



Sen. John J. Cullerton

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LRB099 03112 HLH 52293 a

1 AMENDMENT TO SENATE BILL 393

2 AMENDMENT NO. _____. Amend Senate Bill 393 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 adding Division 13 to Article 8 as follows:

6 (65 ILCS 5/Art. 8 Div. 13 heading new)

7 DIVISION 13. ASSIGNMENT OF RECEIPTS

8 (65 ILCS 5/8-13-5 new)

9 Sec. 8-13-5. Definitions. As used in this Article:

10 "Assignment agreement" means an agreement between a
11 transferring unit and an issuing entity for the conveyance of
12 all or part of any revenues, taxes, or grant funds received by
13 the transferring unit from a State entity.

14 "Conveyance" means an assignment, sale, transfer, or other
15 conveyance.

1 "Deposit account" means a designated escrow account
2 established by an issuing entity at a trust company or bank
3 having trust powers for the deposit of transferred receipts
4 under an assignment agreement.

5 "Issuing entity" means (i) a corporation, trust or other
6 entity that has been established for the limited purpose of
7 issuing obligations for the benefit of a transferring unit, or
8 (ii) a bank or trust company in its capacity as trustee for
9 obligations issued by such bank or trust company for the
10 benefit of a transferring unit.

11 "State entity" means the State Comptroller, the State
12 Treasurer, or the Illinois Department of Revenue.

13 "Transferred receipts" means all or part of any revenues,
14 taxes, or grant funds received from a State entity that have
15 been conveyed by a transferring unit under an assignment
16 agreement.

17 "Transferring unit" means a home rule municipality located
18 in the State.

19 (65 ILCS 5/8-13-10 new)

20 Sec. 8-13-10. Assignment of receipts.

21 (a) Any transferring unit which receives revenues, taxes,
22 or grant funds from a State entity may (to the extent not
23 prohibited by any applicable statute, regulation, rule, or
24 grant agreement governing the use of such revenues, taxes, or
25 grant funds) authorize, by ordinance, the conveyance of all or

1 any portion of such revenues, taxes, or grant funds to an
2 issuing entity. Any conveyance of transferred receipts shall:
3 (i) be made pursuant to an assignment agreement in exchange for
4 the net proceeds of obligations issued by the issuing entity
5 for the benefit of the transferring unit and shall, for all
6 purposes, constitute an absolute conveyance of all right,
7 title, and interest therein; (ii) not be deemed a pledge or
8 other security interest for any borrowing by the transferring
9 unit; (iii) be valid, binding, and enforceable in accordance
10 with the terms thereof and of any related instrument,
11 agreement, or other arrangement, including any pledge, grant of
12 security interest, or other encumbrance made by the issuing
13 entity to secure any obligations issued by the issuing entity
14 for the benefit of the transferring unit; and (iv) not be
15 subject to disavowal, disaffirmance, cancellation, or
16 avoidance by reason of insolvency of any party, lack of
17 consideration, or any other fact, occurrence, or State law or
18 rule. On and after the effective date of the conveyance of the
19 transferred receipts, the transferring unit shall have no
20 right, title or interest in or to the transferred receipts
21 conveyed and the transferred receipts so conveyed shall be the
22 property of the issuing entity to the extent necessary to pay
23 the obligations issued by the issuing entity for the benefit of
24 the transferring unit, and shall be received, held, and
25 disbursed by the issuing entity in a trust fund outside the
26 treasury of the transferring unit. An assignment agreement may

1 provide for the periodic reconveyance to the transferring unit
2 of amounts of transferred receipts remaining after the payment
3 of the obligations issued by the issuing entity for the benefit
4 of the transferring unit.

5 (b) In connection with any conveyance of transferred
6 receipts, the transferring unit is authorized to direct the
7 applicable State entity to deposit or cause to be deposited any
8 amount of such transferred receipts into a deposit account in
9 order to secure the obligations issued by the issuing entity
10 for the benefit of the transferring unit. Where the
11 transferring unit states that such direction is irrevocable,
12 the direction shall be treated by the applicable State entity
13 as irrevocable with respect to the transferred receipts
14 described in such direction. Each State entity shall comply
15 with the terms of any such direction received from a
16 transferring unit and shall execute and deliver such
17 acknowledgments and agreements, including escrow and similar
18 agreements, as the transferring unit may require to effectuate
19 the deposit of transferred receipts in accordance with the
20 direction of the transferring unit.

21 (c) Not later than the date of issuance by an issuing
22 entity of any obligations secured by collections of transferred
23 receipts, a certified copy of the ordinance authorizing the
24 conveyance of the right to receive the transferred receipts,
25 together with executed copies of the applicable assignment
26 agreement and the agreement providing for the establishment of

1 the deposit account, shall be filed with the State entity
2 having custody of the transferred receipts.

3 (65 ILCS 5/8-13-15 new)

4 Sec. 8-13-15. Pledges and agreements of the State. The
5 State of Illinois pledges to and agrees with each transferring
6 unit and issuing unit that the State will not limit or alter
7 the rights and powers vested in the State entities by this
8 Article with respect to the disposition of transferred receipts
9 so as to impair the terms of any contract, including any
10 assignment agreement, made by the transferring unit with the
11 issuing entity or any contract executed by the issuing entity
12 in connection with the issuance of obligations by the issuing
13 entity for the benefit of the transferring unit until all
14 requirements with respect to the deposit by such State entity
15 of transferred receipts for the benefit of such issuing entity
16 have been fully met and discharged. In addition, the State
17 pledges to and agrees with each transferring unit and each
18 issuing entity that the State will not limit or alter the basis
19 on which transferred receipts are to be paid to the issuing
20 entity as provided in this Article, or the use of such funds,
21 so as to impair the terms of any such contract. Each
22 transferring unit and issuing entity is authorized to include
23 these pledges and agreements of the State in any contract
24 executed and delivered as described in this Article. In no way
25 shall the pledge and agreements of the State be interpreted to

1 construe the State as a guarantor of any debt or obligation
2 subject to an assignment agreement under this Division.

3 (65 ILCS 5/8-13-20 new)

4 Sec. 8-13-20. Home rule. A home rule unit may not assign
5 receipts or enter into assignment agreements in a manner
6 inconsistent with the provisions of this Article. This Section
7 is a limitation under subsection (i) of Section 6 of Article
8 VII of the Illinois Constitution on the concurrent exercise by
9 home rule units of powers and functions exercised by the State.

10 Section 99. Effective date. If and only if all of the
11 following bills of the 99th General Assembly become law: Senate
12 Bills 17, 245, 262, 263, 284, 305, 390, 523, 584, 1110, and
13 2053, then this Act takes effect upon becoming law; however,
14 this Act does not take effect at all unless all of the
15 following bills of the 99th General Assembly become law: Senate
16 Bills 17, 245, 262, 263, 284, 305, 390, 523, 584, 1110, and
17 2053."