



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5274

Introduced 2/9/2024, by Rep. Dagmara Avelar

SYNOPSIS AS INTRODUCED:

35 ILCS 200/15-86

Amends the Property Tax Code. Provides that, in order for free and discounted services to be credited as charity care for a hospital entity, the hospital entity's financial assistance policy shall require: (i) a patient whose income is less than or equal to 300% of the federal poverty level to receive 100% coverage of all care charges; (ii) a patient whose income is greater than 300% but less than or equal to 350% of the federal poverty level to receive at least 75% coverage of all care charges; and (iii) a patient whose income is greater than 350% but less than or equal to 400% of the federal poverty level to receive at least 50% coverage of all care charges.

LRB103 36999 CES 67114 b

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, or a clinic affiliated with a hospital
6 or hospital system that files an application for a
7 property tax exemption pursuant to Section 15-5 and this
8 Section.

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

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

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

26 (c) A hospital applicant satisfies the conditions for an

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

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

1 shall not qualify for exemption. If a parcel has both exempt
2 and non-exempt uses, an exemption may be granted for the
3 qualifying portion of that parcel. In the case of parking lots
4 and common areas serving both exempt and non-exempt uses those
5 parcels or portions thereof may qualify for an exemption in
6 proportion to the amount of qualifying use.

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

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

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

1 provided under the Hospital Uninsured Patient Discount
2 Act, except that, in order for free and discounted
3 services to be credited under this paragraph (1), the
4 hospital entity's financial assistance policy shall
5 provide that:-

6 (A) patients whose income is less than or equal to
7 300% of the federal poverty level shall receive
8 assistance for the full amount of care charges;

9 (B) patients whose income is greater than 300% but
10 less than or equal to 350% of the federal poverty level
11 shall receive assistance for at least 75% of care
12 charges; and

13 (C) patients whose income is greater than 350% but
14 less than or equal to 400% of the federal poverty level
15 shall receive assistance for at least 50% of care
16 charges.

17 (2) Health services to low-income and underserved
18 individuals. Other unreimbursed costs of the relevant
19 hospital entity for providing without charge, paying for,
20 or subsidizing goods, activities, or services for the
21 purpose of addressing the health of low-income or
22 underserved individuals. Those activities or services may
23 include, but are not limited to: financial or in-kind
24 support to affiliated or unaffiliated hospitals, hospital
25 affiliates, community clinics, or programs that treat
26 low-income or underserved individuals; paying for or

1 subsidizing health care professionals who care for
2 low-income or underserved individuals; providing or
3 subsidizing outreach or educational services to low-income
4 or underserved individuals for disease management and
5 prevention; free or subsidized goods, supplies, or
6 services needed by low-income or underserved individuals
7 because of their medical condition; and prenatal or
8 childbirth outreach to low-income or underserved persons.

9 (3) Subsidy of State or local governments. Direct or
10 indirect financial or in-kind subsidies of State or local
11 governments by the relevant hospital entity that pay for
12 or subsidize activities or programs related to health care
13 for low-income or underserved individuals.

14 (4) Support for State health care programs for
15 low-income individuals. At the election of the hospital
16 applicant for each applicable year, either (A) 10% of
17 payments to the relevant hospital entity and any hospital
18 affiliate designated by the relevant hospital entity
19 (provided that such hospital affiliate's operations
20 provide financial or operational support for or receive
21 financial or operational support from the relevant
22 hospital entity) under Medicaid or other means-tested
23 programs, including, but not limited to, General
24 Assistance, the Covering ALL KIDS Health Insurance Act,
25 and the State Children's Health Insurance Program or (B)
26 the amount of subsidy provided by the relevant hospital

