

**SB1290**



**99TH GENERAL ASSEMBLY**

**State of Illinois**

**2015 and 2016**

**SB1290**

Introduced 2/18/2015, by Sen. David Koehler

**SYNOPSIS AS INTRODUCED:**

35 ILCS 200/9-275

Amends the Property Tax Code. Provides that the provisions of a section relating to erroneous homestead exemptions applies to all counties (currently, only counties with 3,000,000 or more inhabitants).

LRB099 08854 HLH 29026 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 difference between the property taxes actually billed to a  
9 property index number and the amount of property taxes that  
10 would have been billed but for the erroneous exemption or  
11 exemptions.

12 "Taxpayer" means the property owner or leasehold owner that  
13 erroneously received a homestead exemption upon property.

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

1 taxpayer notifies the chief county assessment officer that he  
2 or she received an erroneous homestead exemption in a previous  
3 taxable year, and if the taxpayer pays the erroneous exemption  
4 principal amount, plus interest as provided in subsection (f),  
5 then the taxpayer shall not be liable for the penalties  
6 provided in subsection (f) with respect to that exemption.

7 (c) When ~~In counties with 3,000,000 or more inhabitants,~~  
8 ~~when~~ the chief county assessment officer determines that one or  
9 more erroneous homestead exemptions was applied to the  
10 property, the erroneous exemption principal amount, together  
11 with all applicable interest and penalties as provided in  
12 subsections (f) and (j), shall constitute a lien in the name of  
13 the people of that county ~~People of Cook County~~ on the property  
14 receiving the erroneous homestead exemption. Upon becoming  
15 aware of the existence of one or more erroneous homestead  
16 exemptions, the chief county assessment officer shall cause to  
17 be served, by both regular mail and certified mail, a notice of  
18 discovery as set forth in subsection (c-5). The chief county  
19 assessment officer ~~in a county with 3,000,000 or more~~  
20 ~~inhabitants~~ may cause a lien to be recorded against property  
21 that (1) is located in the county and (2) received one or more  
22 erroneous homestead exemptions if, upon determination of the  
23 chief county assessment officer, the taxpayer received: (A) one  
24 or 2 erroneous homestead exemptions for real property,  
25 including at least one erroneous homestead exemption granted  
26 for the property against which the lien is sought, during any

1 of the 3 collection years immediately prior to the current  
2 collection year in which the notice of discovery is served; or  
3 (B) 3 or more erroneous homestead exemptions for real property,  
4 including at least one erroneous homestead exemption granted  
5 for the property against which the lien is sought, during any  
6 of the 6 collection years immediately prior to the current  
7 collection year in which the notice of discovery is served.  
8 Prior to recording the lien against the property, the chief  
9 county assessment officer shall cause to be served, by both  
10 regular mail and certified mail, return receipt requested, on  
11 the person to whom the most recent tax bill was mailed and the  
12 owner of record, a notice of intent to record a lien against  
13 the property. The chief county assessment officer shall cause  
14 the notice of intent to record a lien to be served within 3  
15 years from the date on which the notice of discovery was  
16 served.

17 (c-5) The notice of discovery described in subsection (c)  
18 shall: (1) identify, by property index number, the property for  
19 which the chief county assessment officer has knowledge  
20 indicating the existence of an erroneous homestead exemption;  
21 (2) set forth the taxpayer's liability for principal, interest,  
22 penalties, and administrative costs including, but not limited  
23 to, recording fees described in subsection (f); (3) inform the  
24 taxpayer that he or she will be served with a notice of intent  
25 to record a lien within 3 years from the date of service of the  
26 notice of discovery; and (4) inform the taxpayer that he or she

1 may pay the outstanding amount, plus interest, penalties, and  
2 administrative costs at any time prior to being served with the  
3 notice of intent to record a lien or within 30 days after the  
4 notice of intent to record a lien is served.

5 (d) The notice of intent to record a lien described in  
6 subsection (c) shall: (1) identify, by property index number,  
7 the property against which the lien is being sought; (2)  
8 identify each specific homestead exemption that was  
9 erroneously granted and the year or years in which each  
10 exemption was granted; (3) set forth the erroneous exemption  
11 principal amount due and the interest amount and any penalty  
12 and administrative costs due; (4) inform the taxpayer that he  
13 or she may request a hearing within 30 days after service and  
14 may appeal the hearing officer's ruling to the circuit court;  
15 (5) inform the taxpayer that he or she may pay the erroneous  
16 exemption principal amount, plus interest and penalties,  
17 within 30 days after service; and (6) inform the taxpayer that,  
18 if the lien is recorded against the property, the amount of the  
19 lien will be adjusted to include the applicable recording fee  
20 and that fees for recording a release of the lien shall be  
21 incurred by the taxpayer. A lien shall not be filed pursuant to  
22 this Section if the taxpayer pays the erroneous exemption  
23 principal amount, plus penalties and interest, within 30 days  
24 of service of the notice of intent to record a lien.

25 (e) The notice of intent to record a lien shall also  
26 include a form that the taxpayer may return to the chief county

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

21 (f) A lien against the property imposed under this Section  
22 shall be filed with the county recorder of deeds, but may not  
23 be filed sooner than 60 days after the notice of intent to  
24 record a lien was delivered to the taxpayer if the taxpayer  
25 does not request a hearing, or until the conclusion of the  
26 hearing and all appeals if the taxpayer does request a hearing.

