



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1942

Introduced 2/23/2007, by Rep. Elaine Nekritz

#### SYNOPSIS AS INTRODUCED:

35 ILCS 200/16-170  
35 ILCS 200/16-175  
35 ILCS 200/16-180  
35 ILCS 200/16-185  
35 ILCS 200/16-186 new  
35 ILCS 200/17-10  
35 ILCS 200/18-53 new

Amends the Property Tax Code with respect to the Property Tax Appeal Board. Provides that the rules of practice and procedure of the Board shall differentiate cases involving a requested change of assessed value of \$300,000 or more on non-farm property other than that consisting solely of 6 or fewer residential units from cases involving other categories of property, allowing a simplified procedure for the latter and requiring the rules of evidence and motion practice as applied in the circuit courts of the State to be applied in rules adopted by the Board concerning the former. Makes changes concerning hearings, presumptions and burdens of proof, case management and discovery, procedures for review and correction of assessments, limitation on the assessment level claims in counties that classify, and sales ratio studies. Authorizes a taxing district to, without referendum, adopt a levy to recapture revenue lost by a property tax refund it is required to make. Makes other changes. Effective immediately.

LRB095 07661 BDD 27813 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

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 Sections 16-170, 16-175, 16-180, 16-185, and 17-10 and by  
6 adding Sections 16-186 and 18-53 as follows:

7 (35 ILCS 200/16-170)

8 Sec. 16-170. Hearings.

9 (a) A hearing shall be granted if any party to the appeal  
10 so requests, and, upon motion of any party to the appeal or by  
11 direction of the Property Tax Appeal Board, any appeal may be  
12 set down for a hearing, with proper notice to the interested  
13 parties. Notice to all interested taxing bodies shall be deemed  
14 to have been given when delivered by the board of review to  
15 ~~served upon~~ the State's Attorney of the county from which the  
16 appeal has been taken, except that in cases involving a  
17 requested change of assessed value of \$300,000 or more on  
18 non-farm property other than that consisting solely of 6 or  
19 fewer residential units notice shall also be given as provided  
20 in Section 16-180.

21 (b) Hearings may be held before less than a majority of the  
22 members of the Property Tax Appeal Board, and the chairman may  
23 assign members or hearing officers to hold hearings. Such

1 hearings shall be open to the public and shall be conducted in  
2 accordance with the rules of practice and procedure promulgated  
3 by the Board. In all cases the Board shall ensure that all  
4 parties are notified at least 60 days in advance of any  
5 scheduled hearing date.

6 (c) In all cases the Property Tax Appeal ~~The Board, on the~~  
7 Board's own motion or on motion of any party, shall ~~any member~~  
8 ~~or hearing officer may~~ require the production of any books,  
9 records, papers or other documents within the possession or  
10 control of any party that are ~~may be material or~~ relevant as  
11 evidence in any pending matter. The Board's rules, and any  
12 order requiring the production of documents pursuant thereto,  
13 shall provide a reasonable opportunity to all parties to review  
14 the documents produced and to introduce them in evidence  
15 ~~pending before it and necessary for the making of a just~~  
16 ~~decision.~~

17 (Source: P.A. 76-689; 88-455.)

18 (35 ILCS 200/16-175)

19 Sec. 16-175. Case management and discovery procedures;  
20 required disclosure of information in certain cases; expert  
21 witnesses; subpoenas.

22 (a) In cases involving a requested change of assessed value  
23 of \$300,000 or more on non-farm property other than that  
24 consisting solely of 6 or fewer residential units, the  
25 following procedures shall apply:

1           (1) The Property Tax Appeal Board shall schedule a case  
2           management conference within 70 to 90 days after the  
3           commencement of the appeal. The conference shall include  
4           the appellant, the taxpayer of record if other than the  
5           appellant, the State's Attorney, and any intervening  
6           taxing bodies. The parties shall discuss the possible  
7           settlement of the case. If a settlement cannot be reached  
8           at the conference, the Board shall issue a case management  
9           order scheduling any necessary discovery, any further  
10           prehearing conferences as may be necessary, and the  
11           hearing. The case management order shall provide for the  
12           exchange among the parties of the information concerning  
13           any expert and lay witnesses as enumerated in Illinois  
14           Supreme Court Rule 213, subdivisions (f)(1) through  
15           (f)(3), if such an exchange has not already occurred.

