

1 AMENDMENT TO HOUSE BILL 6012

2 AMENDMENT NO. _____. Amend House Bill 6012 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Simplified Municipal Telecommunications
5 Tax Act is amended by adding Section 5-42 as follows:

6 (35 ILCS 636/5-42 new)

7 Sec. 5-42. Procedure for determining proper tax
8 jurisdiction.

9 (a) Tax jurisdiction information.

10 (1) A municipality shall provide, within 30 days
11 following receipt of a written request from a
12 telecommunications retailer (mobile or non-mobile):

13 (A) A list containing each street name, known
14 street name aliases, street address number ranges,
15 applicable directionals, and zip codes associated
16 with each street name, for all street addresses
17 located within the municipality. For a range of
18 street address numbers located within a municipality
19 that consists only of odd or even street numbers,
20 the list must specify whether the street numbers in
21 the range are odd or even. The list shall be
22 alphabetical, except that numbered streets shall be

1 in numerical sequence.

2 (B) A list containing each postal zip code and
3 all the city names associated therewith for all zip
4 codes assigned to geographic areas located entirely
5 within the municipality, including zip codes
6 assigned to rural route boxes; and

7 (C) A sequential list containing all rural
8 route box number ranges and the city names and zip
9 codes associated therewith, for all rural route
10 boxes located within the municipality, except that
11 rural route boxes with postal zip codes entirely
12 within the municipality that are included on the
13 list furnished under paragraph (B) need not be
14 duplicated.

15 (D) The lists shall be printed. If a list is
16 available through another medium, however, the
17 municipality shall, upon request, furnish the list
18 through such medium in addition to or in lieu of the
19 printed lists. The municipality shall be responsible
20 for updating the lists as changes occur and for
21 furnishing this information to all
22 telecommunications retailers affected by the
23 changes. Each update shall specify an effective
24 date, which shall be either the next ensuing January
25 1, April 1, July 1, or October 1; shall be furnished
26 to the telecommunications retailer not less than 60
27 days prior to the effective date; and shall identify
28 the additions, deletions, and other changes to the
29 preceding version of the list. If the information is
30 received less than 60 days prior to the effective
31 date of the change, the telecommunications retailer
32 has until the next ensuing January 1, April 1, July
33 1, or October 1 to make the appropriate changes.

34 (2) The telecommunications retailer shall be

1 responsible for charging the tax to the service addresses
2 or, in the case of mobile telecommunications, to the
3 primary place of use addresses contained in the lists
4 that include all of the elements required by this
5 Section. If a service address is not included in the
6 list, the telecommunications retailer shall be held
7 harmless from situsing errors provided it uses a
8 reasonable methodology to assign the service address or
9 addresses to a local tax jurisdiction. The
10 telecommunications retailer shall be held harmless for
11 any tax overpayments or underpayments (including penalty
12 or interest) resulting from written information provided
13 by the municipality or, in the case of disputes, the
14 Department.

15 (3) If it is determined from the lists or updates
16 furnished under item (a)(1) that more than one
17 municipality claims the same address or group of
18 addresses, the telecommunications retailer shall notify
19 the Department within 60 days of discovering the
20 discrepancy. After notification and until resolution, the
21 telecommunications retailer will continue its prior tax
22 treatment and will be held harmless for any tax, penalty,
23 and interest in the event the prior tax treatment is
24 wrong. Upon resolution, the Department will notify the
25 telecommunications retailer in a written form describing
26 the resolution. Upon receipt of the resolution, the
27 telecommunications retailer has until the next ensuing
28 January 1, April 1, July 1, or October 1 to make the
29 change.

30 (4) Municipalities shall notify telecommunications
31 retailers of any annexations, de-annexations, or other
32 boundary changes at least 60 days prior to the effective
33 date of such changes. The notification shall contain each
34 street name, known street name aliases, street address

1 number ranges, applicable directionals, and zip codes
2 associated with each street name, for all street
3 addresses for which a change has occurred. The notice
4 shall be mailed to an address designated by the
5 telecommunications retailer. The telecommunications
6 retailer has until the next ensuing January 1, April 1,
7 July 1, or October 1 to make the changes described in
8 such notification .

