

Instructions for Assessing Property in Lake County for 2022



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December 9, 2021

Township Assessors:

This meeting is called pursuant to 35 ILCS 200/9-15, which requires me to “assemble all assessors and their deputies and instruct them in the uniformity of their functions.” These instructions are required to be in writing and available to the public. Accordingly, this entire document is available to the public in a PDF file on www.assessor.lakecountyil.gov.

The 2022 assessment year is the fourth year of the 2019-2022 quadrennial assessment cycle. Property tax is the only stable source of revenue at the present time; therefore, our continued focus in 2022 will continue to include emphasis on the statutory deadlines in all areas of the property tax cycle.

All Illinois assessing officers are required to follow the state property tax code (35 ILCS 200/1-1, et seq.) and the applicable regulations provided in the Illinois Administrative Code. The instructions herein are intended to provide for the orderly processing of assessments pursuant to these laws and regulations and shall not be construed to be contrary to either.

Please feel free to reach out to me with any questions.

Robert S. Glueckert

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County Assessment Office Contacts

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The 2022 Assessment Cycle

(35 ILCS 200/9-160: Valuation in years other than General Assessment Years)

Responsibilities of each Township Assessor

- **Discover, list, and value properties in the township as of January 1 of the assessment year (35 ILCS 200/9-95, et seq.)**
- **“Revise and Correct” assessments as needed (35 ILCS 200/9-75, et seq.)**
- **Return assessment rolls to the Supervisor or Assessments by June 15 of the assessment year (35 ILCS 200/9-230)**



Responsibilities of the Supervisor of Assessments

- **Assembling township assessors for instruction on the assessment process (9-15)**
- **Preparing and maintaining tax maps and parcel ownership information (9-35)**
- **Receiving and analyzing township assessment rolls (9-230, et seq.)**
- **Equalizing assessments within the county or any area therein (9-210)**
- **Applying various exemptions to homestead properties (15-165, et seq.)**
- **Publishing the assessment roll for each township (12-10)**
- **Providing mailed notice to owners of property with revised assessments (12-30)**
- **Certifying assessment roll to the Board of Review (9-245)**
- **Reporting statistical abstracts to the Illinois Department of Revenue (17-15)**
- **Serving as Clerk of the Board of Review (3-30)**



Responsibilities of the Board of Review

- **Convening on or before the first Monday in June of the assessment year (16-30)**
- **Adopting and publishing rules and procedures (9-5)**
- **Hearing complaints and correcting assessments for the current assessment year as appears to be just (16-55)**
- **Reviewing and ruling on applications for exemptions (16-70)**
- **Issuing certificates of error for the prior assessment year until judgment (16-75)**
- **Certifying the assessment roll to the County Clerk (16-85, et seq.)**
- **Adjourning by March 15 of the year following the assessment year (16-35)**

Legal Citations are from the Illinois Property Tax Code ([35 ILCS 200/1-1, et seq.](#)).

Valuation in Years other than General Assessment Years

35 ILCS 200/9-160, et seq.

The 2022 assessment year is the fourth year in the four-year cycle that began in 2019 (the most recent general assessment year). The courts have ruled that a non-general-assessment year should be treated differently than a general assessment year. In 2022, the law requires an assessor to:

- “list and assess all property which becomes taxable and which is not upon the general assessment” (i.e., the 2019 general assessment);
- “return a list of all new or added buildings, structures or other improvements of any kind . . . and the value which, in his or her opinion, has been added to the property by the improvements”;
- “include or exclude, on a proportionate basis in accordance with the provisions of Section 9-180, all new or added buildings, structures or other improvements, the value of which was not included in the valuation of the property for that year, and all improvements which were destroyed or removed;”
- “Revise AND correct any assessment as appears to be just.” (35 ILCS 200/9-75)
 - Section 9-75 permits an assessor to “revise and correct an assessment as appears to be just. 35 ILCS 200/9-75 (West 1994). **The assessor does not have the authority to revise or correct. If the legislature so intended, it would have so indicated.** The circumstances of the instant appeal do not require a revision and correction of the assessment to cure an “unjust” assessment in 1995. The record shows that the reason for the reassessment in 1996 was not due to an incorrect assessment in the 1995 quadrennial year or to changes made to the property.” *Albee v. Soat*, 315 Ill.App.3d 388 (2nd Dist. 2000)
- If a property was assessed correctly in 2019, and there were no changes to the property since that time, the legal authority to change an assessment is limited to equalization “between or within townships or between classes of property, or when deemed necessary to raise or lower assessments within a county or any part thereof to the level prescribed by law.” (35 ILCS 200/9-205)

Use of Sale Price in Assessments

sale chase (verb; inflected form: **sale chas-ing**)

¹to change assessments on individual properties that have recently sold, without changing assessments on comparable properties that have not sold.

²to appraise without regard to uniformity, in violation of 35 ILCS 200/9-145, *et seq.*

The Illinois Constitution requires that “taxes upon real property shall be levied uniformly by valuation ascertained as the General Assembly shall provide by law” (Ill. Const. Art. 9, § 4(A) (1970))

The Illinois Supreme Court has held that using recent sales prices to determine the fair cash value and tax assessment of only certain parcels of property violates the uniformity clause of the Illinois Constitution (*Walsh v. State Property Tax Appeal Bd.*, App. 3 Dist.1997, 222 Ill.Dec. 286, 286 Ill.App.3d 895, 677 N.E.2d 489, appeal allowed 226 Ill.Dec. 140, 173 Ill.2d 548, 684 N.E.2d 1343, affirmed 229 Ill.Dec. 487, 181 Ill.2d 228, 692 N.E.2d 260).

Regarding the use of subject property sale prices in assessment appeals:

- The Illinois Supreme Court has held that “fair cash value” means “what the property would bring at a voluntary sale where the owner is ready, willing and able to sell but not compelled to do so, and the buyer is ready, willing and able to buy but not forced so to do . . .” [citation omitted]. See *Springfield Marine Bank v. Property Tax Appeal Board*, 44 Ill. 2d 428, 430, 256 N.E.2d 334, 336, (1970).
- Illinois courts have consistently held that “a contemporaneous sale between parties dealing at arm’s length is not only relevant to the question of fair cash market value but would be practically conclusive on the issue of whether an assessment was at full value.” See *People ex rel. Korzen v. Belt Ry. Co. of Chicago*, 37 Ill. 2d 158, 161, 226 N.E.2d 265, 267, (1967).
- However, the sale price of property does not necessarily establish its value without further information on the relationship of the buyer and seller and other circumstances. See *Ellsworth Grain Co. v. Illinois Property Tax Appeal Board*, 172 Ill.App.3d 552, 526 N.E.2d 885 (4thDist. 1988).

In 1993, the Property Tax Appeal Board promulgated “Board Policy Concerning Assessment of Owner-Occupied Residential Property.” This policy properly states, absent proof that a transaction is not arms-length, a recent sale price of a property under appeal will carry substantial weight in the decision of the Board. However, this policy should not be used as an excuse for assessing each property that has sold based on its sale price while not concurrently reassessing comparable property. Certainly, an arms-length sale of a property is normally an excellent indicator of the market value of that property and similar properties. However, when using sales to assess property, it is important that both sold and unsold properties be treated in the same manner. Properties which have sold should be reassessed to the level of assessments in the jurisdiction, but the sale information should also be used to reassess similarly situated properties to the same level of assessments.

Exposure to the Open Market

During the past few years, there has been much discussion in the assessment community concerning exposure to the open market and what evidence the department requires in order to support removal of sales not exposed to the open market in the Department's sales-ratio studies.

In 1994, the Department of Revenue adopted this definition of "Exposure to the Open Market", which is still in use:

Exposure to the open market means that the owner of a parcel of real property either personally or by agent gave notice to the general public by advertisement or other means of the intention of that owner to sell that parcel of real property to another person.

If you wish to seek the removal of a sale from a study for this reason, you may submit applicable evidence any time before the close of the tentative hearing. Evidence which may be submitted includes:

1. A written statement from the seller stating that only the buyer had the opportunity to purchase the property;
2. A copy of a contract stating that the buyer had the option to buy at the time of the sale;
3. A written statement from the seller indicating that the property was not listed with a real estate agent or broker, that the property was not advertised for sale in a newspaper, magazine, or through broadcast or electronic media (including the internet), and that there was no sign indicating that the property was for sale; or
4. A written statement from the buyer stating that he approached the seller about purchasing the property without the seller having indicated in any way that the property was for sale.

In 2010 the General Assembly adopted Public Act 96-1083, which changes how certain "compulsory sales" are treated in the equalization process. **While the law does not address whether township assessors can or must use them in the assessment process, it does require that they be used in the equalization and appeal process.** For more information on how these will be applied, please see the bulletins from the Department of Revenue on the following pages.



Illinois Department of Revenue

101 W. Jefferson St.
Springfield, IL 62702

October 1, 2010

To: Chief County Assessment Officers and Board of Review Members
From: Kara Moretto, Manager
Local Government Services Bureau
RE: Public Act 96-1083 (Senate Bill 3334)

This memorandum outlines changes to the Property Tax Code made by Public Act 96-1083 (Senate Bill 3334). Although the Department of Revenue is required to provide guidance on property tax issues, you should consult with your state's attorney regarding this advice as he or she is the person who will defend your actions.

I hope that this information is helpful. If you have any questions, please contact the Property Tax Division at 217.782.3627.

Key Provisions

"Compulsory sale" definition

The statutory definition of a compulsory sale includes

- 1) a **"short sale"** — the mortgagor or lender agrees to allow the property to be sold for less than the amount owed instead of foreclosing on the property; and
- 2) a **"bank REO"** (real-estate owned) sale — the first sale of real estate owned by a financial institution resulting from judgment of foreclosure, transfer in lieu of foreclosure, or consent judgment occurring after the foreclosure is complete.

Note: Although both types of transactions are specifically identified in the new statutory definition, other transactions — sale in lieu of foreclosure, court-ordered sale, and condemnation — are still considered "compulsory" when disclosing information about the sale or transfer on the Illinois Real Estate Transfer Declaration (Form PTAX-203).

Assessment Complaints and Appeals

The board of review must include short sales and bank REO sales when reviewing and correcting assessments, including, but not limited to, short sales and bank REO sales of comparable properties submitted by taxpayers, if the board determines that the properties have the same characteristics and condition as when the assessed values were established. The board of review also must consider if the short sales and bank REO sales would otherwise be arm's length transactions.

The Illinois Property Tax Appeal Board must consider short sales and bank REO sales of comparable properties when revising and correcting assessments, including sales of comparable properties the taxpayer submits.

Intra-county Equalization

In assessment year 2011 (taxes paid in 2012), the board of review must analyze short sales and bank REO sales when it acts as the equalizing authority. Specifically, the board of review, along with the chief county assessment officer, must determine if the percentage of qualifying 2010 short sales and bank REO sales was at least 25 percent of all property sales within a property class (residential, commercial, industrial) in a geographic region. The board of review may choose the geographic area — neighborhood, township, multi-township assessment district, etc.

Short sales and bank REO sales that meet the following two conditions are included in the percentage calculation.

- The property characteristics and condition are the same as when the 2010 value was determined (the property has not been damaged, substantially altered, *etc.*).
- The property transfer otherwise would have been an “arm’s length” transaction. In other words, the only reason the sale would be excluded from the sales ratio study is because it was a short sale or bank REO sale – it was a warranty or trustee deed, was advertised for sale, was not a sale between related parties, *etc.*

If the short sales and bank REO sales are at least 25 percent of the total sales within the geographic area, the board of review must calculate 1) the median assessment level of all arm’s length transactions for that property classification, and 2) the median assessment level of short sales and bank REO sales for that property classification.

The board of review must compute a new median assessment level if the median assessment level of short sales and bank REO sales is **higher** than the median assessment level of arm’s length transactions. This is accomplished by adding the short sales and bank REO sales to the arm’s length transactions and calculating a new (combined) median assessment level.

Assessed values of properties within the jurisdiction must be revised so that no property is assessed higher than the median assessment level. As the equalizing authority for the county at this point in the assessment cycle, the board of review should then proceed with any intra-county equalization that is necessary to ensure that the assessment level, on average, is 33 1/3 percent.

Step-by-step instructions are on Page 3.

Sales Ratio Studies

Beginning with sales on or after January 1, 2011, the department must include short sales and bank REO sales in the sales ratio study, assuming they are otherwise arm’s length sales. The Illinois Real Estate Transfer Declaration (Form PTAX-203) is being revised to identify the type of compulsory sale and must be used for all transfers occurring on or after January 1, 2011. The electronic filing system will be modified to accommodate the change as well.

“Code 46” will no longer be a valid exclusion code for sales ratio study purposes; instead, new codes will be used to identify the type of compulsory sale. We will send these new codes to all chief county assessment officers by separate memorandum.

The department will use its normal editing process. If all other system edits are passed, short sales and bank REO sales will be included in the study.

Effective date

Public Act 96-1083 became effective July 16, 2010. The new enactment contains two effective dates internally, however.

- The county board of review equalization procedure applies in assessment year 2011 only.
- The mandate that the department include compulsory sales in its sales ratio study applies to sales on or after January 1, 2011.

2011 County Board of Review Equalization Process

Step 1: Identify all 2010 short sales and bank REO sales.

Step 2: Identify all arm's length transactions.

Step 3: For each short sale and bank REO sale, determine if the property characteristics and condition were the same at the time of the sale as those used to make the 2010 assessment. Eliminate sales that do not meet this criterion.

Step 4: For each short sale and bank REO sale, determine if the sale would otherwise be an arm's length transaction using accepted sales ratio standards (warranty or trustee deed, advertised for sale, not a sale between related parties, *etc.*). Eliminate sales that do not meet this criterion.

Step 5: After eliminating any sales as described in Step 3 and Step 4, determine if the total remaining sales are at least 25 percent of all arm's length transactions. If not, the board of review does not have to make any adjustments for short sales and bank REO sales. The board of review should proceed with intra-county equalization if needed. If the remaining sales are at least 25 percent of all arm's length transactions, proceed to Step 6.

Step 6: Calculate the median assessment level for the arm's length transactions group.

Step 7: Calculate the median assessment level for the short sales and bank REO sales group.

