
11 development plan. Economic development project areas shall be  
12 established as follows:

13 (a) The corporate authorities of a municipality shall by  
14 ordinance propose the establishment of an economic development  
15 project area and fix a time and place for a public hearing, and  
16 shall submit a certified copy of the ordinance as adopted to  
17 the Department.

18 (b)(1) Notice of the public hearing shall be given by  
19 publication and mailing. Notice by publication shall be given  
20 by publication at least twice, the first publication to be not  
21 more than 30 nor less than 10 days prior to the hearing in a  
22 newspaper of general circulation within the taxing districts  
23 having property in the proposed economic development project

1 area. Notice by mailing shall be given by depositing such  
2 notice together with a copy of the proposed economic  
3 development plan in the United States mails by certified mail  
4 addressed to the person or persons in whose name the general  
5 taxes for the last preceding year were paid on each lot, block,  
6 tract, or parcel of land lying within the economic development  
7 project area. The notice shall be mailed not less than 10 days  
8 prior to the date set for the public hearing. In the event  
9 taxes for the last preceding year were not paid, the notice  
10 shall also be sent to the persons last listed on the tax rolls  
11 within the preceding 3 years as the owners of such property.

12 (2) The notices issued pursuant to this Section shall  
13 include the following:

14 (A) The time and place of public hearing;

15 (B) The boundaries of the proposed economic  
16 development project area by legal description and by street  
17 location where possible;

18 (C) A notification that all interested persons will be  
19 given an opportunity to be heard at the public hearing;

20 (D) An invitation for any person to submit alternative  
21 proposals or bids for any proposed conveyance, lease,  
22 mortgage or other disposition of land within the proposed  
23 economic development project area;

24 (E) A description of the economic development plan or  
25 economic development project if a plan or project is a  
26 subject matter of the hearing; and

1           (F) Such other matters as the municipality may deem  
2           appropriate.

3           (3) Not less than 30 days prior to the date set for  
4           hearing, the municipality shall give notice by mail as provided  
5           in this subsection (b) to all taxing districts, of which  
6           taxable property is included in the economic development  
7           project area, and to the Department. In addition to the other  
8           requirements under this subsection (b), the notice shall  
9           include an invitation to the Department and each taxing  
10          district to submit comments to the municipality concerning the  
11          subject matter of the hearing prior to the date of hearing. No  
12          economic development area may be established or extended  
13          without the written approval of the taxing districts comprising  
14          a majority of the total amount of taxes extended within the  
15          economic development area in the previous taxable year. No  
16          direct or indirect rights or privileges conveyed to any  
17          corporation under an economic development plan or agreement may  
18          be transferred to a developer's successor entity without the  
19          express, written approval of each taxing district located  
20          within the economic development area.

21          (c) At the public hearing any interested person, the  
22          Department or any affected taxing district may file written  
23          objections with the municipal clerk and may be heard orally  
24          with respect to any issues embodied in the notice. The  
25          municipality shall hear and determine all alternate proposals  
26          or bids for any proposed conveyance, lease, mortgage or other

1 disposition of land and all protests and objections at the  
2 hearing, and the hearing may be adjourned to another date  
3 without further notice other than a motion to be entered upon  
4 the minutes fixing the time and place of the adjourned hearing.  
5 Public hearings with regard to an economic development plan,  
6 economic development project area, or economic development  
7 project may be held simultaneously.

