

ILLINOIS STATE LIBRARY
Gwendolyn Brooks Building

**SYSTEM DIRECTORS'
MEMO #04-003**

M E M O R A N D U M

TO: Directors, Illinois Library System and Affected Library Personnel

FROM: Mike Ragen
Chief Deputy Director
Illinois State Library

DATE: August 7, 2003

RE: Non-Resident Service

The attached is a response to inquiries regarding the application of the Administrative Rules for Non-Resident Services promulgated by the Illinois State Library. Either public library staff or system staff submitted the questions. The individuals who submitted inquiries are being sent these responses but their names are being withheld for purposes of confidentiality. The responses will also be posted on the Illinois State Library web site, which is listed below. Members of the Illinois State Library staff developed the responses to the questions. The responses will also be posted on the Illinois State Library web site. The responses will be posted based upon the date of issuance. Future questions will be responded to in a like manner. Please allow 25 days for a response.

We appreciate your input and concern about this issue.

Illinois State Library Web Page: <http://www.sos.state.il.us/library/isl/isl.html>

- 1) An inquiry has been submitted on the fee structure for residents of mobile homes.

Response: If the mobile home is within the boundaries of the library service area, even if the occupants of the mobile home are renters, then the occupants are considered residents and are afforded the same rights as other residents.

If the occupant of a mobile home is the owner of the home and also the owner of the property on which the mobile home is anchored, then the library should use the same formula utilized for other non-resident cards, either the general mathematical formula or the tax bill method.

If the occupant of a mobile home is the owner of the mobile home, but rents or leases the land upon which the mobile home is located, then the library should apply the Non-Resident Renter formula as specified in Section 3050.60 (b-2) of the Administrative Rules for Non-Resident Cards. That formula reads as follows:

“Non-Resident Renter: The library shall either charge a minimum of 15 percent of the monthly rent as the annual non-resident fee, or devise its own formula. The local formula shall take into account the average local rent of the general community of the public library, property tax rate, and the non-resident fee for residential homeowners. The library board shall annually determine the percent to be applied to non-resident renters. The renter shall provide to the public library a current rent receipt or a cancelled rent check for verification purposes.”

A consideration that all libraries must have with rental property is that the non-resident fee should be “equitable and proportionate to the fee paid by residents” which is dictated in the opening paragraph of Section 3050.60. The underlying purpose of the entire formula section is to meet the statutory obligation that non-resident cards shall not cost less than the rate resident taxpayers pay in taxes to support the library. Therefore, a library calculating the fee for non-resident mobile home renters could devise a formula that approximates the rate paid by resident taxpayers.

Please note that the Mobile Home Local Services Tax Act (35 ILCS 315 et al) does provide for taxing mobile homes in a manner much like a property tax. However, the State Library has been advised that counties do not collect the tax on a uniform basis on a statewide basis. Libraries might contact the county clerk’s office to determine if the tax is applied in the library service area of the library. If so, then the tax could be factored in the formula for the non-resident card if presented by the non-resident applicant. This tax is calculated on the basis of the square footage and the age of the mobile home. For example, a 10’ by 60’ mobile home that is 5 years old yields a tax of 13.5 cents per square foot

for a total annual tax of \$81.00 (10 X 60 X 13.5). The entire schedule for the tax rate is contained within the Act. However, libraries should not attempt to calculate this tax rate since the library does not collect the tax. The tax would not be paid to the library by the non-resident, but must be paid to the county treasurer. Generally, the amount of this tax for mobile homes would be insufficient to meet the standard called for in library law and the State Library administrative rules that require the cost of the non-resident rules to be no less than the rate paid by resident taxpayers and that the non-resident card for renters be “equal and proportionate the fee paid by residents.”

In light of the fact that mobile home rents and taxes may not be sufficient to meet the “equal and proportionate” factors, libraries could use the general mathematical formula (basically the library income from property taxes divided by average number of persons per household, see Section 3050.60 of the Non-Resident Administrative Rules). For libraries that use the tax bill method to calculate non-resident card fees, using the general mathematical formula for the fee for a specific class of properties would be consistent with the law and the rules to meet the test of non-resident cards costing the same rate as that of taxpayers and the “equal and proportionate” rule. However, libraries should be consistent and not randomly choose a formula on an individual case-by-case basis or else the library could be accused of discrimination.

- 2) An inquiry has been submitted on the issue of multi-year cards. First, can libraries sell non-resident cards that are valid for more than 1 year? Secondly, if a patron purchases such a card then moves to a new location not within the territory of the issuing library, is this card still valid?

Response: Multiple year cards are invalid according to Section 3050.50 (a) of the Administrative Rules governing non-resident cards. This Section specifies that cards should be issued for 12 months from the date of sale. The reason for this restriction is to meet compliance with the requirements that non-resident cards must be sold at a cost no less than the rate paid in taxes by resident taxpayers of the library service area. If a card is sold for more than one year, the price cannot reflect the annual property tax rate that is imposed upon the taxpayers. Almost all property taxes increase annually.

If a non-resident moves from the territory of the system of the library that sold the card, then the card is valid until the expiration date. Public Act 92-166, the same law that requires non-residents go the “closest” public library for a library card, imposed the restriction that states “the nonresident cards shall allow for borrowing privileges at all participating public libraries in the regional library system”, meaning the system in which the card was purchased. However, the issue of reciprocity of library services to all patrons must be taken into consideration. As noted in Question no. 3 of the June 11, 2002 Non-Resident Service Issue Memorandum issued by the State Library, a valid non-resident

cardholder can “utilize borrowing privileges at public libraries that participate in intersystem reciprocal borrowing”. As noted in the June 11 memo, there is conflict in the law, the legislative debate transcripts and the rules governing reciprocal borrowing for all libraries in the State. According to the Library System Act (23 Ill. Admin. Code 3030.35 (b)(2)) rules under the reciprocal borrowing provisions, the library that issues a card (both resident and non-resident) should extend reciprocal borrowing privileges to any person holding a valid library card from a public library. The rules also state that the library that issues a card is responsible for the materials obtained by the patron. A library that receives a request for materials from a patron with a card from a library of a different system might contact that library to ensure the liability for the materials.