



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2397

Introduced 2/26/2021, by Sen. Cristina Castro

SYNOPSIS AS INTRODUCED:

35 ILCS 200/Art. 9 Div. 6 heading new
35 ILCS 200/9-280 new
35 ILCS 200/9-281 new

Amends the Property Tax Code. Provides that, in counties with 3,000,000 or more inhabitants, taxpayers of income producing property shall submit income and expense data annually to the chief county assessment officer on or before July 1 of each year. Provides that, in counties of fewer than 3,000,000 inhabitants, the county board may provide by ordinance or resolution that taxpayers of income-producing property shall submit income and expense data annually to the chief county assessment officer on or before March 31 of each year. Contains certain exceptions. Effective immediately.

LRB102 09947 HLH 15265 b

FISCAL 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 adding
5 Division 6 to Article 9 as follows:

6 (35 ILCS 200/Art. 9 Div. 6 heading new)

7 Division 6. Income-producing property

8 (35 ILCS 200/9-280 new)

9 Sec. 9-280. Definitions. As used in this Division 6:

10 "Expense" or "expenses" means expenditures necessitated by
11 the operation of the real property itself that reduce the
12 income to the property owner or lessee and includes management
13 fees, reserves for replacement, maintenance, property taxes,
14 and insurance, but does not include debt service, reserves for
15 building additions, or income tax.

16 "Income" means real property revenue that is directed to
17 or received by the property owner in the form of rent from
18 unrelated persons or entities and ancillary revenue to the
19 owner from unrelated persons or entities that is generated
20 exclusively from the operation of the real property itself,
21 such as revenue from parking or other amenities provided to or
22 for the benefit of the property's tenants. "Income" does not

1 include revenue generated from personal property, including
2 but not limited to, revenue from a business enterprise that is
3 operated on the real property or improvements made to the
4 property by a tenant.

5 "Income and expense data" means data that identifies
6 income and expenses as defined in this Section. This data may
7 be found in annual reports, income and expense statements, and
8 Internal Revenue Service Schedule E or Schedule 8825 tax forms
9 for income producing property for the immediately preceding
10 year. It also includes data from rent rolls for the current and
11 immediately preceding year. Data may be based on a calendar or
12 fiscal year.

13 "Income producing property" means property that is not
14 owner-occupied, as defined in this Section, and is owned for
15 the purpose of generating income from the property itself,
16 whether or not such property actually generates income in a
17 particular year. "Income producing property" does not include:

18 (1) property with a market value of \$500,000 or less
19 in the most recent assessment year for which an assessment
20 is certified exclusive of any adjustments to assessed
21 value by a board of review, the Property Tax Appeal Board,
22 or the circuit court;

23 (2) residential property containing 6 or fewer
24 dwelling units;

25 (3) property assessed under Article 10 of this Code
26 and stadiums that are not qualified property under Section

1 10-215 that have a seating capacity of 20,000 or more and
2 host major professional sporting events;

3 (4) property that is assessed by the Department under
4 Article 11 of this Code;

5 (5) property that is owned or leased by a hospital
6 licensed under the Hospital Licensing Act or operated
7 under the University of Illinois Hospital Act, including
8 any hospital affiliate that directly or indirectly
9 controls, is controlled by, or is under common control
10 with a hospital; or

11 (6) property that is owned or leased by a facility
12 licensed under the Nursing Home Care Act that is an
13 intermediate or skilled facility.

14 "Net rentable area" means the square footage of an
15 improvement that may be leased or rented to tenants and
16 excludes common areas such as elevators, stairways, and
17 atriums.

18 "Owner-occupied" means real property that is used or
19 occupied exclusively by a record owner or related entity, or
20 real property where 80% or more of the net rentable area of the
21 property is occupied or held for future use by the record owner
22 of the property or a related person or entity as described in
23 subsection (b) of Section 267 of the Internal Revenue Code. If
24 more than 20% of the net rentable area of a property is subject
25 to an existing lease or is subject to short term rental of the
26 property by an unrelated entity, the property is not

1 considered owner-occupied for purposes of this Division.

2 "Property" has the meaning set forth in Section 1-130 of
3 this Code and includes contiguous parcels or property index
4 numbers that comprise one functional property location.

