



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB1704

Introduced 2/24/2005, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

- 35 ILCS 200/16-170
- 35 ILCS 200/16-175
- 35 ILCS 200/16-180
- 35 ILCS 200/16-185
- 35 ILCS 200/16-186 new
- 35 ILCS 200/17-10
- 35 ILCS 200/18-53 new

Amends the Property Tax Code with respect to the Property Tax Appeal Board. Provides that the rules of practice and procedure of the Board shall differentiate cases involving a requested change of assessed value of \$300,000 or more on non-farm property other than that consisting solely of 6 or fewer residential units from cases involving other categories of property, allowing a simplified procedure for the latter and requiring the rules of evidence and motion practice as applied in the circuit courts of the State to be applied in rules adopted by the Board concerning the former. Makes changes concerning hearings, presumptions and burdens of proof, case management and discovery, procedures for review and correction of assessments, limitation on the assessment level claims in counties that classify, and sales ratio studies. Authorizes a taxing district to, without referendum, adopt a levy to recapture revenue lost by a property tax refund it is required to make. Makes other changes. Effective immediately.

LRB094 06826 BDD 36932 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 Sections 16-170, 16-175, 16-180, 16-185, and 17-10 and by
6 adding Sections 16-186 and 18-53 as follows:

7 (35 ILCS 200/16-170)

8 Sec. 16-170. Hearings.

9 (a) A hearing shall be granted if any party to the appeal
10 so requests, and, upon motion of any party to the appeal or by
11 direction of the Property Tax Appeal Board, any appeal may be
12 set down for a hearing, with proper notice to the interested
13 parties. Notice to all interested taxing bodies shall be deemed
14 to have been given when delivered by the board of review to
15 serve upon the State's Attorney of the county from which the
16 appeal has been taken, except that in cases involving a
17 requested change of assessed value of \$300,000 or more on
18 non-farm property other than that consisting solely of 6 or
19 fewer residential units notice shall also be given as provided
20 in Section 16-180.

21 (b) Hearings may be held before less than a majority of the
22 members of the Property Tax Appeal Board, and the chairman may
23 assign members or hearing officers to hold hearings. Such
24 hearings shall be open to the public and shall be conducted in
25 accordance with the rules of practice and procedure promulgated
26 by the Board. In all cases the Board shall ensure that all
27 parties are notified at least 60 days in advance of any
28 scheduled hearing date.

29 (c) In all cases the Property Tax Appeal ~~The~~ Board, on the
30 Board's own motion or on motion of any party, shall ~~any member~~
31 ~~or hearing officer may~~ require the production of any books,
32 records, papers or other documents within the possession or

1 control of any party that are ~~may be material or~~ relevant as
2 evidence in any pending matter. The Board's rules, and any
3 order requiring the production of documents pursuant thereto,
4 shall provide a reasonable opportunity to all parties to review
5 the documents produced and to introduce them in evidence
6 ~~pending before it and necessary for the making of a just~~
7 decision.

8 (Source: P.A. 76-689; 88-455.)

9 (35 ILCS 200/16-175)

10 Sec. 16-175. Case management and discovery procedures;
11 required disclosure of information in certain cases; expert
12 witnesses; subpoenas.

13 (a) In cases involving a requested change of assessed value
14 of \$300,000 or more on non-farm property other than that
15 consisting solely of 6 or fewer residential units, the
16 following procedures shall apply:

17 (1) The Property Tax Appeal Board shall schedule a case
18 management conference within 70 to 90 days after the
19 commencement of the appeal. The conference shall include
20 the appellant, the taxpayer of record if other than the
21 appellant, the State's Attorney, and any intervening
22 taxing bodies. The parties shall discuss the possible
23 settlement of the case. If a settlement cannot be reached
24 at the conference, the Board shall issue a case management
25 order scheduling any necessary discovery, any further
26 prehearing conferences as may be necessary, and the
27 hearing. The case management order shall provide for the
28 exchange among the parties of the information concerning
29 any expert and lay witnesses as enumerated in Illinois
30 Supreme Court Rule 213, subdivisions (f)(1) through
31 (f)(3), if such an exchange has not already occurred.

32 (2) Within 60 days after each party's first filing in
33 the case, the following information and documents, if any,
34 within that party's possession and control, shall be
35 submitted to the Property Tax Appeal Board and to each

1 opposing party:

2 (A) Each party shall submit copies of any appraisal
3 or other written estimate of value pertaining to the
4 subject property that has a date of valuation within
5 the period of 2 years prior to and through the subject
6 tax year. The board of review need not, however, submit
7 appraisals or estimates of value not commissioned by
8 it, which are in its file solely because of prior
9 submissions by the taxpayer.

