

# Public Act 97-0716

## Natural Disaster Homestead Exemption (35 ILCS 200/15-173)

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This document is distributed for informational purposes only and is intended to provide a general overview of the provisions of Public Act 97-0716 (House Bill 4242) for the new Natural Disaster Homestead Exemption under Section 15-173 of the Property Tax Code (35 ILCS 200/15-173).

Homestead exemption application forms are available for chief county assessment officers on the Department's web site under the "Local Officials ONLY" section.

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A new Natural Disaster Homestead Exemption (hereinafter - NDHE) on homestead properties is available for a rebuilt residential structure following a natural disaster occurring in the taxable year 2012 (property taxes payable 2013) or any taxable year thereafter.

### **What assessment year does the NDHE tax effect?**

The NDHE is effective for the 2012 taxable or assessment year (property taxes payable in 2013). The natural disaster must have occurred in the 2012 tax year or thereafter to be eligible for the NDHE. Chief county assessment officials should notify eligible taxpayers that may have qualified for NDHE.

### **What is a natural disaster that qualifies for NDHE?**

A natural disaster means an occurrence of widespread or severe damage or loss of property resulting from any catastrophic cause including but not limited to fire, flood, earthquake, wind, storm, or extended period of severe inclement weather. In the case of a residential structure affected by flooding, the structure shall not be eligible for an exemption unless it is located within a local jurisdiction which is participating in the National Flood Insurance Program.

A proclamation of disaster by the President of the United States or the Governor of the State of Illinois is not a prerequisite to the classification of an occurrence as a natural disaster.

Below is a link to FEMA web site that lists the communities who participate in the National Flood Insurance Program:

<http://www.fema.gov/national-flood-insurance-program/national-flood-insurance-program-community-status-book>.

### **Does a single property that is damaged due to a fire or other catastrophic event qualify for the NDHE?**

To qualify for the NDHE, the damage must occur from a natural disaster and not a separate catastrophic event to a single property. A single property that is damaged or destroyed as a result of a catastrophic event, such as a fire, may be eligible for the Homestead Improvement Exemption (35 ILCS 200/15-180).

### **What are the qualifications for the NDHE?**

Section 15-173 provides a definition for "homestead property" which is the same meaning as provided under Section 15-175 of the General Homestead Exemption in the Property Tax Code (35 ILCS 200/15-175).

To be eligible for the NDHE, the applicant must:

- own or have a legal or equitable interest in the property on which a single family residence is occupied as their principal residence during the assessment year;
- be liable for the payment of the property taxes;
- the residential structure must be rebuilt within 2 years after the date of the natural disaster; and
- the square footage of the rebuilt structure may not be more than 110 percent of the square footage of the original residential structure as it existed immediately prior to the natural disaster.

### **Do residents of cooperative apartment buildings or life care facility qualify for this exemption?**

Yes. The definition of homestead property under Section 15-175 of the Property Tax Code includes a resident of a cooperative apartment building or life care facility as defined under Section 2 of the Life Care Facilities Act (210 ILCS 40/1 et. seq.) does qualify for this exemption if he or she

- occupies it as a principal residence;
- is liable by contract with the owner(s) of record to pay the property taxes; and
- is the owner of record of a legal or equitable interest in the property in the cooperative apartment building. Leasehold interest does not qualify.

A resident of a cooperative apartment building who has a leasehold interest does not qualify for this exemption.

### **What are the requirements for a surviving spouse?**

The NDHE carries over to the benefit of the surviving spouse. The surviving spouse must hold legal or beneficial title to the homestead, and permanently reside on the property.

### **What are the filing requirements?**

The taxpayer's initial application, Form PTAX-327 Application for the Natural Disaster Homestead Exemption, must be filed with the CCAO no later than July 1 of the first taxable year after the residential structure is rebuilt. The county board may, by resolution, establish a date for submission of applications that is different than July 1. The applicant must continue to file the Form PTAX-327 each taxable year and meet the qualifications to continue to receive the NDHE.

CCAO's may require applicants to submit additional documentation.

**Example:** If the natural disaster occurred in 2012 and the taxpayer rebuilt the residence in 2012, then the taxpayer has until July 1 of 2012 or 2013 to file an initial application. In subsequent years, the applicant must continue to file the Form PTAX-327 to continue to receive the NDHE.