Step 8: Compare the median assessment levels for both groups. If the median assessment level for the short sales and bank REO sales group is **the same or less than** the arm's length transactions group, the board of review does not have to make any

adjustments for short sales and bank REO sales. The board of review should proceed with any intra-county equalization needed. If the median assessment level of the short sales and bank REO sales group is **higher** than the median assessment level for the arm's length transaction group, proceed to Step 9.

Step 9: Combine the arm's length transactions group and the short sales and bank REO sales group. Calculate the median assessment level. Use this assessment level to ensure that all property within that classification is uniformly assessed. Proceed with any intra-county equalization needed.

Example:

Township A (Residential sales)

2010 total sales: 100

2010 arm's length transactions: 50; median assessment level is 33.33 percent

2010 short sales and bank REO sales meeting qualifications: 25; median assessment level is 38.00 percent

In this example, the number of qualifying compulsory sales is 25 percent of all sales in the township and the median assessment level of short sales and bank REO sales is higher than the median assessment level of arm's length transactions. The board of review adds these 25 transfers to the 50 arm's length transactions (total 75 transfers) and calculates a new median assessment level. The new median assessment level is used to determine the intra-county equalization factor for Township A.

Public Act 96-1083

AN ACT concerning revenue.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Property Tax Code is amended by changing Sections 16-55, 16-65, 17-10, and 31-25 and by adding Sections 1-23 and 16-183 as follows:

(35 ILCS 200/1-23 new)

Sec. 1-23. Compulsory sale. "Compulsory sale" means (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

(35 ILCS 200/16-55)

Sec. 16-55. Complaints. On written complaint that any property is overassessed or underassessed, the board shall review the assessment, and correct it, as appears to be just, but in no case shall the property be assessed at a higher percentage of fair cash value than other property in the assessment district prior to equalization by the board or the Department. The board shall include compulsory sales in reviewing and correcting assessments, including, but not limited to, those compulsory sales submitted by the taxpayer, if the board determines that those sales reflect the same property characteristics and condition as those originally used to make the assessment. The board shall also consider whether the compulsory sale would otherwise be considered an arm's length transaction. A complaint to affect the assessment for the current year shall be filed on or before the 10th day of August in counties with less than 150,000 inhabitants and on or before the 10th day of September in counties with 150,000 or more but less than 3,000,000 inhabitants, except if the assessment books containing the assessment complained of are not filed with the board of review by the 10th day of July in a county with fewer than 150,000 inhabitants or by the 10th day of August in a county with 150,000 or more but less than 3,000,000 inhabitants, then the complaint shall be filed on or before 30 calendar days after the date of publication of the assessment list under Section 12-10. The board may also, at any time before its revision of the assessments is completed in every year, increase, reduce or otherwise adjust the assessment of any property, making changes in the valuation as may be just, and shall have full power over the assessment of any person and

may do anything in regard thereto that it may deem necessary to make a just assessment, but the property shall not be assessed at a higher percentage of fair cash value than the assessed valuation of other property in the assessment district prior to equalization by the board or the Department. No assessment shall be increased until the person to be affected has been notified and given an opportunity to be heard, except as provided below. Before making any reduction in assessments of its own motion, the board of review shall give notice to the assessor or chief county assessment officer who certified the assessment, and give the assessor or chief county assessment officer an opportunity to be heard thereon. All complaints of errors in assessments of property shall be in writing, and shall be filed by the complaining party with the board of review, in duplicate. The duplicate shall be filed by the board of review with the assessor or chief county assessment officer who certified the assessment. In all cases where a change in assessed valuation of \$100,000 or more is sought, the board of review shall also serve a copy of the petition on all taxing districts as shown on the last available tax bill at least 14 days prior to the hearing on the complaint. All taxing districts shall have an opportunity to be heard on the complaint. Complaints shall be classified by townships or taxing districts by the clerk of the board of review. All classes of complaints shall be docketed numerically, each in its own class, in the order in which they are presented, in books kept for that purpose, which books shall be open to public inspection. Complaints shall be considered by townships or taxing districts until all complaints have been heard and passed upon by the board.

(Source: P.A. 86-345; 86-413; 86-1028; 86-1481; 88-455.)

(35 ILCS 200/16-65)

Sec. 16-65. Equalization process. The board of review shall act as an equalizing authority, if after equalization by the supervisor of assessments the equalized assessed value of property in the county is not 33 1/3% of the total fair cash value. The board shall, after notice and hearing as required by Section 12-40, lower or raise the total assessed value of property in any assessment district within the county so that the property, other than farm and coal property assessed under Sections 10-110 through 10-140 and Sections 10-170 through 10-200, will be assessed at 33 1/3% of its fair cash value.

For each assessment district of the county, the board of review shall annually determine the percentage relationship between the valuations at which property other than farm and coal property is listed and the estimated 33 1/3% of the fair cash value of such property. To make this analysis, the

board shall use at least 25 property transfers, or a combination of at least 25 property transfers and property appraisals, such information as may be submitted by interested taxing bodies, or any other means as it deems proper and reasonable. If there are not 25 property transfers available, or if these 25 property transfers do not represent a fair sample of the types of properties and their proportional distribution in the assessment district, the board shall select a random sample of properties of a number necessary to provide a combination of at least 25 property transfers and property appraisals as much as possible representative of the entire assessment district, and provide for their appraisal. The township or multi-township assessor shall be notified of and participate in the deliberations and determinations.

In assessment year 2011, the board of review shall consider compulsory sales in its equalization process.

The board of review, in conjunction with the chief county assessment officer, shall determine the number of compulsory sales from the prior year for the purpose of revising and correcting assessments. The board of review shall determine if the number of compulsory sales is at least 25% of all property transfers within the neighborhood, township, multi-township assessment district, or other specific geographic region in the county for that class of property, but shall exclude from the calculation (i) all property transfers for which the property characteristics and condition are not the same as those characteristics and condition used to determine the assessed value and (ii) any property transfer that is not an arm's length transaction based on existing sales ratio study standards (except for compulsory sales). If the board determines that the number of compulsory sales is at least 25% of all property transfers within the defined geographic region for that class of property, then the board of review must determine (i) the median assessment level of arm's length transactions and (ii) the median assessment level of compulsory sales. If the median assessment level of compulsory sales is higher than the median assessment level of arm's length transactions, then compulsory sales shall be included in the arm's length transaction study and the board must calculate the new median assessment level. Assessed values of properties within the specific geographic area for that class of property must be revised to reflect this new median assessment level. The revised median assessment level shall be the basis for equalization as otherwise provided in this Section.

With the ratio determined for each assessment district, the board shall ascertain the amount to be added or deducted from the aggregate assessment on property subject to local assessment jurisdiction, other than farm and coal property, to produce a ratio of assessed value to 33 1/3% of the fair cash value equivalent to 100%. However, in determining the amount to be added to the aggregate assessment on property subject to local jurisdiction in order to produce a ratio of assessed value to 33 1/3% of the fair cash value

equivalent to 100%, the board shall not, in any one year, increase or decrease the aggregate assessment of any assessment district by more than 25% of the equalized valuation of the district for the previous year, except that additions, deletions or depletions to the taxable property shall be excluded in computing the 25% limitation. The board shall complete the equalization by the date prescribed in Section 16-35 for the board's adjournment, and, within 10 days thereafter, shall report the results of its work under this Section to the Department. At least 30 days prior to its adjournment, the board shall publish a notice declaring whether it intends to equalize assessments as provided in this Section. The notice shall be published in a newspaper of general circulation in the county. If the board fails to report to the Department within the required time, or if the report discloses that the board has failed to make a proper and adequate equalization of assessments, the Department shall direct, determine, and supervise the assessment so that all assessments of property are relatively just and equal as provided in Section 8-5.

(Source: P.A. 84-1343; 88-455.)

(35 ILCS 200/16-183 new)

Sec. 16-183. Compulsory sales. The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

(35 ILCS 200/17-10)

Sec. 17-10. Sales ratio studies. The Department shall monitor the quality of local assessments by designing, preparing and using ratio studies, and shall use the results as the basis for equalization decisions. In compiling sales ratio studies, the Department shall exclude from the reported sales price of any property any amounts included for personal property and, for sales occurring through December 31, 1999, shall exclude seller paid points. The Department shall not include in its sales ratio studies sales of property which have been platted and for which an increase in the assessed valuation is restricted by Section 10-30. The Department shall not include in its sales ratio studies the initial sale of residential property that has been converted to condominium property. The Department shall include compulsory sales occurring on or after January 1, 2011 in its sales ratio studies. The Department shall also consider whether the compulsory sale would otherwise be considered an arm's length transaction, based on existing sales ratio study standards.

When the declaration required under the Real Estate Transfer Tax Law contains financing information required under Section 31-25, the Department shall adjust sales prices to exclude seller-paid points and shall adjust sales prices to "cash value" when seller related financing is used that is

different than the prevailing cost of cash. The prevailing cost of cash for sales occurring on or after January 1, 1992 shall be established as the monthly average 30-year fixed Primary Mortgage Market Survey rate for the North Central Region as published weekly by the Federal Home Loan Mortgage Corporation, as computed by the Department, or such other rate as determined by the Department. This rate shall be known as the survey rate. For sales occurring on or after January 1, 1992, through December 31, 1999, adjustments in the prevailing cost of cash shall be made only after the survey rate has been at or above 13% for 12 consecutive months and will continue until the survey rate has been below 13% for 12 consecutive months. For sales occurring on or after January 1, 2000, adjustments for seller paid points and adjustments in the prevailing cost of cash shall be made only after the survey rate has been at or above 13% for 12 consecutive months and will continue until the survey rate has been below 13% for 12 consecutive months. The Department shall make public its adjustment procedure upon request.

(Source: P.A. 91-555, eff. 1-1-00.)

(35 ILCS 200/31-25)

Sec. 31-25. Transfer declaration. At the time a deed, a document transferring a controlling interest in real property, or trust document is presented for recordation, or within 3 business days after the transfer is effected, whichever is earlier, there shall also be presented to the recorder or registrar of titles a declaration, signed by at least one of the sellers and also signed by at least one of the buyers in the transaction or by the attorneys or agents for the sellers or buyers. The declaration shall state information including, but not limited to: (a) the value of the real property or beneficial interest in real property located in Illinois so transferred; (b) the parcel identifying number of the property; (c) the legal description of the property; (d) the date of the deed, the date the transfer was effected, or the date of the trust document; (e) the type of deed, transfer, or trust document; (f) the address of the property; (g) the type of improvement, if any, on the property; (h) information as to whether the transfer is between related individuals or corporate affiliates or is a compulsory transaction; (i) the lot size or acreage; (j) the value of personal property sold with the real estate; (k) the year the contract was initiated if an installment sale; (l) any homestead exemptions, as provided in Sections 15-170, 15-172, 15-175, and 15-176 as reflected on the most recent annual tax bill; ~~and~~ (m) the name, address, and telephone number of the person preparing the declaration; and (n) whether the transfer is pursuant to compulsory sale. Except as provided in Section 31-45, a deed, a document transferring a controlling interest in real property, or trust document shall not be accepted for recordation unless it is accompanied by a declaration containing all the information requested in the declaration. When the declaration is signed by an attorney or agent on behalf of sellers or buyers who have the power of

direction to deal with the title to the real estate under a land trust agreement, the trustee being the mere repository of record legal title with a duty of conveying the real estate only when and if directed in writing by the beneficiary or beneficiaries having the power of direction, the attorneys or agents executing the declaration on behalf of the sellers or buyers need identify only the land trust that is the repository of record legal title and not the beneficiary or beneficiaries having the power of direction under the land trust agreement. The declaration form shall be prescribed by the Department and shall contain sales information questions. For sales occurring during a period in which the provisions of Section 17-10 require the Department to adjust sale prices for seller paid points and prevailing cost of cash, the declaration form shall contain questions regarding the financing of the sale. The subject of the financing questions shall include any direct seller participation in the financing of the sale or information on financing that is unconventional so as to affect the fair cash value received by the seller. The intent of the sales and financing questions is to aid in the reduction in the number of buyers required to provide financing information necessary for the adjustment outlined in Section 17-10. For sales occurring during a period in which the provisions of Section 17-10 require the Department to adjust sale prices for seller paid points and prevailing cost of cash, the declaration form shall include, at a minimum, the following data: (a) seller paid points, (b) the sales price, (c) type of financing (conventional, VA, FHA, seller-financed, or other), (d) down payment, (e) term, (f) interest rate, (g) type and description of interest rate (fixed, adjustable or renegotiable), and (h) an appropriate place for the inclusion of special facts or circumstances, if any. The Department shall provide an adequate supply of forms to each recorder and registrar of titles in the State.

(Source: P.A. 93-657, eff. 6-1-04; 94-489, eff. 8-8-05.)

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

Effective Date: 7/16/2010



PTAX-203

Illinois Real Estate Transfer Declaration

Please read the instructions before completing this form.

This form can be completed electronically at tax.illinois.gov/retd.

Step 1: Identify the property and sale information.

1 _____
Street address of property (or 911 address, if available)

_____ ZIP _____
City or village

Township _____

2 Write the total number of parcels to be transferred. _____

3 Write the parcel identifying numbers and lot sizes or acreage.

Property index number (PIN) Lot size or acreage

a _____
b _____
c _____
d _____

Write additional property index numbers, lot sizes or acreage in Step 3.

4 Date of instrument: _____ / _____
Month Year

5 Type of instrument (Mark with an "X."): _____ Warranty deed

_____ Quit claim deed _____ Executor deed _____ Trustee deed
_____ Beneficial interest _____ Other (specify): _____

6 _____ Yes _____ No Will the property be the buyer's principal residence?

7 _____ Yes _____ No Was the property advertised for sale?
(i.e., media, sign, newspaper, realtor)

8 Identify the property's current and intended primary use.

Current Intended (Mark only one item per column with an "X.")

a _____ Land/lot only
b _____ Residence (single-family, condominium, townhome, or duplex)
c _____ Mobile home residence
d _____ Apartment building (6 units or less) No. of units: _____
e _____ Apartment building (over 6 units) No. of units: _____
f _____ Office
g _____ Retail establishment
h _____ Commercial building (specify): _____
i _____ Industrial building
j _____ Farm
k _____ Other (specify): _____

County: _____

Date: _____

Doc. No.: _____

Vol.: _____

Page: _____

Received by: _____

9 Identify any significant physical changes in the property since January 1 of the previous year and write the date of the change.

Date of significant change: _____ / _____
Month Year

(Mark with an "X.")

