



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB3210

Introduced 2/1/2012, by Sen. James F. Clayborne, Jr.

#### SYNOPSIS AS INTRODUCED:

35 ILCS 200/15-185

Amends the Property Tax Code. In a Section concerning exemptions for leaseback property, provides that the Section applies to all property that is exempt under Article 15 of the Property Tax Code. Provides that, for exemption purposes, the property shall be treated as though the lessee were the owner of the property as long as the property on which the leased improvements is located is used for school, religious, or charitable purposes pursuant to that lease or any renewal of that lease. 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 19101 HLH 64340 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 (i) all property owned by an entity using the property in such  
16 a manner that it is not subject to real estate taxes pursuant  
17 to this Article 15 is exempt from real estate taxes, and such  
18 exemption is not affected by any transaction in which the  
19 entity, directly or indirectly, on or after the effective date  
20 of this amendatory Act of the 97th General Assembly, leases,  
21 sells, or otherwise transfers the property to another entity  
22 for which or for whom property is not exempt, with or without a  
23 right to repurchase that property, and immediately after the  
24 lease or transfer enters into a leaseback or other agreement  
25 that directly or indirectly gives the initial entity a right to  
26 use, control, and possess the property for purposes that would

1 qualify the property for a non-homestead real estate tax  
2 exemption pursuant to this Article 15 by virtue of its use or  
3 (ii) where, on or after the effective date of this amendatory  
4 Act of the 97th General Assembly, an entity leases new or  
5 existing property from another for purposes that would be  
6 exempt under this Article 15, that property shall be exempt  
7 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 shall be treated for purposes of this Article 15  
10 as if the lessee were the owner of the property, as long as the  
11 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) Substantially all of the funds received from the  
15 conveyance of property subject to a leaseback agreement as  
16 described in subsection (d) of this Section must be used for  
17 capital improvement projects and related capital expenditures  
18 and all funds raised shall be used within the State of  
19 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.