9 (b) The safe harbor provisions, Sections 40 and 45 of
10 the Mobile Telecommunications Sourcing Conformity Act, shall
11 apply to any telecommunications retailers (wireless or
12 non-wireless) employing enhanced zip codes (zip+4) to assign
13 each street address, address range, post office box, or post
14 office box range in their service area to a specific
15 municipal tax jurisdiction.

16 (c) Persons who believe that they are improperly being
17 charged a tax imposed under this Act because their service
18 address is assigned to the wrong taxing jurisdiction shall
19 notify their telecommunications (mobile or non-mobile)
20 retailer in writing. The notification shall include the
21 street address for her or his place of primary use for mobile
22 telecommunications service or the service address for
23 non-mobile telecommunications, the name and address of the
24 telecommunications retailer who is collecting the tax imposed
25 by this Act, the account name and number for which the person
26 seeks a correction of the tax assignment, a description of
27 the error asserted by that person, an estimated amount of tax
28 claimed to have been incorrectly paid, the time period for
29 which that amount of tax applies, and any other information
30 that the telecommunications retailer may reasonably require
31 to process the request. For purposes of this Section, the
32 terms "place of primary use" and "mobile telecommunications
33 service" shall have the same meanings as those terms are
34 defined in the Mobile Telecommunications Sourcing Conformity

1 Act. Within 60 days after receiving a notice under this
2 subsection (c), the telecommunications retailer shall review
3 its records and the electronic database, if existing, or
4 enhanced zip code used pursuant to Section 25 or 40 of the
5 Mobile Telecommunications Sourcing Conformity Act to
6 determine the customer's taxing jurisdiction. If this review
7 shows that the amount of tax, assignment of place of primary
8 use or service address, or taxing jurisdiction is in error,
9 the telecommunications retailer shall correct the error and
10 refund or credit the amount of tax erroneously collected from
11 the customer for a period of up to 3 years. If this review
12 shows that the amount of tax, assignment of place of primary
13 use or service address, or taxing jurisdiction is correct,
14 the telecommunications retailer shall provide a written
15 explanation to the person from whom the notice was received.

16 (1) If the person is dissatisfied with the response
17 from the telecommunications retailer, the customer may
18 request a written determination from the Department on a
19 form prescribed by the Department. The request shall
20 contain the same information as was provided to the
21 telecommunications retailer. The Department shall review
22 the request for determination and make all reasonable
23 efforts to determine if such person's place of primary
24 use for mobile telecommunications service or the service
25 address for non-mobile telecommunications is located
26 within the jurisdictional boundaries of the municipality
27 for which the person is being charged tax under this Act.
28 Upon request by the Department, municipalities that have
29 imposed a tax under this Act shall timely provide
30 information to the Department regarding such requests for
31 determination. The municipality shall have 30 days to
32 respond to the request submitted by the Department.

33 (2) Within 90 days after receipt of a request for
34 determination under subsection (c) of this Section, the

1 Department shall issue a letter of determination to the
2 person stating whether that person's place of primary use
3 for mobile telecommunications service or the service
4 address for non-mobile telecommunications is located
5 within the jurisdictional boundaries of the municipality
6 for which the person is being charged tax under this Act
7 or naming the proper municipality, if different. The
8 Department shall also list in the letter of determination
9 its findings as to the limit of the jurisdictional
10 boundary (street address range) for the municipality in
11 relation to the street address listed in the request for
12 a letter of determination. A copy of such letter of
13 determination shall be provided by the Department to the
14 telecommunications retailer listed on the request for
15 determination. The copy shall be sent via mail to an
16 address designated by the telecommunications retailer.

17 (3) If the telecommunications retailer receives a
18 copy of the letter of determination from the Department
19 described in paragraph (2) of subsection (c) of this
20 Section that states that the person's place of primary
21 use for mobile telecommunications service or the service
22 address for non-mobile telecommunications is not located
23 within the jurisdictional boundaries of the municipality
24 for which that person is being charged tax under this Act
25 and that provides the correct tax jurisdiction for the
26 particular street address, the telecommunications
27 retailer shall correct the error prospectively and refund
28 or credit the amount of tax determined to have been paid
29 in error by such person. The telecommunications retailer
30 shall retain such copy of the letter of determination in
31 its books and records and shall be held harmless for any
32 tax, penalty, or interest due as a result of its reliance
33 on such determination. If the Department subsequently
34 receives information that discloses that such service

1 addresses or places of primary use on that street are
2 within the jurisdictional boundaries of a municipality
3 other than the one specified in the previous letter, the
4 Department shall notify the telecommunications retailer
5 in writing that it is to begin collecting tax for a
6 specified municipality on the accounts associated with
7 those service addresses or places of primary use. The
8 notification to begin collecting tax on such accounts
9 sent by the Department to the telecommunications
10 retailers prior to any January 1, April 1, July 1, or
11 October 1 shall be effective with respect to gross
12 charges billed to those accounts on or after the
13 following January 1, April 1, July 1, or October 1,
14 respectively.

