



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB3634

by Rep. Naomi D. Jakobsson

#### SYNOPSIS AS INTRODUCED:

35 ILCS 200/15-86

Amends the Property Tax Code. Provides that the hospital exemption does not apply if (i) the subject property is located in a municipality that would be disproportionately impacted by the exemption and (ii) the hospital's net income for the hospital year is 8% or more of its revenue for the hospital year if the exemption is not applied to the property. Provides that the municipality would be disproportionately impacted by the exemption if (1) the municipality in which the property is located has a population of 10% or less of the total population of all municipalities served by the hospital and (2) the municipality provides services to 50% of more of the hospital's properties in the county in which the municipality is located. Effective immediately.

LRB098 12180 HLH 46181 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 15-86 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 the  
11 modern face of our nation's health care delivery systems".  
12 The court noted the many significant changes in the health  
13 care system since that time, but concluded that taking  
14 these changes into account is a matter of public policy,  
15 and "it is the legislature's job, not ours, to make public  
16 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 with  
17 one or more hospital owners and that supports, is supported  
18 by, or acts in furtherance of the exempt health care  
19 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 that files an application for a property  
6 tax exemption pursuant to Section 15-5 and this Section.

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

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

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

24 (c) A hospital applicant satisfies the conditions for an  
25 exemption under this Section with respect to the subject  
26 property, and shall be issued a charitable exemption for that

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

20 Notwithstanding any other provisions of this Act, any  
21 parcel or portion thereof, that is owned by a for-profit entity  
22 whether part of the hospital system or not, or that is leased,  
23 licensed or operated by a for-profit entity regardless of  
24 whether healthcare services are provided on that parcel shall  
25 not qualify for exemption. If a parcel has both exempt and  
26 non-exempt uses, an exemption may be granted for the qualifying

1 portion of that parcel. In the case of parking lots and common  
2 areas serving both exempt and non-exempt uses those parcels or  
3 portions thereof may qualify for an exemption in proportion to  
4 the amount of qualifying use.

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

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

22 (1) Charity care. Free or discounted services provided  
23 pursuant to the relevant hospital entity's financial  
24 assistance policy, measured at cost, including discounts  
25 provided under the Hospital Uninsured Patient Discount  
26 Act.



1           (2) Health services to low-income and underserved  
2 individuals. Other unreimbursed costs of the relevant  
3 hospital entity for providing without charge, paying for,  
4 or subsidizing goods, activities, or services for the  
5 purpose of addressing the health of low-income or  
6 underserved individuals. Those activities or services may  
7 include, but are not limited to: financial or in-kind  
8 support to affiliated or unaffiliated hospitals, hospital  
9 affiliates, community clinics, or programs that treat  
10 low-income or underserved individuals; paying for or  
11 subsidizing health care professionals who care for  
12 low-income or underserved individuals; providing or  
13 subsidizing outreach or educational services to low-income  
14 or underserved individuals for disease management and  
15 prevention; free or subsidized goods, supplies, or  
16 services needed by low-income or underserved individuals  
17 because of their medical condition; and prenatal or  
18 childbirth outreach to low-income or underserved persons.

19           (3) Subsidy of State or local governments. Direct or  
20 indirect financial or in-kind subsidies of State or local  
21 governments by the relevant hospital entity that pay for or  
22 subsidize activities or programs related to health care for  
23 low-income or underserved individuals.

24           (4) Support for State health care programs for  
25 low-income individuals. At the election of the hospital  
26 applicant for each applicable year, either (A) 10% of

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

1 assessment, quarterly payments, and all other payments  
2 included on the schedule H of the IRS form 990.

3 (5) Dual-eligible subsidy. The amount of subsidy  
4 provided to government by treating dual-eligible  
5 Medicare/Medicaid patients. The amount of subsidy for  
6 purposes of this item (5) is calculated by multiplying the  
7 relevant hospital entity's unreimbursed costs for  
8 Medicare, calculated in the same manner as determined in  
9 the Schedule H of IRS Form 990 in effect on the effective  
10 date of this amendatory Act of the 97th General Assembly,  
11 by the relevant hospital entity's ratio of dual-eligible  
12 patients to total Medicare patients.

13 (6) Relief of the burden of government related to  
14 health care of low-income individuals. Except to the extent  
15 otherwise taken into account in this subsection, the  
16 portion of unreimbursed costs of the relevant hospital  
17 entity attributable to providing, paying for, or  
18 subsidizing goods, activities, or services that relieve  
19 the burden of government related to health care for  
20 low-income individuals. Such activities or services shall  
21 include, but are not limited to, providing emergency,  
22 trauma, burn, neonatal, psychiatric, rehabilitation, or  
23 other special services; providing medical education; and  
24 conducting medical research or training of health care  
25 professionals. The portion of those unreimbursed costs  
26 attributable to benefiting low-income individuals shall be

1 determined using the ratio calculated by adding the  
2 relevant hospital entity's costs attributable to charity  
3 care, Medicaid, other means-tested government programs,  
4 disabled Medicare patients under age 65, and dual-eligible  
5 Medicare/Medicaid patients and dividing that total by the  
6 relevant hospital entity's total costs. Such costs for the  
7 numerator and denominator shall be determined by  
8 multiplying gross charges by the cost to charge ratio taken  
9 from the hospitals' most recently filed Medicare cost  
10 report (CMS 2252-10 Worksheet C, Part I). In the case of  
11 emergency services, the ratio shall be calculated using  
12 costs (gross charges multiplied by the cost to charge ratio  
13 taken from the hospitals' most recently filed Medicare cost  
14 report (CMS 2252-10 Worksheet C, Part I)) of patients  
15 treated in the relevant hospital entity's emergency  
16 department.

