

SB3476



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3476

Introduced 2/14/2014, by Sen. Antonio Muñoz

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. Defines "taxpayer" and makes other changes.

LRB098 20013 HLH 55241 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 "Taxpayer" means the property owner or leasehold owner that
12 erroneously received a homestead exemption upon property.

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

1 that he or she received an erroneous homestead exemption in a
2 previous assessment year, and if the property owner pays the
3 erroneous exemption principal amount of back taxes due and
4 owing with respect to that exemption, plus interest as provided
5 in subsection (f), then the property owner shall not be liable
6 for the penalties provided in subsection (f) with respect to
7 that exemption.

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

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

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

1 amount, plus penalties and interest, within 30 days of service
2 of the notice of intent to record a lien.

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

25 (f) A lien against the property imposed under this Section
26 shall be filed with the county recorder of deeds, but may not

1 be filed sooner than 60 days after the notice was delivered to
2 the property owner if the property owner does not request a
3 hearing, or until the conclusion of the hearing and all appeals
4 if the property owner does request a hearing. If a lien is
5 filed pursuant to this Section and the property owner received
6 one or 2 erroneous homestead exemptions during any of the 3
7 assessment years immediately prior to the assessment year in
8 which the notice of intent to record a ~~at-tax~~ lien is served,
9 then the erroneous exemption principal amount ~~arrearsages of~~
10 ~~taxes that might have been assessed for that property,~~ plus 10%
11 interest per annum or portion thereof from the date the
12 erroneous exemption principal amount would have become due if
13 properly included in the tax bill, shall be charged against the
14 property by the chief county assessment officer ~~treasurer~~.
15 However, if a lien is filed pursuant to this Section and the
16 property owner received 3 or more erroneous homestead
17 exemptions during any of the 6 assessment years immediately
18 prior to the assessment year in which the notice of intent to
19 record a ~~at-tax~~ lien is served, the erroneous exemption
20 principal amount ~~arrearsages of taxes that might have been~~
21 ~~assessed for that property,~~ plus a penalty of 50% of the total
22 amount of the erroneous exemption principal amount ~~unpaid taxes~~
23 ~~for each year~~ for that property and 10% interest per annum or
24 portion thereof from the date the erroneous exemption principal
25 amount would have become due if properly included in the tax
26 bill, shall be charged against the property by the chief county

1 assessment officer ~~treasurer~~.

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

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

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

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

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

1 bear interest beginning on the day after the due date at a rate
2 of 1.5 % per month or portion thereof.

3 (k) The county treasurer shall pay collected erroneous
4 exemption principal amounts, pro rata, ~~unpaid taxes shall be~~
5 ~~paid~~ to the ~~appropriate~~ taxing districts, or their legal
6 successors, that levied upon the subject property in the
7 assessment year or years for which the erroneous homestead
8 exemptions were granted. The county treasurer shall pay
9 collected interest. ~~Interest shall be paid to the county where~~
10 ~~the property is located. The county treasurer shall deposit~~
11 collected penalties into a special fund established by the
12 county treasurer to offset ~~The penalty shall be paid to the~~
13 ~~chief county assessment officer's office for the~~ costs of
14 administration of the provisions of this amendatory Act of the
15 98th General Assembly by the chief county assessment officer's
16 office, as appropriated by the county board.

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

1 shall not seek civil or criminal prosecution for any taxpayer
2 for tax years prior to 2013. Failure to pay all such taxes due
3 during the amnesty period established under this Section shall
4 invalidate the amnesty period for that taxpayer.

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

14 Taxpayers who are a party to any criminal investigation or
15 to any civil or criminal litigation that is pending in any
16 circuit court or appellate court, or in the Supreme Court of
17 this State, for nonpayment, delinquency, or fraud in relation
18 to any property tax imposed by any taxing district located in
19 the State on the effective date of this amendatory Act of the
20 98th General Assembly may not take advantage of the amnesty
21 period.

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

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