



Rep. Michael J. Zalewski

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LRB097 04207 HLH 56201 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, 14-20, and 15-35 and by adding Sections
6 9-275, 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 assessment year in which the
25 determination is made and 2 assessment years prior to that

1 year, then the chief county assessment officer may cause to be
2 served on the person to whom the most recent tax bill was
3 mailed a notice of intent to record a tax lien against the
4 property with respect to which the erroneous homestead
5 exemption was granted.

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

17 (c) If, upon determination by the chief county assessment
18 officer, any person or entity that was not eligible to receive
19 a homestead exemption under Article 15 of this Code was granted
20 3 or more homestead exemptions in error for real property in
21 any year or years not to exceed the assessment year in which
22 the determination is made and 5 assessment years prior to that
23 year, then the chief county assessment officer may cause to be
24 served on the person to whom the most recent tax bill was
25 mailed a notice of intent to record a tax lien against the
26 property with respect to which the erroneous homestead

1 exemption was granted.

2 (d) The notice of intent to record a tax lien described in
3 subsections (a), (b), and (c) of this Section shall identify
4 the property against which the lien is being sought and shall
5 identify the assessment years in which the erroneous homestead
6 exemption was granted.

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

1 ruling to the circuit court of the county where the property is
2 located under the Administrative Review Law.

3 In counties with less than 3,000,000 million inhabitants,
4 the notice must also include a form that the property owner may
5 return to the board of review to request a hearing. The
6 property owner may request a hearing by returning the form
7 within 30 days after service. The hearing shall be held within
8 90 days after the property owner is served. The board of review
9 shall follow its normal practices and procedures in conducting
10 the hearing. The property owner shall be allowed to present
11 evidence to board of review. After taking into consideration
12 all of the relevant testimony and evidence, the board of review
13 shall issue a decision on whether the property owner was
14 erroneously granted a homestead exemption for the assessment
15 year or years in question. The property owner may appeal the
16 board of review's ruling to the circuit court of the county
17 where the property is located under the Administrative Review
18 Law.

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

25 (1) When a lien is filed pursuant to subsection (a) of
26 this Section, the arrearages of taxes that might have been

1 assessed, plus 5% interest per annum, shall be charged
2 against the property by the county clerk.

3 (2) When a lien is filed pursuant to subsection (b) of
4 this Section, the arrearages of taxes that might have been
5 assessed, plus a penalty of 25% of the total amount of
6 unpaid taxes for each year and 10% interest per annum,
7 shall be charged against the property by the county clerk.

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

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

21 (g) If, at the hearing, the property owner establishes that
22 it is a bona fide purchaser of the property for value, and
23 without notice of the erroneous homestead exemption, the
24 property owner shall not be liable for any unpaid back taxes,
25 interest, or penalties for the period of time prior to the date
26 that the property owner purchased the property. A certified

1 title to the property that is issued by the county clerk or
2 county recorder of deeds and is free and clear of any liens
3 imposed under subsections (a), (b), or (c) of this Section,
4 shall be prima facie evidence that the property owner is
5 without notice of the erroneous homestead exemption.

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

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

22 (j) For purposes of this Section, "homestead exemption"
23 means an exemption under Section 15-165 (disabled veterans),
24 15-167 (returning veterans), 15-169 (disabled veterans
25 standard homestead), 15-170 (senior citizens), 15-172 (senior
26 citizens assessment freeze), 15-175 (general homestead),

1 15-176 (alternative general homestead), or 15-177 (long-time
2 occupant).

3 (35 ILCS 200/10-380)

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

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

11 (35 ILCS 200/14-20)

12 Sec. 14-20. Certificate of error; counties of less than
13 3,000,000. In any county with less than 3,000,000 inhabitants,
14 if, at any time before judgment or order of sale is entered in
15 any proceeding to collect or to enjoin the collection of taxes
16 based upon any assessment of any property, the chief county
17 assessment officer discovers an error or mistake in the
18 assessment (other than errors of judgment as to the valuation
19 of the property), he or she shall issue to the person
20 erroneously assessed a certificate setting forth the nature of
21 the error and the cause or causes of the error. In any county
22 with less than 3,000,000 inhabitants, if an owner fails to file
23 an application for any homestead exemption provided under
24 Article 15 during any of the 3 previous assessment years ~~the~~

1 ~~previous assessment year~~ and qualifies for the exemption, the
2 Chief County Assessment Officer pursuant to this Section, or
3 the Board of Review pursuant to Section 16-75, may ~~shall~~ issue
4 a certificate of error setting forth the correct taxable
5 valuation of the property. The certificate, when properly
6 endorsed by the majority of the board of review, showing their
7 concurrence, and not otherwise, may be used in evidence in any
8 court of competent jurisdiction, and when so introduced in
9 evidence, shall become a part of the court record and shall not
10 be removed from the files except on an order of the court.

11 (Source: P.A. 96-522, eff. 8-14-09.)

