

1 AMENDMENT TO HOUSE BILL 1276

2 AMENDMENT NO. _____. Amend House Bill 1276 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Property Tax Code is amended by changing
5 Sections 9-195 and 15-60 as follows:

6 (35 ILCS 200/9-195)

7 Sec. 9-195. Leasing of exempt property.

8 (a) Except as provided in Sections 15-35, 15-55, 15-60,
9 15-100, and 15-103, when property which is exempt from
10 taxation is leased to another whose property is not exempt,
11 and the leasing of which does not make the property taxable,
12 the leasehold estate and the appurtenances shall be listed as
13 the property of the lessee thereof, or his or her assignee.
14 Taxes on that property shall be collected in the same manner
15 as on property that is not exempt, and the lessee shall be
16 liable for those taxes. However, no tax lien shall attach to
17 the exempt real estate. The changes made by this amendatory
18 Act of 1997 and by this amendatory Act of the 91st General
19 Assembly are declaratory of existing law and shall not be
20 construed as a new enactment. The changes made by Public
21 Acts 88-221 and 88-420 that are incorporated into this
22 Section by this amendatory Act of 1993 are declarative of

1 existing law and are not a new enactment.

2 (b) The provisions of this Section regarding taxation of
3 leasehold interests in exempt property do not apply to any
4 leasehold interest created pursuant to any transaction
5 described in subsection (e) of Section 15-35, subsection
6 (c-5) of Section 15-60, subsection (b) of Section 15-100, or
7 Section 15-103.

8 (Source: P.A. 90-562, eff. 12-16-97; 91-513, eff. 8-13-99.)

9 (35 ILCS 200/15-60)

10 Sec. 15-60. Taxing district property. All property
11 belonging to any county or municipality used exclusively for
12 the maintenance of the poor is exempt, as is all property
13 owned by a taxing district that is being held for future
14 expansion or development, except if leased by the taxing
15 district to lessees for use for other than public purposes.

16 Also exempt are:

17 (a) all swamp or overflowed lands belonging to any
18 county;

19 (b) all public buildings belonging to any county,
20 township, or municipality, with the ground on which the
21 buildings are erected;

22 (c) all property owned by any municipality located
23 within its incorporated limits. Any such property leased by
24 a municipality shall remain exempt, and the leasehold
25 interest of the lessee shall be assessed under Section 9-195
26 of this Act, (i) for a lease entered into on or after January
27 1, 1994, unless the lease expressly provides that this
28 exemption shall not apply; (ii) for a lease entered into on
29 or after the effective date of Public Act 87-1280 and before
30 January 1, 1994, unless the lease expressly provides that
31 this exemption shall not apply or unless evidence other than
32 the lease itself substantiates the intent of the parties to
33 the lease that this exemption shall not apply; and (iii) for

1 a lease entered into before the effective date of Public Act
2 87-1280, if the terms of the lease do not bind the lessee to
3 pay the taxes on the leased property or if, notwithstanding
4 the terms of the lease, the municipality has filed or
5 hereafter files a timely exemption petition or complaint with
6 respect to property consisting of or including the leased
7 property for an assessment year which includes part or all of
8 the first 12 months of the lease period. The foregoing
9 clause (iii) added by Public Act 87-1280 shall not operate to
10 exempt property for any assessment year as to which no timely
11 exemption petition or complaint has been filed by the
12 municipality or as to which an administrative or court
13 decision denying exemption has become final and
14 nonappealable. For each assessment year or portion thereof
15 that property is made exempt by operation of the foregoing
16 clause (iii), whether such year or portion is before or after
17 the effective date of Public Act 87-1280, the leasehold
18 interest of the lessee shall, if necessary, be considered
19 omitted property for purposes of this Act;

20 (c-5) Notwithstanding clause (i) of subsection (c), all
21 property owned by a municipality with a population of over
22 500,000 that is used for toll road or toll bridge purposes
23 and that is leased for those purposes to another entity whose
24 property is not exempt shall remain exempt, and any leasehold
25 interest in the property shall not be subject to taxation
26 under Section 9-195 of this Act;

27 (d) all property owned by any municipality located
28 outside its incorporated limits but within the same county
29 when used as a tuberculosis sanitarium, farm colony in
30 connection with a house of correction, or nursery, garden, or
31 farm, or for the growing of shrubs, trees, flowers,
32 vegetables, and plants for use in beautifying, maintaining,
33 and operating playgrounds, parks, parkways, public grounds,
34 buildings, and institutions owned or controlled by the

1 municipality; and

2 (e) all property owned by a township and operated as
3 senior citizen housing under Sections 35-50 through 35-50.6
4 of the Township Code.

