

SB2031



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2031

Introduced 2/20/2009, by Sen. Chris Lauzen

SYNOPSIS AS INTRODUCED:

35 ILCS 200/15-172

Amends the Property Tax Code. In a Section concerning the senior citizens assessment freeze homestead exemption, provides that, beginning in assessment year 2009, "income" does not include distributions from a 401(k) or other retirement account. Effective immediately.

LRB096 10856 HLH 21086 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 15-172 as follows:

6 (35 ILCS 200/15-172)

7 Sec. 15-172. Senior Citizens Assessment Freeze Homestead
8 Exemption.

9 (a) This Section may be cited as the Senior Citizens
10 Assessment Freeze Homestead Exemption.

11 (b) As used in this Section:

12 "Applicant" means an individual who has filed an
13 application under this Section.

14 "Base amount" means the base year equalized assessed value
15 of the residence plus the first year's equalized assessed value
16 of any added improvements which increased the assessed value of
17 the residence after the base year.

18 "Base year" means the taxable year prior to the taxable
19 year for which the applicant first qualifies and applies for
20 the exemption provided that in the prior taxable year the
21 property was improved with a permanent structure that was
22 occupied as a residence by the applicant who was liable for
23 paying real property taxes on the property and who was either

1 (i) an owner of record of the property or had legal or
2 equitable interest in the property as evidenced by a written
3 instrument or (ii) had a legal or equitable interest as a
4 lessee in the parcel of property that was single family
5 residence. If in any subsequent taxable year for which the
6 applicant applies and qualifies for the exemption the equalized
7 assessed value of the residence is less than the equalized
8 assessed value in the existing base year (provided that such
9 equalized assessed value is not based on an assessed value that
10 results from a temporary irregularity in the property that
11 reduces the assessed value for one or more taxable years), then
12 that subsequent taxable year shall become the base year until a
13 new base year is established under the terms of this paragraph.
14 For taxable year 1999 only, the Chief County Assessment Officer
15 shall review (i) all taxable years for which the applicant
16 applied and qualified for the exemption and (ii) the existing
17 base year. The assessment officer shall select as the new base
18 year the year with the lowest equalized assessed value. An
19 equalized assessed value that is based on an assessed value
20 that results from a temporary irregularity in the property that
21 reduces the assessed value for one or more taxable years shall
22 not be considered the lowest equalized assessed value. The
23 selected year shall be the base year for taxable year 1999 and
24 thereafter until a new base year is established under the terms
25 of this paragraph.

26 "Chief County Assessment Officer" means the County

1 Assessor or Supervisor of Assessments of the county in which
2 the property is located.

3 "Equalized assessed value" means the assessed value as
4 equalized by the Illinois Department of Revenue.

5 "Household" means the applicant, the spouse of the
6 applicant, and all persons using the residence of the applicant
7 as their principal place of residence.

8 "Household income" means the combined income of the members
9 of a household for the calendar year preceding the taxable
10 year.

11 "Income" has the same meaning as provided in Section 3.07
12 of the Senior Citizens and Disabled Persons Property Tax Relief
13 and Pharmaceutical Assistance Act, except that, beginning in
14 assessment year 2001, "income" does not include veteran's
15 benefits, and, beginning in assessment year 2009, "income" does
16 not include distributions from a 401(k) or other retirement
17 account.

18 "Internal Revenue Code of 1986" means the United States
19 Internal Revenue Code of 1986 or any successor law or laws
20 relating to federal income taxes in effect for the year
21 preceding the taxable year.

22 "Life care facility that qualifies as a cooperative" means
23 a facility as defined in Section 2 of the Life Care Facilities
24 Act.

25 "Maximum income limitation" means:

26 (1) \$35,000 prior to taxable year 1999;

- 1 (2) \$40,000 in taxable years 1999 through 2003;
- 2 (3) \$45,000 in taxable years 2004 through 2005;
- 3 (4) \$50,000 in taxable years 2006 and 2007; and
- 4 (5) \$55,000 in taxable year 2008 and thereafter.

