

HB4770



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4770

by Rep. Ryan Spain

SYNOPSIS AS INTRODUCED:

35 ILCS 200/9-275

Amends the Property Tax Code. Provides that, if the county board of a county with fewer than 3,000,000 inhabitants passes an ordinance providing that provisions of the Code concerning erroneous homestead exemptions shall apply in that county, then those provisions shall apply in that county beginning in the first tax year to occur after the effective date of the ordinance. Contains provisions concerning an amnesty period for those counties.

LRB100 16501 HLH 31633 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

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 9-275 as follows:

6 (35 ILCS 200/9-275)

7 Sec. 9-275. Erroneous homestead exemptions.

8 (a) For purposes of this Section:

9 "Erroneous homestead exemption" means a homestead
10 exemption that was granted for real property in a taxable year
11 if the property was not eligible for that exemption in that
12 taxable year. If the taxpayer receives an erroneous homestead
13 exemption under a single Section of this Code for the same
14 property in multiple years, that exemption is considered a
15 single erroneous homestead exemption for purposes of this
16 Section. However, if the taxpayer receives erroneous homestead
17 exemptions under multiple Sections of this Code for the same
18 property, or if the taxpayer receives erroneous homestead
19 exemptions under the same Section of this Code for multiple
20 properties, then each of those exemptions is considered a
21 separate erroneous homestead exemption for purposes of this
22 Section.

23 "Homestead exemption" means an exemption under Section

1 15-165 (veterans with disabilities), 15-167 (returning
2 veterans), 15-168 (persons with disabilities), 15-169
3 (standard homestead for veterans with disabilities), 15-170
4 (senior citizens), 15-172 (senior citizens assessment freeze),
5 15-175 (general homestead), 15-176 (alternative general
6 homestead), or 15-177 (long-time occupant).

7 "Erroneous exemption principal amount" means the total
8 difference between the property taxes actually billed to a
9 property index number and the amount of property taxes that
10 would have been billed but for the erroneous exemption or
11 exemptions.

12 "Qualified county" means a county with 3,000,000 or more
13 inhabitants and each county with fewer than 3,000,000
14 inhabitants for which an ordinance was passed in accordance
15 with subsection (k-5) of this Section.

16 "Taxpayer" means the property owner or leasehold owner that
17 erroneously received a homestead exemption upon property.

18 (b) Notwithstanding any other provision of law, in
19 qualified counties ~~with 3,000,000 or more inhabitants~~, the
20 chief county assessment officer shall include the following
21 information with each assessment notice sent in a general
22 assessment year: (1) a list of each homestead exemption
23 available under Article 15 of this Code and a description of
24 the eligibility criteria for that exemption; (2) a list of each
25 homestead exemption applied to the property in the current
26 assessment year; (3) information regarding penalties and

1 interest that may be incurred under this Section if the
2 taxpayer received an erroneous homestead exemption in a
3 previous taxable year; and (4) notice of the 60-day grace
4 period available under this subsection. If, within 60 days
5 after receiving his or her assessment notice, the taxpayer
6 notifies the chief county assessment officer that he or she
7 received an erroneous homestead exemption in a previous taxable
8 year, and if the taxpayer pays the erroneous exemption
9 principal amount, plus interest as provided in subsection (f),
10 then the taxpayer shall not be liable for the penalties
11 provided in subsection (f) with respect to that exemption.

12 (c) In qualified counties ~~with 3,000,000 or more~~
13 ~~inhabitants~~, when the chief county assessment officer
14 determines that one or more erroneous homestead exemptions was
15 applied to the property, the erroneous exemption principal
16 amount, together with all applicable interest and penalties as
17 provided in subsections (f) and (j), shall constitute a lien in
18 the name of the people of the county ~~People of Cook County~~ on
19 the property receiving the erroneous homestead exemption. Upon
20 becoming aware of the existence of one or more erroneous
21 homestead exemptions, the chief county assessment officer
22 shall cause to be served, by both regular mail and certified
23 mail, a notice of discovery as set forth in subsection (c-5).
24 The chief county assessment officer ~~in a county with 3,000,000~~
25 ~~or more inhabitants~~ may cause a lien to be recorded against
26 property that (1) is located in the county and (2) received one

