HB4902

LRB09515839BDD41848b

95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4902

by Rep. Jack McGuire

SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.122	from Ch. 127, par. 141.122
30 ILCS 105/6p-4	from Ch. 127, par. 142p4
35 ILCS 200/15-170	
205 ILCS 5/6.2	
205 ILCS 105/1-6e	
205 ILCS 205/1010	
205 ILCS 305/46.2	
205 ILCS 635/5-5	
320 ILCS 30/1	from Ch. 67 1/2, par. 451
320 ILCS 30/2	from Ch. 67 1/2, par. 452
320 ILCS 30/3	from Ch. 67 1/2, par. 453
320 ILCS 30/5	from Ch. 67 1/2, par. 455
320 ILCS 30/7	from Ch. 67 1/2, par. 457

Amends the Senior Citizens Real Estate Tax Deferral Act. Changes the short title of the Act to the Disabled and Senior Citizens Real Estate Tax Deferral Act and provides that disabled persons are eligible to receive a tax deferral under the Act. Amends various Acts to make corresponding changes.

LRB095 15839 BDD 41848 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

AN ACT concerning revenue.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The State Finance Act is amended by changing Sections 5.122 and 6p-4 as follows:

(30 ILCS 105/5.122) (from Ch. 127, par. 141.122)

Sec. 5.122. The <u>Disabled and</u> Senior Citizens Real Estate Deferred Tax Revolving Fund.

(Source: P.A. 83-1362.)

(30 ILCS 105/6p-4) (from Ch. 127, par. 142p4)

Sec. 6p-4. As soon as possible after the effective date of the Senior Citizens Real Estate Tax Deferral Act <u>(now, the Disabled and Senior Citizens Real Estate Tax Deferral Act)</u>, the sum of $330,000 shall be transferred from the State Lottery Fund to the Senior Citizens Real Estate Deferred Tax Revolving Fund <u>(now, the Disabled and Senior Citizens Real Estate Deferred Tax Revolving Fund)</u> by the Comptroller and the State Treasurer. Additional funds, as may be necessary, may be appropriated from the General Revenue Fund. Thereafter all moneys received by the Department of Revenue in payment of deferred taxes and accrued interest, under Section 7 of the <u>Disabled and</u> Senior Citizens Real Estate Tax Deferral Act, shall be paid into the Senior Citizens Real Estate Deferred Tax Revolving Fund. Appropriations from the Disabled and Senior Citizens Real Estate Deferred Tax Revolving Fund shall only be made to the Department of Revenue for making payments to county collectors as provided in the Disabled and Senior Citizens Real Estate Tax Deferral Act.

(Source: P.A. 83-1362.)

Section 10. The Property Tax Code is amended by changing Section 15-170 as follows:

(35 ILCS 200/15-170)

Sec. 15-170. Senior Citizens Homestead Exemption. An annual homestead exemption limited, except as described here with relation to cooperatives or life care facilities, to a maximum reduction set forth below from the property's value, as equalized or assessed by the Department, is granted for property that is occupied as a residence by a person 65 years of age or older who is liable for paying real estate taxes on the property and is an owner of record of the property or has a legal or equitable interest therein as evidenced by a written instrument, except for a leasehold interest, other than a leasehold interest of land on which a single family residence is located, which is occupied as a residence by a person 65 years or older who has an ownership interest therein, legal, equitable or as a lessee, and on which he or she is liable for the payment of property taxes. Before taxable year 2004, the maximum reduction shall be $2,500 in counties with 3,000,000 or more inhabitants and $2,000 in all other counties. For taxable years 2004 through 2005, the maximum reduction shall be $3,000 in all counties. For taxable years 2006 and 2007, the maximum reduction shall be $3,500 and, for taxable years 2008 and thereafter, the maximum reduction is $4,000 in all counties.

