



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5521

by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

35 ILCS 200/9-275

Amends the Property Tax Code. In a Section concerning erroneous homestead exemptions, provides for the collection of and imposes penalties and interest on the erroneous exemption principal amount (instead of the back taxes due an owing). Defines "erroneous exemption principal amount" as the total amount of property tax principal that would have been billed to a property index number but for the erroneous homestead exemption or exemptions a taxpayer received. Makes changes concerning the collection and distribution of the erroneous exemption principal amount, penalties, and interest, to provide that the county treasurer shall collect and distribute those proceeds. Makes other changes.

LRB098 19319 HLH 54471 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 (disabled veterans), 15-167 (returning veterans),
2 15-168 (disabled persons), 15-169 (disabled veterans standard
3 homestead), 15-170 (senior citizens), 15-172 (senior citizens
4 assessment freeze), 15-175 (general homestead), 15-176
5 (alternative general homestead), or 15-177 (long-time
6 occupant).

7 "Erroneous exemption principal amount" means the total
8 amount of property tax principal that would have been billed to
9 a property index number but for the erroneous homestead
10 exemption or exemptions a taxpayer received.

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

1 erroneous exemption principal amount ~~of back taxes due and~~
2 ~~owing with respect to that exemption~~, plus interest as provided
3 in subsection (f), then the property owner shall not be liable
4 for the penalties provided in subsection (f) with respect to
5 that exemption.

6 (c) In counties with 3,000,000 or more inhabitants, when
7 the chief county assessment officer determines that one or more
8 erroneous homestead exemptions was applied to the property, the
9 erroneous exemption principal amount, together with all
10 applicable interest and penalties as provided in subsections
11 (f) and (j), shall constitute a lien in the name of the People
12 of the State of Illinois on the property receiving the
13 erroneous homestead exemption. The chief county assessment
14 officer in a county with 3,000,000 or more inhabitants may
15 cause a lien to be recorded against property that (1) is
16 located in the county and (2) received one or more erroneous
17 homestead exemptions if, upon determination of the chief county
18 assessment officer, the property owner received: (A) one or 2
19 erroneous homestead exemptions for real property, including at
20 least one erroneous homestead exemption granted for the
21 property against which the lien is sought, during any of the 3
22 assessment years immediately prior to the assessment year in
23 which the notice of intent to record a ~~at-tax~~ lien is served;
24 or (B) ~~(2)~~ 3 or more erroneous homestead exemptions for real
25 property, including at least one erroneous homestead exemption
26 granted for the property against which the lien is sought,

1 during any of the 6 assessment years immediately prior to the
2 assessment year in which the notice of intent to record a a ~~at~~
3 ~~tax~~ lien is served. Prior to recording the lien against the
4 property, the chief county assessment officer shall cause to be
5 served, by both regular mail and certified mail, return receipt
6 requested, on the person to whom the most recent tax bill was
7 mailed and the owner of record, a notice of intent to record a
8 ~~tax~~ lien against the property.

9 (d) The notice of intent to record a ~~tax~~ lien described in
10 subsection (c) shall: (1) identify, by property index number,
11 the property against which the lien is being sought; (2)
12 identify each specific homestead exemption that was
13 erroneously granted and the year or years in which each
14 exemption was granted; (3) set forth the erroneous exemption
15 principal amount due and the interest amount and any penalty
16 due ~~the arrearage of taxes that would have been due if not for~~
17 ~~the erroneous homestead exemptions~~; (4) inform the property
18 owner that he or she may request a hearing within 30 days after
19 service and may appeal the hearing officer's ruling to the
20 circuit court; and (5) inform the property owner that he or she
21 may pay the erroneous exemption principal amount ~~due~~, plus
22 interest and penalties, within 30 days after service. A lien
23 shall not be filed pursuant to this Section if the property
24 owner pays the erroneous exemption principal amount, plus
25 penalties and interest, within 30 days of service of the notice
26 of intent to record a lien.

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

23 (f) A lien against the property imposed under this Section
24 shall be filed with the county recorder of deeds, but may not
25 be filed sooner than 60 days after the notice was delivered to
26 the property owner if the property owner does not request a

1 hearing, or until the conclusion of the hearing and all appeals
2 if the property owner does request a hearing. If a lien is
3 filed pursuant to this Section and the property owner received
4 one or 2 erroneous homestead exemptions during any of the 3
5 assessment years immediately prior to the assessment year in
6 which the notice of intent to record a ~~at-tax~~ lien is served,
7 then the erroneous exemption principal amount ~~arrearsages of~~
8 ~~taxes that might have been assessed for that property~~, plus 10%
9 interest per annum or portion thereof from the date the
10 erroneous exemption principal amount would have become due if
11 properly included in the tax bill, shall be charged against the
12 property by the chief county assessment officer ~~treasurer~~.
13 However, if a lien is filed pursuant to this Section and the
14 property owner received 3 or more erroneous homestead
15 exemptions during any of the 6 assessment years immediately
16 prior to the assessment year in which the notice of intent to
17 record a ~~at-tax~~ lien is served, the erroneous exemption
18 principal amount ~~arrearsages of taxes that might have been~~
19 ~~assessed for that property~~, plus a penalty of 50% of the total
20 amount of the erroneous exemption principal amount ~~unpaid taxes~~
21 ~~for each year~~ for that property and 10% interest per annum or
22 portion thereof from the date the erroneous exemption principal
23 amount would have become due if properly included in the tax
24 bill, shall be charged against the property by the chief county
25 assessment officer ~~treasurer~~.