10 (B) The taxpayer shall submit any contracts and
11 closing statements relating to a transfer of ownership
12 of the subject property within the period of 2 years
13 prior to and through the subject tax year.

14 (C) Each party shall submit an affidavit attesting
15 that the information provided in compliance with this
16 subdivision (a)(2) is complete to the best of that
17 party's knowledge, information, and belief.

18 (3) Discovery, including issuance of subpoenas on the
19 Board's own motion or on request of any party, shall be
20 allowed subject to the same rules as are applied in the
21 circuit courts of the State, as near as may be.

22 (b) The following procedures shall apply in all cases:

23 (1) The name of any independent or controlled expert
24 witness, as defined in Illinois Supreme Court Rule 213,
25 subsection (f), who will be called by any party to testify
26 at a hearing before the Property Tax Appeal Board and any
27 reports or documents that will be used during the witness'
28 testimony must be disclosed to the Board and to each
29 opposing party at least 30 days prior to the date of
30 hearing. The testimony of any witness whose identity,
31 report, or documents have not been disclosed as required by
32 this subdivision (b)(1) shall be barred.

33 (2) An appraisal or valuation report may be presented
34 and testified to by any qualified representative of either
35 a governmental office on whose behalf the report was
36 prepared or an appraisal firm with which the original

1 author of the report was affiliated. Any such
2 representative of a governmental office or appraisal firm
3 shall, however, for all purposes related to his or her
4 testimony, accept the same responsibility as the original
5 author of the report for the opinions and other matters
6 contained in the report.

7 (c) In all cases the Chairman of the Property Tax Appeal
8 Board or his or her designee may issue subpoenas. Subpoenas
9 ~~which~~ shall be served by any person lawfully authorized to
10 serve a subpoena under the laws of the State of Illinois. In
11 case of disobedience to a subpoena, the Board may petition any
12 circuit court of the State for an order requiring the
13 attendance and testimony of witnesses or production of
14 documents. Witnesses attending any hearing held by the Property
15 Tax Appeal Board, pursuant to any subpoena, shall be paid the
16 same fees and mileage that are paid witnesses in the circuit
17 courts of the State.

18 (Source: P.A. 83-1250; 88-455.)

19 (35 ILCS 200/16-180)

20 Sec. 16-180. Procedure for review and correction of
21 assessments ~~determination of correct assessment~~. (a) The
22 Property Tax Appeal Board shall establish by rules an
23 expeditious ~~informal~~ procedure for the review and, if
24 necessary, determination of the correction of the correct
25 assessment of property which is the subject of an appeal. The
26 rules of practice and procedure of the Property Tax Appeal
27 Board shall differentiate cases involving a requested change of
28 assessed value of \$300,000 or more on non-farm property other
29 than that consisting solely of 6 or fewer residential units
30 from cases involving other categories of property. In cases
31 involving only such other categories of property, the Board
32 shall provide a simplified ~~The~~ procedure, to the extent that
33 the Board considers practicable, that shall eliminate formal
34 rules of pleading, practice and evidence. In all other cases
35 the rules of evidence and motion practice as applied in the

1 circuit courts of the State shall be applied in the procedure
2 established by the Board. In all cases, and except for any
3 reasonable filing fee determined by the Board, ~~may provide that~~
4 costs shall be in the discretion of the Board.

5 (b) In cases subject to the simplified procedure under
6 subsection (a) of this Section, the Property Tax Appeal Board
7 rules may provide that each party's documentary evidence be
8 submitted to the Board, which shall furnish copies of such
9 evidence to the other parties in advance of the hearing. In
10 cases not subject to the simplified procedure, the rules of the
11 Board shall provide that:

12 (1) documentary evidence shall be directly exchanged
13 among the parties with copies provided to the Board; and

14 (2) all petitions, motions, correspondence or other
15 papers to be filed with the Board subsequent to the
16 original appellant's petition shall be filed together with
17 a certificate of counsel or other proof that copies thereof
18 have been served directly upon all other parties in the
19 same manner as required in practice in the circuit courts
20 of the State.