For land improved with an apartment building owned and operated as a cooperative, the maximum reduction from the value of the property, as equalized by the Department, shall be multiplied by the number of apartments or units occupied by a person 65 years of age or older who is liable, by contract with the owner or owners of record, for paying property taxes on the property and is an owner of record of a legal or equitable interest in the cooperative apartment building, other than a leasehold interest. For land improved with a life care facility, the maximum reduction from the value of the property, as equalized by the Department, shall be multiplied by the number of apartments or units occupied by persons 65 years of age or older, irrespective of any legal, equitable, or leasehold interest in the facility, who are liable, under a contract with the owner or owners of record of the facility, for paying property taxes on the property. In a cooperative or a life care facility where a homestead exemption has been granted, the cooperative association or the management firm of the cooperative or facility shall credit the savings resulting from that exemption only to the apportioned tax liability of the owner or resident who qualified for the exemption. Any person who willfully refuses to so credit the savings shall be guilty of a Class B misdemeanor. Under this Section and Sections 15-175, 15-176, and 15-177, "life care facility" means a facility, as defined in Section 2 of the Life Care Facilities Act, with which the applicant for the homestead exemption has a life care contract as defined in that Act.

When a homestead exemption has been granted under this Section and the person qualifying subsequently becomes a resident of a facility licensed under the Nursing Home Care Act, the exemption shall continue so long as the residence continues to be occupied by the qualifying person's spouse if the spouse is 65 years of age or older, or if the residence remains unoccupied but is still owned by the person qualified for the homestead exemption.

A person who will be 65 years of age during the current assessment year shall be eligible to apply for the homestead exemption during that assessment year. Application shall be made during the application period in effect for the county of his residence.

Beginning with assessment year 2003, for taxes payable in 2004, property that is first occupied as a residence after January 1 of any assessment year by a person who is eligible for the senior citizens homestead exemption under this Section must be granted a pro-rata exemption for the assessment year.

The amount of the pro-rata exemption is the exemption allowed in the county under this Section divided by 365 and multiplied by the number of days during the assessment year the property is occupied as a residence by a person eligible for the exemption under this Section. The chief county assessment officer must adopt reasonable procedures to establish eligibility for this pro-rata exemption.

The assessor or chief county assessment officer may determine the eligibility of a life care facility to receive the benefits provided by this Section, by affidavit, application, visual inspection, questionnaire or other reasonable methods in order to insure that the tax savings resulting from the exemption are credited by the management firm to the apportioned tax liability of each qualifying resident. The assessor may request reasonable proof that the management firm has so credited the exemption.

The chief county assessment officer of each county with less than 3,000,000 inhabitants shall provide to each person allowed a homestead exemption under this Section a form to designate any other person to receive a duplicate of any notice of delinquency in the payment of taxes assessed and levied under this Code on the property of the person receiving the exemption. The duplicate notice shall be in addition to the notice required to be provided to the person receiving the exemption, and shall be given in the manner required by this Code. The person filing the request for the duplicate notice shall pay a fee of $5 to cover administrative costs to the supervisor of assessments, who shall then file the executed designation with the county collector. Notwithstanding any other provision of this Code to the contrary, the filing of such an executed designation requires the county collector to provide duplicate notices as indicated by the designation. A designation may be rescinded by the person who executed such designation at any time, in the manner and form required by the chief county assessment officer.

The assessor or chief county assessment officer may determine the eligibility of residential property to receive the homestead exemption provided by this Section by application, visual inspection, questionnaire or other reasonable methods. The determination shall be made in accordance with guidelines established by the Department.

In counties with less than 3,000,000 inhabitants, the county board may by resolution provide that if a person has been granted a homestead exemption under this Section, the person qualifying need not reapply for the exemption.

In counties with less than 3,000,000 inhabitants, if the assessor or chief county assessment officer requires annual application for verification of eligibility for an exemption once granted under this Section, the application shall be mailed to the taxpayer.

The assessor or chief county assessment officer shall notify each person who qualifies for an exemption under this

Section that the person may also qualify for deferral of real estate taxes under the Disabled and Senior Citizens Real Estate Tax Deferral Act. The notice shall set forth the qualifications needed for deferral of real estate taxes, the address and telephone number of county collector, and a statement that applications for deferral of real estate taxes may be obtained from the county collector.

Notwithstanding Sections 6 and 8 of the State Mandates Act, no reimbursement by the State is required for the implementation of any mandate created by this Section.

(Source: P.A. 94-794, eff. 5-22-06; 95-644, eff. 10-12-07; revised 11-2-07.)