_____ Demolition/damage _____ Additions _____ Major remodeling

_____ New construction _____ Other (specify): _____

10 Identify only the items that apply to this sale. (Mark with an "X.")

a _____ Fulfillment of installment contract —
year contract initiated: _____

b _____ Sale between related individuals or corporate affiliates

c _____ Transfer of less than 100 percent interest

d _____ Court-ordered sale

e _____ Sale in lieu of foreclosure

f _____ Condemnation

g _____ Short sale

h _____ Bank REO (real estate owned)

i _____ Auction sale

j _____ Seller/buyer is a relocation company

k _____ Seller/buyer is a financial institution or government agency

l _____ Buyer is a real estate investment trust

m _____ Buyer is a pension fund

n _____ Buyer is an adjacent property owner

o _____ Buyer is exercising an option to purchase

p _____ Trade of property (simultaneous)

q _____ Sale-leaseback

r _____ Other (specify): _____

s _____ Homestead exemptions on most recent tax bill:

1 General/Alternative \$ _____

2 Senior Citizens \$ _____

3 Senior Citizens Assessment Freeze \$ _____

Step 2: Calculate the amount of transfer tax due.

Note: Round Lines 11 through 18 to the next highest whole dollar. If the amount on Line 11 is over \$1 million and the property's current use on Line 8 above is marked "e," "f," "g," "h," "i," or "k," complete Form PTAX-203-A, Illinois Real Estate Transfer Declaration Supplemental Form A. If you are recording a beneficial interest transfer, do not complete this step. Complete Form PTAX-203-B, Illinois Real Estate Transfer Declaration Supplemental Form B.

11	Full actual consideration	11	\$ _____
12a	Amount of personal property included in the purchase	12a	\$ _____
12b	Was the value of a mobile home included on Line 12a?	12b	_____ Yes _____ No
13	Subtract Line 12a from Line 11. This is the net consideration for real property.	13	\$ _____
14	Amount for other real property transferred to the seller (in a simultaneous exchange) as part of the full actual consideration on Line 11	14	\$ _____
15	Outstanding mortgage amount to which the transferred real property remains subject	15	\$ _____
16	If this transfer is exempt, use an "X" to identify the provision.	16	_____ b _____ k _____ m
17	Subtract Lines 14 and 15 from Line 13. This is the net consideration subject to transfer tax.	17	\$ _____
18	Divide Line 17 by 500. Round the result to the next highest whole number (e.g., 61.002 rounds to 62).	18	_____
19	Illinois tax stamps — multiply Line 18 by 0.50.	19	\$ _____
20	County tax stamps — multiply Line 18 by 0.25.	20	\$ _____
21	Add Lines 19 and 20. This is the total amount of transfer tax due.	21	\$ _____

Step 3: Write the legal description from the deed. Write, type (minimum 10-point font required), or attach the legal description from the deed. If you prefer, submit an 8 1/2" x 11" copy of the extended legal description with this form. You may also use the space below to write additional property index numbers, lots sizes or acreage from Step 1, Line 3.

Step 4: Complete the requested information.

The buyer and seller (or their agents) hereby verify that to the best of their knowledge and belief, the full actual consideration and facts stated in this declaration are true and correct. If this transaction involves any real estate located in Cook County, the buyer and seller (or their agents) hereby verify that to the best of their knowledge, the name of the buyer shown on the deed or assignment of beneficial interest in a land trust is either a natural person, an Illinois corporation or foreign corporation authorized to do business or acquire and hold title to real estate in Illinois, a partnership authorized to do business or acquire and hold title to real estate in Illinois, or other entity recognized as a person and authorized to do business or acquire and hold title to real estate under the laws of the State of Illinois. Any person who willfully falsifies or omits any information required in this declaration shall be guilty of a Class B misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses. Any person who knowingly submits a false statement concerning the identity of a grantee shall be guilty of a Class C misdemeanor for the first offense and of a Class A misdemeanor for subsequent offenses.

Seller Information (Please print.)

Seller's or trustee's name		Seller's trust number (if applicable - not an SSN or FEIN)	
Street address (after sale)		City	State ZIP
		()	
Seller's or agent's signature		Seller's daytime phone	

Buyer Information (Please print.)

Buyer's or trustee's name		Buyer's trust number (if applicable - not an SSN or FEIN)	
Street address (after sale)		City	State ZIP
		()	
Buyer's or agent's signature		Buyer's daytime phone	

Mail tax bill to:

Name or company	Street address	City	State	ZIP
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Preparer Information (Please print.)

Preparer's and company's name		Preparer's file number (if applicable)	
Street address		City	State ZIP
		()	
Preparer's signature		Preparer's daytime phone	

Preparer's e-mail address (if available)

Identify any required documents submitted with this form. (Mark with an "X.") _____ Extended legal description _____ Form PTAX-203-A
_____ Itemized list of personal property _____ Form PTAX-203-B

To be completed by the Chief County Assessment Officer

1 _____
County Township Class Cook-Minor Code 1 Code 2

2 Board of Review's final assessed value for the assessment year prior to the year of sale.

Land	_____	_____	_____	_____	_____	_____	_____
Buildings	_____	_____	_____	_____	_____	_____	_____
Total	_____	_____	_____	_____	_____	_____	_____

3 Year prior to sale _____

4 Does the sale involve a mobile home assessed as real estate? _____ Yes _____ No

5 Comments

Illinois Department of Revenue Use

Tab number

Instructions for Form PTAX-203, Illinois Real Estate Transfer Declaration

General Information

The information requested on this form is required by the Real Estate Transfer Tax Law (35 ILCS 200/31-1 *et seq.*). All parties involved in the transaction must answer each question completely and truthfully.

What is the purpose of this form?

County offices and the Illinois Department of Revenue use this form to collect sales data and to determine if a sale can be used in assessment ratio studies. This information is used to compute equalization factors. Equalization factors are used to help achieve a state-wide uniform valuation of properties based on their fair market value.

Must I file Form PTAX-203?

You must file either (1) Form PTAX-203 and any required documents with the deed or trust document **or** (2) an exemption notation on the original deed or trust document at the County Recorder's office within the county where the property is located. File Form PTAX-203 for all real estate transfers except those qualifying for exempt status under (a), (c), (d), (e), (f), (g), (h), (i), (j), or (l) listed below.

Which property transfers are exempt from real estate transfer tax?

The following transactions are exempt from the transfer tax under 35 ILCS 200/31-45.

- (a) Deeds representing real estate transfers made before January 1, 1968, but recorded after that date and trust documents executed before January 1, 1986, but recorded after that date.
- (b) Deeds to or trust documents relating to (1) property acquired by any governmental body or from any governmental body, (2) property or interests transferred between governmental bodies, or (3) property acquired by or from any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes. However, deeds or trust documents, other than those in which the Administrator of Veterans' Affairs of the United States is the grantee pursuant to a foreclosure proceeding, shall not be exempt from filing the declaration.
- (c) Deeds or trust documents that secure debt or other obligation.
- (d) Deeds or trust documents that, without additional consideration, confirm, correct, modify, or supplement a deed or trust document previously recorded.
- (e) Deeds or trust documents where the actual consideration is less than \$100.
- (f) Tax deeds.
- (g) Deeds or trust documents that release property that is security for a debt or other obligation.
- (h) Deeds of partition.
- (i) Deeds or trust documents made pursuant to mergers, consolidations or transfers or sales of substantially all of the assets of corporations under plans of reorganization under the Federal Internal Revenue Code (26 USC 368) or Title 11 of the Federal Bankruptcy Act.
- (j) Deeds or trust documents made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock.
- (k) Deeds when there is an actual exchange of real estate and trust documents when there is an actual exchange of beneficial interests, except that that money difference or money's worth paid from one to the other is not exempt from the tax. These deeds or trust documents, however, shall not be exempt from filing the declaration.
- (l) Deeds issued to a holder of a mortgage, as defined in Section 15-103 (now Section 15-1207) of the Code of Civil Procedure, pursuant to a mortgage foreclosure proceeding or pursuant to a transfer in lieu of foreclosure.
- (m) A deed or trust document related to the purchase of a principal residence by a participant in the program authorized by the Home Ownership Made Easy Act, except that those deeds and trust documents shall not be exempt from filing the declaration.

Can criminal penalties be imposed?

Anyone who willfully falsifies or omits any required information on Form PTAX-203 is guilty of a Class B misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses. Anyone who knowingly submits a false statement concerning the identity of a grantee of property in Cook County is guilty of a Class C misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses. The penalties that could be imposed for each type of misdemeanor are listed below (35 ILCS 200/31-50 and 730 ILCS 5/5-8-3 and 5/5-9-1).

Misdemeanor	Prison Term	Maximum Fines
Class A	less than 1 year	\$2,500
Class B	not more than 6 months	\$1,500
Class C	not more than 30 days	\$1,500

Line-by-line Instructions

The sellers and buyers or their agents must complete Steps 1 through 4 of this form. For transfers of a beneficial interest of a land trust, complete the form substituting the words "assignor" for "seller" and "assignee" for "buyer."

Step 1: Identify the property and sale information.

Line 1 — Write the property's street address (or 911 address, if available), city or village, zip code, and township in which the property is located.

Line 3 — Write all the parcel identifying numbers and the properties' lot sizes (e.g., 80' x 100') or acreage. If only the combined lot size or acreage is available for multiple parcels, write the total on Line 3a under the "lot size or acreage" column. If transferring only a part of the parcel, write the letters "PT" before the parcel identifying number and write the lot size or acreage of the split parcel. If transferring a condominium, write the parcel identifying number and the square feet of the condominium unit. If surface rights are not being transferred, indicate the rights being transferred (e.g., "minerals only"). If transferring right-of-way (ROW) property that does not have a parcel identifying number, write "ROW only." If five or more parcels are involved, use the space provided on Page 2, Step 3. The parcel identifying number is printed on the real estate tax bill and assessment notice. The chief county assessment officer can assist you with this information.

Line 4 — Write the month and year from the instrument.

Line 5 — Use an "X" to identify the type of instrument (i.e., deed, trust document, or facsimile) to be recorded with this form. For a deed-in-trust, limited warranty, special warranty, trust deed, or other deed types not listed on this form, select "Other" and write the deed type. "Joint tenancy" and "tenants-in-common" identify ownership rights and **cannot** be used as a deed type.

Line 6 — Select "Yes" if the property will be used as the buyer's principal dwelling place and legal residence.

Line 7 — Select "Yes" if the property was sold using a real estate agent or advertised for sale by newspaper, trade publication, radio/electronic media, or sign.

Line 8 — Use an "X" to select **one** item under each of the column headings "Current" and "Intended." "Current" identifies the current or most recent use of the property. "Intended" identifies the intended or expected use of the property after the sale. If the property has more than one use, identify the **primary** use only.

Line 8h, Commercial building — Write the type of business (bank, hotel/motel, parking garage, gas station, theater, golf course, bowling alley, supermarket, shopping center, etc.).

Line 8k, Other — Choose this item only if the primary use is not listed and write the primary use of the property.

Note: For Lines 8h and 8k, if the current and intended categories are the same but the specific use will change, (i.e., from bank to theater), write the **current** use on the line provided and write the **intended** use **directly below** the line provided.

Line 9 — Use an "X" to identify any significant physical changes in the property since January 1 of the previous year. Write the date the change was completed or the property was damaged.

Line 10 — Select only the items that apply to this sale. A definition is provided below for all items marked with an asterisk.

Line 10a, Fulfillment of installment contract — The installment contract for deed is initiated in a calendar year prior to the calendar year in which the deed is recorded. Write the year the contract was initiated between the seller and buyer. Do **not** select this item if the installment contract for deed was initiated and the property was transferred within the same calendar year.

Line 10c, Transfer of less than 100 percent interest — The seller transfers a portion of the total interest in the property. Other owners will keep an interest in the property. Do **not** consider severed mineral rights when answering this question.

Line 10d, Court-ordered sale — The property's sale was ordered by a court (e.g., bankruptcy, foreclosure, probate).

Line 10g, Short sale — The property was sold for less than the amount owed to the mortgage lender or mortgagor, if the mortgagor has agreed to the sale.

Line 10h, Bank REO (real estate owned) — The first sale of the property owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment occurring after the foreclosure proceeding is complete.

Line 10k, Seller/buyer is a financial institution — "Financial institution" includes a bank, savings and loan, credit union, Resolution Trust Company, and any entity with "mortgage company" or "mortgage corporation" as part of the business name.

Line 10o, Buyer is exercising an option to purchase — The sale price was predicated upon the exercise of an option to purchase at a predetermined price.

Line 10p, Trade of property (simultaneous) — Buyer trades or exchanges with the seller one or more items of real estate for part or all of the full actual consideration (sale price) on Line 11.

Line 10r, Other — Explain any special facts or circumstances involving this transaction that may have affected the sale price or sale agreement or forced the sale of the property. This includes property that is subject to an existing lease or property that is part of an IRC §1031 Exchange.

Line 10s, Homestead exemptions on most recent tax bill — Write the dollar amount for any homestead exemption reflected on the most recent annual tax bill.

Step 2: Calculate the amount of transfer tax due.

Round Lines 11 through 18 to the next highest whole dollar.

Note: File PTAX-203-B, Illinois Real Estate Transfer Declaration Supplemental Form B, when filing instruments other than deeds, or trust documents. (Do **not** complete Step 2, of the PTAX-203 when filing the PTAX-203-B).

Line 11 — Write the full actual consideration (sale price). Full actual consideration is the amount actually paid, excluding any amount credited against the purchase price or refunded to the buyer for improvements or repairs to the property. Include the amount for other real estate transferred in a simultaneous exchange from the buyer to the seller, even if the transfer involves an even exchange. Also include the amount of outstanding mortgages to which the property remains subject at the time of the transfer.

Note: File PTAX-203-A, Illinois Real Estate Transfer Declaration Supplemental Form A, if the amount on Line 11 is over \$1 million and the property's current use on Line 8 is marked "Apartment building (over 6 units)," "Office," "Retail establishment," "Commercial building," "Industrial building," or "Other."

Line 12a — Write the amount of personal property items included in the sale price on Line 11. Do **not** include the value of a beneficial interest of a land trust. Personal property items are generally listed on the "bill of sale." If you are uncertain as to whether an item is real estate or personal property, consult your attorney, tax advisor, or the chief county assessment officer.

