

# HB1751



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB1751

Introduced 2/17/2021, by Rep. Deanne M. Mazzochi

#### SYNOPSIS AS INTRODUCED:

35 ILCS 200/15-86

Amends the Property Tax Code. In provisions concerning exemptions related to hospitals and health care services, provides that ambulance transport is considered a service that addresses the health care needs of low-income or underserved individuals. Effective immediately.

LRB102 13582 HLH 18930 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

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 Property Tax Code is amended by changing  
5 Section 15-86 as follows:

6 (35 ILCS 200/15-86)

7 Sec. 15-86. Exemptions related to access to hospital and  
8 health care services by low-income and underserved  
9 individuals.

10 (a) The General Assembly finds:

11 (1) Despite the Supreme Court's decision in *Provena*  
12 *Covenant Medical Center v. Dept. of Revenue*, 236 Ill.2d  
13 368, there is considerable uncertainty surrounding the  
14 test for charitable property tax exemption, especially  
15 regarding the application of a quantitative or monetary  
16 threshold. In *Provena*, the Department stated that the  
17 primary basis for its decision was the hospital's  
18 inadequate amount of charitable activity, but the  
19 Department has not articulated what constitutes an  
20 adequate amount of charitable activity. After *Provena*, the  
21 Department denied property tax exemption applications of 3  
22 more hospitals, and, on the effective date of this  
23 amendatory Act of the 97th General Assembly, at least 20

1 other hospitals are awaiting rulings on applications for  
2 property tax exemption.

3 (2) In *Provena*, two Illinois Supreme Court justices  
4 opined that "setting a monetary or quantum standard is a  
5 complex decision which should be left to our legislature,  
6 should it so choose". The Appellate Court in *Provena*  
7 stated: "The language we use in the State of Illinois to  
8 determine whether real property is used for a charitable  
9 purpose has its genesis in our 1870 Constitution. It is  
10 obvious that such language may be difficult to apply to  
11 the modern face of our nation's health care delivery  
12 systems". The court noted the many significant changes in  
13 the health care system since that time, but concluded that  
14 taking these changes into account is a matter of public  
15 policy, and "it is the legislature's job, not ours, to  
16 make public policy".

17 (3) It is essential to ensure that tax exemption law  
18 relating to hospitals accounts for the complexities of the  
19 modern health care delivery system. Health care is moving  
20 beyond the walls of the hospital. In addition to treating  
21 individual patients, hospitals are assuming responsibility  
22 for improving the health status of communities and  
23 populations. Low-income and underserved communities  
24 benefit disproportionately by these activities.

25 (4) The Supreme Court has explained that: "the  
26 fundamental ground upon which all exemptions in favor of

1 charitable institutions are based is the benefit conferred  
2 upon the public by them, and a consequent relief, to some  
3 extent, of the burden upon the state to care for and  
4 advance the interests of its citizens". Hospitals relieve  
5 the burden of government in many ways, but most  
6 significantly through their participation in and  
7 substantial financial subsidization of the Illinois  
8 Medicaid program, which could not operate without the  
9 participation and partnership of Illinois hospitals.

10 (5) Working with the Illinois hospital community and  
11 other interested parties, the General Assembly has  
12 developed a comprehensive combination of related  
13 legislation that addresses hospital property tax  
14 exemption, significantly increases access to free health  
15 care for indigent persons, and strengthens the Medical  
16 Assistance program. It is the intent of the General  
17 Assembly to establish a new category of ownership for  
18 charitable property tax exemption to be applied to  
19 not-for-profit hospitals and hospital affiliates in lieu  
20 of the existing ownership category of "institutions of  
21 public charity". It is also the intent of the General  
22 Assembly to establish quantifiable standards for the  
23 issuance of charitable exemptions for such property. It is  
24 not the intent of the General Assembly to declare any  
25 property exempt ipso facto, but rather to establish  
26 criteria to be applied to the facts on a case-by-case

1 basis.

