



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1365

Introduced 2/18/2015, by Sen. Pat McGuire

SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-310
35 ILCS 200/21-315
35 ILCS 200/21-330
35 ILCS 200/21-385

Amends the Property Tax Code. In provisions concerning sales in error, provides that the court may declare a sale in error only prior to the application for a tax deed. In cases where a sale in error is ordered because a bankruptcy petition has been filed, provides that those provisions apply only if the petition is active at the time of sale. Provides that, in cases where improvements upon the property sold have been substantially destroyed or rendered uninhabitable or otherwise unfit for occupancy, the court may order assignment of the certificate of purchase to the delinquent county tax agent instead of declaring a sale in error. Provides that the fee for the issuance of a certificate of purchase shall be up to \$100 (currently, \$60). Provides that interest on the refund of the amount paid for a certificate of purchase shall be the lesser of 1% per month or the percentage increase in the Consumer Price Index (currently, 1% per month).

LRB099 06066 HLH 26120 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 Property Tax Code is amended by changing
5 Sections 21-310, 21-315, 21-330, and 21-385 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, and prior to the
11 application for a tax deed, it appears to the satisfaction of
12 the court which ordered the property sold that any of the
13 following subsections are applicable, the court shall declare
14 the sale to be a sale in error:

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

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

22 (3) there is a double assessment,

23 (4) the description is void for uncertainty,

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

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

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

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

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

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

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

6 (2) The improvements upon the property sold have been
7 substantially destroyed or rendered uninhabitable or
8 otherwise unfit for occupancy subsequent to the tax sale
9 and prior to the issuance of the tax deed; however, if the
10 application is made under this paragraph (2), the court may
11 order assignment of the certificate of purchase to the
12 delinquent county tax agent, if requested by the county
13 collector, instead of declaring a sale in error.

14 (3) There is an interest held by the United States in
15 the property sold which could not be extinguished by the
16 tax deed.

17 (4) The real property contains a hazardous substance,
18 hazardous waste, or underground storage tank that would
19 require cleanup or other removal under any federal, State,
20 or local law, ordinance, or regulation, only if the tax
21 purchaser purchased the property without actual knowledge
22 of the hazardous substance, hazardous waste, or
23 underground storage tank. This paragraph (4) applies only
24 if the owner of the certificate of purchase has made
25 application for a sale in error at any time before the
26 issuance of a tax deed.

1 Whenever a court declares a sale in error under this
2 subsection (b), the court shall promptly notify the county
3 collector in writing.

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

1 forfeiture record pursuant to subsection (d) of this Section.
2 The county collector shall promptly notify the last known owner
3 of the certificate of purchase of the declaration by regular
4 mail and shall promptly pay the amount of the tax sale,
5 together with interest and costs as provided in Section 21-315,
6 upon surrender of the original certificate of purchase.

7 (d) If a sale is declared to be a sale in error, the county
8 clerk shall make entry in the tax judgment, sale, redemption
9 and forfeiture record, that the property was erroneously sold,
10 and the county collector shall, on demand of the owner of the
11 certificate of purchase, refund the amount paid, pay any
12 interest and costs as may be ordered under Sections 21-315
13 through 21-335, and cancel the certificate so far as it relates
14 to the property. The county collector shall deduct from the
15 accounts of the appropriate taxing bodies their pro rata
16 amounts paid. Alternatively, for sales in error declared under
17 subsection (b), the county collector may request the circuit
18 court to direct the county clerk to assign the tax certificate
19 to the county delinquent tax agent without charging a fee for
20 the assignment. The owner of the certificate of purchase shall
21 receive all statutory refunds and payments as if a sale in
22 error had occurred. The county collector shall deduct costs and
23 payments in the same manner as if a sale in error had occurred.
24 The county delinquent tax agent may further extend the
25 redemption period by an additional 12 months in order to
26 proceed with filing a petition for tax deed.

1 (Source: P.A. 94-312, eff. 7-25-05; 94-662, eff. 1-1-06;
2 95-331, eff. 8-21-07.)

3 (35 ILCS 200/21-315)

4 Sec. 21-315. Refund of costs; interest on refund.

5 (a) If a sale in error under Section 21-310, 22-35, or
6 22-50 is declared, the amount refunded shall also include all
7 costs paid by the owner of the certificate of purchase or his
8 or her assignor which were posted to the tax judgment, sale,
9 redemption and forfeiture record.

10 (b) In those cases which arise solely under grounds set
11 forth in Section 21-310, the amount refunded shall also include
12 interest on the refund of the amount paid for the certificate
13 of purchase, except as otherwise provided in this Section.
14 Interest shall be awarded and paid to the tax purchaser at the
15 rate of the lesser of 1% per month or the percentage increase
16 in the Consumer Price Index for all Urban Consumers during the
17 12-month calendar year preceding the levy year for which the
18 refund was made, as published by the U.S. Bureau of Labor
19 Statistics, from the date of sale to the date of payment, or in
20 an amount equivalent to the penalty interest which would be
21 recovered on a redemption at the time of payment pursuant to
22 the order for sale in error, whichever is less. Interest shall
23 not be paid when the sale in error is made pursuant to
24 paragraph (2) or (4) of subsection (b) of Section 21-310,
25 Section 22-35, Section 22-50, any ground not enumerated in

1 Section 21-310, or in any other case where the court determines
2 that the tax purchaser had actual knowledge prior to the sale
3 of the grounds on which the sale is declared to be erroneous.