On 8½" x 11" paper, submit an itemized list of personal property (include values) transferred from the seller to the buyer if this sale meets either of the following conditions:

- residential property — if the amount of personal property (not including the value of a mobile home) on Line 12a is greater than 5 percent of the sale price on Line 11, **or**
- non-residential property — if the amount of personal property on Line 12a is greater than 25 percent of the sale price on Line 11.

Residential personal property — Generally, "personal property" includes items that are **not** attached (built-in) to the home and that are normally removed by the seller when vacating the property. Examples include artwork, automobiles and boats, draperies, furniture, free-standing appliances (e.g., refrigerators, stoves, washers and dryers, but **not** built-in appliances), lawn mowers, tractors, snow blowers, rugs (excludes wall-to-wall carpets), and window air-conditioners (excludes central air). Include the value of a mobile home as personal property on Line 12a if it meets **all** of the following conditions:

- The value of the mobile home was included on Line 11.
- The value of the mobile home was not included on the real estate tax bill.

Commercial/industrial personal property — Generally, "personal property" is any item that is **not** a permanent improvement to the land and includes, but is not limited to, intangibles such as goodwill, licenses, patents, franchises, business or enterprise values; and certain tangibles such as inventories, cash registers and shopping carts, free-standing shelving and displays, furniture, office equipment and supplies, vehicles, and machinery and equipment not assessed as real estate.

Generally, "personal property" does **not** include building components (e.g., wiring and lighting, heating, air-conditioning, plumbing, fire protection); foundations, pits and other building components for specialized or heavy machinery; permanent fixtures including, but not limited to, machinery and equipment and cranes assessed as real estate, craneways, and non-portable tanks; and site improvements such as paving and fencing.

Line 14 — Write the amount of other real estate transferred from the buyer to the seller that was included in the sale price on Line 11. This value only applies to a **simultaneous** exchange between the parties involved in this transaction. Do **not** include the value of property involved in a deferred exchange under IRC §1031.

Line 15 — Write an amount **only** if the deed or trust document states that the transferred property remains subject to a mortgage at the time of the transfer.

Line 16 — Use an "X" to identify the letter of the provision for the exemption from the transfer tax (i.e., (b), (k), or (m)) that applies to this transfer. See "Which property transfers are exempt from real estate transfer tax?" in these instructions.

Step 3: Write the legal description from the deed.

Write the legal description from the deed. Use a minimum 10-point font if the legal description is typed. If the legal description will **not** fit in the space provided, submit an 8½" x 11" copy of the extended legal description from the deed with this form.

Step 4: Complete the requested information.

Write the requested information for the seller, buyer, and preparer.

Write the addresses and daytime phone numbers where the seller and buyer can be contacted **after** the sale.

The seller and buyer (or their agents) and preparer **must** sign this form. By signing the form, the parties involved in the real estate transfer verify that

- they have examined the completed Form PTAX-203,
- the information provided on this form is true and correct, and
- they are aware of the criminal penalties of law associated with falsifying or omitting any information on this form.

Use an "X" to identify any required documents submitted with this form.

Taxable Leaseholds

The following information on Taxable Leaseholds was provided at the 2007 Department of Revenue Orientation for new Chief County Assessment Officers.

For property taxation purposes in the state of Illinois, real property is taxed under the fee simple interest which is the highest ownership interest. The statutory liability for property taxes is based on ownership and not on any lesser interest, including but not limited to leaseholds. Consequently, leaseholds are not ordinarily considered real property for purposes of taxation and even if a property is leased (as most commercial or income producing property types are) the leasehold interests are not separated from the fee simple and separately taxed. Although a leasehold interest is considered to be a chattel or personal property of the lessee and not real estate, the courts have held that it is within the power of the legislature to declare a leasehold interest to be real estate for purposes of taxation. *City of Chicago v. University of Chicago*, 302 Ill. 455, 134 N.E. 723 (1922); *Apex Oil Co. v. Henkhaus*, 118 Ill.App.3d 273, 454 N.E.2d 1032, 73 Ill.Dec. 783 (5th Dist. 1983).

In addition to a leasehold interest in mineral rights which is considered to be taxable real estate just as an ownership interest created by deed, the other significant exception to the non taxable leasehold rule arises in the case of certain leaseholds in exempt lands. The statutory authority to tax a leasehold interest in tax-exempt real estate has been applied on numerous occasions. *People v. International Salt Co.*, 233 Ill. 223, 84 N.E. 278 (1908); *City of Chicago v. University of Chicago*, *supra*; *People ex rel. Paschen v. Hendrickson-Pontiac, Inc.*, 9 Ill.2d 250, 137 N.E.2d 381 (1956); *People ex rel. Konen v. American Airlines, Inc.*, 39 Ill.2d 11, 233 N.E.2d 568 (1967); *People ex rel. Kucharski v. Trans World Airlines, Inc.*, 43 Ill.2d 174, 251 N.E.2d 225 (1969); *In re Application of Skidmore*, 75 Ill.2d 33, 387 N.E.2d 290, 25 Ill.Dec. 634 (1979); *Apex Oil Co. v. Henkhaus*, *supra*.

For property tax purposes in Illinois, a leasehold is taxable if each of the following three conditions exist:

1. The property is exempt from taxation as determined by the department or a court; and
2. The property is leased to another person or entity whose property is not exempt from taxation; and
3. The leasing of the property does not cause the property to lose its exempt status for purposes of taxation.

In part, Section 9-195 of the Property Tax Code provides:

Except as provided in Sections 15-35.15-55, 15-60, 15-100, 15-103, and 15-185, when property which is exempt from taxation is leased to another whose property is not exempt, and the leasing of which does not make the property taxable, the leasehold estate and the appurtenances shall be listed as the

property of the lessee thereof, or his or her assignee. Taxes on that property shall be collected in the same manner as on property that is not exempt, and the lessee shall be liable for those taxes. However, no tax lien shall attach to the exempt real estate . . .

The owner, or lessor, of the property has no tax liability and if the property tax on the leasehold becomes delinquent, a lien on only the leasehold interest may be sold at a tax sale. The property rights retained by the owner are not subject to a tax sale.

Valuation Procedures

Section 9-145 (b) of the Property Tax Code states that “Each taxable leasehold estate . . . shall be valued at 33 1/3% of its fair cash value.” The Illinois Supreme Court directed a vast change in the methodology for assessment of taxable leasehold estates by its decision in *People ex rel. Korzen v. American Airlines, Inc.*, 39 Ill.2d 11, 233 N.E.2d 568 (1967). The court held that the fair cash value of a leasehold is the present economic equivalent (present worth) of the periodic market rent to be paid through the unexpired term of the lease. The rent used in deriving the fair cash value is the **market rent** for similar property and is not necessarily the contract rent under the lease. Likewise, the capitalization rate used is the same capitalization utilized in the jurisdiction for establishing market value under the income approach for similar property types.

One of the major problems an assessment official will encounter is the failure to understand how to value leaseholds for ad valorem taxation purposes by the general appraiser community. Typical appraisal theory values a leasehold based solely upon the “rent advantage” of favorable contract rent versus market rent over an extended period of a long-term lease. The essence of the ruling in *American Airlines* was to disallow any deduction to the taxpayer-lessee, in valuing the “leasehold” for assessment purposes, for the present value of the future rental payments reserved to the lessor-owner under the lease contract. Allowing such a deduction, the Supreme Court said, would amount to valuing the lessee’s “equity” in the lease rather than the “leasehold.” The “leasehold” value comprised, according to the court, the full market value “of the right to the use and possession of the demised premises for the full term of the lease.” 233 N.E.2d at 572.

This decision “sharply increased” the value attributable to taxable leaseholds in exempt lands, in some instances (depending on the lease term) to the point of substantial equivalence between the so-called “leasehold” value and the value of the fee owner’s interest. The reason for this increase in the value of a taxable leasehold under the *American Airlines* methodology is precisely the disallowance of any deduction for value attributable to the lessor’s interest in the land, represented by the rental reserved under the lease contract.

Valuation Method & Examples

American Airlines has set the method for valuing leaseholds as the present value or worth of market rent payments over the unexpired term of the lease. The value calculation is achieved by

utilizing either the Present Worth of \$1 or the Present Worth of \$1 per Period columns in the financial tables (six functions of a dollar tables) and the proper capitalization rate for the remaining term of the lease. For example:

The county park district leases a snack bar/limited service restaurant in a district owned sports field complex to a local restaurateur. The term of the lease is for two (2) years and the \$15,000 per year contract rent is considered market rent. Market data research has revealed that the proper capitalization rate is 12%. The value of leasehold rights of the restaurateur is the present value of the two \$15,000 payments. Using the Present Worth of One per period factor (12% annual interest rate for 2 years) which is 1.690051, the value of the leasehold for property tax purposes is \$25,351. ($\$15,000 \times 1.690051 = \$25,351$)

This method of valuation applies to farmland as well as non-farm property, except parcels of one acre or more leased from the state of Illinois. These state owned parcels are assessed as farmland under Section 10-110 and 10-115 of the Property Tax Code. In addition, if the lessee constructs the building on the leased property, the land and building are assessed as the leasehold even if the ownership of the building is passed to or reverts to the owner (lessor) at the end of the lease. *Apex Oil Co. v. Henkhaus, supra*.

The purpose of Property Tax Code Section 9-145 is to tax at least a portion of the value of property that is exempt from taxation to its owner irrespective of use when a lease results in the sort of use of the property by the lessee that would normally subject the property to taxation if the lessee were an owner. By and large, however, it is the use made of the property and not the character of the owner that determines the question of tax exemption. However, in a limited but important class of cases, property is exempt as to its owner irrespective of leasing, whether or not the lease is made with a view to profit. A primary category of property exempt by virtue of ownership alone is property of the State of Illinois. By virtue of Section 9-145, however, the leasehold interest is taxable to the lessee as real estate. The number and significance of state-owned properties that have raised the issue of a leasehold tax assessment are sufficiently large that the language of 9-145 has been duplicated and, to some extent, extended in the Code provision specifically exempting State of Illinois property. (15-55) Much of this language can be traced to tax disputes concerning Illinois Tollway "oasis" facilities, which are operated under lease or license agreements on property owned by the state through the Illinois State Toll Highway Authority. *See Illinois State Toll Highway Commission v. Korzen*, 32 Ill.2d 338, 205 N.E.2d 433 (1965) (tollway oases exempt under Toll Highway Act despite Revenue Act §26); *In re Application of Skidmore, supra* (oases leaseholds taxable under §26 and amended Toll Highway Act); *County of Boone v. Department of Revenue*, 215 Ill.App.3d 453, 574 N.E.2d 1227, 158 Ill.2d 834 (2d Dist. 1991) (although tollway leaseholds were taxable, "licenses" were not, despite contrary amendment).

Distinguishing Leaseholds from Licenses

If a mere license is granted to manage or use property exempt by ownership rather than a true leasehold estate, it will not be subject to taxation under Code Section 9-145. ***Application of Rosewell***, 69 Ill.App.3d 996, 387 N.E.2d 866, 26 Ill.Dec. 36 (1st Dist. 1979); *Jackson Park Yacht*

Club v. Department of Local Government Affairs, 93 Ill.App.3d 542, 417 N.E.2d 1039, 49 Ill. Dec. 212 (1st Dist. 1981); *County of Boone v. Department of Revenue*, 215 Ill.App.3d 453, 574 N.E.2d 1227, 158 Ill. Dec. 834 (2d Dist. 1991). This has led to some contracts that attempted to convert taxable leaseholds to nontaxable licenses by artful word crafting. The courts, however, have looked through the form to the substance of these transactions, and when the essential characteristics of a lease are found, the transaction will be treated as such and not as an exempt license.

In *Stevens v. Rosewell*, 170 Ill.App.3d 58, 523 N.E.2d 1098, 1101, 120 Ill. Dec. 187 (1st Dist. 1988), the appellate court held that a purported license granted to the operator of a franchised restaurant located on a community college campus was a lease, noting:

[The] [e]ssential requirements of a lease include: a definite agreement as to the extent and bounds of the property; a definite and agreed term; and a definite and agreed rental price and manner of payment [citation]. A license is not assignable, and merely gives another the right to use the premises for a specific purpose with the owner retaining possession and control. Quoting *Jackson Park Yacht Club*, *supra*, 417 N.E.2d at 1043.

See also *People v. Chicago Metro Car Rentals, Inc.*, 72 Ill.App.3d 626, 391 N.E.2d 42, 28 Ill. Dec. 843 (1st Dist. 1979) (airport concession agreement constituted lease). In *County of Boone v. Department of Revenue*, *supra*, one of several disputes concerning leasehold taxation of Illinois Toll Highway Authority "oasis" properties, agreements between the highway authority and Mobil Oil Company and McDonald's Corporation for operation of the Belvidere Oasis were held to be nontaxable licenses rather than leases. The court noted that the agreements did not use the term "lease" or grant covenants of quiet enjoyment, nor did they contain a legal description of the property, and they reserved control of several aspects of the companies' operations to the authority, which were enforced by weekly inspections. 574 N.E.2d at 1228 - 1229.

Perhaps more significant, the *County of Boone* court declined to apply amendments made in 1987 and 1989 to Section 19.5 of the Revenue Act (now Code Section 15-55), which sought to eliminate the distinction between licenses and taxable leases of toll highway property:

For the purposes of this Section, the word "leases" includes licenses, franchises, operating agreements and other arrangements under which private individuals, associations or corporations are granted the right to use property of the Illinois State Toll Highway Authority and includes all property of the Authority used by others without regard to the size of the leased parcel.

New Construction and Model Homes

35 ILCS 200/10-25

State law requires improvements become assessable when one of the following conditions occurs:

- “from the date the occupancy permit was issued . . . until December 31 of that year”; or
- “from the date the new or added improvement was inhabitable and fit for occupancy or for intended customary use until December 31 of that year.”

DO NOT leave an improvement unassessed because it is a builder’s model home. State law limits model home assessment to “3 model homes, townhomes, or condominium units at the same time within a 3 mile radius” and provides that no model home assessment can be granted unless the “person eligible for assessment” as a model home files “a verified application with the chief county assessment officer on or before . . . December 31 of each assessment year.” Since many builders will have multiple model homes in multiple townships, this preferential assessment can be administered only by the County Assessment Office.

