



Rep. Michael J. Zalewski

Filed: 5/25/2011

09700SB0395ham006

LRB097 04207 HLH 56277 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 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 200/14-20)

10 Sec. 14-20. Certificate of error; counties of less than  
11 3,000,000. In any county with less than 3,000,000 inhabitants,  
12 if, at any time before judgment or order of sale is entered in  
13 any proceeding to collect or to enjoin the collection of taxes  
14 based upon any assessment of any property, the chief county  
15 assessment officer discovers an error or mistake in the  
16 assessment (other than errors of judgment as to the valuation  
17 of the property), he or she shall issue to the person  
18 erroneously assessed a certificate setting forth the nature of  
19 the error and the cause or causes of the error. In any county  
20 with less than 3,000,000 inhabitants, if an owner fails to file  
21 an application for any homestead exemption provided under  
22 Article 15 during any of the 3 previous assessment years ~~the~~  
23 ~~previous assessment year~~ and qualifies for the exemption, the  
24 Chief County Assessment Officer pursuant to this Section, or  
25 the Board of Review pursuant to Section 16-75, may ~~shall~~ issue



1 a certificate of error setting forth the correct taxable  
2 valuation of the property. The certificate, when properly  
3 endorsed by the majority of the board of review, showing their  
4 concurrence, and not otherwise, may be used in evidence in any  
5 court of competent jurisdiction, and when so introduced in  
6 evidence, shall become a part of the court record and shall not  
7 be removed from the files except on an order of the court.

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

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."