5 "Residence" means the principal dwelling place and
6 appurtenant structures used for residential purposes in this
7 State occupied on January 1 of the taxable year by a household
8 and so much of the surrounding land, constituting the parcel
9 upon which the dwelling place is situated, as is used for
10 residential purposes. If the Chief County Assessment Officer
11 has established a specific legal description for a portion of
12 property constituting the residence, then that portion of
13 property shall be deemed the residence for the purposes of this
14 Section.

15 "Taxable year" means the calendar year during which ad
16 valorem property taxes payable in the next succeeding year are
17 levied.

18 (c) Beginning in taxable year 1994, a senior citizens
19 assessment freeze homestead exemption is granted for real
20 property that is improved with a permanent structure that is
21 occupied as a residence by an applicant who (i) is 65 years of
22 age or older during the taxable year, (ii) has a household
23 income that does not exceed the maximum income limitation,
24 (iii) is liable for paying real property taxes on the property,
25 and (iv) is an owner of record of the property or has a legal or
26 equitable interest in the property as evidenced by a written

1 instrument. This homestead exemption shall also apply to a
2 leasehold interest in a parcel of property improved with a
3 permanent structure that is a single family residence that is
4 occupied as a residence by a person who (i) is 65 years of age
5 or older during the taxable year, (ii) has a household income
6 that does not exceed the maximum income limitation, (iii) has a
7 legal or equitable ownership interest in the property as
8 lessee, and (iv) is liable for the payment of real property
9 taxes on that property.

10 In counties of 3,000,000 or more inhabitants, the amount of
11 the exemption for all taxable years is the equalized assessed
12 value of the residence in the taxable year for which
13 application is made minus the base amount. In all other
14 counties, the amount of the exemption is as follows: (i)
15 through taxable year 2005 and for taxable year 2007 and
16 thereafter, the amount of this exemption shall be the equalized
17 assessed value of the residence in the taxable year for which
18 application is made minus the base amount; and (ii) for taxable
19 year 2006, the amount of the exemption is as follows:

20 (1) For an applicant who has a household income of
21 \$45,000 or less, the amount of the exemption is the
22 equalized assessed value of the residence in the taxable
23 year for which application is made minus the base amount.

24 (2) For an applicant who has a household income
25 exceeding \$45,000 but not exceeding \$46,250, the amount of
26 the exemption is (i) the equalized assessed value of the

1 residence in the taxable year for which application is made
2 minus the base amount (ii) multiplied by 0.8.

3 (3) For an applicant who has a household income
4 exceeding \$46,250 but not exceeding \$47,500, the amount of
5 the exemption is (i) the equalized assessed value of the
6 residence in the taxable year for which application is made
7 minus the base amount (ii) multiplied by 0.6.

8 (4) For an applicant who has a household income
9 exceeding \$47,500 but not exceeding \$48,750, the amount of
10 the exemption is (i) the equalized assessed value of the
11 residence in the taxable year for which application is made
12 minus the base amount (ii) multiplied by 0.4.

13 (5) For an applicant who has a household income
14 exceeding \$48,750 but not exceeding \$50,000, the amount of
15 the exemption is (i) the equalized assessed value of the
16 residence in the taxable year for which application is made
17 minus the base amount (ii) multiplied by 0.2.

18 When the applicant is a surviving spouse of an applicant
19 for a prior year for the same residence for which an exemption
20 under this Section has been granted, the base year and base
21 amount for that residence are the same as for the applicant for
22 the prior year.

23 Each year at the time the assessment books are certified to
24 the County Clerk, the Board of Review or Board of Appeals shall
25 give to the County Clerk a list of the assessed values of
26 improvements on each parcel qualifying for this exemption that

1 were added after the base year for this parcel and that
2 increased the assessed value of the property.

