



Sen. Bill Cunningham

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1 AMENDMENT TO SENATE BILL 665

2 AMENDMENT NO. _____. Amend Senate Bill 665 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Property Tax Code is amended by changing
5 Section 15-65 as follows:

6 (35 ILCS 200/15-65)

7 Sec. 15-65. Charitable purposes. All property of the
8 following is exempt when actually and exclusively used for
9 charitable or beneficent purposes, and not leased or otherwise
10 used with a view to profit:

11 (a) Institutions of public charity.

12 (b) Beneficent and charitable organizations
13 incorporated in any state of the United States, including
14 organizations whose owner, and no other person, uses the
15 property exclusively for the distribution, sale, or resale
16 of donated goods and related activities and uses all the

1 income from those activities to support the charitable,
2 religious or beneficent activities of the owner, whether
3 or not such activities occur on the property.

4 (c) Old people's homes, facilities for persons with a
5 developmental disability, and not-for-profit
6 organizations providing services or facilities related to
7 the goals of educational, social and physical development,
8 if, upon making application for the exemption, the
9 applicant provides affirmative evidence that the home or
10 facility or organization is an exempt organization under
11 paragraph (3) of Section 501(c) of the Internal Revenue
12 Code or its successor, and either: (i) the bylaws of the
13 home or facility or not-for-profit organization provide
14 for a waiver or reduction, based on an individual's
15 ability to pay, of any entrance fee, assignment of assets,
16 or fee for services, or (ii) the home or facility is
17 qualified, built or financed under Section 202 of the
18 National Housing Act of 1959, as amended.

19 An applicant that has been granted an exemption under
20 this subsection on the basis that its bylaws provide for a
21 waiver or reduction, based on an individual's ability to
22 pay, of any entrance fee, assignment of assets, or fee for
23 services may be periodically reviewed by the Department to
24 determine if the waiver or reduction was a past policy or
25 is a current policy. The Department may revoke the
26 exemption if it finds that the policy for waiver or

1 reduction is no longer current.

2 If a not-for-profit organization leases property that
3 is otherwise exempt under this subsection to an
4 organization that conducts an activity on the leased
5 premises that would entitle the lessee to an exemption
6 from real estate taxes if the lessee were the owner of the
7 property, then the leased property is exempt.

8 (d) Not-for-profit health maintenance organizations
9 certified by the Director of the Illinois Department of
10 Insurance under the Health Maintenance Organization Act,
11 including any health maintenance organization that
12 provides services to members at prepaid rates approved by
13 the Illinois Department of Insurance if the membership of
14 the organization is sufficiently large or of indefinite
15 classes so that the community is benefited by its
16 operation. No exemption shall apply to any hospital or
17 health maintenance organization which has been adjudicated
18 by a court of competent jurisdiction to have denied
19 admission to any person because of race, color, creed, sex
20 or national origin.

21 (e) All free public libraries.

22 (f) Historical societies.

23 (g) Cultivation and sale of fresh fruits and
24 vegetables. A vacant lot that is leased from a
25 municipality or owned by a nonprofit corporation or
26 association for the cultivation, sale, or cultivation and

1 sale of fresh fruits and vegetables under Section 11-11-4
2 of the Illinois Municipal Code is exempt when actually and
3 exclusively used for such purposes. To qualify for the
4 exemption, the nonprofit corporation or association must
5 verify that it is not controlled, directly or indirectly,
6 by any agricultural, commercial, or other business. The
7 nonprofit corporation or association must also verify
8 that, if the fresh fruits or vegetables are sold, any
9 profits are used to further the mission of the exempt
10 organization.

11 Property otherwise qualifying for an exemption under this
12 Section shall not lose its exemption because the legal title
13 is held (i) by an entity that is organized solely to hold that
14 title and that qualifies under paragraph (2) of Section 501(c)
15 of the Internal Revenue Code or its successor, whether or not
16 that entity receives rent from the charitable organization for
17 the repair and maintenance of the property, (ii) by an entity
18 that is organized as a partnership or limited liability
19 company, in which the charitable organization, or an affiliate
20 or subsidiary of the charitable organization, is a general
21 partner of the partnership or managing member of the limited
22 liability company, for the purposes of owning and operating a
23 residential rental property that has received an allocation of
24 Low Income Housing Tax Credits for 100% of the dwelling units
25 under Section 42 of the Internal Revenue Code of 1986, as
26 amended, or (iii) for any assessment year including and

1 subsequent to January 1, 1996 for which an application for
2 exemption has been filed and a decision on which has not become
3 final and nonappealable, by a limited liability company
4 organized under the Limited Liability Company Act provided
5 that (A) the limited liability company's sole member or
6 members, as that term is used in Section 1-5 of the Limited
7 Liability Company Act, are the institutions of public charity
8 that actually and exclusively use the property for charitable
9 and beneficent purposes; (B) the limited liability company is
10 a disregarded entity for federal and Illinois income tax
11 purposes and, as a result, the limited liability company is
12 deemed exempt from income tax liability by virtue of the
13 Internal Revenue Code Section 501(c)(3) status of its sole
14 member or members; and (C) the limited liability company does
15 not lease the property or otherwise use it with a view to
16 profit.

17 (Source: P.A. 96-763, eff. 8-25-09.)

18 Section 10. The Illinois Municipal Code is amended by
19 adding Section 11-11-4 as follows:

20 (65 ILCS 5/11-11-4 new)

21 Sec. 11-11-4. Lease or sale of property for cultivation
22 and sale of fresh fruits and vegetables.

23 (a) The General Assembly finds:

24 (1) There exists in certain older, urban

1 municipalities an excess of vacant property that is not
2 needed for public use.

