

# 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.)