16           (2) Within 60 days after each party's first filing in  
17           the case, the following information and documents, if any,  
18           within that party's possession and control, shall be  
19           submitted to the Property Tax Appeal Board and to each  
20           opposing party:

21                   (A) Each party shall submit copies of any appraisal  
22                   or other written estimate of value pertaining to the  
23                   subject property that has a date of valuation within  
24                   the period of 2 years prior to and through the subject  
25                   tax year. The board of review need not, however, submit  
26                   appraisals or estimates of value not commissioned by

1           it, which are in its file solely because of prior  
2           submissions by the taxpayer.

3           (B) The taxpayer shall submit any contracts and  
4           closing statements relating to a transfer of ownership  
5           of the subject property within the period of 2 years  
6           prior to and through the subject tax year.

7           (C) Each party shall submit an affidavit attesting  
8           that the information provided in compliance with this  
9           subdivision (a)(2) is complete to the best of that  
10          party's knowledge, information, and belief.

11          (3) Discovery, including issuance of subpoenas on the  
12          Board's own motion or on request of any party, shall be  
13          allowed subject to the same rules as are applied in the  
14          circuit courts of the State, as near as may be.

15          (b) The following procedures shall apply in all cases:

16           (1) The name of any independent or controlled expert  
17           witness, as defined in Illinois Supreme Court Rule 213,  
18           subsection (f), who will be called by any party to testify  
19           at a hearing before the Property Tax Appeal Board and any  
20           reports or documents that will be used during the witness'  
21           testimony must be disclosed to the Board and to each  
22           opposing party at least 30 days prior to the date of  
23           hearing. The testimony of any witness whose identity,  
24           report, or documents have not been disclosed as required by  
25           this subdivision (b) (1) shall be barred.

26          (2) An appraisal or valuation report may be presented

1 and testified to by any qualified representative of either  
2 a governmental office on whose behalf the report was  
3 prepared or an appraisal firm with which the original  
4 author of the report was affiliated. Any such  
5 representative of a governmental office or appraisal firm  
6 shall, however, for all purposes related to his or her  
7 testimony, accept the same responsibility as the original  
8 author of the report for the opinions and other matters  
9 contained in the report.

10 (c) In all cases the Chairman of the Property Tax Appeal  
11 Board or his or her designee may issue subpoenas. Subpoenas  
12 ~~which~~ shall be served by any person lawfully authorized to  
13 serve a subpoena under the laws of the State of Illinois. In  
14 case of disobedience to a subpoena, the Board may petition any  
15 circuit court of the State for an order requiring the  
16 attendance and testimony of witnesses or production of  
17 documents. Witnesses attending any hearing held by the Property  
18 Tax Appeal Board, pursuant to any subpoena, shall be paid the  
19 same fees and mileage that are paid witnesses in the circuit  
20 courts of the State.

21 (Source: P.A. 83-1250; 88-455.)

