

HB2428



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2428

by Rep. Ryan Spain

SYNOPSIS AS INTRODUCED:

35 ILCS 200/9-275

Amends the Property Tax Code. Provides that the provisions of a section relating to erroneous homestead exemptions applies to all counties (currently, only counties with 3,000,000 or more inhabitants).

LRB100 09290 HLH 19448 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 "Taxpayer" means the property owner or leasehold owner that
13 erroneously received a homestead exemption upon property.

14 (b) Notwithstanding any other provision of law, ~~in counties~~
15 ~~with 3,000,000 or more inhabitants,~~ the chief county assessment
16 officer shall include the following information with each
17 assessment notice sent in a general assessment year: (1) a list
18 of each homestead exemption available under Article 15 of this
19 Code and a description of the eligibility criteria for that
20 exemption; (2) a list of each homestead exemption applied to
21 the property in the current assessment year; (3) information
22 regarding penalties and interest that may be incurred under
23 this Section if the taxpayer received an erroneous homestead
24 exemption in a previous taxable year; and (4) notice of the
25 60-day grace period available under this subsection. If, within
26 60 days after receiving his or her assessment notice, the

1 taxpayer notifies the chief county assessment officer that he
2 or she received an erroneous homestead exemption in a previous
3 taxable year, and if the taxpayer pays the erroneous exemption
4 principal amount, plus interest as provided in subsection (f),
5 then the taxpayer shall not be liable for the penalties
6 provided in subsection (f) with respect to that exemption.

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

1 of the 3 collection years immediately prior to the current
2 collection year in which the notice of discovery is served; or
3 (B) 3 or more 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 6 collection years immediately prior to the current
7 collection year in which the notice of discovery is served.
8 Prior to recording the lien against the property, the chief
9 county assessment officer shall cause to be served, by both
10 regular mail and certified mail, return receipt requested, on
11 the person to whom the most recent tax bill was mailed and the
12 owner of record, a notice of intent to record a lien against
13 the property. The chief county assessment officer shall cause
14 the notice of intent to record a lien to be served within 3
15 years from the date on which the notice of discovery was
16 served.

17 (c-5) The notice of discovery described in subsection (c)
18 shall: (1) identify, by property index number, the property for
19 which the chief county assessment officer has knowledge
20 indicating the existence of an erroneous homestead exemption;
21 (2) set forth the taxpayer's liability for principal, interest,
22 penalties, and administrative costs including, but not limited
23 to, recording fees described in subsection (f); (3) inform the
24 taxpayer that he or she will be served with a notice of intent
25 to record a lien within 3 years from the date of service of the
26 notice of discovery; (4) inform the taxpayer that he or she may

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

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

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

17 "Current tax year" means the year prior to the collection
18 year.

19 (d) The notice of intent to record a lien described in
20 subsection (c) shall: (1) identify, by property index number,
21 the property against which the lien is being sought; (2)
22 identify each specific homestead exemption that was
23 erroneously granted and the year or years in which each
24 exemption was granted; (3) set forth the erroneous exemption
25 principal amount due and the interest amount and any penalty
26 and administrative costs due; (4) inform the taxpayer that he

1 or she may request a hearing within 30 days after service and
2 may appeal the hearing officer's ruling to the circuit court;
3 (5) inform the taxpayer that he or she may pay the erroneous
4 exemption principal amount, plus interest and penalties,
5 within 30 days after service; and (6) inform the taxpayer that,
6 if the lien is recorded against the property, the amount of the
7 lien will be adjusted to include the applicable recording fee
8 and that fees for recording a release of the lien shall be
9 incurred by the taxpayer. A lien shall not be filed pursuant to
10 this Section if the taxpayer pays the erroneous exemption
11 principal amount, plus penalties and interest, within 30 days
12 of service of the notice of intent to record a lien.

