

SB3027



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3027

Introduced 2/7/2014, by Sen. Terry Link

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; (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; or (4) the mobile home is owned by the United States, the State of Illinois, a municipality, or a taxing district. Effective immediately.

LRB098 17262 HLH 52356 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

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, or ~~or~~

13 (7) the mobile home is owned by the United States, the
14 State of Illinois, a municipality, or a taxing district.

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

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

24 (2) The mobile home sold has been substantially
25 destroyed or rendered uninhabitable or otherwise unfit for
26 occupancy subsequent to the tax sale and prior to the

1 issuance of the tax certificate of title.

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

1 of the certificate of purchase of the declaration by regular
2 mail and shall promptly pay the amount of the tax sale,
3 together with interest and costs as provided in Sections 260
4 through 280, upon surrender of the original certificate of
5 purchase.

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

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

17 (35 ILCS 516/260)

18 Sec. 260. Interest on refund.

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

1 otherwise provided in this Section. Except as otherwise
2 provided in this Section, interest shall be awarded and paid at
3 the rate of 1% per month from the date of sale to the date of
4 payment to the tax purchaser, or in an amount equivalent to the
5 penalty interest which would be recovered on a redemption at
6 the time of payment pursuant to the order for sale in error,
7 whichever is less.

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

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

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

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

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.