5 "Taxpayer" means the record owner of income producing
6 property. The owner or lessee, whoever is contractually
7 obligated to pay property taxes directly to the County
8 Treasurer, shall be required under this Article to submit
9 income and expense data that is within its possession and
10 control to the chief county assessment officer for the
11 relevant portion of the property over which it exercises
12 control.

13
14 (35 ILCS 200/9-281 new)

15 Sec. 9-281. Income producing properties.

16 (a) In counties with 3,000,000 or more inhabitants,
17 taxpayers or lessees who are contractually obligated to pay
18 property taxes of income producing property shall submit
19 income and expense data annually to the chief county
20 assessment officer on or before July 1 of each year, except as
21 otherwise provided in this Division. In the first year
22 following the effective date of this amendatory Act of the
23 102nd General Assembly, income and expense data shall be
24 submitted by September 1. If a taxpayer or party who is
25 contractually obligated to pay property taxes is required to

1 submit income and expense data under this Article in
2 accordance with Section 9-280, the chief county assessment
3 officer shall notify, by certified mail, the record owner of
4 income-producing property at least 60 days prior to the date
5 for submission of the obligation to submit income and expense
6 data. Notice shall include the deadline for submission. If an
7 owner of record claims that another party is obligated to pay
8 property taxes directly to the county treasurer for all or a
9 portion of the property, then the owner shall send to the
10 obligated party a copy of the notice received from the chief
11 county assessment officer of the obligation to submit income
12 and expense data. The taxpayer or obligated party shall submit
13 income and expense data to the chief county assessment officer
14 in accordance with this Section for the relevant portion of
15 the property for which the taxpayer or obligated party is
16 required to pay the property taxes and exercises control over
17 such property, identified by parcel and area.

18 The chief county assessment officer may extend the time
19 within which taxpayers are required to submit income and
20 expense data under this Section.

21 Where the taxpayer's books and records reflecting the
22 operation of the property are maintained on a calendar year
23 basis, the statement of income and expense data shall be for
24 the last full calendar year preceding the date that the
25 statement is submitted. Where the taxpayer's books and records
26 reflecting the operation of the property are maintained on a

1 fiscal year basis for federal income tax purposes, the
2 statement of income and expense data shall be the last full
3 fiscal year preceding the date when the statement is
4 submitted.

5 The taxpayer or obligated party shall certify under oath
6 in a signed attestation that the statements set forth in
7 income and expense data submitted under this Article are true,
8 accurate, and complete to the best of his or her knowledge
9 except as to matters stated to be upon information and belief
10 and, as to such matters, the taxpayer or obligated party shall
11 certify that he or she believes the same to be true, accurate,
12 and complete.

13 (b) In counties of fewer than 3,000,000 inhabitants, the
14 county board may provide by ordinance or resolution that
15 taxpayers of income-producing property shall submit income and
16 expense data annually to the chief county assessment officer
17 on or before March 31 of each year. If a taxpayer or party who
18 is contractually obligated to pay taxes is required to submit
19 income and expense data under this Article, the chief county
20 assessment officer shall notify the taxpayer of that fact by
21 certified mail within 60 days of the due date for income and
22 expense data. Notice shall include the deadline for such
23 submission. If an owner of record claims that another party is
24 obligated to pay property taxes directly to the county
25 treasurer, then the owner shall send to the obligated party a
26 copy of any notice received from the chief county assessment

1 officer of the obligation to submit income and expense data.
2 The taxpayer or obligated party shall submit income and
3 expense data to the chief county assessment officer in
4 accordance with this Division for the relevant portion of the
5 property for which the taxpayer or obligated party is required
6 to pay the property taxes and exercises control over such
7 property, identified by parcel and area.

8 The chief county assessment officer may extend the time
9 within which taxpayers are required to submit income and
10 expense data under this Section.

11 Where the taxpayer's books and records reflecting the
12 operation of the property are maintained on a calendar year
13 basis, the statement of income and expense data shall be for
14 the last full calendar year preceding the date that the
15 statement is submitted. Where the taxpayer's books and records
16 reflecting the operation of the property are maintained on a
17 fiscal year basis for federal income tax purposes, the
18 statement of income and expense data shall be the last full
19 fiscal year preceding the date when the statement is
20 submitted.