26 (g) If a person received an erroneous homestead exemption

1 under Section 15-170 and: (1) the person was the spouse, child,
2 grandchild, brother, sister, niece, or nephew of the previous
3 property owner; and (2) the person received the property by
4 bequest or inheritance; then the person is not liable for the
5 penalties imposed under this Section ~~subsection~~ for any year or
6 years during which the chief county assessment officer did not
7 require an annual application for the exemption. However, that
8 person is responsible for any interest owed under subsection
9 (f).

10 (h) 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 property owner has paid
13 the ~~its~~ tax bills as received for the year in which the error
14 occurred, then the interest and penalties authorized by this
15 Section with respect to that homestead exemption shall not be
16 chargeable to the property owner. However, nothing in this
17 Section shall prevent the collection of the erroneous exemption
18 principal amount ~~of back taxes~~ due and owing.

19 (i) A lien under this Section is not valid as to (1) any
20 bona fide purchaser for value without notice of the erroneous
21 homestead exemption whose rights in and to the underlying
22 parcel arose after the erroneous homestead exemption was
23 granted but before the filing of the notice of lien; or (2) any
24 mortgagee, judgment creditor, or other lienor whose rights in
25 and to the underlying parcel arose before the filing of the
26 notice of lien. A title insurance policy for the property that

1 is issued by a title company licensed to do business in the
2 State showing that the property is free and clear of any liens
3 imposed under this Section shall be prima facie evidence that
4 the property owner is without notice of the erroneous homestead
5 exemption. Nothing in this Section shall be deemed to impair
6 the rights of subsequent creditors and subsequent purchasers
7 under Section 30 of the Conveyances Act.

8 (j) When a lien is filed against the property pursuant to
9 this Section, the chief county assessment officer shall mail a
10 copy of the lien to the person to whom the most recent tax bill
11 was mailed and to the owner of record, and the outstanding
12 liability created by such a lien is due and payable within 30
13 days after the mailing of the lien by the chief county
14 assessment officer. Payment shall be made to the ~~chief~~ county
15 treasurer. Upon assessment officer who shall, upon receipt of
16 the full amount due, as determined by the chief county
17 assessment officer, the county treasurer shall distribute the
18 amount paid as provided in subsection (k). Upon presentment by
19 the property owner to the chief county assessment officer of
20 proof of payment of the total liability, the chief county
21 assessment officer shall provide in reasonable form a release
22 of the lien ~~and shall transmit the funds received to the county~~
23 ~~treasurer for distribution as provided in subsection (i) of~~
24 ~~this Section~~. This liability is deemed delinquent and shall
25 bear interest beginning on the day after the due date at a rate
26 of 1.5 % per month or portion thereof.

1 (k) The county treasurer shall pay collected erroneous
2 exemption principal amounts, pro rata, ~~unpaid taxes shall be~~
3 paid to the appropriate taxing districts, or their legal
4 successors, that levied upon the subject property in the
5 assessment year or years for which the erroneous homestead
6 exemptions were granted. The county treasurer shall pay
7 collected interest. ~~Interest shall be paid to the county where~~
8 ~~the property is located. The county treasurer shall deposit~~
9 ~~collected penalties into a special fund established by the~~
10 ~~county treasurer to offset~~ ~~The penalty shall be paid to the~~
11 ~~chief county assessment officer's office for the costs of~~
12 administration of the provisions of this amendatory Act of the
13 98th General Assembly by the chief county assessment officer's
14 office, as appropriated by the county board.

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

1 during the amnesty period established under this Section shall
2 invalidate the amnesty period for that taxpayer.

3 The chief county assessment officer in a county with
4 3,000,000 or more inhabitants shall (i) mail notice of the
5 amnesty period with the tax bills for the second installment of
6 taxes for the 2012 assessment year and (ii) as soon as possible
7 after the effective date of this amendatory Act of the 98th
8 General Assembly, publish notice of the amnesty period in a
9 newspaper of general circulation in the county. Notices shall
10 include information on the amnesty period, its purpose, and the
11 method by ~~in~~ which to make payment.

12 Taxpayers who are a party to any criminal investigation or
13 to any civil or criminal litigation that is pending in any
14 circuit court or appellate court, or in the Supreme Court of
15 this State, for nonpayment, delinquency, or fraud in relation
16 to any property tax imposed by any taxing district located in
17 the State on the effective date of this amendatory Act of the
18 98th General Assembly may not take advantage of the amnesty
19 period.

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

23 (Source: P.A. 98-93, eff. 7-16-13; revised 9-11-13.)