5 All property owned by any municipality outside of its
6 corporate limits is exempt if used exclusively for municipal
7 or public purposes.

8 For purposes of this Section, "municipality" means a
9 municipality, as defined in Section 1-1-2 of the Illinois
10 Municipal Code.

11 (Source: P.A. 89-165, eff. 1-1-96; 90-176, eff. 1-1-98.)

12 Section 10. The Illinois Municipal Code is amended by
13 changing Section 8-11-6 as follows:

14 (65 ILCS 5/8-11-6) (from Ch. 24, par. 8-11-6)

15 Sec. 8-11-6. Home Rule Municipal Use Tax Act.

16 (a) The corporate authorities of a home rule
17 municipality may impose a tax upon the privilege of using, in
18 such municipality, any item of tangible personal property
19 which is purchased at retail from a retailer, and which is
20 titled or registered at a location within the corporate
21 limits of such home rule municipality with an agency of this
22 State's government, at a rate which is an increment of 1/4%
23 and based on the selling price of such tangible personal
24 property, as "selling price" is defined in the Use Tax Act.
25 In home rule municipalities with less than 2,000,000
26 inhabitants, the tax shall be collected by the municipality
27 imposing the tax from persons whose Illinois address for
28 titling or registration purposes is given as being in such
29 municipality.

30 (b) In home rule municipalities with 2,000,000 or more
31 inhabitants, the corporate authorities of the municipality
32 may additionally impose a tax beginning July 1, 1991 upon the

1 privilege of using in the municipality, any item of tangible
2 personal property, other than tangible personal property
3 titled or registered with an agency of the State's
4 government, that is purchased at retail from a retailer
5 located outside the corporate limits of the municipality, at
6 a rate that is an increment of 1/4% not to exceed 1% and
7 based on the selling price of the tangible personal property,
8 as "selling price" is defined in the Use Tax Act. Such tax
9 shall be collected from the purchaser ~~or the retailer~~ either
10 by the municipality imposing such tax or by the Department of
11 Revenue pursuant to an agreement between the Department and
12 the municipality.

13 To prevent multiple home rule taxation, the use in a home
14 rule municipality of tangible personal property that is
15 acquired outside the municipality and caused to be brought
16 into the municipality by a person who has already paid a home
17 rule municipal tax in another municipality in respect to the
18 sale, purchase, or use of that property, shall be exempt to
19 the extent of the amount of the tax properly due and paid in
20 the other home rule municipality.

21 (c) If a municipality having 2,000,000 or more
22 inhabitants imposes the tax authorized by subsection (a),
23 then the tax shall be collected by the Illinois Department of
24 Revenue when the property is purchased at retail from a
25 retailer in the county in which the home rule municipality
26 imposing the tax is located, and in all contiguous counties.
27 The tax shall be remitted to the State, or an exemption
28 determination must be obtained from the Department before the
29 title or certificate of registration for the property may be
30 issued. The tax or proof of exemption may be transmitted to
31 the Department by way of the State agency with which, or
32 State officer with whom, the tangible personal property must
33 be titled or registered if the Department and that agency or
34 State officer determine that this procedure will expedite the

1 processing of applications for title or registration.

2 The Department shall have full power to administer and
3 enforce this Section to collect all taxes, penalties and
4 interest due hereunder, to dispose of taxes, penalties and
5 interest so collected in the manner hereinafter provided, and
6 determine all rights to credit memoranda or refunds arising
7 on account of the erroneous payment of tax, penalty or
8 interest hereunder. In the administration of and compliance
9 with this Section the Department and persons who are subject
10 to this Section shall have the same rights, remedies,
11 privileges, immunities, powers and duties, and be subject to
12 the same conditions, restrictions, limitations, penalties and
13 definitions of terms, and employ the same modes of procedure
14 as are prescribed in Sections 2 (except the definition of
15 "retailer maintaining a place of business in this State"), 3
16 (except provisions pertaining to the State rate of tax, and
17 except provisions concerning collection or refunding of the
18 tax by retailers), 4, 11, 12, 12a, 14, 15, 19, 20, 21 and 22
19 of the Use Tax Act, which are not inconsistent with this
20 Section, as fully as if provisions contained in those
21 Sections of the Use Tax Act were set forth herein.