21 The taxpayer or obligated party shall certify under oath
22 in a signed attestation that the statements set forth in
23 income and expense data submitted under this Article are true,
24 accurate, and complete, to the best of his or her knowledge
25 except as to matters stated to be upon information and belief
26 and, as to such matters, the taxpayer or obligated party shall

1 certify that he or she believes the same to be true, accurate,
2 and complete.

3 Subsections (c) through (i) of this Section shall also
4 apply in counties that have adopted by ordinance or resolution
5 the requirements of this Section.

6 (c) The chief county assessment officer of a county that
7 is subject to this Section shall establish rules that specify
8 the manner of submission of income and expense data and
9 provide for the administration of the provisions of this
10 Section in the county. Income and expense data shall be
11 submitted in electronic form unless waived by the chief county
12 assessment officer.

13 The chief county assessment officer shall maintain a copy
14 of its rules for public review and shall place a copy of those
15 rules and any amended rules on his or her website.

16 (d) If a taxpayer or obligated party fails to submit
17 income and expense data as required under this Section or as
18 required after the adoption of a county board ordinance or
19 resolution under this Section, within the time prescribed, or
20 within an extended period as permitted by the chief county
21 assessment officer, the assessor shall send notice by
22 certified mail to such taxpayer of the failure to comply. If
23 the taxpayer or obligated party fails to submit the required
24 data within 60 days after such notice is sent, fails to provide
25 documentation of another taxpayer's obligation to submit
26 income and expense data, or fails to adequately explain why no

1 submission is required, the taxpayer or obligated party shall
2 pay a penalty to the chief county assessment officer of 0.025%
3 of the prior year's market value as indicated by the most
4 recent certified assessed value for the property at issue, but
5 in no case shall the taxpayer or obligated party be required to
6 pay more than its proportional share of a maximum penalty of
7 \$10,000 per property. A taxpayer or obligated party who fails
8 to submit income and expense data in accordance with this
9 provision shall only be required to pay a penalty on the
10 portion of the property's value for which the taxpayer or
11 obligated party is required to pay taxes.

12 A taxpayer or obligated party may contest the penalty and
13 requirement to report income and expense data in a particular
14 year and submit evidence to the chief county assessment
15 officer in support of a contention that the taxpayer or
16 obligated party was not required to submit income and expense
17 data, that another party was required to submit income and
18 expense data for such property, or that the submission of
19 income and expense data complies with this requirement based
20 on available documentation. The chief county assessment
21 officer shall review the taxpayer or obligated party's
22 submission and other submissions for the property for the tax
23 year at issue, and determine whether the taxpayer or obligated
24 party provided sufficient evidence that he or she was not
25 required to report income and expense data or that the
26 submission complies based on available documentation.

1 If a taxpayer or obligated party is dissatisfied with a
2 decision of the chief county assessment officer of the
3 requirement to submit income and expense data, the taxpayer or
4 obligated party may request review of that decision. Upon such
5 request, at least 30 days' notice shall be provided to the
6 taxpayer or obligated party of a hearing to be conducted by a
7 hearing officer designated by the chief county assessment
8 officer. If dissatisfied with a hearing officer's decision,
9 the taxpayer or obligated party may appeal such decision to
10 the circuit court of the county where the property is located
11 as a final administrative decision under Administrative Review
12 Law. If a party is unsuccessful at hearing, the penalty
13 imposed under this Section shall bear interest at 0.05% per
14 month thereafter, beginning 21 days after the date of
15 decision, or 21 days after the date of the issuance of a final
16 decision on administrative review.

17 The State's Attorney of the county in which the property
18 is located shall have power to act on behalf of the people and
19 the chief county assessment officer to enforce the provisions
20 of this Section, including the power to compel by subpoena the
21 production of taxpayer income and expense data that is
22 required to be produced under this Section.

23 The chief county assessment officer may audit the income
24 and expense data submitted by taxpayers to verify its accuracy
25 by requesting documentation in support of submissions.

