



Sen. James F. Clayborne, Jr.

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LRB097 04212 HLH 54278 a

1 AMENDMENT TO SENATE BILL 400

2 AMENDMENT NO. _____. Amend Senate Bill 400 by replacing
3 everything after the enacting clause with the following:

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 or ~~with a population of~~
11 ~~over 500,000 inhabitants,~~ a unit of local government is exempt
12 from real estate taxes and such exemption is not affected by
13 any transaction in which, for the purpose of obtaining
14 financing, the municipality or unit of local government leases
15 or otherwise transfers the property ~~whose jurisdiction~~
16 ~~includes territory located in whole or in part within a~~

1 ~~municipality with a population of over 500,000 inhabitants, or~~
2 ~~a municipality with home rule powers that is contiguous to a~~
3 ~~municipality with a population of over 500,000 inhabitants,~~
4 ~~shall remain exempt from taxation and any leasehold interest in~~
5 ~~that property shall not be subject to taxation under Section~~
6 ~~9-195 if the property is directly or indirectly leased, sold,~~
7 ~~or otherwise transferred to another entity for which or for~~
8 ~~whom whose property is not exempt and immediately after the~~
9 ~~lease or transfer enters into thereafter is the subject of a~~
10 leaseback or other agreement that directly or indirectly gives
11 the municipality or unit of local government (i) a right to
12 use, control, and possess the property or (ii) a right to
13 require the other entity, or the other entity's designee or
14 assignee, to use the property in the performance of services
15 for the municipality or unit of local government. In the case
16 of a conveyance of the property, the municipality or unit of
17 local government must retain an option to purchase the property
18 at a future date or, within the limitations period for
19 reverters, the property must revert back to the municipality or
20 unit of local government.

21 If the property has been conveyed as described in this
22 subsection, the property is no longer exempt under this Section
23 as of the date when:

24 (1) the right of the municipality or unit of local
25 government to use, control, and possess the property is
26 terminated; or

1 (2) the municipality or unit of local government no
2 longer has an option to purchase or otherwise acquire the
3 property; and

4 (3) there is no provision for a reverter of the
5 property to the municipality or unit of local government
6 within the limitations period for reverters.

7 Pursuant to Sections 15-15 and 15-20 of this Code, the unit
8 of local government shall notify the chief county assessment
9 officer of any transaction under this subsection. The chief
10 county assessment officer shall determine initial and
11 continuing compliance with the requirements of this Section for
12 the tax exemption. Failure to notify the chief county
13 assessment officer of a transaction under this subsection or to
14 otherwise comply with the requirements of Sections 15-15 and
15 15-20 of this Code shall, in the discretion of the chief county
16 assessment officer, constitute cause to terminate the
17 exemption, notwithstanding any other provision of this Code.
18 ~~Property shall no longer be exempt under this subsection as of~~
19 ~~the date when the right of the municipality or unit of local~~
20 ~~government to use, control, and possess the property or to~~
21 ~~require the performance of services is terminated and the~~
22 ~~municipality or unit of local government no longer has any~~
23 ~~option to purchase or otherwise reacquire the interest in the~~
24 ~~property which was transferred by the municipality or unit of~~
25 ~~local government.~~

26 (b) Notwithstanding anything in this Code to the contrary,

1 all property owned by a municipality with a population of over
2 500,000 inhabitants, a unit of local government whose
3 jurisdiction includes territory located in whole or in part
4 within a municipality with a population of over 500,000
5 inhabitants, or a municipality with home rule powers that is
6 contiguous to a municipality with a population of over 500,000
7 inhabitants, shall remain exempt from taxation and any
8 leasehold interest in that property is not subject to taxation
9 under Section 9-195 if the property, including dedicated public
10 property, is used by a municipality or other unit of local
11 government for the purpose of an airport or parking or for
12 waste disposal or processing and is leased for continued use
13 for the same purpose to another entity whose property is not
14 exempt.

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

18 Any transaction described under this subsection must be
19 undertaken in accordance with all appropriate federal laws and
20 regulations.

21 (c) For purposes of this Section, "municipality" means a
22 municipality as defined in Section 1-1-2 of the Illinois
23 Municipal Code, and "unit of local government" means a unit of
24 local government as defined in Article VII, Section 1 of the
25 Constitution of the State of Illinois. The provisions of this
26 Section supersede and control over any conflicting provisions

1 of this Code.

2 (d) Notwithstanding anything in this Code to the contrary,
3 (i) all property owned by an entity using the property in such
4 a manner that it is not subject to real estate taxes pursuant
5 to this Article 15 is exempt from real estate taxes, and such
6 exemption is not affected by any transaction in which the
7 entity, directly or indirectly, on or after the effective date
8 of this amendatory Act of the 97th General Assembly, leases,
9 sells, or otherwise transfers the property to another entity
10 for which or whom property is not exempt, with or without a
11 right to repurchase that property and immediately after the
12 lease or transfer enters into a leaseback or other agreement
13 that directly or indirectly gives the initial entity a right to
14 use, control, and possess the property for purposes which would
15 qualify the property for a non-homestead real estate tax
16 exemption pursuant to this Article 15 by virtue of its use or
17 (ii) where, on or after the effective date of this amendatory
18 Act of the 97th General Assembly, an entity leases new or
19 existing property from another for purposes that would be
20 exempt under this Article 15, that property shall be exempt
21 from real estate taxes for the term of the lease, or any
22 extension thereof, without regard to the nature or character of
23 ownership and shall be treated for purposes of this Article 15
24 as if the lessee were the owner of the property, as long as the
25 property on which the leased improvements are or will be
26 located is used for school, religious, or charitable purposes

1 pursuant to that lease or any renewal thereof.

2 (e) Substantially all of the funds received from the
3 conveyance of property subject to a leaseback agreement as
4 described in subsection (d) of this Section must be used for
5 capital improvement projects and related capital expenditures
6 and all funds raised shall be used within the State of
7 Illinois.

8 (f) To the extent allowable by law, new construction
9 projects using the provisions of subsection (d) above shall be
10 subject to the provisions of the Illinois Prevailing Wage Act
11 for the initial construction of the improvements and all
12 bidders for those projects shall comply with the provisions of
13 Section 30-22 of the Illinois Procurement Code.

14 (g) Project labor agreements for the construction projects
15 referenced in subsection (f) above shall be required.

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

17 Section 97. Savings clause. If any provision of this Act or
18 its application to any person or circumstance is held invalid
19 by any Court of competent jurisdiction or any federal or State
20 government agency having jurisdiction over the subject matter
21 of this Act, the invalidity of that provision or application
22 does not affect any other provisions or applications of this
23 Act that can be given effect without the invalid provision or
24 application which are severable under Section 1.31 of the
25 Statute on Statutes.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".