Prorated Assessments

35 ILCS 200/9-180

All “**prorated**” assessments are to be certified on the current assessment roll to the Supervisor of Assessments. The Supervisor of Assessments Office **does not** prorate assessments, except when a model home is sold.

Please refer to the current *Rules and Procedures* for the deadline date to submit a Request for Revised Assessment to the Board of Review.

Non-Homestead Exemptions

35 ILCS 200/15-5, et seq.

The owners of exempt non-homestead properties are required to file an annual affidavit or certificate of exempt status, which states whether there has been any change in the ownership or use of the property on or before January 31 of each assessment year. The information provided helps keep property tax rolls accurate and facilitates assessment of taxable, leasehold interests. If a property owner fails to file an affidavit or certificate of exempt status, the Supervisor of Assessments has discretion "to terminate the exemption of that property" under 35 ILCS 200/15-10, et seq.

Exceptions to this requirement include property exempted for religious purposes, orphanages, or schools, burial grounds owned by a not for-profit organization under Section 15-45 or exempt property of the United States under Section 15-50.

Township Assessors must be alert for previously exempt property where ownership or use has changed, and be prepared to make an assessment accordingly. *On newly acquired property or property going into exempt use, neither the Township Assessor nor the Supervisor of Assessments have the legal authority to exempt property from taxation.* A petition for exemption *must* be filed with the Board of Review by the owner; the Board will then make a recommendation regarding the petition, and forward it to the Illinois Department of Revenue for a final determination.

General Homestead Exemption

35 ILCS 200/15-175

Applications for the General Homestead Exemption must be filed by the owner of record or person with equitable interest in said parcel. Additional documentation may be requested.

After initial application is filed, no annual renewal is required.

Public Act 91-346 authorized a pro-rata exemption for new construction property that is first occupied as a residence after January 1 of any assessment year by a person who is otherwise eligible for the General Homestead Exemption.

In the case of a sale, subsequent to January 1, the exemption will not be terminated until the end of the tax year.

This exemption will remove up to \$6,000 off the equalized assessed value from the property.

Homestead Improvement Exemption

35 ILCS 200/15-180

A property must be the principal residence of the owner, and have new improvements (such as an addition, patio, or deck) that increase the value of the property to qualify for this exemption. Amounts for the Homestead Improvement Exemption must be filed by a Township Assessor, who certifies the amount along with the valuation of the improvement at the time that assessment rolls are submitted.

Generally, a property receiving the Homestead Improvement Exemption (HIE) is also eligible for the General Homestead Exemption; if the property does not have a General Homestead Exemption, it may not qualify for a Homestead Improvement Exemption. After initial application is filed, no annual renewal is required.

This exemption reduces the Assessed Value (NOT the equalized assessed value) by the amount that the new improvement increased the assessment up to \$25,000. This amount is subject to equalization.

Regarding changes once the HIE is established, make sure any subsequent changes in the assessed value reflect changes to the portion covered by the HIE, as appropriate. Use the following processes:

YEAR 1: Township certifies new improvement AV along with entire assessment roll. If equalized with factor other than 1.0000, the AV of the new improvement adjusts as well.

EXAMPLE: \$50,000 AV of which \$8,537 is the addition; equalization factor of .9365; EAV is (\$50,000 x 0.9365) \$46,825, and HIE is now (\$8,537 x 0.9365) \$7,995. (The HIE amount is 17.07% of the total EAV.)

YEAR 2-4: If Township Assessor makes a change to AV, Township Assessor must also indicate if a change is appropriate for the new addition (which can change at different rates):

EXAMPLE: TA reduces AV to \$41,000, but the AV of the addition is corrected to \$7,355; factor is 0.9641. EAV is now ($\$41,000 \times 0.9641$) \$39,528, and HIE is now $\$7,355 \times 0.9641$) \$7,091. (The HIE amount is now 17.94% of the total EAV, as the components changed at different rates.)

Senior Citizen Homestead Exemption

35 ILCS 200/15-170

Applications for the Senior Citizen Homestead Exemption (65 and over) must be filed by the owner of record or person with equitable interest in said parcel. Additional documentation may be requested. After initial application is filed, no annual renewal is required for the Senior Citizen Homestead Exemption.

Public Act 93-0511 authorized a pro-rata exemption for property that is first occupied as a residence after January 1 of any assessment year by a person who is eligible for Senior Citizens Homestead Exemption under Section 15-170 of the Property Tax Code. This exemption will remove up to \$5,000 off the equalized assessed value from their property.

Senior Citizen Assessment Freeze Exemption

35 ILCS 200/15-172

A Senior Citizen must apply for this exemption annually. The application must include ALL household income of **ALL** people residing in the house. The total household income cannot exceed \$65,000.

To qualify, a senior taxpayer must have owned and lived on the property on January 1 of the previous and current tax years. The frozen base amount is based on the previous year that the senior citizen first qualifies. If the property has been revalued at a lower value than the original base year, the base will be changed to the lower value. Property owners or those with equitable interest may apply for the exemption as long as the taxpayer will be 65 years of age sometime in the qualifying year.

All applications are processed through the County Assessment Office. Only those who do not qualify will receive notification by mail informing them why they did not qualify. They will be able to review the reasons for not qualifying with this office after notification.

Information gathered from applications for the Senior Citizens Assessment Freeze Homestead Exemption is confidential. Any improper disclosure is a Class A misdemeanor (punishable by a jail term of up to one year or fine up to \$1,000). If there are any questions in regards to above information, please call the County Assessment Office.

Once a base year has been established for that applicant, it will remain until the property is sold or the property has been revalued to a lower amount. If the taxpayer does not qualify for a year or two after a base has been established, the same base amount will still be used when the taxpayer qualifies again.

Persons with Disabilities Homestead Exemption

35 ILCS 200/15-168

A person with disabilities may be eligible for an exemption that will remove \$2,000 of equalized assessed value from their property.

To qualify for this exemption, the taxpayer must be “unable to engage in substantial gainful activity by reason of a medically determinable physical or medical impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months.” Evidence that a taxpayer meets this condition includes:

- A Class 2 (or 2A) Illinois Person with Disabilities ID Card from the Secretary of State’s Office.
- Proof of Social Security Administration disability benefits.
- Proof of Veterans Administration disability benefits.
- Proof of Railroad or Civil Service disability benefits.
- An examination by a physician (must meet the same standards as used by the Social Security Administration).

An eligible taxpayer must occupy the property as their primary residence as of January 1 of the assessment year, must be liable for paying the real estate taxes and must be an owner of record or have a legal or equitable interest in the property as evidenced by a written instrument. A taxpayer may not claim this exemption if they claim the Veterans with Disabilities Homestead Exemption (35 ILCS 200/15-165) or the Veterans with Disabilities Standard Homestead Exemption (35 ILCS 200/15-169).

Standard Homestead Exemption for Veterans with Disabilities

35 ILCS 200/15-169

A veteran with disabilities may be eligible for an exemption that will remove some or all the equalized assessed value from their property for veterans with at least a 30% service-connected disability:

- Veterans with a VA service-connected disability rating of 30% or 40% can receive an exemption that takes \$2,500 off of their primary dwelling's equalized assessed value (EAV).
- Veterans with a VA service-connected disability rating of 50% or 60% can receive an exemption that takes \$5,000 off of their primary dwelling's EAV.
- Veterans with a VA service-connected disability rating of 70% or greater can receive an exemption that makes all of their primary dwelling's EAV exempt from property taxation.

To qualify for the Standard Homestead Exemption for Veterans with Disabilities, the veteran must meet the following requirements:

- Be an Illinois resident who has served as a member of the U.S. Armed Forces on active duty or state active duty, Illinois National Guard, or U.S. Reserve Forces, and not dishonorably discharged.
- Have at least a 30% service-connected disability certified by the U.S. Department of Veterans' Affairs.
- Must be the owner of record and occupy the house for at least part of the assessment year.
- The property must have a total equalized assessed value of less than \$250,000 for the primary residence.

An unmarried surviving spouse of a disabled veteran may continue to receive this exemption on his or her spouse's homestead property or transfer the exemption to a new primary residence.

A taxpayer may not claim this exemption if they claim the Veterans with Disabilities Homestead Exemption (35 ILCS 200/15-165) or the Persons with Disabilities Homestead Exemption (35 ILCS 200/15-168).

Returning Veterans' Homestead Exemption

35 ILCS 200/15-167

A returning veteran may be eligible for exemption that will remove \$5,000 of equalized assessed value from their property. Applications must be made for the year in which the qualifying veteran returns from active duty in an armed conflict.

To qualify for the Returning Veterans' Homestead Exemption the veteran must meet the following requirements:

- Be an Illinois resident who has served as a member of the U.S. Armed Forces, Illinois National Guard, or U.S. Reserve Forces.
- Returning from active duty in an armed conflict involving the armed forces of the United States during the assessment year.
- A veteran who dies during his or her active duty service is eligible to receive this exemption.
- Owned or had a legal or equitable interest in the property used as the principal place of residence on January 1 of the assessment year.
- Must be liable for the payment of the property taxes.

This exemption may be claimed only in the year in which the eligible veteran taxpayer returns from active duty in an armed conflict, plus one subsequent year. If a veteran taxpayer receives this exemption, then is again deployed on active duty in an armed conflict and returns again in a subsequent year, the veteran taxpayer is eligible for this exemption again if the other conditions are met.

Veterans Organization Assessment Freeze

35 ILCS 200/10-300

Veteran organizations must annually file an application with the County Assessment Office to receive the assessment freeze. The annual filing deadline is December 31.

A list of Veterans Organization property for your Township is available at the County Assessment Office.

Fraternal Organization Assessment Freeze

35 ILCS 200/15-350, et seq.

The fraternal organization must apply to the County Assessment Office by December 31. The Supervisor of Assessments will make the determination of eligibility for the freeze and sufficiency of documentation required to be submitted.

A list of Fraternal Organization property for your Township is available at the County Assessment Office.

Farmland Assessments

Pursuant to the Property Tax Code 35 ILCS 200/10-110 thru 10-145, farmland in Illinois is assessed for property tax purposes on the basis of its agricultural economic value. This value, commonly referred to as use-value, is based upon land use under average level management, relative productivity of soils, and the present worth of the net income accruing to the land from farm production.

When used in connection with valuing land and buildings for an agricultural use, the state Property Tax Code considers property to be a farm if one of the following uses is the principal use:

- The growing and harvesting of crops.
- The feeding, breeding and management of livestock.
- Dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses;
- Keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming.

(See 35 ILCS 200/1-60)

Also, to qualify for a farm assessment, the farm use must have been established for at least two years preceding the date of assessment. As the assessment date for 2021 is January 1, 2021, a qualifying property must have established a farm use as a principal use no later than January 1, 2019. *(See 35 ILCS 200/10-110)*

In addition to these statutes, there have been several applicable decisions on this issue:

- The courts have ruled that it is “the present use of the land” which determines whether a property is entitled to a farmland classification for assessment purposes. (*Bond County Board of Review v. Property Tax Appeal Board*, App. 5 Dist. 2003, 277 Ill.Dec . 542, 343 Ill.App.3d 289, 796 N.E.2d 628.)
- In *Senachwine Club v. Putnam County Board of Review* (362 Ill. App. 3d 566, 3rd Dist. 2005), the court stated that a parcel of land may be classified as farmland provided that those portions of the property so classified are used solely for agricultural purposes, even if the farm is part of a parcel that has other uses. Citing *Kankakee County Board of Review*, 305 Ill. App. 3d 799 at 802 (3rd Dist. 1999). In order to receive a preferential farmland assessment, the property at issue must meet this statutory definition of a “farm” as defined above in the Property Tax Code.
- The Illinois Property Tax Appeal Board has drawn a distinction between “a mere plan” to farm land as opposed to actual farm use (*In re: Buss Partnership/Rodney S. Buss*, Docket No. 05-00752.001-F-1, PTAB 2008).

Finally, the property tax code requires that the definition of farm use “does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use.” In other words, if there is a residential use on a property (such as a single-family home), then farm assessment cannot be granted unless a majority (more than 50%) of the property has been established as farm use.

In setting the assessment on a farm parcel, local assessing officials must consider four separate parts of the farm. Each of these parts and their statutorily prescribed method of assessment, are as follows:

- A. Farm Homesite** This is defined as that land on a farm parcel being used for residential purposes. The homesite is assessed as all other residential land in the county. The market value would be whatever comparable rural residential land is selling for in the area. This part of the farm parcel assessment is subject to county and state equalization factors.
- B. Farm Residence** This is to be assessed as all other residential improvements in the county. This part of the farm parcel assessment is also subject to county and state equalization factors.
- C. Farm Buildings** These are assessed at 33⅓% of their contributory value to the productivity of the farm. Contributory value considers the current use of the improvements and what that use adds to the overall productivity of the farming operation
- D. Farmland** This is assessed according to its soil productivity considering farmland use and factors which may detract from productivity. The state computes soil productivity index use-value assessment figures as a basis for the local assessment of individual parcels.
 - *Cropland* is assessed according to the value of its adjusted soil productivity index (PI).
 - *Permanent pasture* is assessed at one-third of its adjusted PI assessed value as cropland.
 - *Other farmland* is assessed at one-sixth of its adjusted PI assessed value as cropland.
 - *Wasteland* is assessed at its contributory value.

The 2021 Certified Values as developed by the Illinois Department of Revenue and approved by the Kane County Farmland Assessment Review Committee are on the following pages. For more detailed information on Farmland Assessment, the Department of Revenue has developed a variety of publication:

Instructions for Farmland Assessments <http://tax.illinois.gov/Publications/Pubs/Pub-122.pdf>

Preferential Assessments

for Wooded Acreage..... <http://tax.illinois.gov/Publications/Pubs/Pub-135.pdf>
Also covers Transitional Percentage Assessment, Conservation Stewardship, and Forestry Management



FARMER GUIDE TO FARMLAND ASSESSMENT

UNDERSTANDING THE FARMLAND ASSESSMENT LAW AND WHY VALUES ARE EXPECTED TO INCREASE

Farmers are continuing to see increases in the assessed value of their farmland, which contributes to higher taxes in many cases. These increases also raise questions about the farmland assessment process and why these values continue to rise. A better understanding of the law might help answer some of those questions.

CAMPAIGN RAISES FARMERS' FARMLAND ASSESSMENT AWARENESS IN NEW WAYS

Illinois Farm Bureau is rolling out an information campaign that includes some new materials Farm Bureau members can use to understand how the Farmland Assessment Law works. IFB created a series of short videos that illustrate the formula, details and complexities of the Farmland Assessment Law. Those videos are now available to view by logging into MyIFB (for Farm Bureau members only).