22 (35 ILCS 200/16-180)

23 Sec. 16-180. Procedure for review and correction of  
24 assessments ~~determination of correct assessment~~. (a) The  
25 Property Tax Appeal Board shall establish by rules an

1 expeditious ~~informal~~ procedure for the review and, if  
2 necessary, determination of the correction of the correct  
3 assessment of property which is the subject of an appeal. The  
4 rules of practice and procedure of the Property Tax Appeal  
5 Board shall differentiate cases involving a requested change of  
6 assessed value of \$300,000 or more on non-farm property other  
7 than that consisting solely of 6 or fewer residential units  
8 from cases involving other categories of property. In cases  
9 involving only such other categories of property, the Board  
10 shall provide a simplified ~~The~~ procedure, to the extent that  
11 the Board considers practicable, that shall eliminate formal  
12 rules of pleading, practice and evidence. In all other cases  
13 the rules of evidence and motion practice as applied in the  
14 circuit courts of the State shall be applied in the procedure  
15 established by the Board. In all cases, and except for any  
16 reasonable filing fee determined by the Board, ~~may provide that~~  
17 costs shall be in the discretion of the Board.

18 (b) In cases subject to the simplified procedure under  
19 subsection (a) of this Section, the Property Tax Appeal Board  
20 rules may provide that each party's documentary evidence be  
21 submitted to the Board, which shall furnish copies of such  
22 evidence to the other parties in advance of the hearing. In  
23 cases not subject to the simplified procedure, the rules of the  
24 Board shall provide that:

25 (1) documentary evidence shall be directly exchanged  
26 among the parties with copies provided to the Board; and

1           (2) all petitions, motions, correspondence or other  
2           papers to be filed with the Board subsequent to the  
3           original appellant's petition shall be filed together with  
4           a certificate of counsel or other proof that copies thereof  
5           have been served directly upon all other parties in the  
6           same manner as required in practice in the circuit courts  
7           of the State.

8           (c) A copy of the appellant's petition shall be mailed by  
9 the clerk of the Property Tax Appeal Board to the board of  
10 review whose decision is being appealed. In all cases ~~where a~~  
11 ~~change in assessed valuation of \$100,000 or more is sought,~~ the  
12 board of review shall ~~serve a copy of the petition on all~~  
13 ~~taxing districts as shown on the last available tax bill. The~~  
14 ~~chairman of the Property Tax Appeal Board shall provide for the~~  
15 ~~speedy hearing of all such appeals.~~ Each appeal shall be  
16 limited to the grounds listed in the petition filed with the  
17 Property Tax Appeal Board.

18           (e) All appeals shall be considered de novo based solely  
19 upon the evidence, issues, and legal argument submitted to the  
20 Property Tax Appeal Board, without regard to whether such  
21 evidence, issues, and legal argument were previously submitted  
22 to the board of review and the Property Tax Appeal Board shall  
23 not be limited to the evidence presented to the board of review  
24 of the county. A party participating in the hearing before the  
25 Property Tax Appeal Board is entitled to introduce evidence  
26 that is otherwise proper and admissible without regard to



1 whether that evidence has previously been introduced at a  
2 hearing before the board of review of the county. ~~Where no~~  
3 ~~complaint has been made to the board of review of the county~~  
4 ~~where the property is located and the appeal is based solely on~~  
5 ~~the effect of an equalizing factor assigned to all property or~~  
6 ~~to a class of property by the board of review, the Property Tax~~  
7 ~~Appeal Board shall not grant a reduction in assessment greater~~  
8 ~~than the amount that was added as the result of the equalizing~~  
9 ~~factor.~~

10 The provisions added to this Section by this amendatory Act  
11 of the 93rd General Assembly shall be construed as declaratory  
12 of existing law and not as a new enactment.

13 (Source: P.A. 93-248, eff. 7-22-03; 93-758, eff. 7-16-04.)

14 (35 ILCS 200/16-185)

15 Sec. 16-185. Presumption and burden of proof; decisions.

16 (a) The assessment resulting from the decision of the board  
17 of review shall be presumed to be correct and legal, but the  
18 presumption is rebuttable. When market value is the subject of  
19 the appeal, the appellant shall have the burden of proving any  
20 contested matter of fact by a preponderance of the evidence.  
21 When uniformity is the basis of the appeal, the appellant shall  
22 have the burden of proving any contested matter of fact by  
23 clear and convincing evidence. When market value is the basis  
24 of the appeal, the Property Tax Appeal Board shall consider the  
25 appellant's valuation claim without regard to the correctness

1 of any practice, procedure, or method of valuation followed by  
2 the assessor or board of review in making or reviewing the  
3 assessment, and without regard to the intent or motivation of  
4 any assessing official.