13 (e) The notice of intent to record a lien shall also
14 include a form that the taxpayer may return to the chief county
15 assessment officer to request a hearing. The taxpayer may
16 request a hearing by returning the form within 30 days after
17 service. The hearing shall be held within 90 days after the
18 taxpayer is served. The chief county assessment officer shall
19 promulgate rules of service and procedure for the hearing. The
20 chief county assessment officer must generally follow rules of
21 evidence and practices that prevail in the county circuit
22 courts, but, because of the nature of these proceedings, the
23 chief county assessment officer is not bound by those rules in
24 all particulars. The chief county assessment officer shall
25 appoint a hearing officer to oversee the hearing. The taxpayer
26 shall be allowed to present evidence to the hearing officer at

1 the hearing. After taking into consideration all the relevant
2 testimony and evidence, the hearing officer shall make an
3 administrative decision on whether the taxpayer was
4 erroneously granted a homestead exemption for the taxable year
5 in question. The taxpayer may appeal the hearing officer's
6 ruling to the circuit court of the county where the property is
7 located as a final administrative decision under the
8 Administrative Review Law.

9 (f) A lien against the property imposed under this Section
10 shall be filed with the county recorder of deeds, but may not
11 be filed sooner than 60 days after the notice of intent to
12 record a lien was delivered to the taxpayer if the taxpayer
13 does not request a hearing, or until the conclusion of the
14 hearing and all appeals if the taxpayer does request a hearing.
15 If a lien is filed pursuant to this Section and the taxpayer
16 received one or 2 erroneous homestead exemptions during any of
17 the 3 collection years immediately prior to the current
18 collection year in which the notice of discovery is served,
19 then the erroneous exemption principal amount, plus 10%
20 interest per annum or portion thereof from the date the
21 erroneous exemption principal amount would have become due if
22 properly included in the tax bill, shall be charged against the
23 property by the chief county assessment officer. However, if a
24 lien is filed pursuant to this Section and the taxpayer
25 received 3 or more erroneous homestead exemptions during any of
26 the 6 collection years immediately prior to the current

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

16 (g) If a person received an erroneous homestead exemption
17 under Section 15-170 and: (1) the person was the spouse, child,
18 grandchild, brother, sister, niece, or nephew of the previous
19 taxpayer; and (2) the person received the property by bequest
20 or inheritance; then the person is not liable for the penalties
21 imposed under this Section for any year or years during which
22 the chief county assessment officer did not require an annual
23 application for the exemption. However, that person is
24 responsible for any interest owed under subsection (f).

25 (h) If the erroneous homestead exemption was granted as a
26 result of a clerical error or omission on the part of the chief

1 county assessment officer, and if the taxpayer has paid the tax
2 bills as received for the year in which the error occurred,
3 then the interest and penalties authorized by this Section with
4 respect to that homestead exemption shall not be chargeable to
5 the taxpayer. However, nothing in this Section shall prevent
6 the collection of the erroneous exemption principal amount due
7 and owing.

8 (i) A lien under this Section is not valid as to (1) any
9 bona fide purchaser for value without notice of the erroneous
10 homestead exemption whose rights in and to the underlying
11 parcel arose after the erroneous homestead exemption was
12 granted but before the filing of the notice of lien; or (2) any
13 mortgagee, judgment creditor, or other lienor whose rights in
14 and to the underlying parcel arose before the filing of the
15 notice of lien. A title insurance policy for the property that
16 is issued by a title company licensed to do business in the
17 State showing that the property is free and clear of any liens
18 imposed under this Section shall be prima facie evidence that
19 the taxpayer is without notice of the erroneous homestead
20 exemption. Nothing in this Section shall be deemed to impair
21 the rights of subsequent creditors and subsequent purchasers
22 under Section 30 of the Conveyances Act.

23 (j) When a lien is filed against the property pursuant to
24 this Section, the chief county assessment officer shall mail a
25 copy of the lien to the person to whom the most recent tax bill
26 was mailed and to the owner of record, and the outstanding

1 liability created by such a lien is due and payable within 30
2 days after the mailing of the lien by the chief county
3 assessment officer. This liability is deemed delinquent and
4 shall bear interest beginning on the day after the due date at
5 a rate of 1.5% per month or portion thereof. Payment shall be
6 made to the county treasurer. Upon receipt of the full amount
7 due, as determined by the chief county assessment officer, the
8 county treasurer shall distribute the amount paid as provided
9 in subsection (k). Upon presentment by the taxpayer to the
10 chief county assessment officer of proof of payment of the
11 total liability, the chief county assessment officer shall
12 provide in reasonable form a release of the lien. The release
13 of the lien provided shall clearly inform the taxpayer that it
14 is the responsibility of the taxpayer to record the lien
15 release form with the county recorder of deeds and to pay any
16 applicable recording fees.

