



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB5960

by Rep. Jim Durkin - Grant Wehrli

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Vacancy Fraud and Penalties Act. Allows a taxing body or representative of a taxing body to file a vacancy fraud complaint with the chief county assessment officer or the county board of review if property receives vacancy relief and the property owner is not actively attempting to lease, sell, or alter the property. Sets forth factors for determining whether or not vacancy fraud has occurred. Sets forth penalties. Provides that a person commits property tax vacancy fraud when he or she knowingly owns vacant property and, for 2 or more consecutive years in which vacancy relief is granted, has not actively attempted to sell, lease, or alter the vacant property. Provides that property tax vacancy fraud is a Class A misdemeanor. Provides that a person commits aggravated property tax vacancy fraud when he or she commits property tax vacancy fraud that leads to the assessment of more than \$100,000 in back taxes. Provides that aggravated property tax vacancy fraud is a Class 4 felony. Effective immediately.

LRB100 23746 HLH 42797 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

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 and Penalties Act.

6 Section 5. Definitions. As used in this Act:

7 "Vacancy relief" means a decrease in assessed value, a  
8 decrease in market value, or an abatement of taxes by a chief  
9 county assessment officer, a board of review, or a taxing  
10 district under any county or taxing district ordinance,  
11 resolution, or policy, which is granted because the property is  
12 unoccupied.

13 "Vacant property" means property that is receiving vacancy  
14 relief. A property that receives vacancy relief on only a  
15 portion of the property is still considered vacant property.

16 Section 10. Vacancy fraud complaints; chief county  
17 assessment officer.

18 (a) The chief county assessment officer of the county in  
19 which the property is located shall have the power to review  
20 complaints of vacancy fraud for vacant properties that have  
21 received vacancy relief for 2 consecutive tax years if the  
22 first of those tax years is no more than 5 years prior to the

1 current tax year.

2 (b) Any taxing body or representative of any taxing body  
3 alleging that a property owner is not actively attempting to  
4 lease, sell, or alter the vacant property shall file a written  
5 complaint prescribed by the chief county assessment officer  
6 within the appropriate filing period.

7 (c) The party alleging vacancy fraud shall file on the  
8 titleholder of record a Notice of Intent to File a Vacancy  
9 Fraud Complaint. The notice shall disclose the common name and  
10 address of the property as well as its property classification  
11 code and permanent index number and shall provide a short  
12 written statement of the nature of the evidence which will be  
13 submitted in support of the allegation of vacancy fraud. Notice  
14 shall be provided by first class mail, postage prepaid, and  
15 shall be mailed to the same address that the vacant property's  
16 property tax bill is mailed.

17 (d) If a complaint is filed by an attorney on behalf of a  
18 taxpayer, all notices and correspondence from the chief county  
19 assessment officer shall be directed to the attorney. The chief  
20 county assessment officer may require proof of the attorney's  
21 authority to represent the taxpayer. If the attorney fails to  
22 provide proof of authority within the compliance period granted  
23 by the chief county assessment officer pursuant to subsection  
24 (e), the chief county assessment officer may dismiss the  
25 complaint. The chief county assessment officer shall send,  
26 electronically or by mail, notice of the dismissal to the

1 attorney and taxpayer.

2 (e) Upon receipt of a written complaint that is timely  
3 filed, the chief county assessment officer shall docket the  
4 complaint. If the complaint does not comply with rules adopted  
5 by the chief county assessment officer entitling the  
6 complainant to a hearing, the chief county assessment officer  
7 shall send, electronically or by mail, notification  
8 acknowledging receipt of the complaint. The notification must  
9 identify which rules have not been complied with and provide  
10 the complainant with not less than 10 business days to bring  
11 the complaint into compliance with those rules. If the  
12 complainant complies with the rules, either upon the initial  
13 filing of a complaint or within the time as extended by the  
14 chief county assessment officer for compliance, then the chief  
15 county assessment officer shall send, electronically or by  
16 mail, a notice of hearing and the chief county assessment  
17 officer shall hear the complaint and shall issue and send,  
18 electronically or by mail, a decision upon resolution. Except  
19 as otherwise provided, if the complainant has not complied with  
20 the rules within the time as extended by the chief county  
21 assessment officer, the chief county assessment officer shall  
22 nonetheless issue and send a decision. The chief county  
23 assessment officer may adopt rules allowing any party to attend  
24 and participate in a hearing by telephone or electronically.  
25 The party alleging vacancy fraud shall cause a duplicate notice  
26 of the hearing date to be provided to the titleholder of

1 record.

