



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5046

Introduced 2/18/2020, by Rep. Marcus C. Evans, Jr.

SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-295
35 ILCS 200/21-310
35 ILCS 200/21-355

Amends the Property Tax Code. Provides that the \$80 fee paid by tax purchasers is non-refundable. Reinstates provisions imposing a 5% fee on taxes, interest, and penalties due at purchase.

LRB101 17356 HLH 66761 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

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 Property Tax Code is amended by changing
5 Sections 21-295, 21-310, 21-355 as follows:

6 (35 ILCS 200/21-295)

7 Sec. 21-295. Creation of indemnity fund.

8 (a) In counties of less than 3,000,000 inhabitants, each
9 person purchasing any property at a sale under this Code shall
10 pay to the County Collector, prior to the issuance of any
11 certificate of purchase, an indemnity fee set by the county
12 collector of not more than \$20 for each item purchased. A like
13 sum shall be paid for each year that all or a portion of
14 subsequent taxes are paid by the tax purchaser and posted to
15 the tax judgment, sale, redemption and forfeiture record where
16 the underlying certificate of purchase is recorded.

17 (a-5) In counties of 3,000,000 or more inhabitants, each
18 person purchasing property at a sale under this Code shall pay
19 to the County Collector a non-refundable fee of \$80 for each
20 item purchased plus an additional sum equal to 5% of ~~taxes,~~
21 ~~interest, and penalties paid by the purchaser, including~~ the
22 taxes, interest, and penalties paid under Section 21-240. In
23 these counties, the certificate holder shall also pay to the

1 County Collector a fee of \$80 for each year that all or a
2 portion of subsequent taxes are paid by the tax purchaser and
3 posted to the tax judgment, sale, redemption, and forfeiture
4 record, ~~plus an additional sum equal to 5% of all subsequent~~
5 ~~taxes, interest, and penalties. The additional 5% fees are not~~
6 ~~required after December 31, 2006.~~ The changes to this
7 subsection made by this amendatory Act of the 91st General
8 Assembly are not a new enactment, but declaratory of existing
9 law.

10 (b) The amount paid prior to issuance of the certificate of
11 purchase pursuant to subsection (a) or (a-5) shall be included
12 in the purchase price of the property in the certificate of
13 purchase and all amounts paid under this Section shall be
14 included in the amount required to redeem under Section 21-355,
15 except for the non-refundable \$80 fee for each item purchased
16 at the tax sale as provided in this Section. Except as
17 otherwise provided in subsection (b) of Section 21-300, all
18 money received under subsection (a) or (a-5) shall be paid by
19 the Collector to the County Treasurer of the County in which
20 the land is situated, for the purpose of an indemnity fund. The
21 County Treasurer, as trustee of that fund, shall invest all of
22 that fund, principal and income, in his or her hands from time
23 to time, if not immediately required for payments of
24 indemnities under subsection (a) of Section 21-305, in
25 investments permitted by the Illinois State Board of Investment
26 under Article 22A of the Illinois Pension Code. The county

1 collector shall report annually to the county clerk on the
2 condition and income of the fund. The indemnity fund shall be
3 held to satisfy judgments obtained against the County
4 Treasurer, as trustee of the fund. No payment shall be made
5 from the fund, except upon a judgment of the court which
6 ordered the issuance of a tax deed.

7 (Source: P.A. 100-1070, eff. 1-1-19.)

8 (35 ILCS 200/21-310)

9 Sec. 21-310. Sales in error.

10 (a) When, upon application of the county collector, the
11 owner of the certificate of purchase, or a municipality which
12 owns or has owned the property ordered sold, it appears to the
13 satisfaction of the court which ordered the property sold that
14 any of the following subsections are applicable, the court
15 shall declare the sale to be a sale in error:

16 (1) the property was not subject to taxation, or all or
17 any part of the lien of taxes sold has become null and void
18 pursuant to Section 21-95 or unenforceable pursuant to
19 subsection (c) of Section 18-250 or subsection (b) of
20 Section 22-40,

21 (2) the taxes or special assessments had been paid
22 prior to the sale of the property,