12 (35 ILCS 200/15-35)

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

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

24 (b) property of schools on which the schools are
25 located and any other property of schools used by the

1 schools exclusively for school purposes, including, but
2 not limited to, student residence halls, dormitories and
3 other housing facilities for students and their spouses and
4 children, staff housing facilities, and school-owned and
5 operated dormitory or residence halls occupied in whole or
6 in part by students who belong to fraternities, sororities,
7 or other campus organizations;

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

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

22 (e) property owned by a school district. The exemption
23 under this subsection is not affected by any transaction in
24 which, for the purpose of obtaining financing, the school
25 district, directly or indirectly, leases or otherwise
26 transfers the property to another for which or whom

1 property is not exempt and immediately after the lease or
2 transfer enters into a leaseback or other agreement that
3 directly or indirectly gives the school district a right to
4 use, control, and possess the property. In the case of a
5 conveyance of the property, the school district must retain
6 an option to purchase the property at a future date or,
7 within the limitations period for reverters, the property
8 must revert back to the school district.

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

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

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

16 (C) there is no provision for a reverter of the
17 property to the school district within the
18 limitations period for reverters.

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

1 comply with the requirements of Sections 15-15 and
2 15-20 of this Code shall, in the discretion of the
3 chief county assessment officer, constitute cause to
4 terminate the exemption, notwithstanding any other
5 provision of this Code.

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

15 (4) The changes made by this amendatory Act of the
16 91st General Assembly are declarative of existing law
17 and shall not be construed as a new enactment; and

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

1 research in energy and environment, which research results
2 could be ultimately accessible to persons involved in
3 education.

4 (Source: P.A. 91-513, eff. 8-13-99; 91-578, eff. 8-14-99;
5 92-16, eff. 6-28-01.)

6 (35 ILCS 200/15-57 new)

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

15 (35 ILCS 200/16-181 new)

16 Sec. 16-181. Stipulation to revised assessment. The board
17 of review whose decision is being appealed may, at its
18 discretion, enter into discussions with a taxpayer aimed at
19 achieving a stipulated revised assessment upon the property,
20 either prior to or after receipt of the taxpayer's petition
21 from the Property Tax Appeal Board. If such discussions
22 commence prior to the board of review's receipt of the
23 taxpayer's petition from the Property Tax Appeal Board, the
24 taxpayer shall provide the board of review with such evidence

1 of the taxpayer's timely filing of its appeal before the
2 Property Tax Appeal Board as the board of review may request,
3 including but not limited to a copy of the taxpayer's petition
4 as filed with the Property Tax Appeal Board. If, after
5 discussions have been entered into, the taxpayer and the board
6 of review propose to stipulate to a revised assessment of the
7 property, and if the original complaint requested a reduction
8 in assessed value of more than \$100,000, then the board of
9 review shall first serve a copy of the proposed stipulation or
10 assessment agreement on all taxing districts as shown on the
11 last available property tax bill, along with a copy of the
12 taxpayer's petition as provided to the board of review and all
13 other evidence used to reach the settlement. The taxing
14 districts so served shall have a period of 45 days after the
15 postmark date of the notice from the board of review to file a
16 written objection to the proposal, stating the reasons for the
17 objection, with the board of review. Failure of a taxing
18 district to object to the proposed assessment within the 45-day
19 objection period shall be considered acceptance of the proposed
20 assessment. Upon the later of (i) the expiration of the 45-day
21 objection period or (ii) written resolution of any timely filed
22 written objection received from a taxing district, the board of
23 review shall provide the proposed stipulation or assessment
24 agreement to the Property Tax Appeal Board along with a
25 certificate of service affirming that all taxing districts have
26 been notified of the proposed stipulation or assessment

1 agreement, and that no timely written objections to the
2 stipulation or assessment agreement have been received or that
3 any such objections have been fully resolved. The certificate
4 of service shall be signed by a member of the board of review
5 or the clerk of the board of review. Within 120 days after the
6 Property Tax Appeal Board's receipt of the stipulation or
7 assessment agreement and certificate of service, the Property
8 Tax Appeal Board shall issue a decision in accordance with the
9 stipulation or assessment agreement, unless it finds that the
10 Property Tax Appeal Board lacks jurisdiction over the appeal or
11 that the stipulation or assessment agreement is against the
12 manifest weight of the evidence.

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

1 required by Section 16-180, and any proposed stipulation or
2 assessment agreement shall not be considered or introduced as
3 evidence in any proceeding before the Property Tax Appeal
4 Board.

5 Section 90. The State Mandates Act is amended by adding
6 Section 8.35 as follows:

7 (30 ILCS 805/8.35 new)

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

12 Section 95. Applicability. The changes made by this
13 amendatory Act of the 97th General Assembly to the Property Tax
14 Code by changing Sections 9-195 and 15-35 and by adding Section
15 15-57 and to the State Mandates Act by adding Section 8.35
16 apply to taxable years 2010 and thereafter. In addition, those
17 changes and additions also apply to taxable years prior to
18 2010, but no such taxes paid for any taxable year prior to 2010
19 need be refunded.

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

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".