



Rep. Michael J. Zalewski

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LRB097 04207 HLH 56329 a

1 AMENDMENT TO SENATE BILL 395

2 AMENDMENT NO. _____. Amend Senate Bill 395 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Property Tax Code is amended by changing
5 Sections 9-195, 10-380, and 15-35 and by adding Sections 9-275,
6 15-57, and 16-181 as follows:

7 (35 ILCS 200/9-195)

8 Sec. 9-195. Leasing of exempt property.

9 (a) Except as provided in Sections 15-35, 15-55, 15-57,
10 15-60, 15-100, 15-103, and 15-185, when property which is
11 exempt from taxation is leased to another whose property is not
12 exempt, and the leasing of which does not make the property
13 taxable, the leasehold estate and the appurtenances shall be
14 listed as the property of the lessee thereof, or his or her
15 assignee. Taxes on that property shall be collected in the same
16 manner as on property that is not exempt, and the lessee shall

1 be liable for those taxes. However, no tax lien shall attach to
2 the exempt real estate. The changes made by this amendatory Act
3 of 1997 and by this amendatory Act of the 91st General Assembly
4 are declaratory of existing law and shall not be construed as a
5 new enactment. The changes made by Public Acts 88-221 and
6 88-420 that are incorporated into this Section by this
7 amendatory Act of 1993 are declarative of existing law and are
8 not a new enactment.

9 (b) The provisions of this Section regarding taxation of
10 leasehold interests in exempt property do not apply to any
11 leasehold interest created pursuant to any transaction
12 described in subsection (e) of Section 15-35, item (a) of
13 Section 15-35, Section 15-57, subsection (c-5) of Section
14 15-60, subsection (b) of Section 15-100, Section 15-103, or
15 Section 15-185.

16 (Source: P.A. 92-844, eff. 8-23-02; 92-846, eff. 8-23-02;
17 93-19, eff. 6-20-03.)

18 (35 ILCS 200/9-275 new)

19 Sec. 9-275. Erroneous homestead exemptions.

20 (a) If, upon determination by the chief county assessment
21 officer, any person or entity that was not eligible to receive
22 a homestead exemption under Article 15 of this Code was granted
23 one homestead exemption in error for real property in any year
24 or years not to exceed the 3 assessment years prior to the
25 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 (b) 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 2 homestead exemptions in error for real property in any year
9 or years not to exceed the 3 assessment years prior to the
10 assessment year in which the determination is made, then the
11 chief county assessment officer may cause to be served on the
12 person to whom the most recent tax bill was mailed a notice of
13 intent to record a tax lien against the property with respect
14 to which the erroneous homestead exemption was granted.

15 (c) If, upon determination by the chief county assessment
16 officer, any person or entity that was not eligible to receive
17 a homestead exemption under Article 15 of this Code was granted
18 3 or more homestead exemptions in error for real property in
19 any year or years not to exceed the 6 assessment years prior to
20 the assessment year in which the determination is made, then
21 the chief county assessment officer may cause to be served on
22 the person to whom the most recent tax bill was mailed a notice
23 of intent to record a tax lien against the property with
24 respect to which the erroneous homestead exemption was granted.

25 (d) The notice of intent to record a tax lien described in
26 subsections (a), (b), and (c) of this Section shall identify

1 the property against which the lien is being sought and shall
2 identify the assessment years in which the erroneous homestead
3 exemption was granted.

4 In counties with 3,000,000 or more inhabitants, the notice
5 must also include a form that the property owner may return to
6 the chief county assessment officer to request a hearing. The
7 property owner may request a hearing by returning the form
8 within 30 days after service. The hearing shall be held within
9 90 days after the property owner is served. The chief county
10 assessment officer shall promulgate rules of service and
11 procedure for the hearing. The chief county assessment officer
12 must generally follow rules of evidence and practices that
13 prevail in the county circuit courts, but, because of the
14 nature of these proceedings, the chief county assessment
15 officer is not bound by those rules in all particulars. The
16 chief county assessment officer shall appoint a hearing officer
17 to oversee the hearing. The property owner shall be allowed to
18 present evidence to the hearing officer at the hearing. After
19 taking into consideration all the relevant testimony and
20 evidence, the hearing officer shall make an administrative
21 decision on whether the property owner was erroneously granted
22 a homestead exemption for the assessment year or years in
23 question. The property owner may appeal the hearing officer's
24 ruling to the circuit court of the county where the property is
25 located under the Administrative Review Law.