23 (3) there is a double assessment,

24 (4) the description is void for uncertainty,

25 (5) the assessor, chief county assessment officer,

1 board of review, board of appeals, or other county official
2 has made an error (other than an error of judgment as to
3 the value of any property),

4 (5.5) the owner of the homestead property had tendered
5 timely and full payment to the county collector that the
6 owner reasonably believed was due and owing on the
7 homestead property, and the county collector did not apply
8 the payment to the homestead property; provided that this
9 provision applies only to homeowners, not their agents or
10 third-party payors,

11 (6) prior to the tax sale a voluntary or involuntary
12 petition has been filed by or against the legal or
13 beneficial owner of the property requesting relief under
14 the provisions of 11 U.S.C. Chapter 7, 11, 12, or 13,

15 (7) the property is owned by the United States, the
16 State of Illinois, a municipality, or a taxing district, or

17 (8) the owner of the property is a reservist or
18 guardsperson who is granted an extension of his or her due
19 date under Sections 21-15, 21-20, and 21-25 of this Act.

20 (b) When, upon application of the owner of the certificate
21 of purchase only, it appears to the satisfaction of the court
22 which ordered the property sold that any of the following
23 subsections are applicable, the court shall declare the sale to
24 be a sale in error:

25 (1) A voluntary or involuntary petition under the
26 provisions of 11 U.S.C. Chapter 7, 11, 12, or 13 has been

1 filed subsequent to the tax sale and prior to the issuance
2 of the tax deed.

3 (2) The improvements upon the property sold have been
4 substantially destroyed or rendered uninhabitable or
5 otherwise unfit for occupancy subsequent to the tax sale
6 and prior to the issuance of the tax deed; however, if the
7 court declares a sale in error under this paragraph (2),
8 the court may order the holder of the certificate of
9 purchase to assign the certificate to the county collector
10 if requested by the county collector. The county collector
11 may, upon request of the county, as trustee, or upon
12 request of a taxing district having an interest in the
13 taxes sold, further assign any certificate of purchase
14 received pursuant to this paragraph (2) to the county
15 acting as trustee for taxing districts pursuant to Section
16 21-90 of this Code or to the taxing district having an
17 interest in the taxes sold.

18 (3) There is an interest held by the United States in
19 the property sold which could not be extinguished by the
20 tax deed.

21 (4) The real property contains a hazardous substance,
22 hazardous waste, or underground storage tank that would
23 require cleanup or other removal under any federal, State,
24 or local law, ordinance, or regulation, only if the tax
25 purchaser purchased the property without actual knowledge
26 of the hazardous substance, hazardous waste, or

1 underground storage tank. This paragraph (4) applies only
2 if the owner of the certificate of purchase has made
3 application for a sale in error at any time before the
4 issuance of a tax deed. If the court declares a sale in
5 error under this paragraph (4), the court may order the
6 holder of the certificate of purchase to assign the
7 certificate to the county collector if requested by the
8 county collector. The county collector may, upon request of
9 the county, as trustee, or upon request of a taxing
10 district having an interest in the taxes sold, further
11 assign any certificate of purchase received pursuant to
12 this paragraph (4) to the county acting as trustee for
13 taxing districts pursuant to Section 21-90 of this Code or
14 to the taxing district having an interest in the taxes
15 sold.

16 Whenever a court declares a sale in error under this
17 subsection (b), the court shall promptly notify the county
18 collector in writing. Every such declaration pursuant to any
19 provision of this subsection (b) shall be made within the
20 proceeding in which the tax sale was authorized.

21 (c) When the county collector discovers, prior to the
22 expiration of the period of redemption, that a tax sale should
23 not have occurred for one or more of the reasons set forth in
24 subdivision (a) (1), (a) (2), (a) (6), or (a) (7) of this Section,
25 the county collector shall notify the last known owner of the
26 certificate of purchase by certified and regular mail, or other