Other print materials are available to make sure farmers and Farmland Assessment Review Committee members are ready for important assessment and tax dates. County Farm Bureau staff can access additional material for Farm Bureau members. Additionally, IFB has begun using its news platforms to remind farmers about the Farmland Assessment Law through news content, inserts, interviews and more.

LEARN MORE BY SIGNING IN TO MYIFB TO VIEW INFORMATIONAL MATERIALS ON THE FARMLAND ASSESSMENT LAW.

As a member of your county Farm Bureau, you have access to member only information and Farmland Assessment videos and resources. All you need to do is create an account at www.MyIFB.org or log in to your account if you already have one.

If you are not already a member, you can join today at www.myifb.org

Need assistance, contact us at membership@ifb.org or 309-557-2689

Developer's Relief Preferential Assessment

35 ILCS 200/10-30

Note: Occasionally, this preferential assessment is cited as Section 20g4 of the property tax code or Section 10-31 of the property tax code. However, these citations are for older sections of the code that have not been in effect since 1993 and 2011, respectively. The current statutory authorization is found in Section 10-30.

Properties qualifying for this preferential assessment are classified as 0032 (residential lot), 0052 (apartment over six units), 0062 (commercial—retail), 0072 (commercial—office), or 0082 (industrial). In order to determine if a property qualifies for valuation under this section, a five-step test is used:

- **Is the land part of a legal subdivision that was recorded on or after January 1, 1978?** In analyzing whether Section 10-30 is applicable to a specific property, the date a document is *recorded* is always the date to consider. If you are not certain when a subdivision was recorded, you can check the records of the Recorder at www.KaneCountyRecorder.net or call the County Assessment Office to find out. For purposes of this act, a subdivision must conform to the Illinois Plat Act.
 - **If the subdivision was recorded before January 1, 2008, did it contain at least 10 acres?** The area to consider is the entire boundary of the subdivision, which may or may not include adjoining public right-of-way. Also, it can include only the area of that specific subdivision; adjoining plats cannot be aggregated for this purpose. If you need help determining the area of the subdivision, please contact one of the cadastral mapping specialists in the County Assessment Office.
 - **If the subdivision was recorded on or after January 1, 2008, did it contain at least five acres?** Again, the area to consider is the entire boundary of the subdivision, which may or may not include adjoining public right-of-way. Also, it can include only the area of that specific subdivision; adjoining plats cannot be aggregated for this purpose. If you need help determining the area of the subdivision, please contact one of the cadastral mapping specialists in the County Assessment Office.
- **Since the date the plat was recorded, has the lot remained unimproved and unused?** If a lot has been improved with a habitable structure or used for any business, commercial, or residential purpose, its land value should be removed from this classification on the January 1 following the improvement or use.

- **Has the property remained unsold (except for sales recorded between January 1, 2009 and December 31, 2011)?** If a lot has sold (including any related-parties sales), except for sales that were recorded between January 1, 2009 and December 31, 2011, its land value should be removed from this classification on the January 1 following the date the sale was recorded.

If a lot meets these conditions, it should be given one of the classifications above and valued under this section. If it does not meet these conditions, it shall not be valued under this preferential assessment and should be valued at 33.33% of its fair cash value.

To determine the correct valuation method, one additional factor needs to be determined:

- **When the most recent assessment of the underlying property (prior to platting) was certified to the Board of Review, was the underlying property classified as 0011 or 0021?** If so, the platted parcels shall be valued as farm parcels, **EVEN IF THE PROPERTY IS NO LONGER FARMED.** (See *Mill Creek Development, Inc. v. Property Tax Appeal Bd. of State of Illinois*, 3 Dist.2003, 2003 WL 22462636, superseded 281 Ill.Dec.270, 345 Ill.App3d 790, 803 N.E.2d891, modified on denial of rehearing.)

This would normally mean developing a “farm card” for each platted lot in a subdivision. However, after consulting with the State’s Attorney, I have determined that in order to ease the administrative burden, it is permissible to assess each lot at \$140, which would have an identical result as developing a farm card for each parcel.

- **When the most recent assessment of the underlying property (prior to platting) was certified to the Board of Review, was the underlying property classified as something other than 0011 or 0021?** If so, the platted parcels shall be valued according to the prior use of the underlying property, as if the subdivision and any appurtenant improvements did not exist. This does NOT mean simply a discounted value, but a proportionate value of land underlying the subdivision as if the subdivision did not exist as of January 1, 2021.

Assessment Corrections

What is it?

An *Assessment Correction* is a request that the Board of Review, on its own motion, adjust an equalized assessed valuation (EAV) that has been previously certified to the Board of Review. These include:

- *Instant Assessments*, which is for new construction that was completed and ready for occupancy after January 1 of the taxable year, but were not added at the time of certification.
- *Divisions/Consolidations*, which retired one or more old parcels and created one or more new parcels, but were not added to your assessment roll at the time of certification.
- *Assessment Updates*, which are changes that are requested based on additional information that came available after the assessment roll was certified.

Who can request it?

It can be requested by a Township Assessor or the Supervisor of Assessments; taxpayers or taxing bodies must use the complaint process as provided in the Illinois Property Tax Code (35 ILCS 200/16-25 and 35 ILCS 200/16-55, respectively).

When can it be requested?

It cannot be filed prior to the date the Township Assessment Roll is certified to the Board of Review. The filing deadline for an assessment correction depends of the type of correction sought:

- For *Instant Assessments*, the filing deadline is November 1, 2021.
- For *Divisions/Consolidations*, the filing deadline is November 1, 2021.
- For *Assessment Updates*, the final filing deadline is either a) the assessment complaint filing deadline for your township, or October 1, 2021, whichever is later.

Why is it used?

It is designed to provide a mechanism wherein an assessing officer can request a change for an EAV after further information has been brought to the assessing officer's attention. It is not a suitable vehicle for changes to entire neighborhoods, nor is it a substitute for the normal mass appraisal process.

What is the process?

If the Board of Review concurs, the taxpayer will be notified in writing that the Board has made this change on its own motion pursuant to 35 ILCS 200/16-30; if the requested change is \$100,000 or more, all taxing bodies with a revenue interest will be notified. If the taxpayer or taxing body with a revenue interest

requests a hearing within 14 days of the notice, a hearing will be held on the proposed change. Please remember that an *Assessment Correction* updates only the current assessment year.

***What if there is an
assessment complaint?***

If a taxpayer has filed an assessment complaint with the Board of Review, the *Assessment Correction* will serve as the Township Assessor's recommendation to the Board of Review.

Certificates of Error

35 ILCS 200/14-20 and 35 ILCS 200/16-75

What is it?

A *Certificate of Error* is the instrument that corrects an error in fact (not an error in judgment), and should be submitted to correct the PRIOR YEAR'S ASSESSMENT and the CURRENT YEAR'S TAX BILL.

Who can request it?

Only Township Assessors may request a Certificate of Error. In Illinois, taxpayers have neither a statutory nor a constitutional right to participate in a certificate of error procedure (*Ball v. County of Cook*, 385 Ill.App. 3d at 105, citing *In re Application of the Cook County Treasurer* for the 1968, 1973, 1980 & Other Tax Years, 172 Ill. App. 3d 192, 199 (1988), citing *Chicago Sheraton Corp. v. Zaban*, 71 Ill.2d 85 (1978)). The certificate of error procedure is separate and distinct from the refund procedure available to the taxpayer (*Ball*, 385 Ill. App. 3d at 105, citing *Chicago Sheraton Corp.*, 71 Ill. 2d at 91). Taxpayers do not have a private cause of action under section 14-15 of the Property Tax Code (*Ball*, 385 Ill. App. 3d at 105, citing *Chicago Sheraton Corp.*, 71 Ill. 2d at 91). The Supreme Court has held that "the General Assembly intended the certificate of error procedure to be an expeditious summary process, without participation by the taxpayer, for correcting the assessor's errors" (*Chicago Sheraton Corp.*, 71 Ill. 2d at 91).

When can it be requested?

A *Request for Certificate of Error* to correct a 2020 assessment and a 2021 property tax bill can be submitted to the County Assessment Office no earlier than May 1, 2021 and not later than October 1, 2021.

Why is it used?

A Certificate of Error is used to correct an error in fact; the state property tax code prohibits a Certificate of Error to be made based on "errors of judgment as to the valuation" (35 ILCS 200/16-75). Bases for a Certificate of Error identified by the Illinois Department of Revenue include:

- Incorrect computations;
- Duplicate assessments,
- Improvements damaged or destroyed;
- Incorrect description of property assessed; and
- Unapplied homestead exemptions.

What is the process?

The property tax code provides that they can be issued by a Chief County Assessment Officer with the concurrence of a majority of the Board of Review (35 ILCS 200/14-20). The property tax code also provides that they can be issued by the Board of Review with the concurrence of the Chief County Assessment Officer (35 ILCS

200/16-75). In order to insure compliance with statutory requirements, the request must:

- State the nature of the error in fact other than error of judgment to valuation (*example: incorrect number of plumbing fixtures*); and
- Include evidence of before and after showing the reason for issuing the Certificate of Error (*example: valuation ladder showing all calculations before the change, and a separate valuation ladder showing all calculations after the change*) and
- Provide the valuation before the error and the corrected valuation breakdown: land, improvements, and total; and
- Be signed by the Township Assessor or Deputy Township Assessor.

Remember, a Request for Certificate of Error corrects the PRIOR year's assessment; it does not correct the current year's assessment. If the current year's assessment needs to be corrected also the assessor must put the corrected valuation on the current years assessment roll. If you have already certified your assessment roll to the Supervisor of Assessments office then you must correct the valuation through an Assessment Correction form.

What if there is a pending appeal to the PTAB?

The Illinois Attorney General has opined that "Once a decision of a county board of review is appealed to the Property Tax Appeal Board, the board of review has no power to issue a certificate of error to alter its assessment." (1977 Op.Atty.Gen. No. S-1307) Therefore, any recommendation for change should be included in a response to the filing at the PTAB.

How should it be filed?

A *Request for a Certificate of Error* form must be used for all Certificate of Error requests. All evidence supporting the change must accompany the form. All submissions must be submitted in



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2021 Legislative Updates to the Property Tax Code

The contents of this notice are informational only and do not take the place of statutes, rules, or court decisions. For each Public Act, we have provided reference to the Illinois Property Tax Code (35 ILCS 200/1 et seq.). Note that there may be additional provisions in the public acts that fall outside the Property Tax Code; those changes are not addressed in this notice unless it is relevant to Property Tax. The effective dates are specified below in each summary. Chief County Assessment Officers (CCAO or CCAOs) are asked to share this information as appropriate with other local government officials, including township/multi-township assessors and board of review members.

It is important to note that statutes are subject to further legislative action in subsequent years; the information contained in this notice may change with further law changes, therefore it is important to consult the Property Tax Code (35 ILCS 200) when questions arise.

*****Assessment-related Legislation*****

Homestead Exemptions Applications

PA 102-0136 (HB 3289)

Overview:

Provides for several changes to the Property Tax Code impacting certain homestead exemptions as outlined below.

Certain Homestead Exemptions Changes Summary:

With county board approval, allows counties to temporarily suspend some annual reapplication requirements for specific homestead exemptions in certain situations. The same language applies to all three homestead exemptions as listed below. This language is a continuation of the previously passed legislation for tax year 2020.

Statutory Reference:

35 ILCS 200/15-168 – Homestead Exemption for Persons with Disabilities (updated)

35 ILCS 200/15-169 – Homestead Exemption for Veterans with Disabilities (updated)

35 ILCS 200/15-172 – Senior Citizens Assessment Freeze Homestead Exemption (updated)

New Law:

- Homestead Exemption for Persons with Disabilities - For any property that received this exemption for the 2020 taxable year, the CCAO **may** automatically approve this exemption without application for the 2021 taxable year only, as long as the following conditions are met:
 - the county board has declared a local disaster as provided in the Illinois Emergency Management Agency Act related to the COVID-19 public health emergency;
 - the owner of record of the property as of January 1, 2021 is the same as the owner of record of the property as of January 1, 2020;
 - the exemption for the 2020 taxable year has not been determined to be an erroneous exemption as defined by the Property Tax Code; and



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- the applicant for the 2020 taxable year has not asked for the exemption to be removed for the 2020 or 2021 taxable years.
- **Standard Homestead Exemption for Veterans with Disabilities** - For any property that received this exemption for the 2020 taxable year, the CCAO **may** automatically approve this exemption without application for 2021 only, as long as the following conditions are met:
 - the county board has declared a local disaster as provided in the Illinois Emergency Management Agency Act related to the COVID-19 public health emergency;
 - the owner of record of the property as of January 1, 2021 is the same as the owner of record of the property as of January 1, 2020;
 - the exemption for the 2020 taxable year has not been determined to be an erroneous exemption as defined by the Property Tax Code; and
 - the applicant for the 2020 taxable year has not asked for the exemption to be removed for the 2020 or 2021 taxable years.

Note: A veteran whose service-connected disability rating has changed since the exemption was granted in 2020 is allowed to apply based on the new service-connected disability rating.

- **Senior Citizens Assessment Freeze Homestead Exemption** - For any property that received this exemption for the 2020 taxable year, the CCAO **may** automatically approve this exemption without application for the 2021 taxable year only, as long as the following conditions are met:
 - the county board has declared a local disaster as provided in the Illinois Emergency Management Agency Act related to the COVID-19 public health emergency;
 - the owner of record of the property as of January 1, 2021 is the same as the owner of record of the property as of January 1, 2020;
 - the exemption for the 2020 taxable year has not been determined to be an erroneous exemption as defined by the Property Tax Code; and
 - the applicant for the 2020 taxable year has not asked for the exemption to be removed for the 2020 or 2021 taxable years.

Note: Nothing shall preclude or impair the authority of a CCAO to conduct audits of any taxpayer claiming an exemption under this Section to verify that the taxpayer is eligible to receive the exemption.

Supportive Living Facilities & Education Trade Schools PA 102-0016 (SB 2017)

Overview:

Provides an update to the alternate valuation method for supportive living facilities. Creates a new non-homestead exemption for educational trade schools.