5 (b) The Property Tax Appeal Board shall make a decision in  
6 each appeal ~~or case appealed to it, and the decision shall be~~  
7 based upon equity and the weight of evidence and not upon  
8 constructive fraud, and the decision shall be binding upon  
9 appellant and officials of government. The extension of taxes  
10 on any assessment so appealed shall not be delayed by any  
11 proceeding before the Board, and, in case the assessment is  
12 altered by the Board, any taxes extended upon the unauthorized  
13 assessment or part thereof shall be abated, or, if already  
14 paid, shall be refunded with interest as provided in Section  
15 23-20.

16 The decision or order of the Property Tax Appeal Board in  
17 any such appeal, shall, within 10 days thereafter, be certified  
18 at no charge to the appellant and to the proper authorities,  
19 including the board of review ~~or board of appeals~~ whose  
20 decision was appealed, the county clerk who extends taxes upon  
21 the assessment in question, and the county collector who  
22 collects property taxes upon such assessment.

23 (c) If no complaint has been made to the board of review of  
24 the county where the property is located and the appeal is  
25 based solely on the effect of an equalizing factor assigned to  
26 all property or to a class of property by the board of review,

1 the Property Tax Appeal Board shall not grant a reduction in  
2 assessment greater than the amount that was added as the result  
3 of the equalizing factor.

4 (d) If the Property Tax Appeal Board renders a decision  
5 lowering the assessment of a particular parcel after the  
6 deadline for filing complaints with the board of review ~~or~~  
7 ~~board of appeals~~ or after adjournment of the session of the  
8 board of review ~~or board of appeals~~ at which assessments for  
9 the subsequent year are being considered, the taxpayer may,  
10 within 30 days after the date of written notice of the Property  
11 Tax Appeal Board's decision, appeal the assessment for the  
12 subsequent year directly to the Property Tax Appeal Board.

13 (e) If the Property Tax Appeal Board renders a decision  
14 lowering the assessment of a particular parcel on which a  
15 residence occupied by the owner is situated, such reduced  
16 assessment, subject to equalization, shall remain in effect for  
17 the remainder of the general assessment period as provided in  
18 Sections 9-215 through 9-225, unless that parcel is  
19 subsequently sold in an arm's length transaction establishing a  
20 fair cash value for the parcel that is different from the fair  
21 cash value on which the Board's assessment is based, or unless  
22 the decision of the Property Tax Appeal Board is reversed or  
23 modified upon review.

24 (Source: P.A. 88-455; 88-660, eff. 9-16-94; 89-671, eff.  
25 8-14-96.)

1 (35 ILCS 200/16-186 new)

2 Sec. 16-186. Limitation on assessment level claims in  
3 counties that classify.

4 (a) Notwithstanding any other provision of this Code,  
5 except as otherwise provided in this Section, in appeals  
6 arising in counties that classify property for purposes of  
7 taxation pursuant to an ordinance adopted in accordance with  
8 Section 9-150, the Property Tax Appeal Board shall have no  
9 jurisdiction to consider whether a level of assessment other  
10 than the level specified in the classifying ordinance should  
11 apply to the property which is the subject of the appeal. Such  
12 issues shall not be considered by the Property Tax Appeal Board  
13 in its review and correction of assessments under Sections  
14 16-180 and 16-185 and related Sections.