3 (2) Vacant properties present numerous problems for
4 these municipalities, such as: presenting the opportunity
5 for criminal activity; deterring neighboring property
6 owners from improving their properties and prospective
7 purchasers and renters from locating into these areas; and
8 servng as a location to dispose of unwanted items.

9 (3) These municipalities are often centers of high and
10 increasing populations and population densities comprised,
11 in part, of lower-income families.

12 (4) Due, in part, to increasing population densities,
13 the deterioration of infrastructure, and fiscal
14 constraints, these municipalities have been challenged to
15 offer residents opportunities to enhance the quality of
16 their lives.

17 (5) Due to the scarcity of full service supermarkets
18 and farmer's markets within these municipalities,
19 municipal residents often suffer from a shortage of fresh
20 fruits and vegetables.

21 (6) The shortages of sources of fresh fruits and
22 vegetables have contributed to alarming increases in
23 childhood obesity and other adverse health consequences
24 for municipal residents.

25 (7) It would be beneficial to enlist nonprofit
26 corporations or associations to develop these properties

1 for public purposes that could enhance the nutritional
2 needs of local residents.

3 (8) Authorization for municipalities to lease and sell
4 vacant land to nonprofit entities to cultivate these lands
5 can provide a source of fresh, locally-grown fruits and
6 vegetables for local residents.

7 (9) The nonprofit cultivation of previously vacant
8 land by nonprofit entities is a public purpose for which
9 the long term lease and sale of these properties, and
10 exemption from property taxation, is warranted, even in
11 those instances when produce is sold to further the
12 mission of these nonprofit corporations or associations.

13 (b) A leasehold for a term not in excess of 25 years may be
14 made with a nonprofit corporation or association, and extended
15 in increments of no more than 25 years, by ordinance or
16 resolution thereafter for one or more of the following
17 purposes:

18 (1) The cultivation or use of vacant lots for
19 gardening fruits and vegetables.

20 (2) The use of vacant lots to sell fresh fruits and
21 vegetables. Any lease entered into pursuant to this
22 paragraph may permit the nonprofit corporation or
23 association to sell fresh fruits and vegetables on the
24 leased land, off the leased land, or both, provided, that
25 the sales are related and incidental to the nonprofit
26 purposes of the corporation or association and the net

1 proceeds received by the nonprofit corporation or
2 association are used to further the nonprofit purposes of
3 the corporation or association.

4 (c) When the city council of a municipality determines
5 that all or any part of a municipal-owned tract of land, with
6 or without improvements, is not then needed for municipal
7 purposes, the city council may, by resolution or ordinance,
8 authorize a private sale and conveyance of the same, or any
9 part thereof, for nominal consideration, without compliance
10 with any other law governing disposal of lands by
11 municipalities requiring adequate consideration, to a
12 nonprofit corporation or association for use for one or more
13 of the following purposes:

14 (1) The cultivation of vacant lots for gardening
15 fruits and vegetables.

16 (2) The use of vacant lots to sell fresh fruits and
17 vegetables. Any conveyance entered into pursuant to this
18 paragraph may permit the nonprofit corporation or
19 association to sell fresh fruits and vegetables on the
20 leased land, off the leased land, or both, provided, that
21 the sales are related and incidental to the nonprofit
22 purposes of the corporation or association and the net
23 proceeds received by the nonprofit corporation or
24 association are used to further the nonprofit purposes of
25 the corporation or association.

26 Such conveyance shall contain a limitation that the

1 lands or buildings shall be used only for the purposes of
2 such organization or association, and to render such
3 services or to provide such facilities as may be agreed
4 upon and, if said lands or buildings are not used in
5 accordance with the limitation, title shall revert back to
6 the municipality without any entry or reentry made on the
7 property on behalf of the municipality.

8 Whenever a sale of property is proposed pursuant to this
9 subsection, the municipality shall give at least 10 days'
10 notice of such sale prior to a public hearing where an
11 ordinance or resolution approving the sale is adopted.

12 Property subject to an unexpired lease under subsection
13 (b) is not eligible to be sold under this subsection, unless
14 the lease would allow such a sale.

15 (d) If the nonprofit organization or association uses the
16 property leased or purchased under this Section for the
17 cultivation, sale, or cultivation and sale of fresh fruits and
18 vegetables on a tract of land, the nonprofit organization or
19 association may not be controlled, directly or indirectly, by
20 any agricultural, commercial, or other business. The nonprofit
21 organization or association is authorized to sell fresh fruits
22 and vegetables either on the land that was leased or conveyed,
23 off that land, or both, and the sales must be related and
24 incidental to the nonprofit purposes of the organization or
25 association and the net proceeds received by the nonprofit
26 organization or association must be used to further the

1 nonprofit purposes of the organization or association.

2 (e) Property leased or conveyed under this Section is
3 exempt from property taxation under the Property Tax Code if
4 the property is actually used for the cultivation, sale, or
5 cultivation and sale of fresh fruits and vegetables and owned
6 by a nonprofit organization or association that includes among
7 its principal purposes the cultivation, sale, or cultivation
8 and sale of fresh fruits and vegetables. Before property may
9 be leased or conveyed under this Section, the nonprofit
10 organization or association shall provide to the municipality
11 proof of exemption issued under Section 15-65 of the Property
12 Tax Code."