2 (b) For the purpose of this Section and Section 15-10, the  
3 following terms shall have the meanings set forth below:

4 (1) "Hospital" means any institution, place, building,  
5 buildings on a campus, or other health care facility  
6 located in Illinois that is licensed under the Hospital  
7 Licensing Act and has a hospital owner.

8 (2) "Hospital owner" means a not-for-profit  
9 corporation that is the titleholder of a hospital, or the  
10 owner of the beneficial interest in an Illinois land trust  
11 that is the titleholder of a hospital.

12 (3) "Hospital affiliate" means any corporation,  
13 partnership, limited partnership, joint venture, limited  
14 liability company, association or other organization,  
15 other than a hospital owner, that directly or indirectly  
16 controls, is controlled by, or is under common control  
17 with one or more hospital owners and that supports, is  
18 supported by, or acts in furtherance of the exempt health  
19 care purposes of at least one of those hospital owners'  
20 hospitals.

21 (4) "Hospital system" means a hospital and one or more  
22 other hospitals or hospital affiliates related by common  
23 control or ownership.

24 (5) "Control" relating to hospital owners, hospital  
25 affiliates, or hospital systems means possession, direct  
26 or indirect, of the power to direct or cause the direction

1 of the management and policies of the entity, whether  
2 through ownership of assets, membership interest, other  
3 voting or governance rights, by contract or otherwise.

4 (6) "Hospital applicant" means a hospital owner or  
5 hospital affiliate that files an application for a  
6 property tax exemption pursuant to Section 15-5 and this  
7 Section.

8 (7) "Relevant hospital entity" means (A) the hospital  
9 owner, in the case of a hospital applicant that is a  
10 hospital owner, and (B) at the election of a hospital  
11 applicant that is a hospital affiliate, either (i) the  
12 hospital affiliate or (ii) the hospital system to which  
13 the hospital applicant belongs, including any hospitals or  
14 hospital affiliates that are related by common control or  
15 ownership.

16 (8) "Subject property" means property for which a  
17 hospital applicant files an application for an exemption  
18 pursuant to Section 15-5 and this Section.

19 (9) "Hospital year" means the fiscal year of the  
20 relevant hospital entity, or the fiscal year of one of the  
21 hospital owners in the hospital system if the relevant  
22 hospital entity is a hospital system with members with  
23 different fiscal years, that ends in the year for which  
24 the exemption is sought.

25 (c) A hospital applicant satisfies the conditions for an  
26 exemption under this Section with respect to the subject

1 property, and shall be issued a charitable exemption for that  
2 property, if the value of services or activities listed in  
3 subsection (e) for the hospital year equals or exceeds the  
4 relevant hospital entity's estimated property tax liability,  
5 as determined under subsection (g), for the year for which  
6 exemption is sought. For purposes of making the calculations  
7 required by this subsection (c), if the relevant hospital  
8 entity is a hospital owner that owns more than one hospital,  
9 the value of the services or activities listed in subsection  
10 (e) shall be calculated on the basis of only those services and  
11 activities relating to the hospital that includes the subject  
12 property, and the relevant hospital entity's estimated  
13 property tax liability shall be calculated only with respect  
14 to the properties comprising that hospital. In the case of a  
15 multi-state hospital system or hospital affiliate, the value  
16 of the services or activities listed in subsection (e) shall  
17 be calculated on the basis of only those services and  
18 activities that occur in Illinois and the relevant hospital  
19 entity's estimated property tax liability shall be calculated  
20 only with respect to its property located in Illinois.

21 Notwithstanding any other provisions of this Act, any  
22 parcel or portion thereof, that is owned by a for-profit  
23 entity whether part of the hospital system or not, or that is  
24 leased, licensed or operated by a for-profit entity regardless  
25 of whether healthcare services are provided on that parcel  
26 shall not qualify for exemption. If a parcel has both exempt

1 and non-exempt uses, an exemption may be granted for the  
2 qualifying portion of that parcel. In the case of parking lots  
3 and common areas serving both exempt and non-exempt uses those  
4 parcels or portions thereof may qualify for an exemption in  
5 proportion to the amount of qualifying use.

