

HB4363



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4363

by Rep. Robert F. Martwick

SYNOPSIS AS INTRODUCED:

New Act

Creates the Vacancy Fraud Act. Allows a taxing body or representative of a taxing body to file a vacancy fraud complaint with the county board of review if property is receiving vacancy relief and the property owner is not actively attempting to lease, sell, or alter the property. Sets forth factors in determining whether or not vacancy fraud has occurred. Sets forth penalties. Effective immediately.

LRB099 13417 HLH 37338 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning property.

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

4 Section 1. Short title. This Act may be cited as the
5 Vacancy Fraud Act.

6 Section 5. Public policy. In recognition of the severe
7 economic circumstances of taxpayers and taxing districts
8 across the State of Illinois, the General Assembly finds that
9 abuse exists with respect to the use of property tax relief
10 enacted by several counties which lowers the assessment of
11 vacant property. Some owners of vacant properties do not
12 actively seek tenants, yet continue to receive property tax
13 relief for the term of the property's vacancy. This practice
14 has led to neighborhoods blighted with vacant commercial or
15 industrial properties. The General Assembly finds that this
16 practice is against public policy, burdens homeowners and
17 actively operating businesses, and lessens taxing districts'
18 tax base.

19 Section 10. Definitions. As used in this Act:

20 "Vacancy relief" means a decrease in assessed value, a
21 decrease in market value, or an abatement of taxes by a chief
22 county assessment officer, a board of review, or a taxing

1 district under any county or taxing district ordinance,
2 resolution, or policy granting such a decrease in assessed
3 value to property that is vacant.

4 "Vacant property" means property that is receiving vacancy
5 relief. A property that receives vacancy relief on only a
6 portion of the property is still considered vacant property.

7 Section 15. Vacancy fraud complaints.

8 (a) The board of review of the county in which the property
9 is located shall have the power to review complaints of vacancy
10 fraud for vacant properties that have received vacancy relief
11 for 2 consecutive tax years if the first of those tax years is
12 no more than 5 years prior to the current tax year.

13 (b) Any taxing body or representative of any taxing body
14 alleging that a property owner is not actively attempting to
15 lease, sell, or alter the vacant property shall file a written
16 complaint prescribed by the board of review within the
17 appropriate filing period.

18 (c) The party alleging vacancy fraud shall file on the
19 titleholder of record a Notice of Intent to File a Vacancy
20 Fraud Complaint. The notice shall disclose the common name and
21 address of the property as well as its property classification
22 code and permanent index number and shall provide a short
23 written statement of the nature of the evidence which will be
24 submitted in support of the allegation of vacancy fraud. Notice
25 shall be provided by first class mail, postage prepaid, and

1 shall be mailed to the same address that the vacant property's
2 property tax bill is mailed.

3 (d) If a complaint is filed by an attorney on behalf of a
4 taxpayer, all notices and correspondence from the board shall
5 be directed to the attorney. The board may require proof of the
6 attorney's authority to represent the taxpayer. If the attorney
7 fails to provide proof of authority within the compliance
8 period granted by the board pursuant to subsection (e), the
9 board may dismiss the complaint. The Board shall send,
10 electronically or by mail, notice of the dismissal to the
11 attorney and taxpayer.

12 (e) Upon receipt of a written complaint that is timely
13 filed, the board of review shall docket the complaint. If the
14 complaint does not comply with the board of review rules
15 entitling the complainant to a hearing, the board shall send,
16 electronically or by mail, notification acknowledging receipt
17 of the complaint. The notification must identify which rules
18 have not been complied with and provide the complainant with
19 not less than 10 business days to bring the complaint into
20 compliance with those rules. If the complainant complies with
21 the board of review rules either upon the initial filing of a
22 complaint or within the time as extended by the board of review
23 for compliance, then the board of review shall send,
24 electronically or by mail, a notice of hearing and the board
25 shall hear the complaint and shall issue and send,
26 electronically or by mail, a decision upon resolution. Except

1 as otherwise provided, if the complainant has not complied with
2 the rules within the time as extended by the board of review,
3 the board shall nonetheless issue and send a decision. The
4 board of review may adopt rules allowing any party to attend
5 and participate in a hearing by telephone or electronically.
6 The party alleging vacancy fraud shall cause a duplicate notice
7 of the hearing date to be provided to the titleholder of
8 record.

9 Section 20. Factors in determining vacancy fraud.

10 (a) In determining whether the owner of vacant property is
11 actively attempting to sell, lease, or alter the vacant
12 property, the board may consider the following factors:

13 (1) whether there is a sign on the vacant property
14 advertising that it is for sale or for lease;

15 (2) whether the vacant property is advertised for sale
16 or for lease in a newspaper of general circulation where
17 the vacant property is located;

18 (3) whether the vacant property is advertised for sale
19 or for lease on the internet, and whether potential buyers
20 or tenants are reasonably able to access the internet
21 listing;

22 (4) whether the owner of the vacant property has
23 contracted for the services of an Illinois licensed real
24 estate professional for the purpose of selling or leasing
25 the vacant property;

1 (5) whether any advertised sale price or advertised
2 rental price is at a reasonable market level;

3 (6) whether a contract for sale or lease is pending;

4 (7) whether the vacant property is subsequently sold or
5 leased, and the amount of time that passed from the
6 original vacancy to the sale or lease date;

7 (8) whether the owner has applied for and received
8 demolition or construction permits for the vacant
9 property;

10 (9) whether the owner has responded to inquiries to
11 lease or sell the property, and

12 (10) any other factors the board deems necessary to
13 determine if the owner of any vacant property is actively
14 attempting to lease, sell, or alter the vacant property.

15 (b) For purposes of paragraphs (1), (2), and (3) of
16 subsection (a), any signs, newspaper advertisements, or
17 internet advertisements shall contain a phone number. If the
18 phone number does not connect to a person who can facilitate
19 the purchase or lease of the vacant property, the board of
20 review may disregard that the sign, newspaper advertisement, or
21 internet advertisement.

22 Section 25. Penalties.

23 (a) Before assessing any penalties, the board of review
24 shall give notice to the assessor or chief county assessment
25 officer who certified the vacancy relief and give the assessor

1 or chief county assessment officer an opportunity to be heard
2 thereon.

3 (b) Upon determination that an owner of vacant property is
4 not actively attempting to sell, lease, or alter the vacant
5 property, the board of review and chief county assessment
6 officer may do any of the following:

7 (1) prohibit the vacant property from receiving any
8 vacancy relief until it is subsequently sold or leased;

9 (2) require the payment of 3 times the amount of back
10 taxes owed for any vacancy relief the vacant property
11 received while the owner of the vacant property was not
12 actively attempting to sell, lease, or alter the vacant
13 property;

14 (3) require the payment of interest on any back taxes
15 sought under paragraph (2); any interest imposed shall not
16 exceed 10% per annum; and

17 (4) in the case of a property owner who has been
18 penalized under this Section 2 times or more within a
19 5-year period, impose a penalty not to exceed 25% of the
20 amount of back taxes sought under paragraph (2).

21 (c) The unpaid taxes shall be paid to the appropriate
22 taxing districts. Interest and penalties shall be paid to the
23 chief county assessment officer's office to cover the costs
24 associated with educating the public on the provisions of this
25 Act.

26 (d) No penalties shall be assessed until the person to be

1 affected has been notified and given an opportunity to be
2 heard.

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