1 If a lien is filed pursuant to this Section and the taxpayer  
2 received one or 2 erroneous homestead exemptions during any of  
3 the 3 collection years immediately prior to the current  
4 collection year in which the notice of discovery is served,  
5 then the erroneous exemption principal amount, plus 10%  
6 interest per annum or portion thereof from the date the  
7 erroneous exemption principal amount would have become due if  
8 properly included in the tax bill, shall be charged against the  
9 property by the chief county assessment officer. However, if a  
10 lien is filed pursuant to this Section and the taxpayer  
11 received 3 or more erroneous homestead exemptions during any of  
12 the 6 collection years immediately prior to the current  
13 collection year in which the notice of discovery is served, the  
14 erroneous exemption principal amount, plus a penalty of 50% of  
15 the total amount of the erroneous exemption principal amount  
16 for that property and 10% interest per annum or portion thereof  
17 from the date the erroneous exemption principal amount would  
18 have become due if properly included in the tax bill, shall be  
19 charged against the property by the chief county assessment  
20 officer. If a lien is filed pursuant to this Section, the  
21 taxpayer shall not be liable for interest that accrues between  
22 the date the notice of discovery is served and the date the  
23 lien is filed. Before recording the lien with the county  
24 recorder of deeds, the chief county assessment officer shall  
25 adjust the amount of the lien to add administrative costs,  
26 including but not limited to the applicable recording fee, to



1 the total lien amount.

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 taxpayer; and (2) the person received the property by bequest  
6 or inheritance; then the person is not liable for the penalties  
7 imposed under this Section for any year or years during which  
8 the chief county assessment officer did not require an annual  
9 application for the exemption. However, that person is  
10 responsible for any interest owed under subsection (f).

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

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

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

9 (j) When a lien is filed against the property pursuant to  
10 this Section, the chief county assessment officer shall mail a  
11 copy of the lien to the person to whom the most recent tax bill  
12 was mailed and to the owner of record, and the outstanding  
13 liability created by such a lien is due and payable within 30  
14 days after the mailing of the lien by the chief county  
15 assessment officer. This liability is deemed delinquent and  
16 shall bear interest beginning on the day after the due date at  
17 a rate of 1.5% per month or portion thereof. Payment shall be  
18 made to the county treasurer. Upon receipt of the full amount  
19 due, as determined by the chief county assessment officer, the  
20 county treasurer shall distribute the amount paid as provided  
21 in subsection (k). Upon presentment by the taxpayer to the  
22 chief county assessment officer of proof of payment of the  
23 total liability, the chief county assessment officer shall  
24 provide in reasonable form a release of the lien. The release  
25 of the lien provided shall clearly inform the taxpayer that it  
26 is the responsibility of the taxpayer to record the lien

1 release form with the county recorder of deeds and to pay any  
2 applicable recording fees.

3 (k) The county treasurer shall pay collected erroneous  
4 exemption principal amounts, pro rata, to the taxing districts,  
5 or their legal successors, that levied upon the subject  
6 property in the taxable year or years for which the erroneous  
7 homestead exemptions were granted, except as set forth in this  
8 Section. The county treasurer shall deposit collected  
9 penalties and interest into a special fund established by the  
10 county treasurer to offset the costs of administration of the  
11 provisions of this Section by the chief county assessment  
12 officer's office, as appropriated by the county board. If the  
13 costs of administration of this Section exceed the amount of  
14 interest and penalties collected in the special fund, the chief  
15 county assessor shall be reimbursed by each taxing district or  
16 their legal successors for those costs. Such costs shall be  
17 paid out of the funds collected by the county treasurer on  
18 behalf of each taxing district pursuant to this Section.

19 (l) The chief county assessment officer in a county with  
20 3,000,000 or more inhabitants shall establish an amnesty period  
21 for all taxpayers owing any tax due to an erroneous homestead  
22 exemption granted in a tax year prior to the 2013 tax year. The  
23 amnesty period shall begin on the effective date of this  
24 amendatory Act of the 98th General Assembly and shall run  
25 through December 31, 2013. If, during the amnesty period, the  
26 taxpayer pays the entire arrearage of taxes due for tax years

1 prior to 2013, the county clerk shall abate and not seek to  
2 collect any interest or penalties that may be applicable and  
3 shall not seek civil or criminal prosecution for any taxpayer  
4 for tax years prior to 2013. Failure to pay all such taxes due  
5 during the amnesty period established under this Section shall  
6 invalidate the amnesty period for that taxpayer.

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

16 Taxpayers who are a party to any criminal investigation or  
17 to any civil or criminal litigation that is pending in any  
18 circuit court or appellate court, or in the Supreme Court of  
19 this State, for nonpayment, delinquency, or fraud in relation  
20 to any property tax imposed by any taxing district located in  
21 the State on the effective date of this amendatory Act of the  
22 98th General Assembly may not take advantage of the amnesty  
23 period.

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

1 (Source: P.A. 98-93, eff. 7-16-13; 98-756, eff. 7-16-14;  
2 98-811, eff. 1-1-15; 98-1143, eff. 1-1-15.)