21 (c) A copy of the appellant's petition shall be mailed by
22 the clerk of the Property Tax Appeal Board to the board of
23 review whose decision is being appealed. In all cases ~~where a~~
24 ~~change in assessed valuation of \$100,000 or more is sought,~~ the
25 board of review shall ~~serve a copy of the petition on all~~
26 ~~taxing districts as shown on the last available tax bill. The~~
27 ~~chairman of the Property Tax Appeal Board shall provide for the~~
28 ~~speedy hearing of all such appeals.~~ Each appeal shall be
29 limited to the grounds listed in the petition filed with the
30 Property Tax Appeal Board.

31 (e) All appeals shall be considered de novo based solely
32 upon the evidence, issues, and legal argument submitted to the
33 Property Tax Appeal Board, without regard to whether such
34 evidence, issues, and legal argument were previously submitted
35 to the board of review and the Property Tax Appeal Board shall
36 not be limited to the evidence presented to the board of review

1 of the county. A party participating in the hearing before the
2 Property Tax Appeal Board is entitled to introduce evidence
3 that is otherwise proper and admissible without regard to
4 whether that evidence has previously been introduced at a
5 hearing before the board of review of the county. ~~Where no~~
6 ~~complaint has been made to the board of review of the county~~
7 ~~where the property is located and the appeal is based solely on~~
8 ~~the effect of an equalizing factor assigned to all property or~~
9 ~~to a class of property by the board of review, the Property Tax~~
10 ~~Appeal Board shall not grant a reduction in assessment greater~~
11 ~~than the amount that was added as the result of the equalizing~~
12 ~~factor.~~

13 The provisions added to this Section by this amendatory Act
14 of the 93rd General Assembly shall be construed as declaratory
15 of existing law and not as a new enactment.

16 (Source: P.A. 93-248, eff. 7-22-03; 93-758, eff. 7-16-04.)

17 (35 ILCS 200/16-185)

18 Sec. 16-185. Presumption and burden of proof; decisions.

19 (a) The assessment resulting from the decision of the board
20 of review shall be presumed to be correct and legal, but the
21 presumption is rebuttable. When market value is the subject of
22 the appeal, the appellant shall have the burden of proving any
23 contested matter of fact by a preponderance of the evidence.
24 When uniformity is the basis of the appeal, the appellant shall
25 have the burden of proving any contested matter of fact by
26 clear and convincing evidence. When market value is the basis
27 of the appeal, the Property Tax Appeal Board shall consider the
28 appellant's valuation claim without regard to the correctness
29 of any practice, procedure, or method of valuation followed by
30 the assessor or board of review in making or reviewing the
31 assessment, and without regard to the intent or motivation of
32 any assessing official.

33 (b) The Property Tax Appeal Board shall make a decision in
34 each appeal or case appealed to it, and the decision shall be
35 based upon equity and the weight of evidence and not upon

1 constructive fraud, and the decision shall be binding upon
2 appellant and officials of government. The extension of taxes
3 on any assessment so appealed shall not be delayed by any
4 proceeding before the Board, and, in case the assessment is
5 altered by the Board, any taxes extended upon the unauthorized
6 assessment or part thereof shall be abated, or, if already
7 paid, shall be refunded with interest as provided in Section
8 23-20.

9 The decision or order of the Property Tax Appeal Board in
10 any such appeal, shall, within 10 days thereafter, be certified
11 at no charge to the appellant and to the proper authorities,
12 including the board of review ~~or board of appeals~~ whose
13 decision was appealed, the county clerk who extends taxes upon
14 the assessment in question, and the county collector who
15 collects property taxes upon such assessment.

16 (c) If no complaint has been made to the board of review of
17 the county where the property is located and the appeal is
18 based solely on the effect of an equalizing factor assigned to
19 all property or to a class of property by the board of review,
20 the Property Tax Appeal Board shall not grant a reduction in
21 assessment greater than the amount that was added as the result
22 of the equalizing factor.

23 (d) If the Property Tax Appeal Board renders a decision
24 lowering the assessment of a particular parcel after the
25 deadline for filing complaints with the board of review ~~or~~
26 ~~board of appeals~~ or after adjournment of the session of the
27 board of review ~~or board of appeals~~ at which assessments for
28 the subsequent year are being considered, the taxpayer may,
29 within 30 days after the date of written notice of the Property
30 Tax Appeal Board's decision, appeal the assessment for the
31 subsequent year directly to the Property Tax Appeal Board.

