

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 Corporate Accountability for Tax
5 Expenditures Act is amended by changing Section 25 as follows:

6 (20 ILCS 715/25)

7 Sec. 25. Recapture.

8 (a) All development assistance agreements shall contain,
9 at a minimum, the following recapture provisions:

10 (1) The recipient must (i) make the level of capital
11 investment in the economic development project specified
12 in the development assistance agreement; (ii) create or
13 retain, or both, the requisite number of jobs, paying not
14 less than specified wages for the created and retained
15 jobs, within and for the duration of the time period
16 specified in the legislation authorizing, or the
17 administrative rules implementing, the development
18 assistance programs and the development assistance
19 agreement.

20 (2) If the recipient fails to create or retain the
21 requisite number of jobs within and for the time period
22 specified, in the legislation authorizing, or the
23 administrative rules implementing, the development

1 assistance programs and the development assistance
2 agreement, the recipient shall be deemed to no longer
3 qualify for the State economic assistance and the
4 applicable recapture provisions shall take effect.

5 (3) If the recipient receives State economic
6 assistance in the form of a High Impact Business
7 designation pursuant to Section 5.5 of the Illinois
8 Enterprise Zone Act and the business receives the benefit
9 of the exemption authorized under Section 51 of the
10 Retailers' Occupation Tax Act (for the sale of building
11 materials incorporated into a High Impact Business
12 location) and the recipient fails to create or retain the
13 requisite number of jobs, as determined by the legislation
14 authorizing the development assistance programs or the
15 administrative rules implementing such legislation, or
16 both, within the requisite period of time, the recipient
17 shall be required to pay to the State the full amount of
18 the State tax exemption that it received as a result of the
19 High Impact Business designation.

20 (4) If the recipient receives a grant or loan pursuant
21 to the Large Business Development Program, the Business
22 Development Public Infrastructure Program, or the
23 Industrial Training Program and the recipient fails to
24 create or retain the requisite number of jobs for the
25 requisite time period, as provided in the legislation
26 authorizing the development assistance programs or the

1 administrative rules implementing such legislation, or
2 both, or in the development assistance agreement, the
3 recipient shall be required to repay to the State a pro
4 rata amount of the grant; that amount shall reflect the
5 percentage of the deficiency between the requisite number
6 of jobs to be created or retained by the recipient and the
7 actual number of such jobs in existence as of the date the
8 Department determines the recipient is in breach of the job
9 creation or retention covenants contained in the
10 development assistance agreement. If the recipient of
11 development assistance under the Large Business
12 Development Program, the Business Development Public
13 Infrastructure Program, or the Industrial Training Program
14 ceases operations at the specific project site, during the
15 5-year period commencing on the date of assistance, the
16 recipient shall be required to repay the entire amount of
17 the grant or to accelerate repayment of the loan back to
18 the State.

19 (5) If the recipient receives a tax credit under the
20 Economic Development for a Growing Economy tax credit
21 program, the development assistance agreement must provide
22 that (i) if the number of new or retained employees falls
23 below the requisite number set forth in the development
24 assistance agreement, the allowance of the credit shall be
25 automatically suspended until the number of new and
26 retained employees equals or exceeds the requisite number

1 in the development assistance agreement; (ii) if the
2 recipient discontinues operations at the specific project
3 site during the 5-year period after the beginning of the
4 first tax year for which the Department issues a tax credit
5 certificate, the recipient shall forfeit all credits taken
6 by the recipient during such 5-year period; and (iii) in
7 the event of a revocation or suspension of the credit, the
8 Department shall contact the Director of Revenue to
9 initiate proceedings against the recipient to recover
10 wrongfully exempted Illinois State income taxes and the
11 recipient shall promptly repay to the Department of Revenue
12 any wrongfully exempted Illinois State income taxes. The
13 forfeited amount of credits shall be deemed assessed on the
14 date the Department contacts the Department of Revenue and
15 the recipient shall promptly repay to the Department of
16 Revenue any wrongfully exempted Illinois State income
17 taxes.

18 (b) The Director may elect to waive enforcement of any
19 contractual provision arising out of the development
20 assistance agreement required by this Act based on a finding
21 that the waiver is necessary to avert an imminent and
22 demonstrable hardship to the recipient that may result in such
23 recipient's insolvency or discharge of workers. If a waiver is
24 granted, the recipient must agree to a contractual
25 modification, including recapture provisions, to the
26 development assistance agreement. The existence of any waiver

1 granted pursuant to this subsection (c), the date of the
2 granting of such waiver, and a brief summary of the reasons
3 supporting the granting of such waiver shall be disclosed
4 consistent with the provisions of Section 25 of this Act.

5 (b-5) The Department shall publish, on its website, (i) the
6 identity of each recipient from whom amounts were recaptured
7 under this Section, (ii) the amount recaptured, and (iii) the
8 identity of each recipient receiving a waiver under subsection
9 (b) of this Section.

10 (c) Beginning June 1, 2004, the Department shall annually
11 compile a report on the outcomes and effectiveness of recapture
12 provisions by program, including but not limited to: (i) the
13 total number of companies that receive development assistance
14 as defined in this Act; (ii) the total number of recipients in
15 violation of development agreements with the Department; (iii)
16 the total number of completed recapture efforts; (iv) the total
17 number of recapture efforts initiated; and (v) the number of
18 waivers granted. This report shall be disclosed consistent with
19 the provisions of Section 20 of this Act.

20 (d) For the purposes of this Act, recapture provisions do
21 not include the Illinois Department of Transportation Economic
22 Development Program, any grants under the Industrial Training
23 Program that are not given as an incentive to a recipient
24 business organization, or any successor programs as described
25 in the term "development assistance" in Section 5 of this Act.

26 (Source: P.A. 97-2, eff. 5-6-11.)