6 (d) The hospital applicant shall include information in  
7 its exemption application establishing that it satisfies the  
8 requirements of subsection (c). For purposes of making the  
9 calculations required by subsection (c), the hospital  
10 applicant may for each year elect to use either (1) the value  
11 of the services or activities listed in subsection (e) for the  
12 hospital year or (2) the average value of those services or  
13 activities for the 3 fiscal years ending with the hospital  
14 year. If the relevant hospital entity has been in operation  
15 for less than 3 completed fiscal years, then the latter  
16 calculation, if elected, shall be performed on a pro rata  
17 basis.

18 (e) Services that address the health care needs of  
19 low-income or underserved individuals or relieve the burden of  
20 government with regard to health care services. The following  
21 services and activities shall be considered for purposes of  
22 making the calculations required by subsection (c):

23 (1) Charity care. Free or discounted services provided  
24 pursuant to the relevant hospital entity's financial  
25 assistance policy, measured at cost, including discounts  
26 provided under the Hospital Uninsured Patient Discount



1 Act.

2 (2) Health services to low-income and underserved  
3 individuals. Other unreimbursed costs of the relevant  
4 hospital entity for providing without charge, paying for,  
5 or subsidizing goods, activities, or services for the  
6 purpose of addressing the health of low-income or  
7 underserved individuals. Those activities or services may  
8 include, but are not limited to: financial or in-kind  
9 support to affiliated or unaffiliated hospitals, hospital  
10 affiliates, community clinics, or programs that treat  
11 low-income or underserved individuals; paying for or  
12 subsidizing health care professionals who care for  
13 low-income or underserved individuals; providing or  
14 subsidizing outreach or educational services to low-income  
15 or underserved individuals for disease management and  
16 prevention; free or subsidized goods, supplies, or  
17 services needed by low-income or underserved individuals  
18 because of their medical condition; and prenatal or  
19 childbirth outreach to low-income or underserved persons.

20 (3) Subsidy of State or local governments. Direct or  
21 indirect financial or in-kind subsidies of State or local  
22 governments by the relevant hospital entity that pay for  
23 or subsidize activities or programs related to health care  
24 for low-income or underserved individuals.

25 (4) Support for State health care programs for  
26 low-income individuals. At the election of the hospital

1 applicant for each applicable year, either (A) 10% of  
2 payments to the relevant hospital entity and any hospital  
3 affiliate designated by the relevant hospital entity  
4 (provided that such hospital affiliate's operations  
5 provide financial or operational support for or receive  
6 financial or operational support from the relevant  
7 hospital entity) under Medicaid or other means-tested  
8 programs, including, but not limited to, General  
9 Assistance, the Covering ALL KIDS Health Insurance Act,  
10 and the State Children's Health Insurance Program or (B)  
11 the amount of subsidy provided by the relevant hospital  
12 entity and any hospital affiliate designated by the  
13 relevant hospital entity (provided that such hospital  
14 affiliate's operations provide financial or operational  
15 support for or receive financial or operational support  
16 from the relevant hospital entity) to State or local  
17 government in treating Medicaid recipients and recipients  
18 of means-tested programs, including but not limited to  
19 General Assistance, the Covering ALL KIDS Health Insurance  
20 Act, and the State Children's Health Insurance Program.  
21 The amount of subsidy for purposes of this item (4) is  
22 calculated in the same manner as unreimbursed costs are  
23 calculated for Medicaid and other means-tested government  
24 programs in the Schedule H of IRS Form 990 in effect on the  
25 effective date of this amendatory Act of the 97th General  
26 Assembly; provided, however, that in any event

1 unreimbursed costs shall be net of fee-for-services  
2 payments, payments pursuant to an assessment, quarterly  
3 payments, and all other payments included on the schedule  
4 H of the IRS form 990.