Summary of Changes:

Updates the valuation methodology for supportive living facilities to exclude certain types of income when determining the fair cash value of the facility. Also adds a provision for a new non-



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homestead exemption for educational trade schools that meet certain criteria. Existing forms will be used for this new exemption type as outlined below.

Statutory Reference:

35 ILCS 200/10-390 – Valuation of Supportive Living facilities (updated)

35 ILCS 200/15-37 – Educational Trade Schools

Also contains provisions for other changes to state law outside of the property tax code.

New Law:

35 ILCS 200/10-390:

Adds new language stating that gross potential income must not exceed the maximum individual Supplemental Security Income (SSI) amount, minus a resident's personal allowance as defined at 89 Ill Admin. Code 146.205, multiplied by the number of apartments authorized by the supportive living facility certification.

The Illinois Department of Healthcare and Family Services (IDHFS) maintains a wealth of information on Supportive Living Facilities on their website at the following:

<https://www2.illinois.gov/hfs/MedicalProviders/notices/Pages/default.aspx>

A full listing of the approved operational sites along with the total number of apartments can be found at the following link:

<https://www2.illinois.gov/hfs/SiteCollectionDocuments/OperationalSites.pdf>

It is important to note that there are currently a number of providers that are in various stages of construction or renovation that are not yet operational. Once these facilities are certified, they operational listing will be updated so be sure to check the listing periodically to ensure all facilities are accounted for in your jurisdiction.

For information about the maximum SSI amount, the Social Security Administration provides this information on their website. Please note the following links:

Current and historic SSI and COLA information: <https://www.ssa.gov/cola/>

The IDHFS also releases an annual provider notice with the yearly changes that affect a SLP resident's room and board which is based upon the SSI amount:

<https://www2.illinois.gov/hfs/MedicalProviders/notices/Pages/prn201123a.aspx>

The "resident's personal allowance as defined it 89 Ill Admin. Code 146.205 can be found at the link below. These amounts do not generally change from year to year but may be changed due to legislative action:

<https://www.ilga.gov/commission/jcar/admincode/089/089001200C00610R.html>

35 ILCS 200/15-37:

Creates a new non-homestead exemption for educational trade schools. Property that is owned by a non-profit trust fund and used exclusively for the purposes of educating and training individual for occupational, trade, and technical careers and is certified by the United States Department of Labor as registered with the Office of Apprenticeship is exempt. Applicants will file a PTAX-300 with the county Board of Review, and the application should be forwarded to IDOR following the same process and procedure as other non-homestead exemption applications.



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Various Property Tax Provisions

PA 102-0519 (SB 508)

Overview:

Makes changes to the Property Tax Extension Limitation law specifically regarding home equity assurance programs (same as PA 102-0311). Adds new section related to adjustments for Certificates of Error, court orders, or final PTAB decisions. Makes various changes to tax sales and scavenger sales.

Summary of Changes:

Same as PA 102-0311 - specifically targets home equity assurance programs which levy at least \$1,000,000 in property taxes by limiting the amount that can be levied.

Creates a new provision concerning adjustments when a Certificate of Error, certain court orders, or final decisions of the Property Tax Appeal Board (PTAB) are made; allows a local taxing district to increase the levy to accommodate the above actions.

Adds language to existing statutes related to scavenger sales and the annual tax sale.

Statutory Reference:

35 ILCS 200/18-185 – Property Tax Extension Limitation Law (updated)

35 ILCS 200/18-233 – Adjustments for certificates of error, certain court orders, or final administrative decisions of the PTAB (new)

35 ILCS 200/21-145 – Scavenger sale (updated)

35 ILCS 200/21-150 – Time of applying for judgment (updated)

35 ILCS 200/21-205 – Tax sale procedures (updated)

35 ILCS 200/21-260 – Collector's scavenger sale (updated)

35 ILCS 200/21-261 – Scavenger sale automation (new)

New Law:

35 ILCS 200/18-185:

Same as PA 102-0311 (see below): For levy year 2022, the aggregate extension base of a home equity assurance program that levied at least \$1,000,000 in property taxes in levy year 2019 or 2020 under the Home Equity Assurance Act shall be the amount of that program's aggregate extension base for levy year 2021 would have been if the program had levied a property tax for levy year 2021.

35 ILCS 200/18-233:

Creates a new section in the Property Tax Code pertaining to decisions made stemming from the issuance of a certificate of error, certain court orders, or final administrative decisions of the PTAB. Effective with levy year 2021, a taxing district levy shall be increased by a prior year adjustment whenever an assessment decrease due to the issuance of a certificate of error, a court order issued pursuant to an assessment valuation complaint under Section 23-15 of the Property Tax Code, or a final administrative decision of the Property Tax Appeal Board (PTAB) results in a refund from the taxing district of a portion of the property tax revenue distributed to the taxing district.

On or before November 15 of each year, the county Treasurer shall certify the aggregate funds paid by a taxing district during such 12-month period. For the purposes of the Property Tax



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Extension Limitation Law, the taxing district's most recent aggregate extension base shall not include the prior year adjustment authorized under this new section.

35 ILCS 200/21-145:

Adds language to the scavenger sale law to accommodate allowance for the delay of a scavenger sale beyond the two-year consecutive maximum as a result of a statewide COVID-19 public health emergency.

35 ILCS 200/21-150:

Applies to Cook County, sets provisions for the application of judgment and order of sale dates and sets time frames for when tax sales and scavenger sales can occur in relation to delays caused by COVID-19.

35 ILCS 200/21-205 (b-5):

Effective immediately; in any county with 275,000 or more inhabitants, the county collector shall adopt a single bidder rule to prohibit a tax purchaser from registering more than one related bidding entity at the tax sale. Allows a county with under 275,000 inhabitants to implement the same rule by ordinance. In any county that has adopted the single bidder rule, the county treasurer shall include a representation and warranty form in each registration packet attesting to compliance with the single bidder rule unless the county opts out of this requirement by ordinance. Defines a single bidder rule by the following: (1) A registered tax buying entity may only have one registered buyer at the tax sale and may not have a related bidding entity directly or indirectly register as a buyer or participate in the tax sale or may they engage in any multiple bidding strategy for the purpose of having more than one related bidding entity submit bids at the tax sale; and (2) provides the definition of related bidding entities by structure and ownership type.

35 ILCS 200/21-260:

Adds language to the Collector's scavenger sale to allow for an electronic automated sale if the collector chooses to conduct an electronic automated sale. Provides differentiating language on the format of the scavenger sale - when the sale is held in person the successful bidder shall pay the amount of minimum bid to the county collector by the end of the business day on which the bid was placed; when the sale is held in an electronic automated format the successful bidder shall pay the minimum bid amount either online via ACH debit or by the county's prescribed electronic payment method by the close of the business day on which the bid was placed. If the bid is in excess of the minimum bid amount, the balance shall be paid in the same methods as above by the close of the next business day.

35 ILCS 200/21-261:

Adds this new subsection effective calendar year 2021. States that the county collector may employ any electronic automated means that the collector deems appropriate, provided that any electronic bidding system shall be programmed to accept the highest cash bid made by an eligible tax purchaser. If the collector conducts the scavenger sale using an electronic automated bidding system, no personal attendance by bidders is required at the scavenger sale. If automated means are used, all hardware and software used with respect to those automated means must be certified by the Department of Revenue and re-certified every 5 years.



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Low-income Housing Projects

PA 102-0175 (HB 2621)

Overview:

Requires the income approach be used to value low-income housing in all counties; creates a valuation methodology for low-income housing in counties with more than 3,000,000 inhabitants. Creates a new special assessment program for low-income housing in other counties.

Summary of Changes:

Provides details for a new special assessment program for low-income housing; sets forth the qualifications and application requirements; provides the time frames for the special assessment program.

Statutory Reference:

35 ILCS 200/10-260 – Low-income housing (updated)

35 ILCS 200/15-178 – Reduction in assessed value for affordable rental housing construction or rehabilitation (new)

Also contains provisions for other changes to state law outside of the property tax code.

New Law:

35 ILCS 200/10-260:

For all counties, requires an emphasis on the income approach to be used when valuing low-income housing by removing language allowing a different appropriate method to be used. In counties with more than 3,000,000 inhabitants, during a general reassessment year or other property reassessment, there is an updated outline of the determination of the fair cash value of any low-income housing project that qualifies for the Low-Income Housing Tax credit under Section 42 of the Internal Revenue Code.

- In buildings with 7 or more units, the assessor must consider the actual or projected net operating income attributable to the property, capitalized at rates for similarly encumbered Section 42 properties, and
- In buildings with 6 or less units, the assessor prior to finalizing and certifying assessments to the Board of Review, shall reassess the building considering the actual or projected net operating income attributable to the property, capitalized at rates for similarly encumbered Section 42 properties.
- The capitalization rate shall be one that reflects the prevailing cost of capital for other types of similarly encumbered Section 42 properties in the geographic market in which the low-income housing project is located.

All low-income projects seeking to be assessed under this Section shall certify to the appropriate assessing officer that the owner(s) qualify for the Low-Income Housing Tax Credit under Section 42 of the Internal Revenue Code for the property, in a form prescribed by that assessment officer.

35 ILCS 200/15-178:

Develops a new statewide policy to determine the assessed value for newly constructed and rehabilitated affordable rental housing that meets certain criteria. Property that meets the qualifications will receive the special assessment for 10 taxable years after the newly constructed residential real property or improvements to existing residential real property are put in service.



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All counties are required to implement this new assessment program; counties of less than 3,000,000 inhabitants may choose to opt out of the one or both of the special assessment programs by ordinance requiring a majority vote by the county board. If a county board opts out of the program by ordinance, they may later choose to opt in by ordinance requiring a majority vote by the county board.

Eligibility – (b)(1) and (b)(2)

Property is eligible for the special assessment program if and only if all of the following factors have been met:

- At the conclusion of the new construction or qualifying rehabilitation, the property consists of a newly constructed multifamily building containing 7 or more rental dwelling units or an existing multifamily building that has undergone qualifying rehabilitation resulting in 7 or more rental dwelling units, and
- The property meets the application requirements.

Qualifications – (c)(1) and (c)(2)

The CCAO shall require that residential real property is eligible for the special assessment program if and only if one of the additional factors have been met, unless a county has opted out of the program.

- (c)(1) - Prior to the newly constructed residential real property or improvements to existing residential property being put in service, the owner commits that, for a period of 10 years, at least 15% of the multifamily building's units will have rents as defined that are at or below maximum rents and are occupied by households with household incomes at or below maximum income limits
- (c)(2) - Prior to the newly constructed residential real property or improvements to existing residential real property located in a low affordability community being put in service, the owner commits that, for a period for a period of 30 years after the newly constructed or improved existing residential real property are put in service, at least 20% of the multifamily building's units will have rents as defined that are at or below maximum rents and are occupied by households with household incomes at or below maximum income limits.

Note: if a reduction in assessed value is granted under one special assessment program provided in this Section, that same property is not eligible for an additional special assessment program under this Section at the same time.

Reduction in assessed value – (d)(1) and (d)(2) and (e)(1) and (e)(2)

The amount of reduction in assessed value for qualifying properties under (c)(1) shall be calculated as follows:

- (d)(1) - If the owner commits for a period of at least 10 years that at least 15% but fewer than 35% of the multifamily building's units have rents at or below maximum rents and are occupied by households with household incomes at or below maximum income limits, the assessed value of the property used to calculate the property tax bill shall be reduced by an amount equal to 25% of the assessed value of the property as determined by the assessor for the property in the current taxable year for the newly constructed or improved existing residential real property.
- (d)(2) - If the owner commits for a period of at least 10 years that at least 35% of the multifamily building's units have rents at or below maximum rents and are occupied by households with household incomes at or below maximum income limits, the assessed value of the property used to calculate the property tax bill shall be reduced by an amount



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equal to 35% of the assessed value of the property as determined by the assessor for the property in the current taxable year for the newly constructed or improved existing residential real property.

(e)(1) through (e)(5) - The amount of reduction in assessed value for qualifying properties under (c)(2) shall be calculated as follows.

- For the first, second, and third taxable year after the residential real property is placed in service, the property is entitled to a reduction in its assessed value in an amount equal to the difference between the assessed value in the year for which the incentive is sought and the assessed value for the residential real property in the base year.
- For the fourth, fifth, and sixth taxable year after the residential real property is placed in service, the property is entitled to a reduction in its assessed value in an amount equal to 80% of the difference between the assessed value in the year for which the incentive is sought and the assessed value for the residential real property in the base year.
- For the seventh, eighth, and ninth taxable year after the residential real property is placed in service, the property is entitled to a reduction in its assessed value in an amount equal to 60% of the difference between the assessed value in the year for which the incentive is sought and the assessed value for the residential real property in the base year.
- For the tenth, eleventh, and twelfth taxable year after the residential real property is placed in service, the property is entitled to a reduction in its assessed value in an amount equal to 40% of the difference between the assessed value in the year for which the incentive is sought and the assessed value for the residential real property in the base year.
- For the thirteenth through thirtieth taxable year after the residential real property is placed in service, the property is entitled to a reduction in its assessed value in an amount equal to 20% of the difference between the assessed value in the year for which the incentive is sought and the assessed value for the residential real property in the base year.

Application requirements (f)

(f)(1) - In order to qualify for the reduced valuation as outlined above, the owner must submit an application containing the following information to the CCAO for review in the form and by the date require by the CCAO:

- Owner's name
- Postal address and permanent index number (PIN) or numbers of the parcel or parcels for which the owner is applying to receive the reduced valuation under this section
- Deed or other instrument conveying the parcel or parcels to the current owner
- Written evidence that the new construction or qualifying rehabilitation has been completed with respect to the residential real property, including but not limited to copies of building permits, notarized contractor's affidavit, and photographs of the interior and exterior of the building after new construction or rehabilitation is completed
- Written evidence that the residential real property meets local building codes, or if there are no local building codes, Housing Quality Standards, as determined by the US Department of Housing and Urban Development
- A list identifying the affordable units in residential real property and a written statement that the affordable units are comparable to market rate units in terms of unit type, number of bedrooms per unit, quality of exterior appearance, energy efficiency, and overall quality of construction
- A written schedule certifying the rents in each affordable unit and a written statement that these rents do not exceed the maximum rents allowable for the area in which the residential real property is located



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- Documentation from the administering agency verifying the owner's participation in a qualifying income-based rental subsidy program as defined if units receiving rental subsidies are to be counted among the affordable units in order to meet thresholds defined
- A written statement identifying the household income for every household occupying an affordable unit and certifying that the household income does not exceed the maximum income limits allowable for the area in which the residential real property is located
- A written statement that the owner has verified and retained documentation of household income for every household occupying an affordable unit
- Any additional information consistent with this Section as reasonably required by the CCAO, including but not limited to, any information necessary to ensure compliance with applicable local ordinances and to ensure the owner is complying with the provisions of this Section

(f)(1.1) - In order for a development to receive the reduced valuation, the owner must provide evidence to the county assessor's office of a fully executed project labor agreement entered into with the applicable local building trades council, prior to commencement of any and all construction, building, renovation, demolition, or any material change to the structure or land.