1 entity and any hospital affiliate designated by the
2 relevant hospital entity (provided that such hospital
3 affiliate's operations provide financial or operational
4 support for or receive financial or operational support
5 from the relevant hospital entity) to State or local
6 government in treating Medicaid recipients and recipients
7 of means-tested programs, including but not limited to
8 General Assistance, the Covering ALL KIDS Health Insurance
9 Act, and the State Children's Health Insurance Program.
10 The amount of subsidy for purposes of this item (4) is
11 calculated in the same manner as unreimbursed costs are
12 calculated for Medicaid and other means-tested government
13 programs in the Schedule H of IRS Form 990 in effect on the
14 effective date of this amendatory Act of the 97th General
15 Assembly; provided, however, that in any event
16 unreimbursed costs shall be net of fee-for-services
17 payments, payments pursuant to an assessment, quarterly
18 payments, and all other payments included on the schedule
19 H of the IRS form 990.

20 (5) Dual-eligible subsidy. The amount of subsidy
21 provided to government by treating dual-eligible
22 Medicare/Medicaid patients. The amount of subsidy for
23 purposes of this item (5) is calculated by multiplying the
24 relevant hospital entity's unreimbursed costs for
25 Medicare, calculated in the same manner as determined in
26 the Schedule H of IRS Form 990 in effect on the effective

1 date of this amendatory Act of the 97th General Assembly,
2 by the relevant hospital entity's ratio of dual-eligible
3 patients to total Medicare patients.

4 (6) Relief of the burden of government related to
5 health care of low-income individuals. Except to the
6 extent otherwise taken into account in this subsection,
7 the portion of unreimbursed costs of the relevant hospital
8 entity attributable to providing, paying for, or
9 subsidizing goods, activities, or services that relieve
10 the burden of government related to health care for
11 low-income individuals. Such activities or services shall
12 include, but are not limited to, providing emergency,
13 trauma, burn, neonatal, psychiatric, rehabilitation, or
14 other special services; providing medical education; and
15 conducting medical research or training of health care
16 professionals. The portion of those unreimbursed costs
17 attributable to benefiting low-income individuals shall be
18 determined using the ratio calculated by adding the
19 relevant hospital entity's costs attributable to charity
20 care, Medicaid, other means-tested government programs,
21 Medicare patients with disabilities under age 65, and
22 dual-eligible Medicare/Medicaid patients and dividing that
23 total by the relevant hospital entity's total costs. Such
24 costs for the numerator and denominator shall be
25 determined by multiplying gross charges by the cost to
26 charge ratio taken from the hospitals' most recently filed

1 Medicare cost report (CMS 2252-10 Worksheet C, Part I). In
2 the case of emergency services, the ratio shall be
3 calculated using costs (gross charges multiplied by the
4 cost to charge ratio taken from the hospitals' most
5 recently filed Medicare cost report (CMS 2252-10 Worksheet
6 C, Part I)) of patients treated in the relevant hospital
7 entity's emergency department.

8 (7) Any other activity by the relevant hospital entity
9 that the Department determines relieves the burden of
10 government or addresses the health of low-income or
11 underserved individuals.

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

14 (1) particular services or activities eligible for
15 consideration under any of the paragraphs (1) through (7)
16 of subsection (e) may not be counted under more than one of
17 those paragraphs; and

18 (2) the amount of unreimbursed costs and the amount of
19 subsidy shall not be reduced by restricted or unrestricted
20 payments received by the relevant hospital entity as
21 contributions deductible under Section 170(a) of the
22 Internal Revenue Code.

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

26 (1) "Estimated property tax liability" means the

1 estimated dollar amount of property tax that would be
2 owed, with respect to the exempt portion of each of the
3 relevant hospital entity's properties that are already
4 fully or partially exempt, or for which an exemption in
5 whole or in part is currently being sought, and then
6 aggregated as applicable, as if the exempt portion of
7 those properties were subject to tax, calculated with
8 respect to each such property by multiplying:

9 (A) the lesser of (i) the actual assessed value,
10 if any, of the portion of the property for which an
11 exemption is sought or (ii) an estimated assessed
12 value of the exempt portion of such property as
13 determined in item (2) of this subsection (g), by:

14 (B) the applicable State equalization rate
15 (yielding the equalized assessed value), by

16 (C) the applicable tax rate.