8 (d) At the public hearing or at any time prior to the  
9 adoption by the municipality of an ordinance approving an  
10 economic development plan, the municipality may make changes in  
11 the economic development plan. Changes which (1) alter the  
12 exterior boundaries of the proposed economic development  
13 project area, (2) substantially affect the general land uses  
14 established in the proposed economic development plan, (3)  
15 substantially change the nature of the proposed economic  
16 development project, (4) change the general description of any  
17 proposed developer, user or tenant of any property to be  
18 located or improved within the economic development project  
19 area, or (5) change the description of the type, class and  
20 number of employees to be employed in the operation of the  
21 facilities to be developed or improved within the economic  
22 development project area shall be made only after notice and  
23 hearing pursuant to the procedures set forth in this Section.  
24 Changes which do not (1) alter the exterior boundaries of a  
25 proposed economic development project area, (2) substantially  
26 affect the general land uses established in the proposed

1 economic development plan, (3) substantially change the nature  
2 of the proposed economic development project, (4) change the  
3 general description of any proposed developer, user or tenant  
4 of any property to be located or improved within the economic  
5 development project area, or (5) change the description of the  
6 type, class and number of employees to be employed in the  
7 operation of the facilities to be developed or improved within  
8 the economic development project area may be made without  
9 further hearing, provided that the municipality shall give  
10 notice of its changes by mail to the Department and to each  
11 affected taxing district and by publication in a newspaper or  
12 newspapers of general circulation within the affected taxing  
13 districts. Such notice by mail and by publication shall each  
14 occur not later than 10 days following the adoption by  
15 ordinance of such changes.

16 (e) At any time within 30 days of the final adjournment of  
17 the public hearing, a municipality may, by ordinance, approve  
18 the economic development plan, establish the economic  
19 development project area, and authorize tax increment  
20 allocation financing for such economic development project  
21 area. Any ordinance adopted which approves an economic  
22 development plan shall contain findings that the economic  
23 development project shall create or retain not less than 2,000  
24 full-time equivalent jobs, that private investment in an amount  
25 not less than \$100,000,000 shall occur in the economic  
26 development project area, that the economic development

1 project will encourage the increase of commerce and industry  
2 within the State, thereby reducing the evils attendant upon  
3 unemployment and increasing opportunities for personal income,  
4 and that the economic development project will increase or  
5 maintain the property, sales and income tax bases of the  
6 municipality and of the State. Any ordinance adopted which  
7 establishes an economic development project area shall contain  
8 the boundaries of such area by legal description and, where  
9 possible, by street location. Any ordinance adopted which  
10 authorizes tax increment allocation financing shall provide  
11 that the ad valorem taxes, if any, arising from the levies upon  
12 taxable real property in such economic development project area  
13 by taxing districts and tax rates determined in the manner  
14 provided in subsection (b) of Section 6 of this Act each year  
15 after the effective date of the ordinance until economic  
16 development project costs and all municipal obligations  
17 financing economic development project costs incurred under  
18 this Act have been paid shall be divided as follows:

19 (1) That portion of taxes levied upon each taxable lot,  
20 block, tract or parcel of real property which is  
21 attributable to the lower of the current equalized assessed  
22 value or the initial equalized assessed value of each such  
23 taxable lot, block, tract or parcel of real property in the  
24 economic development project area shall be allocated to and  
25 when collected shall be paid by the county collector to the  
26 respective affected taxing districts in the manner

1 required by law in the absence of the adoption of tax  
2 increment allocation financing.

3 (2) That portion, if any, of such taxes which is  
4 attributable to the increase in the current equalized  
5 assessed valuation of each taxable lot, block, tract or  
6 parcel of real property in the economic development project  
7 area over and above the initial equalized assessed value of  
8 each property in the economic development project area  
9 shall be allocated to and when collected shall be paid to  
10 the municipal treasurer who shall deposit such taxes into a  
11 special fund called the special tax allocation fund of the  
12 municipality for the purpose of paying economic  
13 development project costs and obligations incurred in the  
14 payment thereof.

15 (3) Notwithstanding any other provision of law, the  
16 portion of the taxes extended by a school district located  
17 in an economic development project area may not be paid  
18 into the special tax allocation fund without the express  
19 written permission of the school district. If the school  
20 district does not give its express written permission, then  
21 the portion of taxes levied upon each taxable lot, block,  
22 tract or parcel of real property which is attributable to  
23 the school district shall be allocated to and when  
24 collected shall be paid by the county collector to the  
25 respective affected taxing districts in the manner  
26 required by law in the absence of the adoption of tax



1           increment allocation financing.