1 or more erroneous homestead exemptions if, upon determination
2 of the chief county assessment officer, the taxpayer received:
3 (A) one or 2 erroneous homestead exemptions for real property,
4 including at least one erroneous homestead exemption granted
5 for the property against which the lien is sought, during any
6 of the 3 collection years immediately prior to the current
7 collection year in which the notice of discovery is served; or
8 (B) 3 or more erroneous homestead exemptions for real property,
9 including at least one erroneous homestead exemption granted
10 for the property against which the lien is sought, during any
11 of the 6 collection years immediately prior to the current
12 collection year in which the notice of discovery is served.
13 Prior to recording the lien against the property, the chief
14 county assessment officer shall cause to be served, by both
15 regular mail and certified mail, return receipt requested, on
16 the person to whom the most recent tax bill was mailed and the
17 owner of record, a notice of intent to record a lien against
18 the property. The chief county assessment officer shall cause
19 the notice of intent to record a lien to be served within 3
20 years from the date on which the notice of discovery was
21 served.

22 (c-5) The notice of discovery described in subsection (c)
23 shall: (1) identify, by property index number, the property for
24 which the chief county assessment officer has knowledge
25 indicating the existence of an erroneous homestead exemption;
26 (2) set forth the taxpayer's liability for principal, interest,

1 penalties, and administrative costs including, but not limited
2 to, recording fees described in subsection (f); (3) inform the
3 taxpayer that he or she will be served with a notice of intent
4 to record a lien within 3 years from the date of service of the
5 notice of discovery; (4) inform the taxpayer that he or she may
6 pay the outstanding amount, plus interest, penalties, and
7 administrative costs at any time prior to being served with the
8 notice of intent to record a lien or within 30 days after the
9 notice of intent to record a lien is served; and (5) inform the
10 taxpayer that, if the taxpayer provided notice to the chief
11 county assessment officer as provided in subsection (d-1) of
12 Section 15-175 of this Code, upon submission by the taxpayer of
13 evidence of timely notice and receipt thereof by the chief
14 county assessment officer, the chief county assessment officer
15 will withdraw the notice of discovery and reissue a notice of
16 discovery in compliance with this Section in which the taxpayer
17 is not liable for interest and penalties for the current tax
18 year in which the notice was received.

19 For the purposes of this subsection (c-5):

20 "Collection year" means the year in which the first and
21 second installment of the current tax year is billed.

22 "Current tax year" means the year prior to the collection
23 year.

24 (d) The notice of intent to record a lien described in
25 subsection (c) shall: (1) identify, by property index number,
26 the property against which the lien is being sought; (2)

1 identify each specific homestead exemption that was
2 erroneously granted and the year or years in which each
3 exemption was granted; (3) set forth the erroneous exemption
4 principal amount due and the interest amount and any penalty
5 and administrative costs due; (4) inform the taxpayer that he
6 or she may request a hearing within 30 days after service and
7 may appeal the hearing officer's ruling to the circuit court;
8 (5) inform the taxpayer that he or she may pay the erroneous
9 exemption principal amount, plus interest and penalties,
10 within 30 days after service; and (6) inform the taxpayer that,
11 if the lien is recorded against the property, the amount of the
12 lien will be adjusted to include the applicable recording fee
13 and that fees for recording a release of the lien shall be
14 incurred by the taxpayer. A lien shall not be filed pursuant to
15 this Section if the taxpayer pays the erroneous exemption
16 principal amount, plus penalties and interest, within 30 days
17 of service of the notice of intent to record a lien.

18 (e) The notice of intent to record a lien shall also
19 include a form that the taxpayer may return to the chief county
20 assessment officer to request a hearing. The taxpayer may
21 request a hearing by returning the form within 30 days after
22 service. The hearing shall be held within 90 days after the
23 taxpayer is served. The chief county assessment officer shall
24 promulgate rules of service and procedure for the hearing. The
25 chief county assessment officer must generally follow rules of
26 evidence and practices that prevail in the county circuit

1 courts, but, because of the nature of these proceedings, the
2 chief county assessment officer is not bound by those rules in
3 all particulars. The chief county assessment officer shall
4 appoint a hearing officer to oversee the hearing. The taxpayer
5 shall be allowed to present evidence to the hearing officer at
6 the hearing. After taking into consideration all the relevant
7 testimony and evidence, the hearing officer shall make an
8 administrative decision on whether the taxpayer was
9 erroneously granted a homestead exemption for the taxable year
10 in question. The taxpayer may appeal the hearing officer's
11 ruling to the circuit court of the county where the property is
12 located as a final administrative decision under the
13 Administrative Review Law.