1 means reasonably calculated to provide actual notice, that the
2 county collector intends to declare an administrative sale in
3 error and of the reasons therefor, including documentation
4 sufficient to establish the reason why the sale should not have
5 occurred. The owner of the certificate of purchase may object
6 in writing within 28 days after the date of the mailing by the
7 county collector. If an objection is filed, the county
8 collector shall not administratively declare a sale in error,
9 but may apply to the circuit court for a sale in error as
10 provided in subsection (a) of this Section. Thirty days
11 following the receipt of notice by the last known owner of the
12 certificate of purchase, or within a reasonable time
13 thereafter, the county collector shall make a written
14 declaration, based upon clear and convincing evidence, that the
15 taxes were sold in error and shall deliver a copy thereof to
16 the county clerk within 30 days after the date the declaration
17 is made for entry in the tax judgment, sale, redemption, and
18 forfeiture record pursuant to subsection (d) of this Section.
19 The county collector shall promptly notify the last known owner
20 of the certificate of purchase of the declaration by regular
21 mail and shall promptly pay the amount of the tax sale,
22 together with interest and costs as provided in Section 21-315,
23 upon surrender of the original certificate of purchase.

24 (d) If a sale is declared to be a sale in error, the county
25 clerk shall make entry in the tax judgment, sale, redemption
26 and forfeiture record, that the property was erroneously sold,

1 and the county collector shall, on demand of the owner of the
2 certificate of purchase, refund the amount paid, except for the
3 non-refundable \$80 fee paid, pursuant to Section 21-295, for
4 each item purchased at the tax sale, pay any interest and costs
5 as may be ordered under Sections 21-315 through 21-335, and
6 cancel the certificate so far as it relates to the property.
7 The county collector shall deduct from the accounts of the
8 appropriate taxing bodies their pro rata amounts paid.
9 Alternatively, for sales in error declared under subsection
10 (b) (2) or (b) (4), the county collector may request the circuit
11 court to direct the county clerk to record any assignment of
12 the tax certificate to or from the county collector without
13 charging a fee for the assignment. The owner of the certificate
14 of purchase shall receive all statutory refunds and payments.
15 The county collector shall deduct costs and payments in the
16 same manner as if a sale in error had occurred.

17 (Source: P.A. 100-890, eff. 1-1-19; 101-379, eff. 1-1-20.)

18 (35 ILCS 200/21-355)

19 Sec. 21-355. Amount of redemption. Any person desiring to
20 redeem shall deposit an amount specified in this Section with
21 the county clerk of the county in which the property is
22 situated, in legal money of the United States, or by cashier's
23 check, certified check, post office money order or money order
24 issued by a financial institution insured by an agency or
25 instrumentality of the United States, payable to the county

1 clerk of the proper county. The deposit shall be deemed timely
2 only if actually received in person at the county clerk's
3 office prior to the close of business as defined in Section
4 3-2007 of the Counties Code on or before the expiration of the
5 period of redemption or by United States mail with a post
6 office cancellation mark dated not less than one day prior to
7 the expiration of the period of redemption. The deposit shall
8 be in an amount equal to the total of the following:

9 (a) the certificate amount, which shall include all tax
10 principal, special assessments, interest and penalties
11 paid by the tax purchaser together with costs and fees of
12 sale and fees paid under Sections 21-295 and 21-315 through
13 21-335, except for the non-refundable \$80 fee paid,
14 pursuant to Section 21-295, for each item purchased at the
15 tax sale;

16 (b) the accrued penalty, computed through the date of
17 redemption as a percentage of the certificate amount, as
18 follows:

19 (1) if the redemption occurs on or before the
20 expiration of 6 months from the date of sale, the
21 certificate amount times the penalty bid at sale;

22 (2) if the redemption occurs after 6 months from
23 the date of sale, and on or before the expiration of 12
24 months from the date of sale, the certificate amount
25 times 2 times the penalty bid at sale;

26 (3) if the redemption occurs after 12 months from

1 the date of sale and on or before the expiration of 18
2 months from the date of sale, the certificate amount
3 times 3 times the penalty bid at sale;

4 (4) if the redemption occurs after 18 months from
5 the date of sale and on or before the expiration of 24
6 months from the date of sale, the certificate amount
7 times 4 times the penalty bid at sale;

8 (5) if the redemption occurs after 24 months from
9 the date of sale and on or before the expiration of 30
10 months from the date of sale, the certificate amount
11 times 5 times the penalty bid at sale;

12 (6) if the redemption occurs after 30 months from
13 the date of sale and on or before the expiration of 36
14 months from the date of sale, the certificate amount
15 times 6 times the penalty bid at sale.

