



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB2849

Introduced 2/22/2011, by Rep. Barbara Flynn Currie

SYNOPSIS AS INTRODUCED:

35 ILCS 200/9-195
35 ILCS 200/15-35
35 ILCS 200/15-57 new
30 ILCS 805/8.35 new

Amends the Property Tax Code. Provides that, if property is owned by the State, a unit of local government, or a school district and that property is leased to the State, a unit of local government, or a school district, then the property and the leasehold interest are exempt from taxation under the Property Tax Code or under any other law. Further provides that property of schools that is leased to the State, a unit of local government, or a school district (now, only leases to a municipality) for governmental purposes on a not-for-profit basis is exempt and that the leasehold interest is not taxable. Amends the State Mandates Act to require implementation without reimbursement. Provides that the changes made by the amendatory Act apply to taxable years 2010 and thereafter. Provides that the changes also apply to taxable years prior to 2010, but no payments of any such taxes need be refunded. Effective immediately.

LRB097 10619 HLH 51013 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 Sections 9-195 and 15-35 and by adding Section 15-57 as
6 follows:

7 (35 ILCS 200/9-195)

8 Sec. 9-195. Leasing of exempt property.

9 (a) Except as provided in Sections 15-35, 15-55, 15-57,
10 15-60, 15-100, 15-103, and 15-185, when property which is
11 exempt from taxation is leased to another whose property is not
12 exempt, and the leasing of which does not make the property
13 taxable, the leasehold estate and the appurtenances shall be
14 listed as the property of the lessee thereof, or his or her
15 assignee. Taxes on that property shall be collected in the same
16 manner as on property that is not exempt, and the lessee shall
17 be liable for those taxes. However, no tax lien shall attach to
18 the exempt real estate. The changes made by this amendatory Act
19 of 1997 and by this amendatory Act of the 91st General Assembly
20 are declaratory of existing law and shall not be construed as a
21 new enactment. The changes made by Public Acts 88-221 and
22 88-420 that are incorporated into this Section by this
23 amendatory Act of 1993 are declarative of existing law and are

1 not a new enactment.

2 (b) The provisions of this Section regarding taxation of
3 leasehold interests in exempt property do not apply to any
4 leasehold interest created pursuant to any transaction
5 described in subsection (e) of Section 15-35, item (a) of
6 Section 15-35, Section 15-57, subsection (c-5) of Section
7 15-60, subsection (b) of Section 15-100, Section 15-103, or
8 Section 15-185.

9 (Source: P.A. 92-844, eff. 8-23-02; 92-846, eff. 8-23-02;
10 93-19, eff. 6-20-03.)

11 (35 ILCS 200/15-35)

12 Sec. 15-35. Schools. All property donated by the United
13 States for school purposes, and all property of schools, not
14 sold or leased or otherwise used with a view to profit, is
15 exempt, whether owned by a resident or non-resident of this
16 State or by a corporation incorporated in any state of the
17 United States. Also exempt is:

18 (a) property, along with the leasehold interest in that
19 property, of schools which is leased to the State, a unit
20 of local government, or school district ~~municipality~~ to be
21 used for governmental ~~municipal~~ purposes on a
22 not-for-profit basis;

23 (b) property of schools on which the schools are
24 located and any other property of schools used by the
25 schools exclusively for school purposes, including, but

1 not limited to, student residence halls, dormitories and
2 other housing facilities for students and their spouses and
3 children, staff housing facilities, and school-owned and
4 operated dormitory or residence halls occupied in whole or
5 in part by students who belong to fraternities, sororities,
6 or other campus organizations;

7 (c) property donated, granted, received or used for
8 public school, college, theological seminary, university,
9 or other educational purposes, whether held in trust or
10 absolutely;

11 (d) in counties with more than 200,000 inhabitants
12 which classify property, property (including interests in
13 land and other facilities) on or adjacent to (even if
14 separated by a public street, alley, sidewalk, parkway or
15 other public way) the grounds of a school, if that property
16 is used by an academic, research or professional society,
17 institute, association or organization which serves the
18 advancement of learning in a field or fields of study
19 taught by the school and which property is not used with a
20 view to profit;