14 (f) A lien against the property imposed under this Section
15 shall be filed with the county recorder of deeds, but may not
16 be filed sooner than 60 days after the notice of intent to
17 record a lien was delivered to the taxpayer if the taxpayer
18 does not request a hearing, or until the conclusion of the
19 hearing and all appeals if the taxpayer does request a hearing.
20 If a lien is filed pursuant to this Section and the taxpayer
21 received one or 2 erroneous homestead exemptions during any of
22 the 3 collection years immediately prior to the current
23 collection year in which the notice of discovery is served,
24 then the erroneous exemption principal amount, plus 10%
25 interest per annum or portion thereof from the date the
26 erroneous exemption principal amount would have become due if

1 properly included in the tax bill, shall be charged against the
2 property by the chief county assessment officer. However, if a
3 lien is filed pursuant to this Section and the taxpayer
4 received 3 or more erroneous homestead exemptions during any of
5 the 6 collection years immediately prior to the current
6 collection year in which the notice of discovery is served, the
7 erroneous exemption principal amount, plus a penalty of 50% of
8 the total amount of the erroneous exemption principal amount
9 for that property and 10% interest per annum or portion thereof
10 from the date the erroneous exemption principal amount would
11 have become due if properly included in the tax bill, shall be
12 charged against the property by the chief county assessment
13 officer. If a lien is filed pursuant to this Section, the
14 taxpayer shall not be liable for interest that accrues between
15 the date the notice of discovery is served and the date the
16 lien is filed. Before recording the lien with the county
17 recorder of deeds, the chief county assessment officer shall
18 adjust the amount of the lien to add administrative costs,
19 including but not limited to the applicable recording fee, to
20 the total lien amount.

21 (g) If a person received an erroneous homestead exemption
22 under Section 15-170 and: (1) the person was the spouse, child,
23 grandchild, brother, sister, niece, or nephew of the previous
24 taxpayer; and (2) the person received the property by bequest
25 or inheritance; then the person is not liable for the penalties
26 imposed under this Section for any year or years during which

1 the chief county assessment officer did not require an annual
2 application for the exemption. However, that person is
3 responsible for any interest owed under subsection (f).

4 (h) If the erroneous homestead exemption was granted as a
5 result of a clerical error or omission on the part of the chief
6 county assessment officer, and if the taxpayer has paid the tax
7 bills as received for the year in which the error occurred,
8 then the interest and penalties authorized by this Section with
9 respect to that homestead exemption shall not be chargeable to
10 the taxpayer. However, nothing in this Section shall prevent
11 the collection of the erroneous exemption principal amount due
12 and owing.

13 (i) A lien under this Section is not valid as to (1) any
14 bona fide purchaser for value without notice of the erroneous
15 homestead exemption whose rights in and to the underlying
16 parcel arose after the erroneous homestead exemption was
17 granted but before the filing of the notice of lien; or (2) any
18 mortgagee, judgment creditor, or other lienor whose rights in
19 and to the underlying parcel arose before the filing of the
20 notice of lien. A title insurance policy for the property that
21 is issued by a title company licensed to do business in the
22 State showing that the property is free and clear of any liens
23 imposed under this Section shall be prima facie evidence that
24 the taxpayer is without notice of the erroneous homestead
25 exemption. Nothing in this Section shall be deemed to impair
26 the rights of subsequent creditors and subsequent purchasers

1 under Section 30 of the Conveyances Act.

2 (j) When a lien is filed against the property pursuant to
3 this Section, the chief county assessment officer shall mail a
4 copy of the lien to the person to whom the most recent tax bill
5 was mailed and to the owner of record, and the outstanding
6 liability created by such a lien is due and payable within 30
7 days after the mailing of the lien by the chief county
8 assessment officer. This liability is deemed delinquent and
9 shall bear interest beginning on the day after the due date at
10 a rate of 1.5% per month or portion thereof. Payment shall be
11 made to the county treasurer. Upon receipt of the full amount
12 due, as determined by the chief county assessment officer, the
13 county treasurer shall distribute the amount paid as provided
14 in subsection (k). Upon presentment by the taxpayer to the
15 chief county assessment officer of proof of payment of the
16 total liability, the chief county assessment officer shall
17 provide in reasonable form a release of the lien. The release
18 of the lien provided shall clearly inform the taxpayer that it
19 is the responsibility of the taxpayer to record the lien
20 release form with the county recorder of deeds and to pay any
21 applicable recording fees.