2           (f) After a municipality has by ordinance approved an  
3 economic development plan and established an economic  
4 development project area, the plan may be amended and the  
5 boundaries of the area may be altered only as herein provided.  
6 Amendments which (1) alter the exterior boundaries of an  
7 economic development project area, (2) substantially affect  
8 the general land uses established pursuant to the economic  
9 development plan, (3) substantially change the nature of the  
10 economic development project, (4) change the general  
11 description of any proposed developer, user, or tenant of any  
12 property to be located or improved within the economic  
13 development project area, or (5) change the description of the  
14 type, class and number of employees to be employed in the  
15 operation of the facilities to be developed or improved within  
16 the economic development project area, shall be made only after  
17 notice and hearing pursuant to the procedures set forth in this  
18 Section. Amendments which do not (1) alter the boundaries of  
19 the economic development project area, (2) substantially  
20 affect the general land uses established in the economic  
21 development plan, (3) substantially change the nature of the  
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1 operation of the facilities to be developed or improved within  
2 the economic development project area may be made without  
3 further hearing, provided that the municipality shall give  
4 notice of any amendment by mail to the Department and to each  
5 taxing district and by publication in a newspaper or newspapers  
6 of general circulation within the affected taxing districts.  
7 Such notice by mail and by publication shall each occur not  
8 later than 10 days following the adoption by ordinance of any  
9 amendments.

10 (Source: P.A. 86-38.)

11 (Text of Section after amendment by P.A. 97-636)

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14 development plan. Economic development project areas shall be  
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17 ordinance propose the establishment of an economic development  
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20 the Department.

21 (b) (1) Notice of the public hearing shall be given by  
22 publication and mailing. Notice by publication shall be given  
23 by publication at least twice, the first publication to be not  
24 more than 30 nor less than 10 days prior to the hearing in a  
25 newspaper of general circulation within the taxing districts

1 having property in the proposed economic development project  
2 area. Notice by mailing shall be given by depositing such  
3 notice together with a copy of the proposed economic  
4 development plan in the United States mails by certified mail  
5 addressed to the person or persons in whose name the general  
6 taxes for the last preceding year were paid on each lot, block,  
7 tract, or parcel of land lying within the economic development  
8 project area. The notice shall be mailed not less than 10 days  
9 prior to the date set for the public hearing. In the event  
10 taxes for the last preceding year were not paid, the notice  
11 shall also be sent to the persons last listed on the tax rolls  
12 within the preceding 3 years as the owners of such property.

13 (2) The notices issued pursuant to this Section shall  
14 include the following:

15 (A) The time and place of public hearing;

16 (B) The boundaries of the proposed economic  
17 development project area by legal description and by street  
18 location where possible;

19 (C) A notification that all interested persons will be  
20 given an opportunity to be heard at the public hearing;

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22 proposals or bids for any proposed conveyance, lease,  
23 mortgage or other disposition of land within the proposed  
24 economic development project area;

25 (E) A description of the economic development plan or  
26 economic development project if a plan or project is a

1 subject matter of the hearing; and

2 (F) Such other matters as the municipality may deem  
3 appropriate.

4 (3) Not less than 30 days prior to the date set for  
5 hearing, the municipality shall give notice by mail as provided  
6 in this subsection (b) to all taxing districts, of which  
7 taxable property is included in the economic development  
8 project area, and to the Department. In addition to the other  
9 requirements under this subsection (b), the notice shall  
10 include an invitation to the Department and each taxing  
11 district to submit comments to the municipality concerning the  
12 subject matter of the hearing prior to the date of hearing. No  
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14 without the written approval of the taxing districts comprising  
15 a majority of the total amount of taxes extended within the  
16 economic development area in the previous taxable year. No  
17 direct or indirect rights or privileges conveyed to any  
18 corporation under an economic development plan or agreement may  
19 be transferred to a developer's successor entity without the  
20 express, written approval of each taxing district located  
21 within the economic development area.