21 (e) property owned by a school district. The exemption
22 under this subsection is not affected by any transaction in
23 which, for the purpose of obtaining financing, the school
24 district, directly or indirectly, leases or otherwise
25 transfers the property to another for which or whom
26 property is not exempt and immediately after the lease or

1 transfer enters into a leaseback or other agreement that
2 directly or indirectly gives the school district a right to
3 use, control, and possess the property. In the case of a
4 conveyance of the property, the school district must retain
5 an option to purchase the property at a future date or,
6 within the limitations period for reverters, the property
7 must revert back to the school district.

8 (1) If the property has been conveyed as described
9 in this subsection, the property is no longer exempt
10 under this Section as of the date when:

11 (A) the right of the school district to use,
12 control, and possess the property is terminated;

13 (B) the school district no longer has an option
14 to purchase or otherwise acquire the property; and

15 (C) there is no provision for a reverter of the
16 property to the school district within the
17 limitations period for reverters.

18 (2) Pursuant to Sections 15-15 and 15-20 of this
19 Code, the school district shall notify the chief county
20 assessment officer of any transaction under this
21 subsection. The chief county assessment officer shall
22 determine initial and continuing compliance with the
23 requirements of this subsection for tax exemption.
24 Failure to notify the chief county assessment officer
25 of a transaction under this subsection or to otherwise
26 comply with the requirements of Sections 15-15 and

1 15-20 of this Code shall, in the discretion of the
2 chief county assessment officer, constitute cause to
3 terminate the exemption, notwithstanding any other
4 provision of this Code.

5 (3) No provision of this subsection shall be
6 construed to affect the obligation of the school
7 district to which an exemption certificate has been
8 issued under this Section from its obligation under
9 Section 15-10 of this Code to file an annual
10 certificate of status or to notify the chief county
11 assessment officer of transfers of interest or other
12 changes in the status of the property as required by
13 this Code.

14 (4) The changes made by this amendatory Act of the
15 91st General Assembly are declarative of existing law
16 and shall not be construed as a new enactment; and

17 (f) in counties with more than 200,000 inhabitants
18 which classify property, property of a corporation, which
19 is an exempt entity under paragraph (3) of Section 501(c)
20 of the Internal Revenue Code or its successor law, used by
21 the corporation for the following purposes: (1) conducting
22 continuing education for professional development of
23 personnel in energy-related industries; (2) maintaining a
24 library of energy technology information available to
25 students and the public free of charge; and (3) conducting
26 research in energy and environment, which research results

1 could be ultimately accessible to persons involved in
2 education.

3 (Source: P.A. 91-513, eff. 8-13-99; 91-578, eff. 8-14-99;
4 92-16, eff. 6-28-01.)

5 (35 ILCS 200/15-57 new)

6 Sec. 15-57. Government property leased to another
7 government entity. If property is owned by the State, a unit of
8 local government, or a school district and that property is
9 leased to the State, a unit of local government, or a school
10 district, then the property is exempt from taxation under this
11 Code and the leasehold interest is exempt from taxation under
12 this Code or under any other law. The provisions of this
13 Section apply notwithstanding any other provision of law.

14 Section 90. The State Mandates Act is amended by adding
15 Section 8.35 as follows:

16 (30 ILCS 805/8.35 new)

17 Sec. 8.35. Exempt mandate. Notwithstanding Sections 6 and 8
18 of this Act, no reimbursement by the State is required for the
19 implementation of any mandate created by this amendatory Act of
20 the 97th General Assembly.

21 Section 95. Applicability. The changes made by this
22 amendatory Act of the 97th General Assembly apply to taxable

1 years 2010 and thereafter. In addition, the changes made by
2 this amendatory Act of the 97th General Assembly also apply to
3 taxable years prior to 2010, but no such taxes paid for any
4 taxable year prior to 2010 need be refunded.

5 Section 97. Severability. The provisions of this Act are
6 severable under Section 1.31 of the Statute on Statutes.

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