22 Whenever the Department determines that a refund shall be
23 made under this Section to a claimant instead of issuing a
24 credit memorandum, the Department shall notify the State
25 Comptroller, who shall cause the order to be drawn for the
26 amount specified, and to the person named, in such
27 notification from the Department. Such refund shall be paid
28 by the State Treasurer out of the home rule municipal
29 retailers' occupation tax fund.

30 The Department shall forthwith pay over to the State
31 Treasurer, ex officio, as trustee, all taxes, penalties and
32 interest collected hereunder. On or before the 25th day of
33 each calendar month, the Department shall prepare and certify
34 to the State Comptroller the disbursement of stated sums of

1 money to named municipalities, the municipality in each
2 instance to be that municipality from which the Department
3 during the second preceding calendar month, collected
4 municipal use tax from any person whose Illinois address for
5 titling or registration purposes is given as being in such
6 municipality. The amount to be paid to each municipality
7 shall be the amount (not including credit memoranda)
8 collected hereunder during the second preceding calendar
9 month by the Department, and not including an amount equal to
10 the amount of refunds made during the second preceding
11 calendar month by the Department on behalf of such
12 municipality, less the amount expended during the second
13 preceding month by the Department to be paid from the
14 appropriation to the Department from the Home Rule Municipal
15 Retailers' Occupation Tax Trust Fund. The appropriation to
16 cover the costs incurred by the Department in administering
17 and enforcing this Section shall not exceed 2% of the amount
18 estimated to be deposited into the Home Rule Municipal
19 Retailers' Occupation Tax Trust Fund during the fiscal year
20 for which the appropriation is made. Within 10 days after
21 receipt by the State Comptroller of the disbursement
22 certification to the municipalities provided for in this
23 Section to be given to the State Comptroller by the
24 Department, the State Comptroller shall cause the orders to
25 be drawn for the respective amounts in accordance with the
26 directions contained in that certification.

27 Any ordinance imposing or discontinuing any tax to be
28 collected and enforced by the Department under this Section
29 shall be adopted and a certified copy thereof filed with the
30 Department on or before October 1, whereupon the Department
31 of Revenue shall proceed to administer and enforce this
32 Section on behalf of the municipalities as of January 1 next
33 following such adoption and filing. Beginning April 1, 1998,
34 any ordinance imposing or discontinuing any tax to be

1 collected and enforced by the Department under this Section
2 shall either (i) be adopted and a certified copy thereof
3 filed with the Department on or before April 1, whereupon the
4 Department of Revenue shall proceed to administer and enforce
5 this Section on behalf of the municipalities as of July 1
6 next following the adoption and filing; or (ii) be adopted
7 and a certified copy thereof filed with the Department on or
8 before October 1, whereupon the Department of Revenue shall
9 proceed to administer and enforce this Section on behalf of
10 the municipalities as of January 1 next following the
11 adoption and filing.

12 Nothing in this subsection (c) shall prevent a home rule
13 municipality from collecting the tax pursuant to subsection
14 (a) in any situation where such tax is not collected by the
15 Department of Revenue under this subsection (c).

16 (d) Any unobligated balance remaining in the Municipal
17 Retailers' Occupation Tax Fund on December 31, 1989, which
18 fund was abolished by Public Act 85-1135, and all receipts of
19 municipal tax as a result of audits of liability periods
20 prior to January 1, 1990, shall be paid into the Local
21 Government Tax Fund, for distribution as provided by this
22 Section prior to the enactment of Public Act 85-1135. All
23 receipts of municipal tax as a result of an assessment not
24 arising from an audit, for liability periods prior to January
25 1, 1990, shall be paid into the Local Government Tax Fund for
26 distribution before July 1, 1990, as provided by this Section
27 prior to the enactment of Public Act 85-1135, and on and
28 after July 1, 1990, all such receipts shall be distributed as
29 provided in Section 6z-18 of the State Finance Act.

30 (e) As used in this Section, "Municipal" and
31 "Municipality" means a city, village or incorporated town,
32 including an incorporated town which has superseded a civil
33 township.

34 (f) This Section shall be known and may be cited as the

1 Home Rule Municipal Use Tax Act.

2 (Source: P.A. 91-51, eff. 6-30-99; 92-221, eff. 8-2-01.)

3 Section 90. The State Mandates Act is amended by adding
4 Section 8.26 as follows:

5 (30 ILCS 805/8.26 new)

6 Sec. 8.26. Exempt mandate. Notwithstanding Sections 6
7 and 8 of this Act, no reimbursement by the State is required
8 for the implementation of any mandate created by this
9 amendatory Act of the 92nd General Assembly.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law."