



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB3028

Introduced 2/16/2023, by Rep. Stephanie A. Kifowit

#### SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-310  
35 ILCS 200/22-40  
35 ILCS 200/22-85

Amends the Property Tax Code. In provisions concerning the issuance of a tax deed, provides that the court shall find that all forfeitures and sales of the property occurring after the tax sale at which the certificate of purchase was issued and including only subsequent years taxes have been redeemed (currently, all forfeitures and sales that occur subsequent to the sale). Provides that a sale of the property that occurs after the tax sale at which the certificate of purchase was issued and includes only tax years that are prior to the year or years sold, or includes tax years which are both prior to and after the year or years sold, shall be declared a sale in error, and those tax years shall be merged into the tax deed grantee's title. Effective immediately.

LRB103 06054 HLH 51084 b

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 21-310, 22-40, and 22-85 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, or an owner of a  
11 certificate of purchase whose lien is subject to prior tax  
12 years sold subsequent to its purchase as set forth in  
13 subsection (b) of Section 22-40, it appears to the  
14 satisfaction of the court which ordered the property sold that  
15 any of the following subsections are applicable, the court  
16 shall declare the sale to be a sale in error:

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

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

1 (3) there is a double assessment,

2 (4) the description is void for uncertainty,

3 (5) the assessor, chief county assessment officer,  
4 board of review, board of appeals, or other county  
5 official has made an error (other than an error of  
6 judgment as to the value of any property),

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

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

18 (7) the property is owned by the United States, the  
19 State of Illinois, a municipality, or a taxing district,  
20 or

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

24 (b) When, upon application of the owner of the certificate  
25 of purchase only, it appears to the satisfaction of the court  
26 which ordered the property sold that any of the following

1 subsections are applicable, the court shall declare the sale  
2 to be a sale in error:

3 (1) A voluntary or involuntary petition under the  
4 provisions of 11 U.S.C. Chapter 7, 11, 12, or 13 has been  
5 filed subsequent to the tax sale and prior to the issuance  
6 of the tax deed.

7 (2) The improvements upon the property sold have been  
8 substantially destroyed or rendered uninhabitable or  
9 otherwise unfit for occupancy subsequent to the tax sale  
10 and prior to the issuance of the tax deed; however, if the  
11 court declares a sale in error under this paragraph (2),  
12 the court may order the holder of the certificate of  
13 purchase to assign the certificate to the county collector  
14 if requested by the county collector. The county collector  
15 may, upon request of the county, as trustee, or upon  
16 request of a taxing district having an interest in the  
17 taxes sold, further assign any certificate of purchase  
18 received pursuant to this paragraph (2) to the county  
19 acting as trustee for taxing districts pursuant to Section  
20 21-90 of this Code or to the taxing district having an  
21 interest in the taxes sold.

22 (3) There is an interest held by the United States in  
23 the property sold which could not be extinguished by the  
24 tax deed.

25 (4) The real property contains a hazardous substance,  
26 hazardous waste, or underground storage tank that would

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

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

25 (c) When the county collector discovers, prior to the  
26 expiration of the period of redemption, that a tax sale should

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

1 in Section 21-315, upon surrender of the original certificate  
2 of purchase.

3 (d) If a sale is declared to be a sale in error, the county  
4 clerk shall make entry in the tax judgment, sale, redemption  
5 and forfeiture record, that the property was erroneously sold,  
6 and the county collector shall, on demand of the owner of the  
7 certificate of purchase, refund the amount paid, except for  
8 the nonrefundable \$80 fee paid, pursuant to Section 21-295,  
9 for each item purchased at the tax sale, pay any interest and  
10 costs as may be ordered under Sections 21-315 through 21-335,  
11 and cancel the certificate so far as it relates to the  
12 property. The county collector shall deduct from the accounts  
13 of the appropriate taxing bodies their pro rata amounts paid.  
14 Alternatively, for sales in error declared under subsection  
15 (b) (2) or (b) (4), the county collector may request the circuit  
16 court to direct the county clerk to record any assignment of  
17 the tax certificate to or from the county collector without  
18 charging a fee for the assignment. The owner of the  
19 certificate of purchase shall receive all statutory refunds  
20 and payments. The county collector shall deduct costs and  
21 payments in the same manner as if a sale in error had occurred.  
22 (Source: P.A. 100-890, eff. 1-1-19; 101-379, eff. 1-1-20;  
23 101-659, eff. 3-23-21.)