Section 15. The Illinois Banking Act is amended by changing Section 6.2 as follows:

(205 ILCS 5/6.2)

Sec. 6.2. Reverse mortgage; disclosure. At the time a reverse mortgage loan is made, the lender must provide to the mortgagor a separate document that informs the mortgagor that by obtaining the reverse mortgage the mortgagor's eligibility to obtain a tax deferral under the Disabled and Senior Citizens Real Estate Tax Deferral Act may be adversely affected. The mortgagor must sign the disclosure document as part of the reverse mortgage transaction.

(Source: P.A. 92-577, eff. 6-26-02.)

Section 20. The Illinois Savings and Loan Act of 1985 is amended by changing Section 1-6e as follows:

(205 ILCS 105/1-6e)

Sec. 1-6e. Reverse mortgage; disclosure. At the time a reverse mortgage loan is made, the lender must provide to the mortgagor a separate document that informs the mortgagor that by obtaining the reverse mortgage the mortgagor's eligibility to obtain a tax deferral under the Disabled and Senior Citizens Real Estate Tax Deferral Act may be adversely affected. The mortgagor must sign the disclosure document as part of the reverse mortgage transaction.

(Source: P.A. 95-331, eff. 8-21-07.)

Section 25. The Savings Bank Act is amended by changing Section 1010 as follows:

(205 ILCS 205/1010)

Sec. 1010. Reverse mortgage; disclosure. At the time a reverse mortgage loan is made, the lender must provide to the mortgagor a separate document that informs the mortgagor that by obtaining the reverse mortgage the mortgagor's eligibility to obtain a tax deferral under the Disabled and Senior Citizens Real Estate Tax Deferral Act may be adversely affected. The mortgagor must sign the disclosure document as part of the

reverse mortgage transaction.
(Source: P.A. 92-577, eff. 6-26-02.)

Section 30. The Illinois Credit Union Act is amended by changing Section 46.2 as follows:

(205 ILCS 305/46.2)

Sec. 46.2. Reverse mortgage; disclosure. At the time a reverse mortgage loan is made, the lender must provide to the mortgagor a separate document that informs the mortgagor that by obtaining the reverse mortgage the mortgagor's eligibility to obtain a tax deferral under the <u>Disabled and</u> Senior Citizens Real Estate Tax Deferral Act may be adversely affected. The mortgagor must sign the disclosure document as part of the reverse mortgage transaction.
(Source: P.A. 92-577, eff. 6-26-02.)

Section 35. The Residential Mortgage License Act of 1987 is amended by changing Section 5-5 as follows:

(205 ILCS 635/5-5)

Sec. 5-5. Reverse mortgages; disclosure; good faith dealings, fraudulent or deceptive practices.

(a) At the time a reverse mortgage loan is made or brokered, a licensee must provide to the mortgagor a separate document that informs the mortgagor that by obtaining the reverse mortgage the mortgagor's eligibility to obtain a tax deferral under the Disabled and Senior Citizens Real Estate Tax Deferral Act may be adversely affected. The mortgagor must sign the disclosure document as part of the reverse mortgage transaction.

(b) A licensee must act in good faith in all relations with a borrower, including but not limited to, transferring, dealing in, offering, or making a reverse mortgage loan. No licensee shall employ fraudulent or deceptive acts or practices in the making of a reverse mortgage loan, including deceptive marketing and sales efforts.

(Source: P.A. 92-577, eff. 6-26-02; 93-863, eff. 8-5-04.)

Section 40. The Senior Citizens Real Estate Tax Deferral Act is amended by changing Sections 1, 2, 3, 5, and 7 as follows:

(320 ILCS 30/1) (from Ch. 67 1/2, par. 451)

Sec. 1. This Act ~~shall be known and~~ may be cited as the ~~"~~Disabled and Senior Citizens Real Estate Tax Deferral Act~~"~~.

(Source: P.A. 83-895.)

(320 ILCS 30/2) (from Ch. 67 1/2, par. 452)

Sec. 2. Definitions. As used in this Act:

(a) "Taxpayer" means an individual whose household income for the year is no greater than: (i) $40,000 through tax year

2005; and (ii) $50,000 for tax year 2006 and thereafter.