17 (k) The county treasurer shall pay collected erroneous
18 exemption principal amounts, pro rata, to the taxing districts,
19 or their legal successors, that levied upon the subject
20 property in the taxable year or years for which the erroneous
21 homestead exemptions were granted, except as set forth in this
22 Section. The county treasurer shall deposit collected
23 penalties and interest into a special fund established by the
24 county treasurer to offset the costs of administration of the
25 provisions of this Section by the chief county assessment
26 officer's office, as appropriated by the county board. If the

1 costs of administration of this Section exceed the amount of
2 interest and penalties collected in the special fund, the chief
3 county assessor shall be reimbursed by each taxing district or
4 their legal successors for those costs. Such costs shall be
5 paid out of the funds collected by the county treasurer on
6 behalf of each taxing district pursuant to this Section.

7 (1) The chief county assessment officer in a county with
8 3,000,000 or more inhabitants shall establish an amnesty period
9 for all taxpayers owing any tax due to an erroneous homestead
10 exemption granted in a tax year prior to the 2013 tax year. The
11 amnesty period shall begin on the effective date of this
12 amendatory Act of the 98th General Assembly and shall run
13 through December 31, 2013. If, during the amnesty period, the
14 taxpayer pays the entire arrearage of taxes due for tax years
15 prior to 2013, the county clerk shall abate and not seek to
16 collect any interest or penalties that may be applicable and
17 shall not seek civil or criminal prosecution for any taxpayer
18 for tax years prior to 2013. Failure to pay all such taxes due
19 during the amnesty period established under this Section shall
20 invalidate the amnesty period for that taxpayer.

21 The chief county assessment officer in a county with less
22 than 3,000,000 inhabitants shall establish an amnesty period
23 for all taxpayers owing any tax due to an erroneous homestead
24 exemption granted in a tax year prior to the 2017 tax year. The
25 amnesty period shall begin on the effective date of this
26 amendatory Act of the 100th General Assembly and shall run

1 through December 31, 2017. If, during the amnesty period, the
2 taxpayer pays the entire arrearage of taxes due for tax years
3 prior to 2017, the county clerk shall abate and not seek to
4 collect any interest or penalties that may be applicable and
5 shall not seek civil or criminal prosecution for any taxpayer
6 for tax years prior to 2017. Failure to pay all such taxes due
7 during the amnesty period established under this Section shall
8 invalidate the amnesty period for that taxpayer.

9 The chief county assessment officer in a county with
10 3,000,000 or more inhabitants shall (i) mail notice of the
11 amnesty period with the tax bills for the second installment of
12 taxes for the 2012 assessment year and (ii) as soon as possible
13 after the effective date of this amendatory Act of the 98th
14 General Assembly, publish notice of the amnesty period in a
15 newspaper of general circulation in the county. Notices shall
16 include information on the amnesty period, its purpose, and the
17 method by which to make payment.

18 The chief county assessment officer in a county with less
19 than 3,000,000 inhabitants shall (i) mail notice of the amnesty
20 period with the tax bills for the second installment of taxes
21 for the 2016 assessment year and (ii) as soon as possible after
22 the effective date of this amendatory Act of the 100th General
23 Assembly, publish notice of the amnesty period in a newspaper
24 of general circulation in the county. Notices shall include
25 information on the amnesty period, its purpose, and the method
26 by which to make payment.

1 Taxpayers who are a party to any criminal investigation or
2 to any civil or criminal litigation that is pending in any
3 circuit court or appellate court, or in the Supreme Court of
4 this State, for nonpayment, delinquency, or fraud in relation
5 to any property tax imposed by any taxing district located in
6 the State on the effective date of this amendatory Act of the
7 98th General Assembly (if the property is located in a county
8 with 3,000,000 or more inhabitants) or on the effective date of
9 this amendatory Act of the 100th General Assembly (if the
10 property is located in a county with less than 3,000,000
11 inhabitants) may not take advantage of the amnesty period.

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

15 (Source: P.A. 98-93, eff. 7-16-13; 98-756, eff. 7-16-14;
16 98-811, eff. 1-1-15; 98-1143, eff. 1-1-15; 99-143, eff.
17 7-27-15; 99-851, eff. 8-19-16.)