15 (b) The limitation provided in this Section shall not apply  
16 in cases where the only subject of the appeal is a property  
17 assessed within any classification that includes single family  
18 residences under the ordinance adopted in accordance with  
19 Section 9-150. Nothing in this subsection, however, shall be  
20 construed to accord presumptive validity to Department ratio  
21 studies of property within any classification that includes  
22 single family residences nor shall this subsection be construed  
23 as prohibiting the introduction of evidence or argument by any  
24 party disputing the methodology or conclusions of these  
25 studies.

1 (35 ILCS 200/17-10)

2 Sec. 17-10. Sales ratio studies.

3 (a) The Department shall monitor the quality of local  
4 assessments by designing, preparing and using ratio studies,  
5 and shall use the results as the basis for equalization  
6 decisions. In compiling sales ratio studies, the Department  
7 shall exclude from the reported sales price of any property any  
8 amounts included for personal property and, for sales occurring  
9 through December 31, 1999, shall exclude seller paid points.  
10 The Department shall not include in its sales ratio studies  
11 sales of property which have been platted and for which an  
12 increase in the assessed valuation is restricted by Section  
13 10-30. The Department shall not include in its sales ratio  
14 studies the initial sale of residential property that has been  
15 converted to condominium property.

16 When the declaration required under the Real Estate  
17 Transfer Tax Law contains financing information required under  
18 Section 31-25, the Department shall adjust sales prices to  
19 exclude seller-paid points and shall adjust sales prices to  
20 "cash value" when seller related financing is used that is  
21 different than the prevailing cost of cash. The prevailing cost  
22 of cash for sales occurring on or after January 1, 1992 shall  
23 be established as the monthly average 30-year fixed Primary  
24 Mortgage Market Survey rate for the North Central Region as  
25 published weekly by the Federal Home Loan Mortgage Corporation,  
26 as computed by the Department, or such other rate as determined

1 by the Department. This rate shall be known as the survey rate.  
2 For sales occurring on or after January 1, 1992, through  
3 December 31, 1999, adjustments in the prevailing cost of cash  
4 shall be made only after the survey rate has been at or above  
5 13% for 12 consecutive months and will continue until the  
6 survey rate has been below 13% for 12 consecutive months. For  
7 sales occurring on or after January 1, 2000, adjustments for  
8 seller paid points and adjustments in the prevailing cost of  
9 cash shall be made only after the survey rate has been at or  
10 above 13% for 12 consecutive months and will continue until the  
11 survey rate has been below 13% for 12 consecutive months. The  
12 Department shall make public its adjustment procedure upon  
13 request.

14 (b) The General Assembly finds and declares that it has  
15 been and is the policy of this State that ratio studies by the  
16 Department pursuant to this Section and related Sections are  
17 designed and conducted for purposes of the State equalization  
18 process as set forth in Article 17 of this Code.  
19 Notwithstanding any other provision of this Code, except as  
20 otherwise provided in this Section, no ratio studies conducted  
21 pursuant to any provision of this Code by the Department shall  
22 be admitted in evidence in assessment appeal proceedings before  
23 boards of review or the Property Tax Appeal Board under Article  
24 16 of this Code. The studies by the Department, and any  
25 conclusions based on those studies, shall not be considered by  
26 the Property Tax Appeal Board under Sections 16-180 and 16-185

1 and related Sections or by boards of review under Sections  
2 16-20, 16-95, and related Sections.

3 (c) Nothing in subsection (b) of this Section prohibits  
4 boards of review or the Property Tax Appeal Board from  
5 complying with the requirement of Section 9-145, where  
6 applicable, that property in designated counties be valued at  
7 "33-1/3%" of its "fair cash value" as defined in this Code.

8 (d) In cases arising in counties that classify property for  
9 purposes of taxation pursuant to an ordinance adopted in  
10 accordance with Section 9-150, the limitation provided in  
11 subsection (b) of this Section shall not apply where the only  
12 subject of the appeal is a property assessed within any  
13 classification that includes single family residences under  
14 the ordinance adopted in accordance with Section 9-150. Nothing  
15 in this subsection, however, shall be construed to accord  
16 presumptive validity to Department studies of property within  
17 any classification that includes single family residences nor  
18 shall this subsection be construed as prohibiting the  
19 introduction of evidence or argument by any party disputing the  
20 methodology or conclusions of those studies.

