



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB2340

by Rep. Brandon W. Phelps

#### SYNOPSIS AS INTRODUCED:

35 ILCS 516/255  
35 ILCS 516/260

Amends the Mobile Home Local Services Tax Enforcement Act. Provides that the county collector may declare an administrative sale in error if: (1) the mobile home was not subject to taxation; (2) the taxes had been paid prior to the sale of the mobile home; or (3) prior to the tax sale a voluntary or involuntary petition has been filed by or against the legal or beneficial owner of the mobile home requesting relief under the provisions of 11 U.S.C. Chapter 7, 11, 12, or 13. Effective immediately.

LRB098 06917 HLH 36974 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning revenue.

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

4 Section 5. The Mobile Home Local Services Tax Enforcement  
5 Act is amended by changing Sections 255 and 260 as follows:

6 (35 ILCS 516/255)

7 Sec. 255. Sales in error.

8 (a) When, upon application of the county collector, the  
9 owner of the certificate of purchase, or a municipality that  
10 owns or has owned the mobile home ordered sold, it appears to  
11 the satisfaction of the court that ordered the mobile home sold  
12 that any of the following subsections are applicable, the court  
13 shall declare the sale to be a sale in error:

14 (1) the mobile home was not subject to taxation,

15 (1.5) the mobile home has been moved to a different  
16 location,

17 (2) the taxes had been paid prior to the sale of the  
18 mobile home,

19 (3) there is a double computation of the tax,

20 (4) the description is void for uncertainty,

21 (5) the assessor, chief county assessment officer,  
22 board of review, board of appeals, or other county official  
23 has made an error (other than an error of judgment as to

1 the value of any mobile home),

2 (5.5) the owner of the mobile home had tendered timely  
3 and full payment to the county collector that the owner  
4 reasonably believed was due and owing on the mobile home,  
5 and the county collector did not apply the payment to the  
6 mobile home; provided that this provision applies only to  
7 mobile home owners, not their agents or third-party payors,  
8 or

9 (6) prior to the tax sale a voluntary or involuntary  
10 petition has been filed by or against the legal or  
11 beneficial owner of the mobile home requesting relief under  
12 the provisions of 11 U.S.C. Chapter 7, 11, 12, or 13.

13 (b) When, upon application of the owner of the certificate  
14 of purchase only, it appears to the satisfaction of the court  
15 that ordered the mobile home sold that any of the following  
16 subsections are applicable, the court shall declare the sale to  
17 be a sale in error:

18 (1) A voluntary or involuntary petition under the  
19 provisions of 11 U.S.C. Chapter 7, 11, 12, or 13 has been  
20 filed subsequent to the tax sale and prior to the issuance  
21 of the tax certificate of title.

22 (2) The mobile home sold has been substantially  
23 destroyed or rendered uninhabitable or otherwise unfit for  
24 occupancy subsequent to the tax sale and prior to the  
25 issuance of the tax certificate of title.

26 (c) When the county collector discovers, prior to the

1 expiration of the period of redemption, that a tax sale should  
2 not have occurred for one or more of the reasons set forth in  
3 subdivision (a)(1), (a)(2), or (a)(6) of this Section, the  
4 county collector shall notify the last known owner of the  
5 certificate of purchase by certified and regular mail, or other  
6 means reasonably calculated to provide actual notice, that the  
7 county collector intends to declare an administrative sale in  
8 error and of the reasons therefor, including documentation  
9 sufficient to establish the reason why the sale should not have  
10 occurred. The owner of the certificate of purchase may object  
11 in writing within 28 days after the date of the mailing by the  
12 county collector. If an objection is filed, the county  
13 collector shall not administratively declare a sale in error,  
14 but may apply to the circuit court for a sale in error as  
15 provided in subsection (a) of this Section. Thirty days  
16 following the receipt of notice by the last known owner of the  
17 certificate of purchase, or within a reasonable time  
18 thereafter, the county collector shall make a written  
19 declaration, based upon clear and convincing evidence, that the  
20 taxes were sold in error and shall deliver a copy thereof to  
21 the county clerk within 30 days after the date the declaration  
22 is made for entry in the tax judgment, sale, redemption, and  
23 forfeiture record pursuant to subsection (d) of this Section.  
24 The county collector shall promptly notify the last known owner  
25 of the certificate of purchase of the declaration by regular  
26 mail and shall promptly pay the amount of the tax sale,

1 together with interest and costs as provided in Sections 260  
2 through 280, upon surrender of the original certificate of  
3 purchase.