32 (e) If the Property Tax Appeal Board renders a decision
33 lowering the assessment of a particular parcel on which a
34 residence occupied by the owner is situated, such reduced
35 assessment, subject to equalization, shall remain in effect for
36 the remainder of the general assessment period as provided in

1 Sections 9-215 through 9-225, unless that parcel is
2 subsequently sold in an arm's length transaction establishing a
3 fair cash value for the parcel that is different from the fair
4 cash value on which the Board's assessment is based, or unless
5 the decision of the Property Tax Appeal Board is reversed or
6 modified upon review.

7 (Source: P.A. 88-455; 88-660, eff. 9-16-94; 89-671, eff.
8 8-14-96.)

9 (35 ILCS 200/16-186 new)

10 Sec. 16-186. Limitation on assessment level claims in
11 counties that classify.

12 (a) Notwithstanding any other provision of this Code,
13 except as otherwise provided in this Section, in appeals
14 arising in counties that classify property for purposes of
15 taxation pursuant to an ordinance adopted in accordance with
16 Section 9-150, the Property Tax Appeal Board shall have no
17 jurisdiction to consider whether a level of assessment other
18 than the level specified in the classifying ordinance should
19 apply to the property which is the subject of the appeal. Such
20 issues shall not be considered by the Property Tax Appeal Board
21 in its review and correction of assessments under Sections
22 16-180 and 16-185 and related Sections.

23 (b) The limitation provided in this Section shall not apply
24 in cases where the only subject of the appeal is a property
25 assessed within any classification that includes single family
26 residences under the ordinance adopted in accordance with
27 Section 9-150. Nothing in this subsection, however, shall be
28 construed to accord presumptive validity to Department ratio
29 studies of property within any classification that includes
30 single family residences nor shall this subsection be construed
31 as prohibiting the introduction of evidence or argument by any
32 party disputing the methodology or conclusions of these
33 studies.

34 (35 ILCS 200/17-10)

1 Sec. 17-10. Sales ratio studies.

2 (a) The Department shall monitor the quality of local
3 assessments by designing, preparing and using ratio studies,
4 and shall use the results as the basis for equalization
5 decisions. In compiling sales ratio studies, the Department
6 shall exclude from the reported sales price of any property any
7 amounts included for personal property and, for sales occurring
8 through December 31, 1999, shall exclude seller paid points.
9 The Department shall not include in its sales ratio studies
10 sales of property which have been platted and for which an
11 increase in the assessed valuation is restricted by Section
12 10-30. The Department shall not include in its sales ratio
13 studies the initial sale of residential property that has been
14 converted to condominium property.

15 When the declaration required under the Real Estate
16 Transfer Tax Law contains financing information required under
17 Section 31-25, the Department shall adjust sales prices to
18 exclude seller-paid points and shall adjust sales prices to
19 "cash value" when seller related financing is used that is
20 different than the prevailing cost of cash. The prevailing cost
21 of cash for sales occurring on or after January 1, 1992 shall
22 be established as the monthly average 30-year fixed Primary
23 Mortgage Market Survey rate for the North Central Region as
24 published weekly by the Federal Home Loan Mortgage Corporation,
25 as computed by the Department, or such other rate as determined
26 by the Department. This rate shall be known as the survey rate.
27 For sales occurring on or after January 1, 1992, through
28 December 31, 1999, adjustments in the prevailing cost of cash
29 shall be made only after the survey rate has been at or above
30 13% for 12 consecutive months and will continue until the
31 survey rate has been below 13% for 12 consecutive months. For
32 sales occurring on or after January 1, 2000, adjustments for
33 seller paid points and adjustments in the prevailing cost of
34 cash shall be made only after the survey rate has been at or
35 above 13% for 12 consecutive months and will continue until the
36 survey rate has been below 13% for 12 consecutive months. The

1 Department shall make public its adjustment procedure upon
2 request.

3 (b) The General Assembly finds and declares that it has
4 been and is the policy of this State that ratio studies by the
5 Department pursuant to this Section and related Sections are
6 designed and conducted for purposes of the State equalization
7 process as set forth in Article 17 of this Code.
8 Notwithstanding any other provision of this Code, except as
9 otherwise provided in this Section, no ratio studies conducted
10 pursuant to any provision of this Code by the Department shall
11 be admitted in evidence in assessment appeal proceedings before
12 boards of review or the Property Tax Appeal Board under Article
13 16 of this Code. The studies by the Department, and any
14 conclusions based on those studies, shall not be considered by
15 the Property Tax Appeal Board under Sections 16-180 and 16-185
16 and related Sections or by boards of review under Sections
17 16-20, 16-95, and related Sections.