21 (Source: P.A. 91-555, eff. 1-1-00.)

22 (35 ILCS 200/18-53 new)

23 Sec. 18-53. Recovery of revenue lost due to tax refunds.

24 (a) When a taxing district is required to refund a portion  
25 of the property tax revenue distributed to that taxing district

1 because of a decision of the Property Tax Appeal Board, an  
2 assessment or exemption decision of the Department of Revenue,  
3 a court order issued pursuant to an assessment valuation  
4 complaint under subdivision (b)(3) of Section 23-15, or an  
5 administrative decision of a local assessing official reducing  
6 the assessed value of a property within the district, that  
7 taxing district may, without referendum, adopt a levy to  
8 recapture the revenue lost by the refund or refunds. The  
9 recapture levy must not exceed an amount equal to the aggregate  
10 refunds paid by the district for the prior fiscal year. Within  
11 45 days after a request by a taxing district, the county  
12 treasurer must certify the aggregate refunds paid by a taxing  
13 district for purposes of this Section. For purposes of the  
14 Property Tax Extension Limitation Law, the taxing district's  
15 aggregate extension base shall not include the recapture levy  
16 authorized under this Section.

17 (b) Whenever the county treasurer certifies aggregate  
18 refunds at the request of a taxing district under this Section,  
19 the treasurer shall keep records of the individual refunds  
20 included in the aggregate. All such information shall be  
21 provided to the county clerk. The county clerk shall keep a  
22 record of such information and of any recapture levy that may  
23 thereafter be extended, so that the amount of such extension  
24 may be distinguished from any other levies and extensions for  
25 that district. The county treasurer's and the county clerk's  
26 records under this Section shall be available to the public



1 upon request.

2 (c) Any taxpayer who has received a refund of taxes paid on  
3 his or her property, which refund has been included in a  
4 recapture levy by a particular taxing district under this  
5 Section, shall have the right to have the extension of such  
6 district's levy against his or her property abated to the  
7 extent such extension exceeds \$500. The abatement shall be  
8 granted only upon application as provided in this Section. For  
9 purposes of this Section, the "property" for which the  
10 recapture extension may be abated is defined as one or more  
11 parcels which were the subject of a consolidated refund. If the  
12 taxing district's recapture levy and extension was made in a  
13 lesser amount than the aggregate of all refunds certified by  
14 the treasurer for that district, each abatement shall reflect  
15 that same proportionate reduction.

16 (d) A taxpayer seeking an abatement under this Section  
17 shall apply to the county treasurer no later than the due date  
18 under Section 23-10 for tax objection complaints regarding tax  
19 levies of the year for which the recapture levy was extended.  
20 The county treasurer may prescribe the form in which the  
21 application shall be made. The application shall include a copy  
22 of the decision or order that gave rise to the refund and shall  
23 specify the abatement claimed. The treasurer, assisted if  
24 necessary by the county clerk, shall confirm whether the refund  
25 identified in the application was included within the  
26 appropriate treasurer's certification of aggregate refunds,

1 and upon such confirmation the abatement shall be allowed as  
2 provided in this Section. If the taxes abated have been paid  
3 they shall be refunded. If the treasurer cannot determine  
4 whether the application should be allowed, or otherwise denies  
5 the application, any taxpayer who has paid the tax subject to  
6 the claimed abatement may petition the circuit court for a  
7 refund in the time and manner provided in Section 20-175. Any  
8 refund granted pursuant to an abatement shall not be included  
9 in a recapture levy under this Section.

10 (e) The county treasurer and county clerk shall mark their  
11 records to reflect any abatement under this Section.

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law.