4 (c) When the county collector files a petition for sale in
5 error under Section 21-310 and mails a notice thereof by
6 certified or registered mail to the last known owner of the
7 certificate of purchase, any interest otherwise payable under
8 this Section shall cease to accrue as of the date the petition
9 is filed, unless the tax purchaser agrees to an order for sale
10 in error upon the presentation of the petition to the court.
11 Notices under this subsection may be mailed to the last known
12 owner of the certificate of purchase. When the owner of the
13 certificate of purchase contests the collector's petition
14 solely to determine whether the grounds for sale in error are
15 such as to support a claim for interest, the court may direct
16 that the principal amount of the refund be paid to the owner of
17 the certificate of purchase forthwith. If the court thereafter
18 determines that a claim for interest lies under this Section,
19 it shall award such interest from the date of sale to the date
20 the principal amount was paid. If the owner of the certificate
21 of purchase files an objection to the county collector's
22 intention to declare an administrative sale in error, as
23 provided under subsection (c) of Section 21-310, and,
24 thereafter, the county collector elects to apply to the circuit
25 court for a sale in error under subsection (a) of Section
26 21-310, then, if the circuit court grants the county

1 collector's application for a sale in error, the court may not
2 award interest to the owner of the certificate of purchase for
3 the period after the mailing date of the county collector's
4 notice of intention to declare an administrative sale in error.
5 (Source: P.A. 94-662, eff. 1-1-06.)

6 (35 ILCS 200/21-330)

7 Sec. 21-330. Fund for payment of interest. In counties of
8 under 3,000,000 inhabitants, the county board may impose a fee
9 of up to \$100 ~~\$60~~, which shall be paid to the county collector,
10 upon each person purchasing any property at a sale held under
11 this Code, prior to the issuance of any certificate of
12 purchase. Each person purchasing any property at a sale held
13 under this Code in a county with 3,000,000 or more inhabitants
14 shall pay to the county collector, prior to the issuance of any
15 certificate of purchase, a fee of \$100 for each item purchased.
16 That amount shall be included in the price paid for the
17 certificate of purchase and the amount required to redeem under
18 Section 21-355.

19 All sums of money received under this Section shall be paid
20 by the collector to the county treasurer of the county in which
21 the property is situated for deposit into a special fund. It
22 shall be the duty of the county treasurer, as trustee of the
23 fund, to invest the principal and income of the fund from time
24 to time, if not immediately required for payments under this
25 Section, in investments as are authorized by Sections 3-10009

1 and 3-11002 of the Counties Code. The fund shall be held to pay
2 interest and costs by the county treasurer as trustee of the
3 fund. No payment shall be made from the fund except by order of
4 the court declaring a sale in error under Section 21-310,
5 22-35, or 22-50 or by declaration of the county collector under
6 subsection (c) of Section 21-310. Any moneys accumulated in the
7 fund by the county treasurer in excess of (i) \$100,000 in
8 counties with 250,000 or less inhabitants or (ii) \$500,000 in
9 counties with more than 250,000 inhabitants shall be paid each
10 year prior to the commencement of the annual tax sale, first to
11 satisfy any existing unpaid judgments entered pursuant to
12 Section 21-295, and any funds remaining thereafter shall be
13 paid to the general fund of the county.

14 (Source: P.A. 94-362, eff. 7-29-05.)

15 (35 ILCS 200/21-385)

16 Sec. 21-385. Extension of period of redemption. The
17 purchaser or his or her assignee of property sold for
18 nonpayment of general taxes or special assessments may extend
19 the period of redemption at any time before the expiration of
20 the original period of redemption, or thereafter prior to the
21 expiration of any extended period of redemption, for a period
22 which will expire not later than 3 years from the date of sale,
23 by filing with the county clerk of the county in which the
24 property is located a written notice to that effect describing
25 the property, stating the date of the sale and specifying the

1 extended period of redemption. If prior to the expiration of
2 the period of redemption or extended period of redemption a
3 petition for tax deed has been filed under Section 22-30, upon
4 application of the petitioner, the court shall allow the
5 purchaser or his or her assignee to extend the period of
6 redemption after expiration of the original period or any
7 extended period of redemption, provided that any extension
8 allowed will expire not later than 3 years from the date of
9 sale, unless the certificate has been assigned to a county
10 delinquent tax agent by the court which ordered the property
11 sold, in which case the period of redemption may be extended up
12 to an additional 12 months but no later than 4 years from the
13 date of sale. If the period of redemption is extended, the
14 purchaser or his or her assignee must give the notices provided
15 for in Section 22-10 at the specified times prior to the
16 expiration of the extended period of redemption by causing a
17 sheriff (or if he or she is disqualified, a coroner) of the
18 county in which the property, or any part thereof, is located
19 to serve the notices as provided in Sections 22-15 and 22-20.
20 The notices may also be served as provided in Sections 22-15
21 and 22-20 by a special process server appointed by the court
22 under Section 22-15.

23 (Source: P.A. 91-209, eff. 1-1-00; 91-554, eff. 8-14-99.)