26 In counties with less than 3,000,000 million inhabitants,

1 the notice must also include a form that the property owner may
2 return to the board of review to request a hearing. The
3 property owner may request a hearing by returning the form
4 within 30 days after service. The hearing shall be held within
5 90 days after the property owner is served. The board of review
6 shall follow its normal practices and procedures in conducting
7 the hearing. The property owner shall be allowed to present
8 evidence to board of review. After taking into consideration
9 all of the relevant testimony and evidence, the board of review
10 shall issue a decision on whether the property owner was
11 erroneously granted a homestead exemption for the assessment
12 year or years in question. The property owner may appeal the
13 board of review's ruling to the circuit court of the county
14 where the property is located under the Administrative Review
15 Law.

16 (e) A lien imposed under this Section shall be filed with
17 the county clerk and the county recorder of deeds, but may not
18 be filed sooner than 45 days after the notice was delivered to
19 the property owner if the property owner does not request a
20 hearing, or, until the conclusion of the hearing and all
21 appeals if the property owner does request a hearing.

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

26 (2) When a lien is filed pursuant to subsection (b) of

1 this Section, the arrearages of taxes that might have been
2 assessed, plus a penalty of 25% of the total amount of
3 unpaid taxes for each year and 10% interest per annum,
4 shall be charged against the property by the county clerk.

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

10 (f) If the erroneous homestead exemption was granted as a
11 result of a clerical error or omission on the part of the chief
12 county assessment officer, and if the owner has paid its tax
13 bills as received for the year or years in which the error
14 occurred, then the interest and penalties authorized by this
15 Section shall not be chargeable to the owner. However, nothing
16 in this Section shall prevent the collection of the principal
17 amount of back taxes due and owing.

18 (g) If, at the hearing, the property owner establishes that
19 it is a bona fide purchaser of the property for value, and
20 without notice of the erroneous homestead exemption, the
21 property owner shall not be liable for any unpaid back taxes,
22 interest, or penalties for the period of time prior to the date
23 that the property owner purchased the property. A certified
24 title to the property that is issued by the county clerk or
25 county recorder of deeds and is free and clear of any liens
26 imposed under subsections (a), (b), or (c) of this Section,

1 shall be prima facie evidence that the property owner is
2 without notice of the erroneous homestead exemption.

3 (h) When a lien is filed pursuant to subsection (e) of this
4 Section, the chief county assessment officer shall mail a copy
5 of the lien to the person to whom the most recent tax bill was
6 mailed and the outstanding liability created by such a lien is
7 due and payable within 30 days after the mailing of the lien by
8 the chief county assessment officer. This liability is deemed
9 delinquent and shall bear interest beginning on the day after
10 the due date. Any such liability deemed delinquent after that
11 due date shall bear interest at the rate of 1.5% per month or
12 portion thereof until paid.

13 (i) The unpaid taxes shall be paid to the appropriate
14 taxing districts. Interest shall be paid to the county where
15 the property is located. The penalty shall be paid to the chief
16 county assessment officer's office for the administration of
17 the provisions of this amendatory Act of the 97th General
18 Assembly.

19 (j) For purposes of this Section, "homestead exemption"
20 means an exemption under Section 15-165 (disabled veterans),
21 15-167 (returning veterans), 15-169 (disabled veterans
22 standard homestead), 15-170 (senior citizens), 15-172 (senior
23 citizens assessment freeze), 15-175 (general homestead),
24 15-176 (alternative general homestead), or 15-177 (long-time
25 occupant).

1 (35 ILCS 200/10-380)

2 Sec. 10-380. For the taxable years 2006 and thereafter,
3 ~~2007, 2008, and 2009~~, the chief county assessment officer in
4 the county in which property subject to a PPV Lease is located
5 shall apply the provisions of 10-370(b) (i) and 10-375(c) (i) of
6 this Division 14 in assessing and determining the value of any
7 PPV Lease for purposes of the property tax laws of this State.

8 (Source: P.A. 94-974, eff. 6-30-06.)