18 (c) Nothing in subsection (b) of this Section prohibits
19 boards of review or the Property Tax Appeal Board from
20 complying with the requirement of Section 9-145, where
21 applicable, that property in designated counties be valued at
22 "33-1/3%" of its "fair cash value" as defined in this Code.

23 (d) In cases arising in counties that classify property for
24 purposes of taxation pursuant to an ordinance adopted in
25 accordance with Section 9-150, the limitation provided in
26 subsection (b) of this Section shall not apply where the only
27 subject of the appeal is a property assessed within any
28 classification that includes single family residences under
29 the ordinance adopted in accordance with Section 9-150. Nothing
30 in this subsection, however, shall be construed to accord
31 presumptive validity to Department studies of property within
32 any classification that includes single family residences nor
33 shall this subsection be construed as prohibiting the
34 introduction of evidence or argument by any party disputing the
35 methodology or conclusions of those studies.

36 (Source: P.A. 91-555, eff. 1-1-00.)

1 (35 ILCS 200/18-53 new)

2 Sec. 18-53. Recovery of revenue lost due to tax refunds.

3 (a) When a taxing district is required to refund a portion
4 of the property tax revenue distributed to that taxing district
5 because of a decision of the Property Tax Appeal Board, an
6 assessment or exemption decision of the Department of Revenue,
7 a court order issued pursuant to an assessment valuation
8 complaint under subdivision (b)(3) of Section 23-15, or an
9 administrative decision of a local assessing official reducing
10 the assessed value of a property within the district, that
11 taxing district may, without referendum, adopt a levy to
12 recapture the revenue lost by the refund or refunds. The
13 recapture levy must not exceed an amount equal to the aggregate
14 refunds paid by the district for the prior fiscal year. Within
15 45 days after a request by a taxing district, the county
16 treasurer must certify the aggregate refunds paid by a taxing
17 district for purposes of this Section. For purposes of the
18 Property Tax Extension Limitation Law, the taxing district's
19 aggregate extension base shall not include the recapture levy
20 authorized under this Section.

21 (b) Whenever the county treasurer certifies aggregate
22 refunds at the request of a taxing district under this Section,
23 the treasurer shall keep records of the individual refunds
24 included in the aggregate. All such information shall be
25 provided to the county clerk. The county clerk shall keep a
26 record of such information and of any recapture levy that may
27 thereafter be extended, so that the amount of such extension
28 may be distinguished from any other levies and extensions for
29 that district. The county treasurer's and the county clerk's
30 records under this Section shall be available to the public
31 upon request.

32 (c) Any taxpayer who has received a refund of taxes paid on
33 his or her property, which refund has been included in a
34 recapture levy by a particular taxing district under this
35 Section, shall have the right to have the extension of such

1 district's levy against his or her property abated to the
2 extent such extension exceeds \$500. The abatement shall be
3 granted only upon application as provided in this Section. For
4 purposes of this Section, the "property" for which the
5 recapture extension may be abated is defined as one or more
6 parcels which were the subject of a consolidated refund. If the
7 taxing district's recapture levy and extension was made in a
8 lesser amount than the aggregate of all refunds certified by
9 the treasurer for that district, each abatement shall reflect
10 that same proportionate reduction.

11 (d) A taxpayer seeking an abatement under this Section
12 shall apply to the county treasurer no later than the due date
13 under Section 23-10 for tax objection complaints regarding tax
14 levies of the year for which the recapture levy was extended.
15 The county treasurer may prescribe the form in which the
16 application shall be made. The application shall include a copy
17 of the decision or order that gave rise to the refund and shall
18 specify the abatement claimed. The treasurer, assisted if
19 necessary by the county clerk, shall confirm whether the refund
20 identified in the application was included within the
21 appropriate treasurer's certification of aggregate refunds,
22 and upon such confirmation the abatement shall be allowed as
23 provided in this Section. If the taxes abated have been paid
24 they shall be refunded. If the treasurer cannot determine
25 whether the application should be allowed, or otherwise denies
26 the application, any taxpayer who has paid the tax subject to
27 the claimed abatement may petition the circuit court for a
28 refund in the time and manner provided in Section 20-175. Any
29 refund granted pursuant to an abatement shall not be included
30 in a recapture levy under this Section.

31 (e) The county treasurer and county clerk shall mark their
32 records to reflect any abatement under this Section.

33 Section 99. Effective date. This Act takes effect upon
34 becoming law.