5 (5) Dual-eligible subsidy. The amount of subsidy  
6 provided to government by treating dual-eligible  
7 Medicare/Medicaid patients. The amount of subsidy for  
8 purposes of this item (5) is calculated by multiplying the  
9 relevant hospital entity's unreimbursed costs for  
10 Medicare, calculated in the same manner as determined in  
11 the Schedule H of IRS Form 990 in effect on the effective  
12 date of this amendatory Act of the 97th General Assembly,  
13 by the relevant hospital entity's ratio of dual-eligible  
14 patients to total Medicare patients.

15 (6) Relief of the burden of government related to  
16 health care of low-income individuals. Except to the  
17 extent otherwise taken into account in this subsection,  
18 the portion of unreimbursed costs of the relevant hospital  
19 entity attributable to providing, paying for, or  
20 subsidizing goods, activities, or services that relieve  
21 the burden of government related to health care for  
22 low-income individuals. Such activities or services shall  
23 include, but are not limited to, providing emergency,  
24 trauma, burn, neonatal, psychiatric, rehabilitation,  
25 ambulance transport, or other special services; providing  
26 medical education; and conducting medical research or

1 training of health care professionals. The portion of  
2 those unreimbursed costs attributable to benefiting  
3 low-income individuals shall be determined using the ratio  
4 calculated by adding the relevant hospital entity's costs  
5 attributable to charity care, Medicaid, other means-tested  
6 government programs, Medicare patients with disabilities  
7 under age 65, and dual-eligible Medicare/Medicaid patients  
8 and dividing that total by the relevant hospital entity's  
9 total costs. Such costs for the numerator and denominator  
10 shall be determined by multiplying gross charges by the  
11 cost to charge ratio taken from the hospitals' most  
12 recently filed Medicare cost report (CMS 2252-10 Worksheet  
13 C, Part I). In the case of emergency services, the ratio  
14 shall be calculated using costs (gross charges multiplied  
15 by the cost to charge ratio taken from the hospitals' most  
16 recently filed Medicare cost report (CMS 2252-10 Worksheet  
17 C, Part I)) of patients treated in the relevant hospital  
18 entity's emergency department.

19 (7) Any other activity by the relevant hospital entity  
20 that the Department determines relieves the burden of  
21 government or addresses the health of low-income or  
22 underserved individuals.

23 (f) For purposes of making the calculations required by  
24 subsections (c) and (e):

25 (1) particular services or activities eligible for  
26 consideration under any of the paragraphs (1) through (7)

1 of subsection (e) may not be counted under more than one of  
2 those paragraphs; and

3 (2) the amount of unreimbursed costs and the amount of  
4 subsidy shall not be reduced by restricted or unrestricted  
5 payments received by the relevant hospital entity as  
6 contributions deductible under Section 170(a) of the  
7 Internal Revenue Code.

8 (g) Estimation of Exempt Property Tax Liability. The  
9 estimated property tax liability used for the determination in  
10 subsection (c) shall be calculated as follows:

11 (1) "Estimated property tax liability" means the  
12 estimated dollar amount of property tax that would be  
13 owed, with respect to the exempt portion of each of the  
14 relevant hospital entity's properties that are already  
15 fully or partially exempt, or for which an exemption in  
16 whole or in part is currently being sought, and then  
17 aggregated as applicable, as if the exempt portion of  
18 those properties were subject to tax, calculated with  
19 respect to each such property by multiplying:

20 (A) the lesser of (i) the actual assessed value,  
21 if any, of the portion of the property for which an  
22 exemption is sought or (ii) an estimated assessed  
23 value of the exempt portion of such property as  
24 determined in item (2) of this subsection (g), by:

25 (B) the applicable State equalization rate  
26 (yielding the equalized assessed value), by

1 (C) the applicable tax rate.

2 (2) The estimated assessed value of the exempt portion  
3 of the property equals the sum of (i) the estimated fair  
4 market value of buildings on the property, as determined  
5 in accordance with subparagraphs (A) and (B) of this item  
6 (2), multiplied by the applicable assessment factor, and  
7 (ii) the estimated assessed value of the land portion of  
8 the property, as determined in accordance with  
9 subparagraph (C).