22 (c) At the public hearing any interested person, the  
23 Department or any affected taxing district may file written  
24 objections with the municipal clerk and may be heard orally  
25 with respect to any issues embodied in the notice. The  
26 municipality shall hear and determine all alternate proposals

1 or bids for any proposed conveyance, lease, mortgage or other  
2 disposition of land and all protests and objections at the  
3 hearing, and the hearing may be adjourned to another date  
4 without further notice other than a motion to be entered upon  
5 the minutes fixing the time and place of the adjourned hearing.  
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13 newspapers of general circulation within the affected taxing  
14 districts. Such notice by mail and by publication shall each  
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16 ordinance of such changes.

17 (e) At any time within 30 days of the final adjournment of  
18 the public hearing, a municipality may, by ordinance, approve  
19 the economic development plan, establish the economic  
20 development project area, and authorize tax increment  
21 allocation financing for such economic development project  
22 area. Any ordinance adopted which approves an economic  
23 development plan shall contain findings that the developer or  
24 any of its successor entities and its subsidiaries shall create  
25 or retain not less than 4,250 full-time equivalent jobs, that  
26 private investment in an amount not less than \$100,000,000

1 shall occur in the economic development project area, that the  
2 economic development project will encourage the increase of  
3 commerce and industry within the State, thereby reducing the  
4 evils attendant upon unemployment and increasing opportunities  
5 for personal income, and that the economic development project  
6 will increase or maintain the property, sales and income tax  
7 bases of the municipality and of the State. Any ordinance  
8 adopted which establishes an economic development project area  
9 shall contain the boundaries of such area by legal description  
10 and, where possible, by street location. Any ordinance adopted  
11 which authorizes tax increment allocation financing shall  
12 provide that the ad valorem taxes, if any, arising from the  
13 levies upon taxable real property in such economic development  
14 project area by taxing districts and tax rates determined in  
15 the manner provided in subsection (b) of Section 6 of this Act  
16 each year after the effective date of the ordinance until  
17 economic development project costs and all municipal  
18 obligations financing economic development project costs  
19 incurred under this Act have been paid shall be divided as  
20 follows:

21 (1) That portion of taxes levied upon each taxable lot,  
22 block, tract or parcel of real property which is  
23 attributable to the lower of the current equalized assessed  
24 value or the initial equalized assessed value of each such  
25 taxable lot, block, tract or parcel of real property in the  
26 economic development project area shall be allocated to and

1 when collected shall be paid by the county collector to the  
2 respective affected taxing districts in the manner  
3 required by law in the absence of the adoption of tax  
4 increment allocation financing.

5 (2) That portion, if any, of such taxes which is  
6 attributable to the increase in the current equalized  
7 assessed valuation of each taxable lot, block, tract or  
8 parcel of real property in the economic development project  
9 area over and above the initial equalized assessed value of  
10 each property in the economic development project area  
11 shall be allocated to and when collected shall be paid to  
12 the municipal treasurer who shall deposit such taxes into a  
13 special fund called the special tax allocation fund of the  
14 municipality for the purpose of paying economic  
15 development project costs and obligations incurred in the  
16 payment thereof.

17 (3) Notwithstanding any other provision of law, the  
18 portion of the taxes extended by a school district located  
19 in an economic development project area may not be paid  
20 into the special tax allocation fund without the express  
21 written permission of the school district. If the school  
22 district does not give its express written permission, then  
23 the portion of taxes levied upon each taxable lot, block,  
24 tract or parcel of real property which is attributable to  
25 the school district shall be allocated to and when  
26 collected shall be paid by the county collector to the



1 respective affected taxing districts in the manner  
2 required by law in the absence of the adoption of tax  
3 increment allocation financing.