26 (e) Penalty and interest collected by the chief county

1 assessment officer under this Section for a taxpayer's or
2 obligated party's failure to timely submit income and expense
3 data shall be collected in the same manner as other fees
4 collected by the chief county assessment officer. Such revenue
5 shall be deposited with the county treasurer in the county
6 general fund of the county in which the property is located,
7 with 75% of the revenue to be used for the benefit of the
8 office of the chief county assessment officer and 25% to be
9 used for the benefit of the county.

10 (f) Any personal data such as federal identification or
11 social security numbers and income tax forms or data that are
12 included in income and expense data produced under this
13 Section shall be deemed private information and exempt from
14 disclosure under the Freedom of Information Act. Income and
15 expense data submitted pursuant to this Article shall not be
16 subject to disclosure by the chief county assessment officer
17 in accordance with the Freedom of Information Act and other
18 applicable law, or pursuant to court order in a tax or other
19 matter. Nothing in this Section prohibits a chief county
20 assessment officer from disclosing compiled and anonymized
21 income and expense data as provided in this Section.

22 (g) The income and expense data submitted pursuant to this
23 Section shall be processed and used as follows:

24 (1) Income and expense data in its original form in
25 which the taxpayer, obligated party and the property in
26 question is identified shall not be used for purposes of

1 assessing individual properties. The chief county
2 assessment officer shall compile and anonymize income and
3 expense data that is collected under this Division and
4 shall cause such information to be published annually.
5 Compiled and anonymized data may be used in the mass
6 appraisal or assessment of property.

7 The chief county assessment officer shall cause the
8 income and expense data to be compiled and anonymized in
9 accordance with statistical disclosure controls accepted
10 in the field that account for control of microdata and
11 quantitative and frequency tables in a manner that
12 considers individual property characteristics but prevents
13 the disclosure of individual property identity. Such
14 compilation and anonymization shall be performed by staff
15 who are not directly involved in the valuation of the type
16 of property for which the data has been submitted. The
17 chief county assessment officer shall publish the
18 procedures followed in compiling and anonymizing data.

19 (2) If a particular property is so unique in
20 characteristics, features, or location that the property
21 or its owner could be identified if the property's income
22 and expense data are included in compiled and anonymized
23 data that is made available to the public, township
24 assessors, or boards of review under this Section, the
25 income and expense data for that particular property shall
26 not be included in compiled and anonymized data.

1 (3)Notwithstanding any other provision of this
2 Section, the taxpayer or obligated party of any property
3 for which income and expense data has been submitted shall
4 have the right at all times to: (i) obtain a copy of such
5 income and expense data as submitted, in its original
6 form, from the chief county assessment officer; (ii) file
7 such income and expense data in any public forum; or (iii)
8 authorize such filing or publication of the income and
9 expense data in any other manner that the owner may
10 choose.

11 The chief county assessment officer shall establish
12 and maintain reasonable security measures consistent with
13 state and local law and the Federal Information Security
14 Management Act to protect income and expense data.

15 (h) All information received by the chief county
16 assessment officer from income and expense data filed under
17 this Article shall be used only for official purposes. Any
18 person who divulges income and expense data submitted under
19 this Article other than as permitted in this Article, in
20 accordance with a proper judicial order, or as otherwise
21 provided by law, shall be guilty of a Class B misdemeanor and
22 subject to a fine not to exceed \$7,500.

23 (i) The chief county assessment officer shall prepare a
24 summary report within 60 days of the completion of the first
25 assessment cycle in which income expense data is compiled
26 under this Section and used in the assessment process, and

1 report findings to the Revenue committees of the Illinois
2 Senate and House of Representatives within 45 days thereafter.
3 The report shall document income and expense data collection,
4 changes in assessed or equalized assessed values that followed
5 the collection and use of compiled and anonymized income and
6 expense data for properties subject to reassessment, shall
7 compare reassessment year assessed or equalized assessed
8 values with values or equalized assessed values from the
9 immediately preceding reassessment cycle. The report shall
10 document any shifts in the percentage of commercial or
11 residential properties that comprise a portion of the total
12 assessed value or equalized assessed value of property within
13 the county. This report shall be produced annually following
14 the effective date of this amendatory Act of the 102nd General
15 Assembly until all property located within a county subject to
16 this Section has been reassessed.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.