

UPDATES TO VIDEO GAMING LAWS



[Public Act \(P.A.\) 102-0689 \(available via this link\)](#), effective December 17, 2021, makes several changes to Illinois' video gaming laws that impact both home rule and non-home rule municipalities. This fact sheet highlights several of the changes that may be of interest to municipal officials as they seek to regulate video gaming within their communities.

VIDEO GAMING TERMINAL FEES

The Act allows non-home rule municipalities to impose an annual fee for the operation of each video gaming terminal not to exceed \$250 per year. State statute previously capped this non-home rule video gaming terminal fee at \$25 per terminal per year. For home rule communities, state statute does not provide a cap for these fees.

For both home rule and non-home rule communities, the payment of this annual fee is required to be shared equally between the terminal operator and the applicable licensed establishment.

As a resource for our members, the Illinois Municipal League (IML) has updated our [model video gaming ordinance \(available via this link\)](#) to reflect the increase to the maximum terminal fee for non-home rule communities.

VIDEO GAMING TAX REVENUE

According to the Illinois Gaming Board, the total amount played at video gaming terminals in calendar year 2023 was \$32.6 billion, with players winning approximately \$29.8 billion. The net taxable income was \$2.9 billion, which resulted in \$836.5 million to the state and \$144.2 million to municipalities and counties.

The net proceeds from video gaming terminals are divided as follows:

- 65.15% to the venue and terminal operators;
- 29% to the state;
- 5% to the municipality or county where the video gaming terminal is located; and,
- 0.85% to the Illinois Gaming Board

Video gaming revenues have proven critical for local communities to be able to provide services to their residents without raising property taxes.



REGULATION OF GAMING AT FRATERNAL AND VETERANS ORGANIZATIONS

State law allows municipalities to pass an ordinance prohibiting video gaming within the corporate limits of the municipality.¹

However, beginning July 1, 2022, fraternal and veterans organizations that derive their charter from a national organization may apply directly to the Illinois Gaming Board for a license allowing video gaming in communities that have prohibited video gaming. If the license is granted by the Illinois Gaming Board, then the licensed fraternal establishment or licensed veterans establishment may operate video gaming terminals, even if located in a community that has prohibited video gaming by local ordinance.

PUSH TAX

The Act prohibits home rule communities from imposing a video gaming push tax after October 31, 2021. This date was moved from June 1, 2021, at the request of IML, in order to allow municipalities that enacted such a tax prior to or after the adjournment of the General Assembly's 2021 Spring Legislative Session to continue to impose that tax.

Home rule communities that adopted a push tax before November 1, 2021, are allowed to maintain their push tax, but may not extend, expand or increase the tax after that date. Non-home rule communities have never had and do not have the authority to implement a push tax on video gaming.

Municipal officials in communities that have adopted such a tax should note that the authority to levy this tax is the subject of ongoing litigation that has yet to be resolved by the courts. Until these legal challenges are fully resolved by the courts, the legality of a locally-adopted push tax remains at question. It may be advisable – for home rule communities that have adopted a push tax – to delay implementation or collection of the tax until all legal decisions have been issued. Each municipality should determine this locally and with a full understanding of the court cases.

CLARIFICATION OF LEGISLATIVE INTENT

The Act provides that the licensure, registration and regulation of manufacturers, distributors, terminal operators and other gaming entities are powers and functions of the state. However, legislative intent entered into the record during legislative debate clarified:

“It is not the intent of the legislature for this language to diminish, alter or remove the current authority of municipalities to regulate businesses in matters such as, but not limited to, zoning, the issuance of business permits or liquor licenses, the performance of building inspections and/or other normal and routine matters that do not specifically relate to the conduct of video gaming. This is a limited and specific preemption, not a broad interruption of municipal regulatory authority.”

Municipal officials should consult with their retained attorney prior to taking any formal or informal action with regard to gaming regulation.

iml.org

¹ [230 ILCS 40/27](#)