4 (d) If a sale is declared to be a sale in error, the county  
5 clerk shall make entry in the tax judgment, sale, redemption  
6 and forfeiture record, that the mobile home was erroneously  
7 sold, and the county collector shall, on demand of the owner of  
8 the certificate of purchase, refund the amount paid, pay any  
9 interest and costs as may be ordered under Sections 260 through  
10 280, and cancel the certificate so far as it relates to the  
11 mobile home. The county collector shall deduct from the  
12 accounts of the appropriate taxing bodies their pro rata  
13 amounts paid.

14 (Source: P.A. 92-807, eff. 1-1-03.)

15 (35 ILCS 516/260)

16 Sec. 260. Interest on refund.

17 (a) In those cases which arise solely under grounds set  
18 forth in Section 255 or 395, and in no other cases, the court  
19 which orders a sale in error shall also award interest on the  
20 refund of the amount paid for the certificate of purchase,  
21 together with all costs paid by the owner of the certificate of  
22 purchase or his or her assignor which were posted to the tax  
23 judgment, sale, redemption and forfeiture record, except as  
24 otherwise provided in this Section. Except as otherwise  
25 provided in this Section, interest shall be awarded and paid at

1 the rate of 1% per month from the date of sale to the date of  
2 payment to the tax purchaser, or in an amount equivalent to the  
3 penalty interest which would be recovered on a redemption at  
4 the time of payment pursuant to the order for sale in error,  
5 whichever is less.

6 (b) Interest on the refund to the owner of the certificate  
7 of purchase shall not be paid (i) in any case in which the  
8 mobile home sold has been substantially destroyed or rendered  
9 uninhabitable or otherwise unfit for occupancy, (ii) when the  
10 sale in error is made pursuant to Section 395, or (iii) in any  
11 other case where the court determines that the tax purchaser  
12 had actual knowledge prior to the sale of the grounds on which  
13 the sale is declared to be erroneous.

14 (c) When the county collector files a petition for sale in  
15 error under Section 255 and mails a notice thereof by certified  
16 or registered mail to the tax purchaser, any interest otherwise  
17 payable under this Section shall cease to accrue as of the date  
18 the petition is filed, unless the tax purchaser agrees to an  
19 order for sale in error upon the presentation of the petition  
20 to the court. Notices under this subsection may be mailed to  
21 the original owner of the certificate of purchase, or to the  
22 latest assignee, if known. When the owner of the certificate of  
23 purchase contests the collector's petition solely to determine  
24 whether the grounds for sale in error are such as to support a  
25 claim for interest, the court may direct that the principal  
26 amount of the refund be paid to the owner of the certificate of

1 purchase forthwith. If the court thereafter determines that a  
2 claim for interest lies under this Section, it shall award such  
3 interest from the date of sale to the date the principal amount  
4 was paid. If the owner of the certificate of purchase files an  
5 objection to the county collector's intention to declare an  
6 administrative sale in error, as provided under subsection (c)  
7 of Section 255, and, thereafter, the county collector elects to  
8 apply to the circuit court for a sale in error under subsection  
9 (a) of Section 255, then, if the circuit court grants the  
10 county collector's application for a sale in error, the court  
11 may not award interest to the owner of the certificate of  
12 purchase for the period after the mailing date of the county  
13 collector's notice of intention to declare an administrative  
14 sale in error.

15 (Source: P.A. 92-807, eff. 1-1-03.)

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