



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0858

Introduced 2/10/2021, by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-310

Amends the Property Tax Code. In provisions requiring the court to declare a sale in error when the assessor, chief county assessment officer, board of review, board of appeals, or other county official has made an error, provides that the error must be material to the tax sale at issue. Provides that those provisions do not apply if the error is in the description of the physical characteristics or location of any property displayed on the website of any county assessing official. Provides that, in the case of a sale in error where a voluntary or involuntary bankruptcy petition has been filed, the sale in error shall be granted if the property is subject to an automatic stay pursuant to that petition and the petition is active on the date of the application or the date of the tax sale. Effective immediately.

LRB102 04178 HLH 14195 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 Section 21-310 as follows:

6 (35 ILCS 200/21-310)

7 Sec. 21-310. Sales in error.

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

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

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

21 (3) there is a double assessment,

22 (4) the description is void for uncertainty,

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

1 board of review, board of appeals, or other county
2 official has made an error material to the tax sale at
3 issue (other than an error of judgment as to the value of
4 any property or an error in the description of the
5 physical characteristics or location of any property
6 displayed on the website of any county assessing
7 official),

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

15 (6) prior to the tax sale a voluntary or involuntary
16 petition has been filed by or against the legal or
17 beneficial owner of the property requesting relief under
18 the provisions of 11 U.S.C. Chapter 7, 11, 12, or 13, the
19 property is subject to an automatic stay pursuant to that
20 petition, and that petition is active on the date of the
21 application for judgment and order of sale or the date of
22 the tax sale,

23 (7) the property is owned by the United States, the
24 State of Illinois, a municipality, or a taxing district,
25 or

26 (8) the owner of the property is a reservist or

1 guardsperson who is granted an extension of his or her due
2 date under Sections 21-15, 21-20, and 21-25 of this Act.

3 (b) When, upon application of the owner of the certificate
4 of purchase only, it appears to the satisfaction of the court
5 which ordered the property sold that any of the following
6 subsections are applicable, the court shall declare the sale
7 to be a sale in error:

8 (1) A voluntary or involuntary petition under the
9 provisions of 11 U.S.C. Chapter 7, 11, 12, or 13 has been
10 filed subsequent to the tax sale and prior to the issuance
11 of the tax deed, the property is subject to an automatic
12 stay pursuant to that petition, and that petition is
13 active as of the date on which the petition for sale in
14 error is filed.

15 (2) The improvements upon the property sold have been
16 substantially destroyed or rendered uninhabitable or
17 otherwise unfit for occupancy subsequent to the tax sale
18 and prior to the issuance of the tax deed; however, if the
19 court declares a sale in error under this paragraph (2),
20 the court may order the holder of the certificate of
21 purchase to assign the certificate to the county collector
22 if requested by the county collector. The county collector
23 may, upon request of the county, as trustee, or upon
24 request of a taxing district having an interest in the
25 taxes sold, further assign any certificate of purchase
26 received pursuant to this paragraph (2) to the county

1 acting as trustee for taxing districts pursuant to Section
2 21-90 of this Code or to the taxing district having an
3 interest in the taxes sold.

4 (3) There is an interest held by the United States in
5 the property sold which could not be extinguished by the
6 tax deed.

7 (4) The real property contains a hazardous substance,
8 hazardous waste, or underground storage tank that would
9 require cleanup or other removal under any federal, State,
10 or local law, ordinance, or regulation, only if the tax
11 purchaser purchased the property without actual knowledge
12 of the hazardous substance, hazardous waste, or
13 underground storage tank. This paragraph (4) applies only
14 if the owner of the certificate of purchase has made
15 application for a sale in error at any time before the
16 issuance of a tax deed. If the court declares a sale in
17 error under this paragraph (4), the court may order the
18 holder of the certificate of purchase to assign the
19 certificate to the county collector if requested by the
20 county collector. The county collector may, upon request
21 of the county, as trustee, or upon request of a taxing
22 district having an interest in the taxes sold, further
23 assign any certificate of purchase received pursuant to
24 this paragraph (4) to the county acting as trustee for
25 taxing districts pursuant to Section 21-90 of this Code or
26 to the taxing district having an interest in the taxes

1 sold.

2 Whenever a court declares a sale in error under this
3 subsection (b), the court shall promptly notify the county
4 collector in writing. Every such declaration pursuant to any
5 provision of this subsection (b) shall be made within the
6 proceeding in which the tax sale was authorized.

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

1 the taxes were sold in error and shall deliver a copy thereof
2 to the county clerk within 30 days after the date the
3 declaration is made for entry in the tax judgment, sale,
4 redemption, and forfeiture record pursuant to subsection (d)
5 of this Section. The county collector shall promptly notify
6 the last known owner of the certificate of purchase of the
7 declaration by regular mail and shall promptly pay the amount
8 of the tax sale, together with interest and costs as provided
9 in Section 21-315, upon surrender of the original certificate
10 of purchase.

11 (d) If a sale is declared to be a sale in error, the county
12 clerk shall make entry in the tax judgment, sale, redemption
13 and forfeiture record, that the property was erroneously sold,
14 and the county collector shall, on demand of the owner of the
15 certificate of purchase, refund the amount paid, pay any
16 interest and costs as may be ordered under Sections 21-315
17 through 21-335, and cancel the certificate so far as it
18 relates to the property. The county collector shall deduct
19 from the accounts of the appropriate taxing bodies their pro
20 rata amounts paid. Alternatively, for sales in error declared
21 under subsection (b) (2) or (b) (4), the county collector may
22 request the circuit court to direct the county clerk to record
23 any assignment of the tax certificate to or from the county
24 collector without charging a fee for the assignment. The owner
25 of the certificate of purchase shall receive all statutory
26 refunds and payments. The county collector shall deduct costs

1 and payments in the same manner as if a sale in error had
2 occurred.

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

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.