



Sen. John J. Cullerton

Filed: 5/10/2017

10000SB0041sam001

LRB100 04924 HLH 26174 a

1 AMENDMENT TO SENATE BILL 41

2 AMENDMENT NO. _____. Amend Senate Bill 41 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 adding Division 13 to Article 8 as follows:

6 (65 ILCS 5/Art. 8 Div. 13 heading new)

7 DIVISION 13. ASSIGNMENT OF RECEIPTS

8 (65 ILCS 5/8-13-5 new)

9 Sec. 8-13-5. Definitions. As used in this Article:

10 "Assignment agreement" means an agreement between a
11 transferring unit and an issuing entity for the conveyance of
12 all or part of any revenues or taxes received by the
13 transferring unit from a State entity.

14 "Conveyance" means an assignment, sale, transfer, or other
15 conveyance.

1 "Deposit account" means a designated escrow account
2 established by an issuing entity at a trust company or bank
3 having trust powers for the deposit of transferred receipts
4 under an assignment agreement.

5 "Issuing entity" means (i) a corporation, trust or other
6 entity that has been established for the limited purpose of
7 issuing obligations for the benefit of a transferring unit, or
8 (ii) a bank or trust company in its capacity as trustee for
9 obligations issued by such bank or trust company for the
10 benefit of a transferring unit.

11 "State entity" means the State Comptroller, the State
12 Treasurer, or the Illinois Department of Revenue.

13 "Transferred receipts" means all or part of any revenues or
14 taxes received from a State entity that have been conveyed by a
15 transferring unit under an assignment agreement.

16 "Transferring unit" means a home rule municipality located
17 in the State.

18 (65 ILCS 5/8-13-10 new)

19 Sec. 8-13-10. Assignment of receipts.

20 (a) Any transferring unit which receives revenues or taxes
21 from a State entity may (to the extent not prohibited by any
22 applicable statute, regulation, rule, or agreement governing
23 the use of such revenues or taxes) authorize, by ordinance, the
24 conveyance of all or any portion of such revenues or taxes to
25 an issuing entity. Any conveyance of transferred receipts

1 shall: (i) be made pursuant to an assignment agreement in
2 exchange for the net proceeds of obligations issued by the
3 issuing entity for the benefit of the transferring unit and
4 shall, for all purposes, constitute an absolute conveyance of
5 all right, title, and interest therein; (ii) not be deemed a
6 pledge or other security interest for any borrowing by the
7 transferring unit; (iii) be valid, binding, and enforceable in
8 accordance with the terms thereof and of any related
9 instrument, agreement, or other arrangement, including any
10 pledge, grant of security interest, or other encumbrance made
11 by the issuing entity to secure any obligations issued by the
12 issuing entity for the benefit of the transferring unit; and
13 (iv) not be subject to disavowal, disaffirmance, cancellation,
14 or avoidance by reason of insolvency of any party, lack of
15 consideration, or any other fact, occurrence, or State law or
16 rule. On and after the effective date of the conveyance of the
17 transferred receipts, the transferring unit shall have no
18 right, title or interest in or to the transferred receipts
19 conveyed and the transferred receipts so conveyed shall be the
20 property of the issuing entity to the extent necessary to pay
21 the obligations issued by the issuing entity for the benefit of
22 the transferring unit, and shall be received, held, and
23 disbursed by the issuing entity in a trust fund outside the
24 treasury of the transferring unit. An assignment agreement may
25 provide for the periodic reconveyance to the transferring unit
26 of amounts of transferred receipts remaining after the payment

1 of the obligations issued by the issuing entity for the benefit
2 of the transferring unit.

3 (b) In connection with any conveyance of transferred
4 receipts, the transferring unit is authorized to direct the
5 applicable State entity to deposit or cause to be deposited any
6 amount of such transferred receipts into a deposit account in
7 order to secure the obligations issued by the issuing entity
8 for the benefit of the transferring unit. Where the
9 transferring unit states that such direction is irrevocable,
10 the direction shall be treated by the applicable State entity
11 as irrevocable with respect to the transferred receipts
12 described in such direction. Each State entity shall comply
13 with the terms of any such direction received from a
14 transferring unit and shall execute and deliver such
15 acknowledgments and agreements, including escrow and similar
16 agreements, as the transferring unit may require to effectuate
17 the deposit of transferred receipts in accordance with the
18 direction of the transferring unit.

19 (c) Not later than the date of issuance by an issuing
20 entity of any obligations secured by collections of transferred
21 receipts, a certified copy of the ordinance authorizing the
22 conveyance of the right to receive the transferred receipts,
23 together with executed copies of the applicable assignment
24 agreement and the agreement providing for the establishment of
25 the deposit account, shall be filed with the State entity
26 having custody of the transferred receipts.

1 (65 ILCS 5/8-13-15 new)

2 Sec. 8-13-15. Pledges and agreements of the State. The
3 State of Illinois pledges to and agrees with each transferring
4 unit and issuing entity that the State will not limit or alter
5 the rights and powers vested in the State entities by this
6 Article with respect to the disposition of transferred receipts
7 so as to impair the terms of any contract, including any
8 assignment agreement, made by the transferring unit with the
9 issuing entity or any contract executed by the issuing entity
10 in connection with the issuance of obligations by the issuing
11 entity for the benefit of the transferring unit until all
12 requirements with respect to the deposit by such State entity
13 of transferred receipts for the benefit of such issuing entity
14 have been fully met and discharged. In addition, the State
15 pledges to and agrees with each transferring unit and each
16 issuing entity that the State will not limit or alter the basis
17 on which transferred receipts are to be paid to the issuing
18 entity as provided in this Article, or the use of such funds,
19 so as to impair the terms of any such contract. Each
20 transferring unit and issuing entity is authorized to include
21 these pledges and agreements of the State in any contract
22 executed and delivered as described in this Article. In no way
23 shall the pledge and agreements of the State be interpreted to
24 construe the State as a guarantor of any debt or obligation
25 subject to an assignment agreement under this Division.

1 (65 ILCS 5/8-13-20 new)

2 Sec. 8-13-20. Home rule. A home rule unit may not enter
3 into assignment agreements in a manner inconsistent with the
4 provisions of this Article. This Section is a limitation under
5 subsection (i) of Section 6 of Article VII of the Illinois
6 Constitution on the concurrent exercise by home rule units of
7 powers and functions exercised by the State.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law."