10 (A) The "estimated fair market value of buildings  
11 on the property" means the replacement value of any  
12 exempt portion of buildings on the property, minus  
13 depreciation, determined utilizing the cost  
14 replacement method whereby the exempt square footage  
15 of all such buildings is multiplied by the replacement  
16 cost per square foot for Class A Average building  
17 found in the most recent edition of the Marshall &  
18 Swift Valuation Services Manual, adjusted by any  
19 appropriate current cost and local multipliers.

20 (B) Depreciation, for purposes of calculating the  
21 estimated fair market value of buildings on the  
22 property, is applied by utilizing a weighted mean life  
23 for the buildings based on original construction and  
24 assuming a 40-year life for hospital buildings and the  
25 applicable life for other types of buildings as  
26 specified in the American Hospital Association

1 publication "Estimated Useful Lives of Depreciable  
2 Hospital Assets". In the case of hospital buildings,  
3 the remaining life is divided by 40 and this ratio is  
4 multiplied by the replacement cost of the buildings to  
5 obtain an estimated fair market value of buildings. If  
6 a hospital building is older than 35 years, a  
7 remaining life of 5 years for residual value is  
8 assumed; and if a building is less than 8 years old, a  
9 remaining life of 32 years is assumed.

10 (C) The estimated assessed value of the land  
11 portion of the property shall be determined by  
12 multiplying (i) the per square foot average of the  
13 assessed values of three parcels of land (not  
14 including farm land, and excluding the assessed value  
15 of the improvements thereon) reasonably comparable to  
16 the property, by (ii) the number of square feet  
17 comprising the exempt portion of the property's land  
18 square footage.

19 (3) The assessment factor, State equalization rate,  
20 and tax rate (including any special factors such as  
21 Enterprise Zones) used in calculating the estimated  
22 property tax liability shall be for the most recent year  
23 that is publicly available from the applicable chief  
24 county assessment officer or officers at least 90 days  
25 before the end of the hospital year.

26 (4) The method utilized to calculate estimated

1 property tax liability for purposes of this Section 15-86  
2 shall not be utilized for the actual valuation,  
3 assessment, or taxation of property pursuant to the  
4 Property Tax Code.

5 (h) Application. Each hospital applicant applying for a  
6 property tax exemption pursuant to Section 15-5 and this  
7 Section shall use an application form provided by the  
8 Department. The application form shall specify the records  
9 required in support of the application and those records shall  
10 be submitted to the Department with the application form. Each  
11 application or affidavit shall contain a verification by the  
12 Chief Executive Officer of the hospital applicant under oath  
13 or affirmation stating that each statement in the application  
14 or affidavit and each document submitted with the application  
15 or affidavit are true and correct. The records submitted with  
16 the application pursuant to this Section shall include an  
17 exhibit prepared by the relevant hospital entity showing (A)  
18 the value of the relevant hospital entity's services and  
19 activities, if any, under paragraphs (1) through (7) of  
20 subsection (e) of this Section stated separately for each  
21 paragraph, and (B) the value relating to the relevant hospital  
22 entity's estimated property tax liability under subsections  
23 (g) (1) (A), (B), and (C), subsections (g) (2) (A), (B), and (C),  
24 and subsection (g) (3) of this Section stated separately for  
25 each item. Such exhibit will be made available to the public by  
26 the chief county assessment officer. Nothing in this Section



1 shall be construed as limiting the Attorney General's  
2 authority under the Illinois False Claims Act.

3 (i) Nothing in this Section shall be construed to limit  
4 the ability of otherwise eligible hospitals, hospital owners,  
5 hospital affiliates, or hospital systems to obtain or maintain  
6 property tax exemptions pursuant to a provision of the  
7 Property Tax Code other than this Section.

8 (Source: P.A. 99-143, eff. 7-27-15.)

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