

SB0041



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB0041

Introduced 1/16/2013, by Sen. Antonio Muñoz

SYNOPSIS AS INTRODUCED:

35 ILCS 200/9-275 new

Amends the Property Tax Code. Allows the chief county assessment officer to record a tax lien against property that was granted one or more erroneous homestead exemptions. Contains provisions concerning notice, hearings, and penalties. Effective June 1, 2013.

LRB098 04285 HLH 35244 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 adding
5 Section 9-275 as follows:

6 (35 ILCS 200/9-275 new)

7 Sec. 9-275. Erroneous homestead exemptions.

8 (a) If, upon determination by the chief county assessment
9 officer, any person or entity that was not eligible to receive
10 a homestead exemption under Article 15 of this Code was granted
11 one homestead exemption in error for real property in any year
12 or years not to exceed the 3 assessment years prior to the
13 assessment year in which the determination is made, then the
14 chief county assessment officer may cause to be served, by both
15 regular mail and certified mail, return receipt requested, on
16 the person to whom the most recent tax bill was mailed and the
17 owner of record, a notice of intent to record a tax lien
18 against the property with respect to which the erroneous
19 homestead exemption was granted.

20 (b) 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 2 homestead exemptions in error for real property in any year

1 or years not to exceed the 3 assessment years prior to the
2 assessment year in which the determination is made, then the
3 chief county assessment officer may cause to be served, by both
4 regular mail and certified mail, return receipt requested, on
5 the person to whom the most recent tax bill was mailed and the
6 owner of record, a notice of intent to record a tax lien
7 against the property with respect to which the erroneous
8 homestead exemption was granted.

9 (c) If, upon determination by the chief county assessment
10 officer, any person or entity that was not eligible to receive
11 a homestead exemption under Article 15 of this Code was granted
12 3 or more homestead exemptions in error for real property in
13 any year or years not to exceed the 6 assessment years prior to
14 the assessment year in which the determination is made, then
15 the chief county assessment officer may cause to be served, by
16 both regular mail and certified mail, return receipt requested,
17 on the person to whom the most recent tax bill was mailed and
18 the owner of record, a notice of intent to record a tax lien
19 against the property with respect to which the erroneous
20 homestead exemption was granted.

21 (d) The notice of intent to record a tax lien described in
22 subsections (a), (b), and (c) of this Section shall identify
23 the property against which the lien is being sought and shall
24 identify the assessment years in which the erroneous homestead
25 exemption was granted.

26 In counties with 3,000,000 or more inhabitants, the notice

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

22 In counties with less than 3,000,000 inhabitants, the
23 notice must also include a form that the property owner may
24 return to the board of review to request a hearing. The
25 property owner may request a hearing by returning the form
26 within 30 days after service. The hearing shall be held within

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

12 (e) A lien against the property imposed under this Section
13 shall be filed with the county clerk and the county recorder of
14 deeds, but may not be filed sooner than 60 days after the
15 notice was delivered to the property owner if the property
16 owner does not request a hearing, or, until the conclusion of
17 the hearing and all appeals if the property owner does request
18 a hearing.

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

23 (2) When a lien is filed pursuant to subsection (b) of
24 this Section, the arrearages of taxes that might have been
25 assessed, plus a penalty of 25% of the total amount of
26 unpaid taxes for each year and 10% interest per annum,

1 shall be charged against the property by the county clerk.

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

7 A person who received an erroneous homestead exemption
8 under Section 15-170 in a county that did not require an annual
9 application for that exemption at the time the erroneous
10 homestead exemption was granted is not liable for the penalties
11 and interest imposed under this subsection (e) for those
12 assessment years if: (i) the person was the spouse, child,
13 grandchild, brother, sister, niece, or nephew of the previous
14 owner; and (ii) the person received the property by bequest or
15 inheritance. However, that person is responsible for any
16 interest owed under subsection (h) of this Section.

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

25 (g) If, at the hearing, the property owner establishes that
26 it is a bona fide purchaser of the property for value, and

1 without notice of the erroneous homestead exemption, the
2 property owner shall not be liable for any unpaid back taxes,
3 interest, or penalties for the period of time prior to the date
4 that the property owner purchased the property. A certified
5 title to the property that is issued by a title company
6 licensed to do business in the State and is free and clear of
7 any liens imposed under subsections (a), (b), or (c) of this
8 Section, shall be prima facie evidence that the property owner
9 is without notice of the erroneous homestead exemption.

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

26 (i) The unpaid taxes shall be paid to the appropriate

1 taxing districts. Interest shall be paid to the county where
2 the property is located. The penalty shall be paid to the chief
3 county assessment officer's office for the administration of
4 the provisions of this amendatory Act of the 98th General
5 Assembly.

6 (j) For purposes of this Section, "homestead exemption"
7 means an exemption under Section 15-165 (disabled veterans),
8 15-167 (returning veterans), 15-168 (disabled persons), 15-169
9 (disabled veterans standard homestead), 15-170 (senior
10 citizens), 15-172 (senior citizens assessment freeze), 15-175
11 (general homestead), 15-176 (alternative general homestead),
12 or 15-177 (long-time occupant).

13 Section 99. Effective date. This Act takes effect June 1,
14 2013.