(f)(2) - The application requirements above are continuing requirements for the duration of the reduction in assessed value received and may be annually or periodically verified by the CCAO.

(f)(3) - In lieu of submitting an application containing the information above in (f)(1), the CCAO **may** allow for submission of a substantially similar certification granted by the Illinois Housing Development Authority (IHDA) or a comparable local authority provided that the CCAO independently verifies the veracity of the certification with the IHDA or comparable local authority.

(f)(4) – The CCAO shall notify the owner as to whether or not the property meets the requirements of this Section. If the property does not meet the requirements, the CCAO shall provide written notice of any deficiencies to the owner, who shall have 30 days from the date of notification to provide supplemental information showing compliance with this Section. The CCAO shall, in its discretion, grant additional time to cure any deficiency. If the owner does not exercise this right to cure the deficiency, or if the information submitted, in the sole judgment of the CCAO, is insufficient to meet the requirements of this Section, the CCAO shall provide a written explanation of the reasons for denial.

(f)(5) – The CCAO may charge a reasonable application fee to offset the administrative expenses associated with the program.

(f)(6) – The reduced valuation conferred by this Section is limited as follows:

- (A) The owner is eligible to apply for the reduced valuation conferred by this Section beginning in the first assessment year after the effective date of this Act through December 31, 2027. If approved, the reduction will be effective for the current assessment year, which will be reflected on the tax bill issued in the following calendar year.
 - Owners that are approved for the reduced valuation under (c)(1) before December 31, 2027 shall, at minimum, be eligible for annual renewal of the reduced valuation during an initial 10-year period if annual certification requirements are met for each of the 10 years as described below.
- (B) Property receiving a reduction outlined in (c)(1) shall continue to be eligible for an initial period of up to 10 years if annual certification requirements if annual certification



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requirements are met for each of the 10 years, but shall be extended up to two additional 10-year periods with annual renewals if the owner continues to meet the requirements of this Section, including annual certifications, and excluding the requirements regarding new construction or qualifying rehabilitation as defined in (D) below.

- (C) The annual certification materials in the year prior to final year of eligibility for the reduction in assessed value must include a dated copy of the written notice provided to tenants informing them of the date of termination if the owner is not seeking a renewal.
- (D) If the property is sold or transferred, the purchaser or transferee must comply with all requirements of this Section, excluding the requirements regarding new construction or qualifying rehabilitation, in order to continue receiving the reduction in assessed value. Purchasers and transferees who comply with all requirements of this Section are eligible to apply for renewal on the schedule set by the initial application.
- (E) The owner may apply for reduced valuation if the residential real property meets all requirements of this Section and the newly constructed residential real property or improvements to existing residential real property were put in service on or after January 1, 2015. However, the initial 10-year eligibility period or 30-year eligibility period, depending on the applicable program, shall be reduced by the number of years between the placed in service date and the date the owner first receives this reduced valuation.
- (F) The owner may apply for the reduced valuation within 2 years after the newly constructed or improved existing residential real property are put in service. However, the initial 10-year or 30-year eligibility period, depending on the applicable program, shall be reduced for the number of years between the placed in service date and the date the owner first receives this reduced valuation.
- (G) <Cook County specific language> Owners of a multifamily building receiving a reduced valuation through the Cook County Class 9 program during the year in which this Act takes effect shall be deemed automatically eligible for the reduced valuation defined in (c)(1) in terms of meeting the criteria for new construction or substantial rehabilitation for a specific multifamily building regardless of when the newly constructed or rehabilitated residential real property were put in service. If a Cook County Class 9 owner had Class 9 status revoked on or after January 1, 2017 but can provide documents sufficient to prove that the revocation was in error or any deficiencies leading to the revocation have been cured, the CCAO may deem the owner to be eligible. Owners may not receive both the reduced valuation under this Section and the reduced valuation under the Cook County Class 9 program in any single assessment year. In addition, the number of years during which an owner has participated in the Class 9 program shall count against the 3 10-year periods of eligibility for the reduced valuation as defined in (c)(1).
- (H) At the completion of the assessment reduction period described in this Section, the entire parcel will be assessed as otherwise provided by law.

Definitions

See the full Public Act for a list of all definitions.



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*****Other Property Tax Provisions Impacting Local Governments*****

Publications Requirement

PA 102-0592 (HB 2412)

Overview:

Requires publication to occur in specific newspapers when certain criteria are met.

Summary of Changes:

Requires publication in a local newspaper of a minority group, and in that group's official language, if certain metrics are met.

Statutory Reference:

715 ILCS 5/12 – Minority groups (new)

New Law:

Effective 1/1/2022, if a notice is required to be published in a newspaper under this Act where the city, town or county consists of more than 45% of a single minority group, the notice shall also be published in a local newspaper of that minority group, if available, and in the official language of the minority group's country of origin.

Vendor Reporting Requirement

PA 102-0265 (HB 453)

Overview:

Requires certain taxing districts to provide data concerning vendors and subcontractors doing business with the taxing district.

Summary of Changes:

Creates a new statutory section to provide for electronic reporting of vendor information for taxing districts with an aggregate property tax levy of more than \$5,000,000 for the levy year as to whether the vendor(s) are minority, woman, or veteran owned.

Statutory Reference:

35 ILCS 200/18-50.2 – Vendor information reporting (new)

35 ILCS 805/8.45 – Exempt mandate (no reimbursement by the State) (new)

New Law:

Beginning in levy year 2022, each taxing district with an aggregate property tax levy of more than \$5,000,000 for the levy year shall make a good faith effort to collect and electronically publish data from all vendors and subcontractors doing business with the taxing district as to

- whether the vendor or subcontractor is minority, women, or veteran owned, as defined in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, and
- whether the vendor or subcontractor holds any certification for those categories or if they are self-certifying, and whether the vendor qualifies as a small business under the SBA.

Home rule powers and functions are denied for purposes of this new law. Provides for no reimbursement for the publication of this information.



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Tax Sale Changes

PA 102-0363 (SB 1721)

Overview:

Adds language regarding what a county may include to manage and operate delinquent property; reduces the maximum amount of penalty allowed to be bid at the annual tax sale. Makes changes to the Counties and Municipalities codes.

Summary of Changes:

Adds language clarifying what a county may include to manage and operate delinquent property; allows for costs associated with maintaining the property be recuperated by the county when the property is sold. Reduces the maximum amount of penalty allowed to be bid at the annual tax sale from 18% to 9%. Makes other changes to the Counties and Municipalities codes that are not covered in this legislative summary.

Statutory Reference:

35 ILCS 200/21-90 – Purchase and sale by county; distribution of proceeds (updated)

35 ILCS 200/21-215 – Penalty bids (updated)

Also makes changes to the Counties Code 55 ILCS 5/5-1121 and Illinois Municipal Code 65 ILCS 5/11-31-1; these changes are not summarized in this document.

New Law:

35 ILCS 200/21-90:

When any property is delinquent or is forfeited for each of 2 or more years and is offered for sale under the provisions of the Code, the county may apply to purchase it. The county may (formerly "shall") take steps necessary to acquire title to the property – new language clarifies provisions for the management of the property to include mowing, maintaining, removing trash and waste, and demolition, repair or remediation of unsafe structures. If the county sells or assigns the acquired property, the county may recuperate costs involved in the acquisition, including maintenance and the county's staff and overhead costs, before the taxes collected are distributed to the taxing districts.

35 ILCS 200/21-215:

Reduces the maximum bid amount accepted for a penalty from 18% to now 9% of the amount of the tax or special assessment on property.

Changes made to the Counties Code and the Illinois Municipal Code are not summarized in this document; counties and municipalities are encouraged to work with their local State's Attorney or Counsel for further guidance.



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Scavenger Sales Changes

PA 102-0528 (SB 1845)

Overview:

Makes notification changes to the scavenger sales process.

Summary of Changes:

Provides that within 30 days of filing a petition, the owner of a certificate must file the names and addresses of the owners of the property with the Clerk and those entitled to service of notice. Requires the Clerk to mail a notice within 30 days from the date of the filing of addresses with the Clerk.

Statutory Reference:

35 ILCS 200/21-260 (updated)

35 ILCS 200/22-10 (updated)

35 ILCS 200/22-25 (updated)

New Law:

Adds to 35 ILCS 200/21-260(e):

Within 30 days from filing of the petition (concerning the period of redemption from a tax sale to obtain a tax deed) the owner of a certificate of purchase must file with the County Clerk the names and addresses of the owners of the property and those persons entitled to service of notice at their last known address. The Clerk shall mail notice within 30 days from the date of the filing of addresses with the Clerk.

22-10 and 22-25 add reference to the newly added language in 21-260 pertaining to the filing of names and addresses within the specified time frame and the requirement to mail notices as outlined above.

Home Equity Assurance Program Levy Changes

PA 102-0311 (SB 1138)

Overview:

Makes changes to the Property Tax Extension Limitation law specifically regarding home equity assurance programs.

Summary of Changes:

This new language specifically targets home equity assurance programs which levy at least \$1,000,000 in property taxes by limiting the amount that can be levied.

Statutory Reference:

35 ILCS 200/18-185 – Property Tax Extension Limitation Law (updated)

65 ILCS 95/4.3 – Tax levies for levy year 2021 (new)

New Law:

For levy year 2022, the aggregate extension base of a home equity assurance program that levied at least \$1,000,000 in property taxes in levy year 2019 or 2020 under the Home Equity Assurance Act shall be the amount of that program's aggregate extension base for levy year 2021 would have been if the program had levied a property tax for levy year 2021.



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The governing commission of a home equity assurance program that levied at least \$1,000,000 in property taxes in levy year 2019 or 2020 may not levy any property tax in levy year 2021.

Filing of Taxing District Levies

PA 102-0625 (SB 1667)

Overview:

Makes changes to the levy certification process.

Summary of Changes:

Adds subsection a-5, which allows for levy certifications to be submitted electronically.

Statutory Reference:

35 ILCS 200/18-15 (updated)

New Law:

Effective January 1, 2022, when taxing districts submit their levy request to the county clerk, they may submit the levy requests electronically along with any supplemental or supportive documentation.

Northwest Home Equity Assurance Act

PA 102-0599 (HB 2614)

Overview:

Adds language to provide an option for delinquent tax repayment under the Northwest Home Equity Assurance Program.

Summary of Changes:

Provides a process and procedure for establishing a delinquent tax repayment loan fund for payment of delinquent property taxes.

Statutory Reference:

65 ILCS 95/11 (updated)

New Law:

This new law falls outside of the property tax code, so an in-depth analysis is not being provided. Language was added to 65 ILCS 95/11 to provide via referendum or resolution for the ability to establish a low-interest emergency loan to eligible applicants for the payment of delinquent property taxes.



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October 2021

2021 Legislative Updates to the Property Tax Code

*****Updates due to legislation passed early this Fall prior to Veto Session*****

The contents of this notice are informational only and do not take the place of statutes, rules, or court decisions. For each Public Act, we have provided reference to the Illinois Property Tax Code (35 ILCS 200/1 et seq.). Note that there may be additional provisions in the public acts that fall outside the Property Tax Code; those changes are not addressed in this notice unless it is relevant to Property Tax. The effective dates are specified below in each summary. Chief County Assessment Officers (CCAO or CCAOs) are asked to share this information as appropriate with other local government officials, including township/multi-township assessors and board of review members.

It is important to note that statutes are subject to further legislative action in subsequent years; the information contained in this notice may change with further law changes, therefore it is important to consult the Property Tax Code (35 ILCS 200) when questions arise.

Energy Bill – Property Tax specific changes

PA 102-0662 (SB 2408)

Overview:

Extends sunset date on the wind energy device sunset date. Provides a clarification regarding commercial solar energy systems. Provides for the assessment of spent fuel storage tanks for energy producing plants. Makes other provisions that fall outside of the property tax code.

Summary:

Allows for the assessment of spent fuel pools and dry cask storage systems in which nuclear fuel is stored and is pending further or final disposal from a nuclear power plant. Provides direction on where to gather assessment information. Provides clarification on the valuation of solar energy systems when determining whether the system qualifies as "personal use" or commercial. Extends the sunset date for wind energy device valuation methodology to 2035.

Statutory Reference:

35 ILCS 200/1-130 – Property; real property; real estate; land; tract; lot
35 ILCS 200/10-5 – Solar energy systems
35 ILCS 200/10-610 – Applicability (Wind energy devices)

New Law:

35 ILCS 200/1-130

Adds language in subsection (e) that states the following: "Spent fuel pools and dry cask storage systems in which nuclear fuel is stored and is pending further or final disposal from a nuclear power plant that was decommissioned before January 1, 2021 shall be considered real property and be assessable. The chief county assessment officer shall assess such property based on a national evaluation of the effective value per pound of spent nuclear fuel, calculated by examining assessments or PILOT agreements and documented pounds of spent nuclear fuel, at nuclear power plants where such property is similarly considered real property."



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35 ILCS 200/10-5

Adds a new section (D) to further define which solar projects qualify as a commercial solar energy system versus a "behind the meter" type installation. The new language states that if the solar energy system is under a Power Purchase Agreement (PPA) or leased from a third-party owner or similar entity, and if the energy is used and consumed "behind the meter" to primarily offset the load of the end user to whose meter the system is connected, then the system does not fall under the commercial solar energy system valuation method but instead is treated as other solar energy systems under 10-5. Defines "primarily used" as the system is designed to offset the electricity load of the end user of the system within 110% or fewer kilowatt-hours of electricity than consumed by the end user of the electricity at such meter in the last 12 full months prior to the system being placed in service.

35 ILCS 200/10-610

Extends the sunset date for the wind energy valuation methodology from 2021 to 2035.