16 In the event that the property to be redeemed has
17 been purchased under Section 21-405, the penalty bid
18 shall be 12% per penalty period as set forth in
19 subparagraphs (1) through (6) of this subsection (b).
20 The changes to this subdivision (b)(6) made by this
21 amendatory Act of the 91st General Assembly are not a
22 new enactment, but declaratory of existing law.

23 (c) The total of all taxes, special assessments,
24 accrued interest on those taxes and special assessments and
25 costs charged in connection with the payment of those taxes
26 or special assessments, except for the non-refundable \$80

1 fee paid, pursuant to Section 21-295, for each item
2 purchased at the tax sale, which have been paid by the tax
3 certificate holder on or after the date those taxes or
4 special assessments became delinquent together with 12%
5 penalty on each amount so paid for each year or portion
6 thereof intervening between the date of that payment and
7 the date of redemption. In counties with less than
8 3,000,000 inhabitants, however, a tax certificate holder
9 may not pay all or part of an installment of a subsequent
10 tax or special assessment for any year, nor shall any
11 tender of such a payment be accepted, until after the
12 second or final installment of the subsequent tax or
13 special assessment has become delinquent or until after the
14 holder of the certificate of purchase has filed a petition
15 for a tax deed under Section 22.30. The person redeeming
16 shall also pay the amount of interest charged on the
17 subsequent tax or special assessment and paid as a penalty
18 by the tax certificate holder. This amendatory Act of 1995
19 applies to tax years beginning with the 1995 taxes, payable
20 in 1996, and thereafter.

21 (d) Any amount paid to redeem a forfeiture occurring
22 subsequent to the tax sale together with 12% penalty
23 thereon for each year or portion thereof intervening
24 between the date of the forfeiture redemption and the date
25 of redemption from the sale.

26 (e) Any amount paid by the certificate holder for

1 redemption of a subsequently occurring tax sale.

2 (f) All fees paid to the county clerk under Section
3 22-5.

4 (g) All fees paid to the registrar of titles incident
5 to registering the tax certificate in compliance with the
6 Registered Titles (Torrens) Act.

7 (h) All fees paid to the circuit clerk and the sheriff,
8 a licensed or registered private detective, or the coroner
9 in connection with the filing of the petition for tax deed
10 and service of notices under Sections 22-15 through 22-30
11 and 22-40 in addition to (1) a fee of \$35 if a petition for
12 tax deed has been filed, which fee shall be posted to the
13 tax judgement, sale, redemption, and forfeiture record, to
14 be paid to the purchaser or his or her assignee; (2) a fee
15 of \$4 if a notice under Section 22-5 has been filed, which
16 fee shall be posted to the tax judgment, sale, redemption,
17 and forfeiture record, to be paid to the purchaser or his
18 or her assignee; (3) all costs paid to record a lis pendens
19 notice in connection with filing a petition under this
20 Code; and (4) if a petition for tax deed has been filed,
21 all fees up to \$150 per redemption paid to a registered or
22 licensed title insurance company or title insurance agent
23 for a title search to identify all owners, parties
24 interested, and occupants of the property, to be paid to
25 the purchaser or his or her assignee. The fees in (1) and
26 (2) of this paragraph (h) shall be exempt from the posting

1 requirements of Section 21-360. The costs incurred in
2 causing notices to be served by a licensed or registered
3 private detective under Section 22-15, may not exceed the
4 amount that the sheriff would be authorized by law to
5 charge if those notices had been served by the sheriff.

6 (i) All fees paid for publication of notice of the tax
7 sale in accordance with Section 22-20.

8 (j) All sums paid to any county, city, village or
9 incorporated town for reimbursement under Section 22-35.

10 (k) All costs and expenses of receivership under
11 Section 21-410, to the extent that these costs and expenses
12 exceed any income from the property in question, if the
13 costs and expenditures have been approved by the court
14 appointing the receiver and a certified copy of the order
15 or approval is filed and posted by the certificate holder
16 with the county clerk. Only actual costs expended may be
17 posted on the tax judgment, sale, redemption and forfeiture
18 record.

19 (Source: P.A. 98-1162, eff. 6-1-15.)