17 (2) The estimated assessed value of the exempt portion
18 of the property equals the sum of (i) the estimated fair
19 market value of buildings on the property, as determined
20 in accordance with subparagraphs (A) and (B) of this item
21 (2), multiplied by the applicable assessment factor, and
22 (ii) the estimated assessed value of the land portion of
23 the property, as determined in accordance with
24 subparagraph (C).

25 (A) The "estimated fair market value of buildings
26 on the property" means the replacement value of any

1 exempt portion of buildings on the property, minus
2 depreciation, determined utilizing the cost
3 replacement method whereby the exempt square footage
4 of all such buildings is multiplied by the replacement
5 cost per square foot for Class A Average building
6 found in the most recent edition of the Marshall &
7 Swift Valuation Services Manual, adjusted by any
8 appropriate current cost and local multipliers.

9 (B) Depreciation, for purposes of calculating the
10 estimated fair market value of buildings on the
11 property, is applied by utilizing a weighted mean life
12 for the buildings based on original construction and
13 assuming a 40-year life for hospital buildings and the
14 applicable life for other types of buildings as
15 specified in the American Hospital Association
16 publication "Estimated Useful Lives of Depreciable
17 Hospital Assets". In the case of hospital buildings,
18 the remaining life is divided by 40 and this ratio is
19 multiplied by the replacement cost of the buildings to
20 obtain an estimated fair market value of buildings. If
21 a hospital building is older than 35 years, a
22 remaining life of 5 years for residual value is
23 assumed; and if a building is less than 8 years old, a
24 remaining life of 32 years is assumed.

25 (C) The estimated assessed value of the land
26 portion of the property shall be determined by

1 multiplying (i) the per square foot average of the
2 assessed values of three parcels of land (not
3 including farm land, and excluding the assessed value
4 of the improvements thereon) reasonably comparable to
5 the property, by (ii) the number of square feet
6 comprising the exempt portion of the property's land
7 square footage.

8 (3) The assessment factor, State equalization rate,
9 and tax rate (including any special factors such as
10 Enterprise Zones) used in calculating the estimated
11 property tax liability shall be for the most recent year
12 that is publicly available from the applicable chief
13 county assessment officer or officers at least 90 days
14 before the end of the hospital year.

15 (4) The method utilized to calculate estimated
16 property tax liability for purposes of this Section 15-86
17 shall not be utilized for the actual valuation,
18 assessment, or taxation of property pursuant to the
19 Property Tax Code.

20 (h) Application. Each hospital applicant applying for a
21 property tax exemption pursuant to Section 15-5 and this
22 Section shall use an application form provided by the
23 Department. The application form shall specify the records
24 required in support of the application and those records shall
25 be submitted to the Department with the application form. Each
26 application or affidavit shall contain a verification by the

1 Chief Executive Officer of the hospital applicant under oath
2 or affirmation stating that each statement in the application
3 or affidavit and each document submitted with the application
4 or affidavit are true and correct. The records submitted with
5 the application pursuant to this Section shall include an
6 exhibit prepared by the relevant hospital entity showing (A)
7 the value of the relevant hospital entity's services and
8 activities, if any, under paragraphs (1) through (7) of
9 subsection (e) of this Section stated separately for each
10 paragraph, and (B) the value relating to the relevant hospital
11 entity's estimated property tax liability under subsections
12 (g) (1) (A), (B), and (C), subsections (g) (2) (A), (B), and (C),
13 and subsection (g) (3) of this Section stated separately for
14 each item. Such exhibit will be made available to the public by
15 the chief county assessment officer. Nothing in this Section
16 shall be construed as limiting the Attorney General's
17 authority under the Illinois False Claims Act.

18 (i) Nothing in this Section shall be construed to limit
19 the ability of otherwise eligible hospitals, hospital owners,
20 hospital affiliates, or hospital systems to obtain or maintain
21 property tax exemptions pursuant to a provision of the
22 Property Tax Code other than this Section.

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