### **Is there any recourse if an application was not filed by the county's deadline?**

Section 14-20 of the Property Tax Code (35 ILCS 200/14-20) requires CCAO's and boards of review, in all counties except Cook County, to issue a certificate of error for all homestead exemptions under Article 15 if an owner was qualified yet failed to file an application the previous assessment year. A certificate of error can only be issued up to the time of judgment or order of sale is

entered for delinquent taxes for a particular year.

**Example:** If the taxpayer rebuilt a residence in 2012, but failed to file in 2013, a certificate of error can be issued in the 2013 assessment year by the supervisor of assessments or board of review for the 2012 assessment year. The taxpayer could then file an application for the 2013 assessment year.

### **Who is the final authority on NDHE?**

The statute provides that the NDHE is granted by the chief county assessment officer. However, under Section 16-70 of the Property Tax Code the board of review is the final authority for all homestead exemptions.

### **How is the exemption amount calculated for NDHE?**

The NDHE is a reduction in a property's equalized assessed value (EAV). The amount of the exemption is the EAV of the residence in the first year for which the taxpayer applies for an exemption minus the EAV of the residence for the taxable year prior to the taxable year in which the natural disaster occurred (referred to as base amount). The "Equalized Assess Value" used to calculate the NDHE means the assessed value as equalized by the Illinois Department of Revenue.

The following example is for a residential structure that was destroyed in 2012 and residential structure was rebuilt in 2012. The taxpayer applied for the exemption in 2012.

#### **Example:**

#### **Step 1: Rebuilt structure SF may not exceed 110% of original residential structure SF.**

The statute provides to be eligible for NDHE, "the square footage of the rebuilt residential structure may not be more than 110% of the square footage of the original residential structure as it existed immediately prior to the natural disaster."

Ex: 3,000 SF of original structure X 110% = 3,300 maximum allowable SF of rebuilt structure. Rebuilt structure cannot exceed 3,300 or taxpayer DOES NOT QUALIFY for the NDHE.

**Step 2: The calculation for NDHE is the First Application Year (2012) EAV of Rebuilt Structure minus EAV of the residence for the taxable year prior to the taxable year the natural disaster occurred (2011 EAV of original structure) equals exemption amount (proposed increase in EAV attributable solely to the rebuilt structure).**

EAV is based on structures only and does not include any land value.

2012 EAV Rebuilt Structure:	\$50,000
2011 EAV Original Structure:	<u>\$40,000</u>
Equals Exemption amount:	<u>\$10,000</u>

**Step 3: The taxpayer will continue to receive the NDHE at the same annual amount of \$10,000 (reduction in EAV) for each year that a Form PTAX-327 is filed.**

**Can property receive both NDHE and the Homestead Improvement Exemption?**

No. Section 15-172(e) provides that property is not eligible for both NDHE and the Homestead Improvement Exemption (35 ILCS 200/15-180) for the same natural disaster or catastrophic event. The property, may receive a Homestead Improvement Exemption for any separate event occurring after the property qualified for the NDHE.

**When does the NDHE terminate?**

The NDHE continues until the taxable year the property is sold or transferred. Once an exemption is granted for the assessment year then it is not removed until the following January 1 of the next assessment year.

**Can a taxpayer continue to receive the NDHE after establishing a new principal residence?**

To qualify as homestead property, the applicant must occupy the residence on January 1 as a principal residence and must be liable for the payment of the property taxes. If a taxpayer establishes a new principal residence as of January 1 of the

assessment year, the taxpayer no longer qualifies for the NDHE.

**Example:** If the property sells or is transferred in 2013, the NDHE will not be removed until January 1, 2014

**How does the NDHE affect other exemptions?**

- **Can property continue to receive the Homestead Improvement Exemption after the NDHE has been granted?**

The NDHE statute under Section 15-173, paragraph (e) has the following provision:

“Property is not eligible for an exemption under this Section and Section 15-180 for the same natural disaster or catastrophic event. The property may, however, remain eligible for an additional exemption under Section 15-180 for any separate event occurring after the property qualified for an exemption under this Section.”

The property is eligible for an additional Homestead Improvement Exemption for any separate event occurring after the property qualified for the NDHE.

- **If property receives a reduction in assessment due to HIE, do you adjust the base amount for calculation of the NDHE?**

No. Do not adjust NDHE to include the value for the HIE or even after the HIE expires. There is no provision in the statute for adjusting the base year or base amount. The base amount for the NDHE is the “EAV of the residence for the taxable year prior to the taxable year in which the natural disaster occurred.”

- **Can the property receive both the NDHE and any of the other homestead exemptions?**

Except for the HIE for the same natural disaster or catastrophic event, the property can receive any of the other remaining homestead exemptions.