4 (f) After a municipality has by ordinance approved an  
5 economic development plan and established an economic  
6 development project area, the plan may be amended and the  
7 boundaries of the area may be altered only as herein provided.  
8 Amendments which (1) alter the exterior boundaries of an  
9 economic development project area, (2) substantially affect  
10 the general land uses established pursuant to the economic  
11 development plan, (3) substantially change the nature of the  
12 economic development project, (4) change the general  
13 description of any proposed developer, user, or tenant of any  
14 property to be located or improved within the economic  
15 development project area, or (5) change the description of the  
16 type, class and number of employees to be employed in the  
17 operation of the facilities to be developed or improved within  
18 the economic development project area, shall be made only after  
19 notice and hearing pursuant to the procedures set forth in this  
20 Section. Amendments which do not (1) alter the boundaries of  
21 the economic development project area, (2) substantially  
22 affect the general land uses established in the economic  
23 development plan, (3) substantially change the nature of the  
24 economic development project, (4) change the general  
25 description of any proposed developer, user, or tenant of any  
26 property to be located or improved within the economic

1 development project area, or (5) change the description of the  
2 type, class and number of employees to be employed in the  
3 operation of the facilities to be developed or improved within  
4 the economic development project area may be made without  
5 further hearing, provided that the municipality shall give  
6 notice of any amendment by mail to the Department and to each  
7 taxing district and by publication in a newspaper or newspapers  
8 of general circulation within the affected taxing districts.  
9 Such notice by mail and by publication shall each occur not  
10 later than 10 days following the adoption by ordinance of any  
11 amendments.

12 (g) Extension of economic development project area;  
13 allocations; payment of outstanding claims; changes in  
14 equalized assessed valuation.

15 (1) Notwithstanding anything to the contrary set forth  
16 in this Act, upon the effective date of this amendatory Act  
17 of the 97th General Assembly, the duration of any existing  
18 economic development plan created pursuant to this Act is  
19 extended to the duration permitted under this subsection,  
20 up to a maximum duration of 15 years.

21 (2) For the purposes of this Section, real estate taxes  
22 paid on property within the economic development project  
23 area during calendar year 2013 and remitted to the  
24 developer and the taxing districts in 2014 shall be the  
25 "base amount". Beginning with real estate taxes remitted in  
26 2014, for any economic development plan extended by

1 operation of item (1) of this subsection (g), until such  
2 time as all existing obligations, as that term is defined  
3 in item (5) of this subsection (g), have been satisfied,  
4 the allocation of the special tax allocation fund shall be  
5 as follows:

6 (A) All receipts up to the first \$350,000 shall be  
7 maintained by the municipality in an escrow account to  
8 be used solely for (i) expenses relating to the reports  
9 required by Section 4.7 of this Act and (ii) legal  
10 expenses incurred in defense of any civil action  
11 brought against the municipality relating to the  
12 economic development agreement. The escrow account  
13 shall be within the scope of the annual audit provided  
14 in Section 4.7 of this Act. Each December 31 following  
15 a deposit into the escrow account, any unobligated  
16 balance in the escrow account shall be distributed to  
17 the taxing districts in the same manner and proportion  
18 as the most recent distribution by the county collector  
19 to the taxing districts in the economic development  
20 project area.

21 (B) After the allocation required pursuant to  
22 paragraph (A) of this item (2), the next \$5,000,000 of  
23 the receipts shall be allocated to the municipality.

24 (C) After the allocations required pursuant to  
25 paragraphs (A) and (B) of this item (2), 55% of the  
26 remaining receipts shall be allocated to the

1 developer.

2 (D) After the allocations required pursuant to  
3 parts (A) and (B) of this item (2), 45% of the  
4 remaining receipts shall be allocated to the taxing  
5 districts located within the economic development  
6 project area, excluding the municipality.

7 (3) For real estate taxes paid in 2012 and remitted to  
8 the developer and the taxing districts in 2013 and prior  
9 years, the allocation formula contained in any economic  
10 development plan in effect immediately prior to the  
11 effective date of this amendatory Act of the 97th General  
12 Assembly shall apply.