22 (k) The county treasurer shall pay collected erroneous
23 exemption principal amounts, pro rata, to the taxing districts,
24 or their legal successors, that levied upon the subject
25 property in the taxable year or years for which the erroneous
26 homestead exemptions were granted, except as set forth in this

1 Section. The county treasurer shall deposit collected
2 penalties and interest into a special fund established by the
3 county treasurer to offset the costs of administration of the
4 provisions of this Section by the chief county assessment
5 officer's office, as appropriated by the county board. If the
6 costs of administration of this Section exceed the amount of
7 interest and penalties collected in the special fund, the chief
8 county assessor shall be reimbursed by each taxing district or
9 their legal successors for those costs. Such costs shall be
10 paid out of the funds collected by the county treasurer on
11 behalf of each taxing district pursuant to this Section.

12 (k-5) If the county board of a county with fewer than
13 3,000,000 inhabitants passes an ordinance providing that the
14 provisions of this Section shall apply in that county, then
15 this Section shall apply in that county beginning in the first
16 tax year to occur after the effective date of the ordinance.

17 (1) The chief county assessment officer in a county with
18 3,000,000 or more inhabitants shall establish an amnesty period
19 for all taxpayers owing any tax due to an erroneous homestead
20 exemption granted in a tax year prior to the 2013 tax year. The
21 amnesty period shall begin on the effective date of this
22 amendatory Act of the 98th General Assembly and shall run
23 through December 31, 2013. If, during the amnesty period, the
24 taxpayer pays the entire arrearage of taxes due for tax years
25 prior to 2013, the county clerk shall abate and not seek to
26 collect any interest or penalties that may be applicable and

1 shall not seek civil or criminal prosecution for any taxpayer
2 for tax years prior to 2013. Failure to pay all such taxes due
3 during the amnesty period established under this Section shall
4 invalidate the amnesty period for that taxpayer.

5 The chief county assessment officer in a county that passes
6 an ordinance under subsection (k-5) shall establish an amnesty
7 period for all taxpayers owing any tax due to an erroneous
8 homestead exemption granted in a tax year prior to the first
9 tax year in which this Section applies in that county. The
10 amnesty period shall begin on January 1 of the first tax year
11 for which this Section applies to the county and shall run
12 through December 31 of that tax year. If, during the amnesty
13 period, the taxpayer pays the entire arrearage of taxes, the
14 county clerk shall abate and not seek to collect any interest
15 or penalties that may be applicable and shall not seek civil or
16 criminal prosecution for any taxpayer for those tax years.
17 Failure to pay all such taxes due during the amnesty period
18 established under this Section shall invalidate the amnesty
19 period for that taxpayer.

20 The chief county assessment officer in a county with
21 3,000,000 or more inhabitants shall (i) mail notice of the
22 amnesty period with the tax bills for the second installment of
23 taxes for the 2012 assessment year and (ii) as soon as possible
24 after the effective date of this amendatory Act of the 98th
25 General Assembly, publish notice of the amnesty period in a
26 newspaper of general circulation in the county. Notices shall

1 include information on the amnesty period, its purpose, and the
2 method by which to make payment.

3 The chief county assessment officer in a county that passes
4 an ordinance under subsection (k-5) shall (i) mail notice of
5 the amnesty period with the tax bills for the next installment
6 of taxes due after the ordinance is passed and (ii) as soon as
7 possible after the effective date of the ordinance, publish
8 notice of the amnesty period in a newspaper of general
9 circulation in the county. Notices shall include information on
10 the amnesty period, its purpose, and the method by which to
11 make payment.

12 Taxpayers who are a party to any criminal investigation or
13 to any civil or criminal litigation that is pending in any
14 circuit court or appellate court, or in the Supreme Court of
15 this State, for nonpayment, delinquency, or fraud in relation
16 to any property tax imposed by any taxing district located in
17 the State on the effective date of this amendatory Act of the
18 98th General Assembly (if the property is located in a county
19 with 3,000,000 or more inhabitants) or on the effective date of
20 the ordinance (if the property is subject to this Section by
21 operation of subsection (k-5)) may not take advantage of the
22 amnesty period.

23 A taxpayer who has claimed 3 or more homestead exemptions
24 in error shall not be eligible for the amnesty period
25 established under this subsection.

26 (Source: P.A. 98-93, eff. 7-16-13; 98-756, eff. 7-16-14;

- 1 98-811, eff. 1-1-15; 98-1143, eff. 1-1-15; 99-143, eff.
- 2 7-27-15; 99-851, eff. 8-19-16.)