17 (7) Any other activity by the relevant hospital entity  
18 that the Department determines relieves the burden of  
19 government or addresses the health of low-income or  
20 underserved individuals.

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

23 (1) particular services or activities eligible for  
24 consideration under any of the paragraphs (1) through (7)  
25 of subsection (e) may not be counted under more than one of  
26 those paragraphs; and

1           (2) the amount of unreimbursed costs and the amount of  
2           subsidy shall not be reduced by restricted or unrestricted  
3           payments received by the relevant hospital entity as  
4           contributions deductible under Section 170(a) of the  
5           Internal Revenue Code.

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

9           (1) "Estimated property tax liability" means the  
10           estimated dollar amount of property tax that would be owed,  
11           with respect to the exempt portion of each of the relevant  
12           hospital entity's properties that are already fully or  
13           partially exempt, or for which an exemption in whole or in  
14           part is currently being sought, and then aggregated as  
15           applicable, as if the exempt portion of those properties  
16           were subject to tax, calculated with respect to each such  
17           property by multiplying:

18           (A) the lesser of (i) the actual assessed value, if  
19           any, of the portion of the property for which an  
20           exemption is sought or (ii) an estimated assessed value  
21           of the exempt portion of such property as determined in  
22           item (2) of this subsection (g), by:

23           (B) the applicable State equalization rate  
24           (yielding the equalized assessed value), by

25           (C) the applicable tax rate.

26           (2) The estimated assessed value of the exempt portion

1 of the property equals the sum of (i) the estimated fair  
2 market value of buildings on the property, as determined in  
3 accordance with subparagraphs (A) and (B) of this item (2),  
4 multiplied by the applicable assessment factor, and (ii)  
5 the estimated assessed value of the land portion of the  
6 property, as determined in accordance with subparagraph  
7 (C).

8 (A) The "estimated fair market value of buildings  
9 on the property" means the replacement value of any  
10 exempt portion of buildings on the property, minus  
11 depreciation, determined utilizing the cost  
12 replacement method whereby the exempt square footage  
13 of all such buildings is multiplied by the replacement  
14 cost per square foot for Class A Average building found  
15 in the most recent edition of the Marshall & Swift  
16 Valuation Services Manual, adjusted by any appropriate  
17 current cost and local multipliers.

18 (B) Depreciation, for purposes of calculating the  
19 estimated fair market value of buildings on the  
20 property, is applied by utilizing a weighted mean life  
21 for the buildings based on original construction and  
22 assuming a 40-year life for hospital buildings and the  
23 applicable life for other types of buildings as  
24 specified in the American Hospital Association  
25 publication "Estimated Useful Lives of Depreciable  
26 Hospital Assets". In the case of hospital buildings,

1 the remaining life is divided by 40 and this ratio is  
2 multiplied by the replacement cost of the buildings to  
3 obtain an estimated fair market value of buildings. If  
4 a hospital building is older than 35 years, a remaining  
5 life of 5 years for residual value is assumed; and if a  
6 building is less than 8 years old, a remaining life of  
7 32 years is assumed.

8 (C) The estimated assessed value of the land  
9 portion of the property shall be determined by  
10 multiplying (i) the per square foot average of the  
11 assessed values of three parcels of land (not including  
12 farm land, and excluding the assessed value of the  
13 improvements thereon) reasonably comparable to the  
14 property, by (ii) the number of square feet comprising  
15 the exempt portion of the property's land square  
16 footage.

17 (3) The assessment factor, State equalization rate,  
18 and tax rate (including any special factors such as  
19 Enterprise Zones) used in calculating the estimated  
20 property tax liability shall be for the most recent year  
21 that is publicly available from the applicable chief county  
22 assessment officer or officers at least 90 days before the  
23 end of the hospital year.

24 (4) The method utilized to calculate estimated  
25 property tax liability for purposes of this Section 15-86  
26 shall not be utilized for the actual valuation, assessment,

1 or taxation of property pursuant to the Property Tax Code.

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

26 (h-1) Notwithstanding any other provision of law, a



1 hospital that serves patients from multiple municipalities and  
2 counties is not entitled to an exemption under this Section if  
3 (i) the subject property is located in a municipality that  
4 would be disproportionately impacted by the exemption and (ii)  
5 the hospital's net income for the hospital year is 8% or more  
6 of its revenue for the hospital year if this exemption is not  
7 applied to the property.

8 For the purposes of this subsection (h-1)  
9 "disproportionate impact" means that:

10 (1) the municipality in which the subject property is  
11 located has a population of 10% or less of the total  
12 population of all municipalities served by the hospital;  
13 and

14 (2) the municipality provides services to 50% of more  
15 of the hospital's properties in the county in which the  
16 municipality is located.

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

22 (Source: P.A. 97-688, eff. 6-14-12.)

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.