2 Section 15. Vacancy fraud complaints; board of review.

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

8 (b) Any taxing body or representative of any taxing body  
9 alleging that a property owner is not actively attempting to  
10 lease, sell, or alter the vacant property shall file a written  
11 complaint prescribed by the board of review within the  
12 appropriate filing period.

13 (c) The party alleging vacancy fraud shall file on the  
14 titleholder of record a Notice of Intent to File a Vacancy  
15 Fraud Complaint. The notice shall disclose the common name and  
16 address of the property as well as its property classification  
17 code and permanent index number and shall provide a short  
18 written statement of the nature of the evidence which will be  
19 submitted in support of the allegation of vacancy fraud. Notice  
20 shall be provided by first class mail, postage prepaid, and  
21 shall be mailed to the same address that the vacant property's  
22 property tax bill is mailed.

23 (d) If a complaint is filed by an attorney on behalf of a  
24 taxpayer, all notices and correspondence from the board shall  
25 be directed to the attorney. The board may require proof of the

1 attorney's authority to represent the taxpayer. If the attorney  
2 fails to provide proof of authority within the compliance  
3 period granted by the board pursuant to subsection (e), the  
4 board may dismiss the complaint. The Board shall send,  
5 electronically or by mail, notice of the dismissal to the  
6 attorney and taxpayer.

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

1 The party alleging vacancy fraud shall cause a duplicate notice  
2 of the hearing date to be provided to the titleholder of  
3 record.

4 Section 20. Factors in determining vacancy fraud; action by  
5 assessor or board of review.

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

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

11 (2) whether the vacant property is advertised for sale  
12 or for lease in a newspaper of general circulation where  
13 the vacant property is located;

14 (3) whether the vacant property is advertised for sale  
15 or for lease on the internet, and whether potential buyers  
16 or tenants are reasonably able to access the internet  
17 listing;

18 (4) whether the owner of the vacant property has  
19 contracted for the services of an Illinois licensed real  
20 estate professional for the purpose of selling or leasing  
21 the vacant property;

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

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

25 (7) whether the vacant property is subsequently sold or

1 leased, and the amount of time that passed from the  
2 original vacancy to the sale or lease date;

3 (8) whether the owner has applied for and received  
4 demolition or construction permits for the vacant  
5 property;

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

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

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

18 Section 25. Penalties.

19 (a) Upon determination that an owner of vacant property is  
20 not actively attempting to sell, lease, or alter the vacant  
21 property, the board of review or the chief county assessment  
22 officer, as applicable, shall refer the case to the State's  
23 Attorney for the county in which the property is located. In  
24 addition, the board of review may do any of the following:

25 (1) prohibit the vacant property from receiving any



1 vacancy relief until it is subsequently sold or leased;

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

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

10 (4) in the case of a property owner who has been  
11 penalized under this Section 2 times or more within a  
12 5-year period, impose a penalty not to exceed 25% of the  
13 amount of back taxes sought under paragraph (2).

14 (b) Before referring a case of property tax vacancy fraud  
15 to the State's Attorney with jurisdiction over the property,  
16 the chief county assessment officer or board of review, as  
17 applicable, shall give notice to the assessor or chief county  
18 assessment officer who certified the vacancy relief and give  
19 the assessor or chief county assessment officer an opportunity  
20 to be heard thereon.

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 30. Vacancy fraud; criminal.

4 (a) A person commits property tax vacancy fraud when he or  
5 she knowingly owns vacant property and, for 2 or more  
6 consecutive years in which vacancy relief is granted, has not  
7 actively attempted to sell, lease, or alter the vacant  
8 property, as demonstrated by the factors set forth in Section  
9 20. A person who commits property tax vacancy fraud is guilty  
10 of a Class A misdemeanor.

11 (b) A person commits aggravated property tax vacancy fraud  
12 when he or she commits property tax vacancy fraud that leads to  
13 the assessment of more than \$100,000 in back taxes. A person  
14 who commits aggravated property tax vacancy fraud is guilty of  
15 a Class 4 felony.

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