



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4804

Introduced 1/12/2010, by Rep. Dan Reitz

SYNOPSIS AS INTRODUCED:

35 ILCS 405/13

from Ch. 120, par. 405A-13

Amends the Illinois Estate and Generation-Skipping Transfer Tax Act. Provides that the State Treasurer may waive penalties imposed against a county treasurer for late payment under the Act on a case-by-case basis if the State Treasurer finds that imposing penalties would be unreasonable or unnecessarily burdensome because the delay in payment was due to an incident caused by the operation of an extraordinary force, including, but not limited to, the occurrence of a natural disaster, that cannot be foreseen, that cannot be avoided by the exercise of due care, and for which no person can be held liable. Effective immediately.

LRB096 17677 HLH 33039 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Estate and Generation-Skipping
5 Transfer Tax Act is amended by changing Section 13 as follows:

6 (35 ILCS 405/13) (from Ch. 120, par. 405A-13)

7 Sec. 13. Collection by county treasurers; tax collection
8 distribution fund.

9 (a) Collection by county treasurers. Each county treasurer
10 shall transmit to the State Treasurer all taxes, interest or
11 penalties paid to the county treasurer under this Act and in
12 the county treasurer's possession as of the last day of the
13 previous month, together with a report under oath identifying
14 the taxpayer for or by whom an amount was paid. Those amounts
15 and the report shall be transmitted to and received by the
16 State Treasurer by the 10th day of each month. At the same
17 time, a copy of the report shall be furnished to the Attorney
18 General. The report shall be in a form and contain the
19 particulars as the State Treasurer may prescribe. The State
20 Treasurer shall give the county treasurer a receipt for the
21 amount transmitted to the State Treasurer. Except as provided
22 in subsection (a-5) of this Section, if ~~if~~ any county treasurer
23 fails to pay to the State Treasurer all amounts that may be due

1 and payable under this Act as required by this Section, the
2 county treasurer shall pay to the State Treasurer, as a
3 penalty, a sum of money equal to the interest on the amounts
4 not paid at the rate of 1% per month from the time those
5 amounts are due by the county treasurer until those amounts are
6 paid. The sureties upon the official bond of the county
7 treasurer shall be security for the payment of the penalty. The
8 penalty under this Section may be recovered in a civil action
9 against the county treasurer and his or her sureties, in the
10 name of the People of the State of Illinois, in the circuit
11 court within the county wherein the county treasurer is
12 resident; and the penalty, when recovered, shall be paid into
13 the State treasury. The civil action to recover the penalty
14 shall be brought by the State treasurer within 10 days after
15 the failure of the county treasurer to pay to the State
16 Treasurer any amounts collected by the county treasurer within
17 the time required by this Act. Failure to bring the action
18 within that time shall not prevent the bringing of the action
19 thereafter. It is the duty of the State Treasurer to make
20 necessary and proper investigation to determine what amounts
21 should be paid under this Act.

22 (a-5) The State Treasurer may waive penalties imposed by
23 subsection (a) of this Section on a case-by-case basis if the
24 State Treasurer finds that imposing penalties would be
25 unreasonable or unnecessarily burdensome because the delay in
26 payment was due to an incident caused by the operation of an

1 extraordinary force, including, but not limited to, the
2 occurrence of a natural disaster, that cannot be foreseen, that
3 cannot be avoided by the exercise of due care, and for which no
4 person can be held liable.

5 (b) Transfer Tax Collection Distributive Fund. The
6 Transfer Tax Collection Distributive Fund is created as a
7 special fund in the State treasury. The Fund is a continuation
8 of the Fund of the same name created under the Illinois Estate
9 Tax Law, repealed by this Act. As soon as may be after the
10 first day of each month after the effective date of this Act,
11 the State Treasurer shall transfer from the General Revenue
12 Fund to the Transfer Tax Collection Distributive Fund an amount
13 equal to 6% of the net revenue realized from this Act during
14 the preceding month.

15 As soon as may be after the first day of each month, the
16 State Treasurer shall allocate among the counties of this State
17 the amount available in the Transfer Tax Collection
18 Distributive Fund. The allocation to each county shall be 6% of
19 the net revenues collected by the county treasurer under this
20 Act. The State Comptroller, pursuant to appropriation, shall
21 then pay those allocations over to the counties.

22 (Source: P.A. 86-737.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.