3 In the case of land improved with an apartment building
4 owned and operated as a cooperative or a building that is a
5 life care facility that qualifies as a cooperative, the maximum
6 reduction from the equalized assessed value of the property is
7 limited to the sum of the reductions calculated for each unit
8 occupied as a residence by a person or persons (i) 65 years of
9 age or older, (ii) with a household income that does not exceed
10 the maximum income limitation, (iii) who is liable, by contract
11 with the owner or owners of record, for paying real property
12 taxes on the property, and (iv) who is an owner of record of a
13 legal or equitable interest in the cooperative apartment
14 building, other than a leasehold interest. In the instance of a
15 cooperative where a homestead exemption has been granted under
16 this Section, the cooperative association or its management
17 firm shall credit the savings resulting from that exemption
18 only to the apportioned tax liability of the owner who
19 qualified for the exemption. Any person who willfully refuses
20 to credit that savings to an owner who qualifies for the
21 exemption is guilty of a Class B misdemeanor.

22 When a homestead exemption has been granted under this
23 Section and an applicant then becomes a resident of a facility
24 licensed under the Nursing Home Care Act, the exemption shall
25 be granted in subsequent years so long as the residence (i)
26 continues to be occupied by the qualified applicant's spouse or

1 (ii) if remaining unoccupied, is still owned by the qualified
2 applicant for the homestead exemption.

3 Beginning January 1, 1997, when an individual dies who
4 would have qualified for an exemption under this Section, and
5 the surviving spouse does not independently qualify for this
6 exemption because of age, the exemption under this Section
7 shall be granted to the surviving spouse for the taxable year
8 preceding and the taxable year of the death, provided that,
9 except for age, the surviving spouse meets all other
10 qualifications for the granting of this exemption for those
11 years.

12 When married persons maintain separate residences, the
13 exemption provided for in this Section may be claimed by only
14 one of such persons and for only one residence.

15 For taxable year 1994 only, in counties having less than
16 3,000,000 inhabitants, to receive the exemption, a person shall
17 submit an application by February 15, 1995 to the Chief County
18 Assessment Officer of the county in which the property is
19 located. In counties having 3,000,000 or more inhabitants, for
20 taxable year 1994 and all subsequent taxable years, to receive
21 the exemption, a person may submit an application to the Chief
22 County Assessment Officer of the county in which the property
23 is located during such period as may be specified by the Chief
24 County Assessment Officer. The Chief County Assessment Officer
25 in counties of 3,000,000 or more inhabitants shall annually
26 give notice of the application period by mail or by

1 publication. In counties having less than 3,000,000
2 inhabitants, beginning with taxable year 1995 and thereafter,
3 to receive the exemption, a person shall submit an application
4 by July 1 of each taxable year to the Chief County Assessment
5 Officer of the county in which the property is located. A
6 county may, by ordinance, establish a date for submission of
7 applications that is different than July 1. The applicant shall
8 submit with the application an affidavit of the applicant's
9 total household income, age, marital status (and if married the
10 name and address of the applicant's spouse, if known), and
11 principal dwelling place of members of the household on January
12 1 of the taxable year. The Department shall establish, by rule,
13 a method for verifying the accuracy of affidavits filed by
14 applicants under this Section, and the Chief County Assessment
15 Officer may conduct audits of any taxpayer claiming an
16 exemption under this Section to verify that the taxpayer is
17 eligible to receive the exemption. Each application shall
18 contain or be verified by a written declaration that it is made
19 under the penalties of perjury. A taxpayer's signing a
20 fraudulent application under this Act is perjury, as defined in
21 Section 32-2 of the Criminal Code of 1961. The applications
22 shall be clearly marked as applications for the Senior Citizens
23 Assessment Freeze Homestead Exemption and must contain a notice
24 that any taxpayer who receives the exemption is subject to an
25 audit by the Chief County Assessment Officer.