15 (4) If the telecommunications retailer receives a
16 copy of the letter of determination from the Department
17 described in paragraphs (2) and (3) of subsection (c) of
18 this Section that states that the such person's place of
19 primary use for mobile telecommunications service or the
20 service address for non-mobile telecommunications is not
21 located within the jurisdictional boundaries of the
22 municipality for which that person is being charged tax
23 under this Act and the telecommunications retailer fails
24 to correct the error and refund or credit the appropriate
25 amount of tax paid in error within the time period
26 prescribed in paragraph (3) of subsection (c), the
27 telecommunications retailer will not be held harmless for
28 any tax, penalty, or interest due the Department as a
29 result of the error. The person shall have the normal
30 cause of action available under the law to recover any
31 tax, penalty, or interest from the telecommunications
32 retailer.

33 Section 10. The Mobile Telecommunications Sourcing

1 Conformity Act is amended by changing Section 80 as follows:

2 (35 ILCS 638/80)

3 (This Section may contain text from a Public Act with a
4 delayed effective date)

5 Sec. 80. Customers' procedures and remedies for
6 correcting taxes and fees.

7 (a) If a customer believes that an amount of tax or
8 assignment of place of primary use or taxing jurisdiction
9 included on a billing is erroneous, the customer shall notify
10 his or her telecommunications retailer ~~the--home--service~~
11 ~~provider~~ in writing. The customer shall include in this
12 written notification the street address for her or his place
13 of primary use, the account name and number for which the
14 customer seeks a correction of the tax assignment, a
15 description of the error asserted by the customer, an
16 estimated amount of tax claimed to have been incorrectly
17 paid, the time period for which that amount of tax applies,
18 and any other information that the telecommunications
19 retailer ~~home-service-provider~~ reasonably requires to process
20 the request. Within 60 days after receiving a notice under
21 this subsection (a), the telecommunications retailer ~~home~~
22 ~~service-provider~~ shall review its records and the electronic
23 database or enhanced zip code used pursuant to Section 25 or
24 40 to determine the customer's taxing jurisdiction. If this
25 review shows that the amount of tax, assignment of place of
26 primary use or service address, or taxing jurisdiction is in
27 error, the telecommunications retailer ~~home-service-provider~~
28 shall correct the error and refund or credit the amount of
29 tax erroneously collected from the customer for a period of
30 up to 3 2 years. If this review shows that the amount of
31 tax, assignment of place of primary use or service address,
32 or taxing jurisdiction is correct, the telecommunications
33 retailer ~~home--service--provider~~ shall provide a written

1 explanation to the customer.

2 (b) If the customer is dissatisfied with the response of
3 the telecommunications retailer home-service-provider under
4 this Section, the customer may seek a correction or refund or
5 both from the taxing jurisdiction affected.

6 (c) The procedures in this Section shall be the first
7 course of remedy available to customers seeking correction of
8 assignment of place of primary use or taxing jurisdiction or
9 a refund of or other compensation for taxes, charges, and
10 fees erroneously collected by the telecommunications retailer
11 home--service--provider, and no cause of action based upon a
12 dispute arising from these taxes, charges, or fees shall
13 accrue until a customer has reasonably exercised the rights
14 and procedures set forth in this Section.

15 (Source: P.A. 92-474, eff. 8-1-02.)

16 Section 95. No acceleration or delay. Where this Act
17 makes changes in a statute that is represented in this Act by
18 text that is not yet or no longer in effect (for example, a
19 Section represented by multiple versions), the use of that
20 text does not accelerate or delay the taking effect of (i)
21 the changes made by this Act or (ii) provisions derived from
22 any other Public Act.

23 Section 99. Effective date. This Act takes effect on
24 July 1, 2002."