(b) "Tax deferred property" means the property upon which real estate taxes are deferred under this Act.

(c) "Homestead" means the land and buildings thereon, including a condominium or a dwelling unit in a multidwelling building that is owned and operated as a cooperative, occupied by the taxpayer as his residence or which are temporarily unoccupied by the taxpayer because such taxpayer is temporarily residing, for not more than 1 year, in a licensed facility as defined in Section 1-113 of the Nursing Home Care Act.

(d) "Real estate taxes" or "taxes" means the taxes on real property for which the taxpayer would be liable under the Property Tax Code, including special service area taxes, and special assessments on benefited real property for which the taxpayer would be liable to a unit of local government.

(e) "Department" means the Department of Revenue.

<u>"Disabled person" has the meaning set forth under Section 15-168 of the Property Tax Code.</u>

(f) "Qualifying property" means a homestead which (a) the taxpayer or the taxpayer and his spouse own in fee simple or are purchasing in fee simple under a recorded instrument of sale, (b) is not income-producing property, (c) is not subject to a lien for unpaid real estate taxes when a claim under this Act is filed.

(g) "Equity interest" means the current assessed valuation of the qualified property times the fraction necessary to convert that figure to full market value minus any outstanding debts or liens on that property. In the case of qualifying property not having a separate assessed valuation, the appraised value as determined by a qualified real estate appraiser shall be used instead of the current assessed valuation.

(h) "Household income" has the meaning ascribed to that term in the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act.

(i) "Collector" means the county collector or, if the taxes to be deferred are special assessments, an official designated by a unit of local government to collect special assessments.

(Source: P.A. 94-794, eff. 5-22-06.)

(320 ILCS 30/3) (from Ch. 67 1/2, par. 453)

Sec. 3. A taxpayer may, on or before March 1 of each year, apply to the county collector of the county where his qualifying property is located, or to the official designated by a unit of local government to collect special assessments on the qualifying property, as the case may be, for a deferral of all or a part of real estate taxes payable during that year for the preceding year in the case of real estate taxes other than special assessments, or for a deferral of any installments payable during that year in the case of special assessments, on all or part of his qualifying property. The application shall be on a form prescribed by the Department and furnished by the collector, (a) showing that the applicant is a disabled person or will be 65 years of age or older by June 1 of the year for which a tax deferral is claimed, (b) describing the property and verifying that the property is qualifying property as defined in Section 2, (c) certifying that the taxpayer has owned and occupied as his residence such property or other qualifying property in the State for at least the last 3 years except for any periods during which the taxpayer may have temporarily resided in a nursing or sheltered care home, and (d) specifying whether the deferral is for all or a part of the taxes, and, if for a part, the amount of deferral applied for. As to qualifying property not having a separate assessed valuation, the taxpayer shall also file with the county collector a written appraisal of the property prepared by a qualified real estate appraiser together with a certificate signed by the appraiser stating that he has personally examined the property and setting forth the value of the land and the value of the buildings thereon occupied by the taxpayer as his residence.

The collector shall grant the tax deferral provided such deferral does not exceed funds available in the Senior Citizens Real Estate Deferred Tax Revolving Fund and provided that the owner or owners of such real property have entered into a tax deferral and recovery agreement with the collector on behalf of the county or other unit of local government, which agreement expressly states:

(1) That the total amount of taxes deferred under this Act, plus interest, for the year for which a tax deferral is claimed as well as for those previous years for which taxes are not delinquent and for which such deferral has been claimed may not exceed 80% of the taxpayer's equity interest in the property for which taxes are to be deferred and that, if the total deferred taxes plus interest equals 80% of the taxpayer's equity interest in the property, the taxpayer shall thereafter pay the annual interest due on such deferred taxes plus interest so that total deferred taxes plus interest will not exceed such 80% of the taxpayer's equity interest in the property.

(2) That any real estate taxes deferred under this Act and any interest accrued thereon at the rate of 6% per year are a lien on the real estate and improvements thereon until paid. No sale or transfer of such real property may be legally closed and recorded until the taxes which would otherwise have been due on the property, plus accrued interest, have been paid unless the collector certifies in writing that an arrangement for prompt payment of the amount due has been made with his office. The same shall apply if the property is to be made the subject of a contract of sale.