26 Notwithstanding any other provision to the contrary, in

1 counties having fewer than 3,000,000 inhabitants, if an
2 applicant fails to file the application required by this
3 Section in a timely manner and this failure to file is due to a
4 mental or physical condition sufficiently severe so as to
5 render the applicant incapable of filing the application in a
6 timely manner, the Chief County Assessment Officer may extend
7 the filing deadline for a period of 30 days after the applicant
8 regains the capability to file the application, but in no case
9 may the filing deadline be extended beyond 3 months of the
10 original filing deadline. In order to receive the extension
11 provided in this paragraph, the applicant shall provide the
12 Chief County Assessment Officer with a signed statement from
13 the applicant's physician stating the nature and extent of the
14 condition, that, in the physician's opinion, the condition was
15 so severe that it rendered the applicant incapable of filing
16 the application in a timely manner, and the date on which the
17 applicant regained the capability to file the application.

18 Beginning January 1, 1998, notwithstanding any other
19 provision to the contrary, in counties having fewer than
20 3,000,000 inhabitants, if an applicant fails to file the
21 application required by this Section in a timely manner and
22 this failure to file is due to a mental or physical condition
23 sufficiently severe so as to render the applicant incapable of
24 filing the application in a timely manner, the Chief County
25 Assessment Officer may extend the filing deadline for a period
26 of 3 months. In order to receive the extension provided in this

1 paragraph, the applicant shall provide the Chief County
2 Assessment Officer with a signed statement from the applicant's
3 physician stating the nature and extent of the condition, and
4 that, in the physician's opinion, the condition was so severe
5 that it rendered the applicant incapable of filing the
6 application in a timely manner.

7 In counties having less than 3,000,000 inhabitants, if an
8 applicant was denied an exemption in taxable year 1994 and the
9 denial occurred due to an error on the part of an assessment
10 official, or his or her agent or employee, then beginning in
11 taxable year 1997 the applicant's base year, for purposes of
12 determining the amount of the exemption, shall be 1993 rather
13 than 1994. In addition, in taxable year 1997, the applicant's
14 exemption shall also include an amount equal to (i) the amount
15 of any exemption denied to the applicant in taxable year 1995
16 as a result of using 1994, rather than 1993, as the base year,
17 (ii) the amount of any exemption denied to the applicant in
18 taxable year 1996 as a result of using 1994, rather than 1993,
19 as the base year, and (iii) the amount of the exemption
20 erroneously denied for taxable year 1994.

21 For purposes of this Section, a person who will be 65 years
22 of age during the current taxable year shall be eligible to
23 apply for the homestead exemption during that taxable year.
24 Application shall be made during the application period in
25 effect for the county of his or her residence.

26 The Chief County Assessment Officer may determine the

1 eligibility of a life care facility that qualifies as a
2 cooperative to receive the benefits provided by this Section by
3 use of an affidavit, application, visual inspection,
4 questionnaire, or other reasonable method in order to insure
5 that the tax savings resulting from the exemption are credited
6 by the management firm to the apportioned tax liability of each
7 qualifying resident. The Chief County Assessment Officer may
8 request reasonable proof that the management firm has so
9 credited that exemption.

10 Except as provided in this Section, all information
11 received by the chief county assessment officer or the
12 Department from applications filed under this Section, or from
13 any investigation conducted under the provisions of this
14 Section, shall be confidential, except for official purposes or
15 pursuant to official procedures for collection of any State or
16 local tax or enforcement of any civil or criminal penalty or
17 sanction imposed by this Act or by any statute or ordinance
18 imposing a State or local tax. Any person who divulges any such
19 information in any manner, except in accordance with a proper
20 judicial order, is guilty of a Class A misdemeanor.

21 Nothing contained in this Section shall prevent the
22 Director or chief county assessment officer from publishing or
23 making available reasonable statistics concerning the
24 operation of the exemption contained in this Section in which
25 the contents of claims are grouped into aggregates in such a
26 way that information contained in any individual claim shall

1 not be disclosed.

2 (d) Each Chief County Assessment Officer shall annually
3 publish a notice of availability of the exemption provided
4 under this Section. The notice shall be published at least 60
5 days but no more than 75 days prior to the date on which the
6 application must be submitted to the Chief County Assessment
7 Officer of the county in which the property is located. The
8 notice shall appear in a newspaper of general circulation in
9 the county.

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

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

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.