



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3814

Introduced 10/5/2011, by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

35 ILCS 200/9-275 new

Amends the Property Tax Code. Provides that, if any property that was not eligible to receive a homestead exemption was granted a homestead exemption, then a tax lien may be placed against the property and the arrearages of taxes that might have been assessed, plus specified penalties and interest, shall be charged against the property by the county clerk. Contains provisions concerning notice and hearings. Provides that, if the erroneous homestead exemption is granted as a result of a clerical error or omission on the part of the chief county assessment officer, and if the owner has paid its tax bills as received for the year or years in which the error occurred, then the penalties shall not be chargeable to the owner.

LRB097 13227 HLH 57735 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 adding Section
5 9-275 as follows:

6 (35 ILCS 200/9-275 new)

7 Sec. 9-275. Erroneous homestead exemptions.

8 (a) If, upon determination by the chief county assessment
9 officer, any person or entity that was not eligible to receive
10 a homestead exemption under Article 15 of this Code was granted
11 one homestead exemption in error for real property in any year
12 or years not to exceed the 3 assessment years prior to the
13 assessment year in which the determination is made, then the
14 chief county assessment officer may cause to be served on the
15 person to whom the most recent tax bill was mailed a notice of
16 intent to record a tax lien against the property with respect
17 to which the erroneous homestead exemption was granted.

18 (b) If, upon determination by the chief county assessment
19 officer, any person or entity that was not eligible to receive
20 a homestead exemption under Article 15 of this Code was granted
21 2 homestead exemptions in error for real property in any year
22 or years not to exceed the 3 assessment years prior to the
23 assessment year in which the determination is made, then the

1 chief county assessment officer may cause to be served on the
2 person to whom the most recent tax bill was mailed a notice of
3 intent to record a tax lien against the property with respect
4 to which the erroneous homestead exemption was granted.

5 (c) If, upon determination by the chief county assessment
6 officer, any person or entity that was not eligible to receive
7 a homestead exemption under Article 15 of this Code was granted
8 3 or more homestead exemptions in error for real property in
9 any year or years not to exceed the 6 assessment years prior to
10 the assessment year in which the determination is made, then
11 the chief county assessment officer may cause to be served on
12 the person to whom the most recent tax bill was mailed a notice
13 of intent to record a tax lien against the property with
14 respect to which the erroneous homestead exemption was granted.

15 (d) The notice of intent to record a tax lien described in
16 subsections (a), (b), and (c) of this Section shall identify
17 the property against which the lien is being sought and shall
18 identify the assessment years in which the erroneous homestead
19 exemption was granted.

20 In counties with 3,000,000 or more inhabitants, the notice
21 must also include a form that the property owner may return to
22 the chief county assessment officer to request a hearing. The
23 property owner may request a hearing by returning the form
24 within 30 days after service. The hearing shall be held within
25 90 days after the property owner is served. The chief county
26 assessment officer shall promulgate rules of service and

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

16 In counties with less than 3,000,000 million inhabitants,
17 the notice must also include a form that the property owner may
18 return to the board of review to request a hearing. The
19 property owner may request a hearing by returning the form
20 within 30 days after service. The hearing shall be held within
21 90 days after the property owner is served. The board of review
22 shall follow its normal practices and procedures in conducting
23 the hearing. The property owner shall be allowed to present
24 evidence to board of review. After taking into consideration
25 all of the relevant testimony and evidence, the board of review
26 shall issue a decision on whether the property owner was

1 erroneously granted a homestead exemption for the assessment
2 year or years in question. The property owner may appeal the
3 board of review's ruling to the circuit court of the county
4 where the property is located under the Administrative Review
5 Law.

6 (e) A lien imposed under this Section shall be filed with
7 the county clerk and the county recorder of deeds, but may not
8 be filed sooner than 45 days after the notice was delivered to
9 the property owner if the property owner does not request a
10 hearing, or, until the conclusion of the hearing and all
11 appeals if the property owner does request a hearing.

12 (1) When a lien is filed pursuant to subsection (a) of
13 this Section, the arrearages of taxes that might have been
14 assessed, plus 5% interest per annum, shall be charged
15 against the property by the county clerk.

16 (2) When a lien is filed pursuant to subsection (b) of
17 this Section, the arrearages of taxes that might have been
18 assessed, plus a penalty of 25% of the total amount of
19 unpaid taxes for each year and 10% interest per annum,
20 shall be charged against the property by the county clerk.

21 (3) When a lien is filed pursuant to subsection (c) of
22 this Section, the arrearages of taxes that might have been
23 assessed, plus a penalty of 40% of the total amount of
24 unpaid taxes for each year and 15% interest per annum,
25 shall be charged against the property by the county clerk.

26 (f) If the erroneous homestead exemption was granted as a

1 result of a clerical error or omission on the part of the chief
2 county assessment officer, and if the owner has paid its tax
3 bills as received for the year or years in which the error
4 occurred, then the interest and penalties authorized by this
5 Section shall not be chargeable to the owner. However, nothing
6 in this Section shall prevent the collection of the principal
7 amount of back taxes due and owing.

8 (g) If, at the hearing, the property owner establishes that
9 it is a bona fide purchaser of the property for value, and
10 without notice of the erroneous homestead exemption, the
11 property owner shall not be liable for any unpaid back taxes,
12 interest, or penalties for the period of time prior to the date
13 that the property owner purchased the property. A certified
14 title to the property that is issued by the county clerk or
15 county recorder of deeds and is free and clear of any liens
16 imposed under subsections (a), (b), or (c) of this Section,
17 shall be prima facie evidence that the property owner is
18 without notice of the erroneous homestead exemption.

19 (h) When a lien is filed pursuant to subsection (e) of this
20 Section, the chief county assessment officer shall mail a copy
21 of the lien to the person to whom the most recent tax bill was
22 mailed and the outstanding liability created by such a lien is
23 due and payable within 30 days after the mailing of the lien by
24 the chief county assessment officer. This liability is deemed
25 delinquent and shall bear interest beginning on the day after
26 the due date. Any such liability deemed delinquent after that

1 due date shall bear interest at the rate of 1.5% per month or
2 portion thereof until paid.

3 (i) The unpaid taxes shall be paid to the appropriate
4 taxing districts. Interest shall be paid to the county where
5 the property is located. The penalty shall be paid to the chief
6 county assessment officer's office for the administration of
7 the provisions of this amendatory Act of the 97th General
8 Assembly.

9 (j) For purposes of this Section, "homestead exemption"
10 means an exemption under Section 15-165 (disabled veterans),
11 15-167 (returning veterans), 15-169 (disabled veterans
12 standard homestead), 15-170 (senior citizens), 15-172 (senior
13 citizens assessment freeze), 15-175 (general homestead),
14 15-176 (alternative general homestead), or 15-177 (long-time
15 occupant).