9 (35 ILCS 200/15-35)

10 Sec. 15-35. Schools. All property donated by the United
11 States for school purposes, and all property of schools, not
12 sold or leased or otherwise used with a view to profit, is
13 exempt, whether owned by a resident or non-resident of this
14 State or by a corporation incorporated in any state of the
15 United States. Also exempt is:

16 (a) property, along with the leasehold interest in that
17 property, of schools which is leased to the State, a unit
18 of local government, or school district ~~municipality~~ to be
19 used for governmental ~~municipal~~ purposes on a
20 not-for-profit basis;

21 (b) property of schools on which the schools are
22 located and any other property of schools used by the
23 schools exclusively for school purposes, including, but
24 not limited to, student residence halls, dormitories and
25 other housing facilities for students and their spouses and

1 children, staff housing facilities, and school-owned and
2 operated dormitory or residence halls occupied in whole or
3 in part by students who belong to fraternities, sororities,
4 or other campus organizations;

5 (c) property donated, granted, received or used for
6 public school, college, theological seminary, university,
7 or other educational purposes, whether held in trust or
8 absolutely;

9 (d) in counties with more than 200,000 inhabitants
10 which classify property, property (including interests in
11 land and other facilities) on or adjacent to (even if
12 separated by a public street, alley, sidewalk, parkway or
13 other public way) the grounds of a school, if that property
14 is used by an academic, research or professional society,
15 institute, association or organization which serves the
16 advancement of learning in a field or fields of study
17 taught by the school and which property is not used with a
18 view to profit;

19 (e) property owned by a school district. The exemption
20 under this subsection is not affected by any transaction in
21 which, for the purpose of obtaining financing, the school
22 district, directly or indirectly, leases or otherwise
23 transfers the property to another for which or whom
24 property is not exempt and immediately after the lease or
25 transfer enters into a leaseback or other agreement that
26 directly or indirectly gives the school district a right to

1 use, control, and possess the property. In the case of a
2 conveyance of the property, the school district must retain
3 an option to purchase the property at a future date or,
4 within the limitations period for reverters, the property
5 must revert back to the school district.

6 (1) If the property has been conveyed as described
7 in this subsection, the property is no longer exempt
8 under this Section as of the date when:

9 (A) the right of the school district to use,
10 control, and possess the property is terminated;

11 (B) the school district no longer has an option
12 to purchase or otherwise acquire the property; and

13 (C) there is no provision for a reverter of the
14 property to the school district within the
15 limitations period for reverters.

16 (2) Pursuant to Sections 15-15 and 15-20 of this
17 Code, the school district shall notify the chief county
18 assessment officer of any transaction under this
19 subsection. The chief county assessment officer shall
20 determine initial and continuing compliance with the
21 requirements of this subsection for tax exemption.
22 Failure to notify the chief county assessment officer
23 of a transaction under this subsection or to otherwise
24 comply with the requirements of Sections 15-15 and
25 15-20 of this Code shall, in the discretion of the
26 chief county assessment officer, constitute cause to

1 terminate the exemption, notwithstanding any other
2 provision of this Code.

3 (3) No provision of this subsection shall be
4 construed to affect the obligation of the school
5 district to which an exemption certificate has been
6 issued under this Section from its obligation under
7 Section 15-10 of this Code to file an annual
8 certificate of status or to notify the chief county
9 assessment officer of transfers of interest or other
10 changes in the status of the property as required by
11 this Code.

12 (4) The changes made by this amendatory Act of the
13 91st General Assembly are declarative of existing law
14 and shall not be construed as a new enactment; and

15 (f) in counties with more than 200,000 inhabitants
16 which classify property, property of a corporation, which
17 is an exempt entity under paragraph (3) of Section 501(c)
18 of the Internal Revenue Code or its successor law, used by
19 the corporation for the following purposes: (1) conducting
20 continuing education for professional development of
21 personnel in energy-related industries; (2) maintaining a
22 library of energy technology information available to
23 students and the public free of charge; and (3) conducting
24 research in energy and environment, which research results
25 could be ultimately accessible to persons involved in
26 education.

1 (Source: P.A. 91-513, eff. 8-13-99; 91-578, eff. 8-14-99;
2 92-16, eff. 6-28-01.)

3 (35 ILCS 200/15-57 new)

4 Sec. 15-57. Government property leased to another
5 government entity. If property is owned by the State, a unit of
6 local government, or a school district and that property is
7 leased to the State, a unit of local government, or a school
8 district, then the property is exempt from taxation under this
9 Code and the leasehold interest is exempt from taxation under
10 this Code or under any other law. The provisions of this
11 Section apply notwithstanding any other provision of law.