13 (4) Beginning with real estate taxes paid in 2014 and  
14 remitted to the developer and the taxing districts in 2015  
15 and each year thereafter, if the taxes paid within the  
16 economic development project area change from the base  
17 amount, the allocation of the special tax allocation fund  
18 shall be as follows:

19 (A) If the amount of current year taxes paid is  
20 less than the base amount, then the administrative  
21 escrow account shall receive the first \$350,000 of  
22 receipts, the municipality shall receive the next  
23 \$5,000,000 of receipts, the developer shall receive  
24 55% of receipts over \$5,350,000, and the remaining 45%  
25 of receipts over \$5,350,000 shall be distributed to the  
26 taxing districts (excluding the municipality) in the

1 same manner and proportion as the most recent  
2 distribution by the county collector to those taxing  
3 districts in the economic development project area.

4 (B) If the amount of current year taxes paid is  
5 greater than the base amount, then 75% of the increase  
6 in real estate tax receipts shall be payable to the  
7 developer and the remaining 25% of the increase in real  
8 estate tax receipts shall be distributed to the taxing  
9 districts (including the municipality) pursuant to the  
10 formula in this subsection.

11 (5) After (i) all existing obligations and interest  
12 thereon have been satisfied, (ii) any excess moneys have  
13 been distributed pursuant to this subsection, and (iii)  
14 final closing of the books and records of the economic  
15 development project area has occurred, the municipality  
16 shall adopt an ordinance dissolving the special tax  
17 allocation fund for the economic development project area  
18 and terminating the designation of the economic  
19 development project area as an economic development  
20 project area. All excess moneys in the special tax  
21 allocation fund shall be distributed to the taxing  
22 districts in the same manner and proportion as the most  
23 recent distribution by the county collector to those taxing  
24 districts in the economic development project area. For the  
25 purpose of this subsection (g), "existing obligations"  
26 means (i) the obligations of the developer that existed

1 before the base year, as certified by a sworn affidavit of  
2 the principal financial officer of the developer attesting  
3 that the amounts set forth are true and correct, (ii)  
4 obligations of the municipality relating to the payment of  
5 the obligations of the developer, and (iii) any amounts  
6 payable by taxing districts to the developer for property  
7 taxes determined to have been overpaid, to the extent that  
8 those amounts payable have been carried forward as an  
9 interest bearing note due to the developer. All obligations  
10 of the developer due and payable shall be processed and  
11 paid in the order received, with the oldest notes to be  
12 processed and paid first. Beginning January 1, 2012, all  
13 outstanding interest bearing notes shall bear interest at  
14 the rate of 4% until paid.

15 (h) Beginning on the effective date of this amendatory Act  
16 of the 97th General Assembly, the taxing districts shall meet  
17 annually 180 days after the close of the municipal fiscal year,  
18 or as soon as the economic development project audit for that  
19 fiscal year becomes available, to review the effectiveness and  
20 status of the economic development project area up to that  
21 date.

22 (Source: P.A. 97-636, eff. 6-1-12.)

23 (20 ILCS 620/7.5 new)

24 Sec. 7.5. Assets purchased by Administrator.  
25 Notwithstanding any other provision of law, assets purchased by

1 the Administrator to further the development of the economic  
2 development area may not be transferred out of the economic  
3 development area or otherwise used by the Administrator for  
4 development activities or services that are not related to the  
5 economic development area. Economic development area funds may  
6 be used only for that portion of the asset that is used for the  
7 development of the economic development area.

8       Section 95. No acceleration or delay. Where this Act makes  
9 changes in a statute that is represented in this Act by text  
10 that is not yet or no longer in effect (for example, a Section  
11 represented by multiple versions), the use of that text does  
12 not accelerate or delay the taking effect of (i) the changes  
13 made by this Act or (ii) provisions derived from any other  
14 Public Act.