(3) That upon the death of the taxpayer claiming the deferral the heirs-at-law, assignees or legatees shall have first priority to the real property upon which taxes have been deferred by paying in full the total taxes which would

otherwise have been due, plus interest. However, if such heir-at-law, assignee, or legatee is a surviving spouse, the tax deferred status of the property shall be continued during the life of that surviving spouse if the spouse is 55 years of age or older within 6 months of the date of death of the taxpayer and enters into a tax deferral and recovery agreement before the time when deferred taxes become due under this Section. Any additional taxes deferred, plus interest, on the real property under a tax deferral and recovery agreement signed by a surviving spouse shall be added to the taxes and interest which would otherwise have been due, and the payment of which has been postponed during the life of such surviving spouse, in determining the 80% equity requirement provided by this Section.

(4) That if the taxes due, plus interest, are not paid by the heir-at-law, assignee or legatee or if payment is not postponed during the life of a surviving spouse, the deferred taxes and interest shall be recovered from the estate of the taxpayer within one year of the date of his death. In addition, deferred real estate taxes and any interest accrued thereon are due within 90 days after any tax deferred property ceases to be qualifying property as defined in Section 2.

If payment is not made when required by this Section, foreclosure proceedings may be instituted under the Property Tax Code.

(5) That any joint owner has given written prior approval

for such agreement, which written approval shall be made a part of such agreement.

(6) That a guardian for a person under legal disability appointed for a taxpayer who otherwise qualifies under this Act may act for the taxpayer in complying with this Act.

(7) That a taxpayer or his agent has provided to the satisfaction of the collector, sufficient evidence that the qualifying property on which the taxes are to be deferred is insured against fire or casualty loss for at least the total amount of taxes which have been deferred.

If the taxes to be deferred are special assessments, the unit of local government making the assessments shall forward a copy of the agreement entered into pursuant to this Section and the bills for such assessments to the county collector of the county in which the qualifying property is located.

(Source: P.A. 90-170, eff. 7-23-97; 91-357, eff. 7-29-99.)

(320 ILCS 30/5) (from Ch. 67 1/2, par. 455)

Sec. 5. The county collector shall note on his books each claim for deferral of real estate taxes which meets the requirements of Section 3 and, when taxes are extended, shall send to the Department the tax bills, including special assessment bills forwarded to the county collector under Section 3, on all tax deferred property in that collector's county. The Department shall then pay by June 1 or within 30 days of the receipt of these tax bills, whichever is later, to the county collector, for distribution to the taxing bodies in his county, the total amount of taxes so deferred. The Department shall make these payments from the Disabled and Senior Citizens Real Estate Deferred Tax Revolving Fund.

(Source: P.A. 84-807.)

(320 ILCS 30/7) (from Ch. 67 1/2, par. 457)

Sec. 7. When any deferred taxes, including interest, are collected, the moneys shall be credited to a special account in the treasury of the unit of local government and the collector shall notify the treasurer of the unit of local government of the properties for which the taxes were collected by setting forth a description of the property and the amount of taxes and interest collected for each property. The treasurer shall remit by the 10th day of each month the amount of deferred taxes and accrued interest paid during the preceding month, minus $50 or the total amount of deferred taxes and accrued interest collected, whichever is less, to the Department. The remittance shall be accompanied by a statement giving a description for each property for which the taxes were collected and setting out the amount of the taxes and interest collected for each property.

If the tax deferred property is sold by foreclosure under the Property Tax Code, the proceeds of the sale which may be applied under that Act to the payment of real estate taxes and interest shall be remitted by the county treasurer to the

Department along with a description of the property and the amount of taxes and interest collected thereon.

When any deferred taxes and accrued interest are received by the Department, it shall enter the amounts received against the accounts which have been set up for the tax deferred properties and shall within 5 days remit such moneys to the State Treasurer for deposit in the Disabled and Senior Citizens Real Estate Deferred Tax Revolving Fund.

(Source: P.A. 88-670, eff. 12-2-94.)