12 (35 ILCS 200/16-181 new)

13 Sec. 16-181. Stipulation to revised assessment. The board
14 of review whose decision is being appealed may, at its
15 discretion, enter into discussions with a taxpayer aimed at
16 achieving a stipulated revised assessment upon the property,
17 either prior to or after receipt of the taxpayer's petition
18 from the Property Tax Appeal Board. If such discussions
19 commence prior to the board of review's receipt of the
20 taxpayer's petition from the Property Tax Appeal Board, the
21 taxpayer shall provide the board of review with such evidence
22 of the taxpayer's timely filing of its appeal before the
23 Property Tax Appeal Board as the board of review may request,
24 including but not limited to a copy of the taxpayer's petition

1 as filed with the Property Tax Appeal Board. If, after
2 discussions have been entered into, the taxpayer and the board
3 of review propose to stipulate to a revised assessment of the
4 property, and if the original complaint requested a reduction
5 in assessed value of more than \$100,000, then the board of
6 review shall first serve a copy of the proposed stipulation or
7 assessment agreement on all taxing districts as shown on the
8 last available property tax bill, along with a copy of the
9 taxpayer's petition as provided to the board of review and all
10 other evidence used to reach the settlement. The taxing
11 districts so served shall have a period of 45 days after the
12 postmark date of the notice from the board of review to file a
13 written objection to the proposal, stating the reasons for the
14 objection, with the board of review. Failure of a taxing
15 district to object to the proposed assessment within the 45-day
16 objection period shall be considered acceptance of the proposed
17 assessment. Upon the later of (i) the expiration of the 45-day
18 objection period or (ii) written resolution of any timely filed
19 written objection received from a taxing district, the board of
20 review shall provide the proposed stipulation or assessment
21 agreement to the Property Tax Appeal Board along with a
22 certificate of service affirming that all taxing districts have
23 been notified of the proposed stipulation or assessment
24 agreement, and that no timely written objections to the
25 stipulation or assessment agreement have been received or that
26 any such objections have been fully resolved. The certificate

1 of service shall be signed by a member of the board of review
2 or the clerk of the board of review. Within 120 days after the
3 Property Tax Appeal Board's receipt of the stipulation or
4 assessment agreement and certificate of service, the Property
5 Tax Appeal Board shall issue a decision in accordance with the
6 stipulation or assessment agreement, unless it finds that the
7 Property Tax Appeal Board lacks jurisdiction over the appeal or
8 that the stipulation or assessment agreement is against the
9 manifest weight of the evidence.

10 If the board of review provides notice to the affected
11 taxing districts of the proposed stipulation or assessment
12 agreement, and a taxing district (i) does not respond to the
13 notice, (ii) accepts the proposed assessment, or (iii) reaches
14 a written resolution with the board of review and the taxpayer,
15 then the board of review is not required to otherwise send
16 notice as required by Section 16-180 of the Property Tax Code
17 to that taxing district, and that taxing district is precluded
18 from intervening or otherwise participating in the appeal
19 pending before the Property Tax Appeal Board challenging the
20 assessment. If a taxing district files a written objection to
21 the proposal to the board of review which is not followed by a
22 written resolution, then the appeal shall proceed as provided
23 by law, the board of review must notify that taxing district as
24 required by Section 16-180, and any proposed stipulation or
25 assessment agreement shall not be considered or introduced as
26 evidence in any proceeding before the Property Tax Appeal

1 Board.

2 Section 90. The State Mandates Act is amended by adding
3 Section 8.35 as follows:

4 (30 ILCS 805/8.35 new)

5 Sec. 8.35. Exempt mandate. Notwithstanding Sections 6 and 8
6 of this Act, no reimbursement by the State is required for the
7 implementation of any mandate created by this amendatory Act of
8 the 97th General Assembly.

9 Section 95. Applicability. The changes made by this
10 amendatory Act of the 97th General Assembly to the Property Tax
11 Code by changing Sections 9-195 and 15-35 and by adding Section
12 15-57 and to the State Mandates Act by adding Section 8.35
13 apply to taxable years 2010 and thereafter. In addition, those
14 changes and additions also apply to taxable years prior to
15 2010, but no such taxes paid for any taxable year prior to 2010
16 need be refunded.

17 Section 97. Severability. The provisions of this Act are
18 severable under Section 1.31 of the Statute on Statutes.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.".