

# HB2517



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB2517

by Rep. Robert 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.

LRB100 07827 HLH 17895 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.