



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4142

Introduced 1/30/2012, by Rep. Jehan A. Gordon

SYNOPSIS AS INTRODUCED:

35 ILCS 200/15-185

Amends the Property Tax Code. Provides that a Section of the Code concerning exemptions for leaseback property also applies to property that is (i) owned by a private entity and (ii) eligible for a religious or charitable exemption under the Code. Provides that, for purposes of the exemption, the lessee shall be treated as if it were the owner of the property as long as the property is used for school, religious, or charitable purposes. Contains provisions requiring that the funds received from the conveyance of the property must be used for certain purposes. Provides that projects using funds from the sale of certain property that is subject to a leaseback are subject to the provisions of the Illinois Prevailing Wage Act for the initial construction of the improvements and all bidders for those projects shall comply with the Illinois Procurement Code. Effective immediately.

LRB097 16890 HLH 62078 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

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 15-185 as follows:

6 (35 ILCS 200/15-185)

7 Sec. 15-185. Exemption for leaseback property and
8 qualified leased property.

9 (a) Notwithstanding anything in this Code to the contrary,
10 all property owned by a municipality with a population of over
11 500,000 inhabitants, a unit of local government whose
12 jurisdiction includes territory located in whole or in part
13 within a municipality with a population of over 500,000
14 inhabitants, or a municipality with home rule powers that is
15 contiguous to a municipality with a population of over 500,000
16 inhabitants, shall remain exempt from taxation and any
17 leasehold interest in that property shall not be subject to
18 taxation under Section 9-195 if the property is directly or
19 indirectly leased, sold, or otherwise transferred to another
20 entity whose property is not exempt and immediately thereafter
21 is the subject of a leaseback or other agreement that directly
22 or indirectly gives the municipality or unit of local
23 government (i) a right to use, control, and possess the

1 property or (ii) a right to require the other entity, or the
2 other entity's designee or assignee, to use the property in the
3 performance of services for the municipality or unit of local
4 government. Property shall no longer be exempt under this
5 subsection as of the date when the right of the municipality or
6 unit of local government to use, control, and possess the
7 property or to require the performance of services is
8 terminated and the municipality or unit of local government no
9 longer has any option to purchase or otherwise reacquire the
10 interest in the property which was transferred by the
11 municipality or unit of local government.

12 (b) Notwithstanding anything in this Code to the contrary,
13 all property owned by a municipality with a population of over
14 500,000 inhabitants, a unit of local government whose
15 jurisdiction includes territory located in whole or in part
16 within a municipality with a population of over 500,000
17 inhabitants, or a municipality with home rule powers that is
18 contiguous to a municipality with a population of over 500,000
19 inhabitants, shall remain exempt from taxation and any
20 leasehold interest in that property is not subject to taxation
21 under Section 9-195 if the property, including dedicated public
22 property, is used by a municipality or other unit of local
23 government for the purpose of an airport or parking or for
24 waste disposal or processing and is leased for continued use
25 for the same purpose to another entity whose property is not
26 exempt.

1 For the purposes of this subsection (b), "airport" does not
2 include any airport property, as defined under Section 10 of
3 the O'Hare Modernization Act.

4 Any transaction described under this subsection must be
5 undertaken in accordance with all appropriate federal laws and
6 regulations.

7 (c) For purposes of this Section, "municipality" means a
8 municipality as defined in Section 1-1-2 of the Illinois
9 Municipal Code, and "unit of local government" means a unit of
10 local government as defined in Article VII, Section 1 of the
11 Constitution of the State of Illinois. The provisions of this
12 Section supersede and control over any conflicting provisions
13 of this Code.

14 (d) Notwithstanding anything in this Code to the contrary,
15 all property owned by a private entity that is exempt from real
16 estate taxes under Section 15-40 or 15-65 shall remain exempt
17 as provided in this subsection (d), and that exemption is not
18 affected by (i) any transaction in which the private entity,
19 directly or indirectly, on or after the effective date of this
20 amendatory Act of the 97th General Assembly, leases, sells, or
21 otherwise transfers the property to another entity for which or
22 for whom the property is not exempt, with or without a right to
23 repurchase that property, and immediately after the lease or
24 transfer enters into a leaseback or other agreement that
25 directly or indirectly gives the initial entity a right to use,
26 control, and possess the property for purposes that would

1 qualify the property for an exemption pursuant to Section 15-40
2 or 15-65 by virtue of its use or (ii) any lease executed on or
3 after the effective date of this amendatory Act of the 97th
4 General Assembly of new or existing property from another
5 entity for purposes that would be exempt under Section 15-40 or
6 15-65. Property exempted under this subsection (d) shall remain
7 exempt from real estate taxes for the term of the lease, or any
8 extension thereof, without regard to the nature or character of
9 ownership, and the lessee shall be treated for purposes of this
10 Article 15 as if it were the owner of the property, as long as
11 the property on which the leased improvements are or will be
12 located is used for school, religious, or charitable purposes
13 pursuant to that lease or any renewal thereof.

14 (e) Property is not eligible for an exemption under
15 subsection (d) of this Section unless substantially all of the
16 funds received from the conveyance of property subject to the
17 leaseback agreement are used for capital improvement projects
18 and related capital expenditures and all funds raised are used
19 within the State of Illinois.

20 (f) To the extent allowable by law, all construction
21 projects using the provisions of subsection (d) above shall be
22 subject to the provisions of the Illinois Prevailing Wage Act
23 for the initial construction of the improvements and all
24 bidders for those projects shall comply with the provisions of
25 Section 30-22 of the Illinois Procurement Code.

26 (g) Project labor agreements for the construction projects

1 referenced in subsection (f) above shall be required.

2 (Source: P.A. 96-779, eff. 8-28-09.)

3 Section 97. Savings clause. If any provision of this Act or
4 its application to any person or circumstance is held invalid
5 by any Court of competent jurisdiction or any federal or State
6 government agency having jurisdiction over the subject matter
7 of this Act, the invalidity of that provision or application
8 does not affect any other provisions or applications of this
9 Act that can be given effect without the invalid provision or
10 application which are severable under Section 1.31 of the
11 Statute on Statutes.

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.