24 (35 ILCS 200/22-40)

25 Sec. 22-40. Issuance of deed; possession.

1           (a) The court ~~If the redemption period expires and the~~  
2 ~~property has not been redeemed and all taxes and special~~  
3 ~~assessments which became due and payable subsequent to the~~  
4 ~~sale have been paid and all forfeitures and sales which occur~~  
5 ~~subsequent to the sale have been redeemed and the notices~~  
6 ~~required by law have been given and all advancements of public~~  
7 ~~funds under the police power made by a county, city, village or~~  
8 ~~town under Section 22-35 have been paid and the petitioner has~~  
9 ~~complied with all the provisions of law entitling him or her to~~  
10 ~~a deed, the court shall so find and shall enter an order~~  
11 ~~directing the county clerk,~~ on the production of the  
12 certificate of purchase and a certified copy of the order, to  
13 issue to the purchaser or his or her assignee a tax deed if the  
14 court finds all of the following: -

15           (1) that the redemption period has expired and the  
16 property has not been redeemed;

17           (2) that all taxes and special assessments on the  
18 property that became due and payable after the tax sale at  
19 which the certificate of purchase was issued have been  
20 paid;

21           (3) that all forfeitures and sales of the property  
22 that occur after the tax sale at which the certificate of  
23 purchase was issued and include only subsequent years  
24 taxes have been redeemed;

25           (4) that the notices required by law have been given;

26           (5) that all advancements of public funds under the



1 police power made by a county, city, village or town under  
2 Section 22-35 have been paid; and

3 (6) that the petitioner has complied with all the  
4 provisions of law entitling him or her to a deed.

5 The court shall insist on strict compliance with Section  
6 22-10 through 22-25. Prior to the entry of an order directing  
7 the issuance of a tax deed, the petitioner shall furnish the  
8 court with a report of proceedings of the evidence received on  
9 the application for tax deed and the report of proceedings  
10 shall be filed and made a part of the court record.

11 (b) If taxes for years prior to the year or years sold are  
12 or become delinquent subsequent to the date of sale, the court  
13 shall find that the lien of those delinquent taxes has been or  
14 will be merged into the tax deed grantee's title if the court  
15 determines that the tax deed grantee or any prior holder of the  
16 certificate of purchase, or any person or entity under common  
17 ownership or control with any such grantee or prior holder of  
18 the certificate of purchase, was at no time the holder of any  
19 certificate of purchase for the years sought to be merged. A  
20 sale of the property that occurs after the tax sale at which  
21 the certificate of purchase was issued and includes only tax  
22 years that are prior to the year or years sold, or includes  
23 both tax years that are prior to the year or years sold and tax  
24 years that are after the year or years sold, shall be declared  
25 a sale in error, and those tax years that are included in the  
26 subsequent sale and are prior to the year or years sold shall

1 be merged into the tax deed grantee's title if the court  
2 determines that the tax deed grantee or any prior holder of the  
3 certificate of purchase, or any person or entity under common  
4 ownership or control with any such grantee or prior holder of  
5 the certificate of purchase, was at no time the holder of any  
6 certificate of purchase for the years sought to be merged. If  
7 delinquent taxes are merged into the tax deed pursuant to this  
8 subsection, the court shall enter an order declaring which  
9 specific taxes have been or will be merged into the tax deed  
10 title and directing the county treasurer and county clerk to  
11 reflect that declaration in the warrant and judgment records;  
12 provided, that no such order shall be effective until a tax  
13 deed has been issued and timely recorded. Nothing contained in  
14 this Section shall relieve any owner liable for delinquent  
15 property taxes under this Code from the payment of the taxes  
16 that have been merged into the title upon issuance of the tax  
17 deed.

18 (c) The county clerk is entitled to a fee of \$10 in  
19 counties of 3,000,000 or more inhabitants and \$5 in counties  
20 with less than 3,000,000 inhabitants for the issuance of the  
21 tax deed. The clerk may not include in a tax deed more than one  
22 property as listed, assessed and sold in one description,  
23 except in cases where several properties are owned by one  
24 person.

25 Upon application the court shall, enter an order to place  
26 the tax deed grantee or the grantee's successor in interest in

1 possession of the property and may enter orders and grant  
2 relief as may be necessary or desirable to maintain the  
3 grantee or the grantee's successor in interest in possession.

4 (d) The court shall retain jurisdiction to enter orders  
5 pursuant to subsections (b) and (c) of this Section. This  
6 amendatory Act of the 92nd General Assembly and this  
7 amendatory Act of the 95th General Assembly shall be construed  
8 as being declarative of existing law and not as a new  
9 enactment.

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

11 (35 ILCS 200/22-85)

12 Sec. 22-85. Failure to timely take out and record deed;  
13 deed is void. Unless the holder of the certificate purchased  
14 at any tax sale under this Code takes out the deed in the time  
15 provided by law, and records the same within one year from and  
16 after the time for redemption expires, the certificate or  
17 deed, and the sale on which it is based, shall, after the  
18 expiration of the one year period, be absolutely void with no  
19 right to reimbursement. If the holder of the certificate is  
20 prevented from obtaining or recording a deed by injunction or  
21 order of any court, or by the refusal or inability of any court  
22 to act upon the application for a tax deed, or by the refusal  
23 of the clerk to execute the same deed, or by the refusal,  
24 inability, or delay of any county, city, village, or  
25 incorporated town to issue transfer stamps, the time he or she

1 is so prevented shall be excluded from computation of the one  
2 year period. Certificates of purchase and deeds executed by  
3 the clerk shall recite the qualifications required in this  
4 Section. The court shall retain jurisdiction to enter orders  
5 pursuant to this Section.

6 (Source: P.A. 87-669; 88-455.)

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.