



Sen. Pat McGuire

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1 AMENDMENT TO SENATE BILL 1365

2 AMENDMENT NO. _____. Amend Senate Bill 1365 by replacing
3 everything after the enacting clause with the following:

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, 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 or
15 any part of the lien of taxes sold has become null and void
16 pursuant to Section 21-95 or unenforceable pursuant to

1 subsection (c) of Section 18-250 or subsection (b) of
2 Section 22-40,

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

5 (3) there is a double assessment,

6 (4) the description is void for uncertainty,

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

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

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

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

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

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

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

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

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.

5 Whenever a court declares a sale in error under this
6 subsection (b), the court shall promptly notify the county
7 collector in writing.

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

1 declaration, based upon clear and convincing evidence, that the
2 taxes were sold in error and shall deliver a copy thereof to
3 the county clerk within 30 days after the date the declaration
4 is made for entry in the tax judgment, sale, redemption, and
5 forfeiture record pursuant to subsection (d) of this Section.
6 The county collector shall promptly notify the last known owner
7 of the certificate of purchase of the declaration by regular
8 mail and shall promptly pay the amount of the tax sale,
9 together with interest and costs as provided in Section 21-315,
10 upon surrender of the original certificate 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 relates
18 to the property. The county collector shall deduct from the
19 accounts of the appropriate taxing bodies their pro rata
20 amounts paid. Alternatively, for sales in error declared under
21 subsection (b) (2), the county collector may request the circuit
22 court to direct the county clerk to assign the tax certificate
23 to the county collector or the county delinquent tax agent
24 without charging a fee for the assignment. The owner of the
25 certificate of purchase shall receive all statutory refunds and
26 payments. The county collector shall deduct costs and payments

1 in the same manner as if a sale in error had occurred. The
2 county delinquent tax agent shall extend the redemption period
3 by 24 months in order to proceed with filing a petition for tax
4 deed.

5 (Source: P.A. 94-312, eff. 7-25-05; 94-662, eff. 1-1-06;
6 95-331, eff. 8-21-07.)

7 (35 ILCS 200/21-315)

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

9 (a) If a sale in error under Section 21-310, 22-35, or
10 22-50 is declared, the amount refunded shall also include all
11 costs paid by the owner of the certificate of purchase or his
12 or her assignor which were posted to the tax judgment, sale,
13 redemption and forfeiture record.

14 (b) In those cases which arise solely under grounds set
15 forth in Section 21-310, the amount refunded shall also include
16 interest on the refund of the amount paid for the certificate
17 of purchase, except as otherwise provided in this Section.
18 Interest shall be awarded and paid to the tax purchaser at the
19 rate of 1% per month from the date of sale to the date of
20 payment, or in an amount equivalent to the penalty interest
21 which would be recovered on a redemption at the time of payment
22 pursuant to the order for sale in error, whichever is less.
23 Interest shall not be paid when the sale in error is made
24 pursuant to paragraph (2) or (4) of subsection (b) of Section
25 21-310, Section 22-35, Section 22-50, any ground not enumerated

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

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

1 21-310, then, if the circuit court grants the county
2 collector's application for a sale in error, the court may not
3 award interest to the owner of the certificate of purchase for
4 the period after the mailing date of the county collector's
5 notice of intention to declare an administrative sale in error.

6 (d) When a petition for a sale in error is filed under
7 subsection (b) of Section 21-310, the petition shall be filed
8 under the order in which the court previously ordered the taxes
9 sold. The certificate holder shall not be required to pay a
10 filing fee under this Section.

11 (Source: P.A. 94-662, eff. 1-1-06.)

12 (35 ILCS 200/21-330)

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

25 All sums of money received under this Section shall be paid

1 by the collector to the county treasurer of the county in which
2 the property is situated for deposit into a special fund. It
3 shall be the duty of the county treasurer, as trustee of the
4 fund, to invest the principal and income of the fund from time
5 to time, if not immediately required for payments under this
6 Section, in investments as are authorized by Sections 3-10009
7 and 3-11002 of the Counties Code. The fund shall be held to pay
8 interest and costs by the county treasurer as trustee of the
9 fund. No payment shall be made from the fund except by order of
10 the court declaring a sale in error under Section 21-310,
11 22-35, or 22-50 or by declaration of the county collector under
12 subsection (c) of Section 21-310. Any moneys accumulated in the
13 fund by the county treasurer in excess of (i) \$100,000 in
14 counties with 250,000 or less inhabitants or (ii) \$500,000 in
15 counties with more than 250,000 inhabitants shall be paid each
16 year prior to the commencement of the annual tax sale, first to
17 satisfy any existing unpaid judgments entered pursuant to
18 Section 21-295, and any funds remaining thereafter shall be
19 paid to the general fund of the county.

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

21 (35 ILCS 200/21-385)

22 Sec. 21-385. Extension of period of redemption. The
23 purchaser or his or her assignee of property sold for
24 nonpayment of general taxes or special assessments may extend
25 the period of redemption at any time before the expiration of

1 the original period of redemption, or thereafter prior to the
2 expiration of any extended period of redemption, for a period
3 which will expire not later than 3 years from the date of sale,
4 by filing with the county clerk of the county in which the
5 property is located a written notice to that effect describing
6 the property, stating the date of the sale and specifying the
7 extended period of redemption. If prior to the expiration of
8 the period of redemption or extended period of redemption a
9 petition for tax deed has been filed under Section 22-30, upon
10 application of the petitioner, the court shall allow the
11 purchaser or his or her assignee to extend the period of
12 redemption after expiration of the original period or any
13 extended period of redemption, provided that any extension
14 allowed will expire not later than 3 years from the date of
15 sale, unless the certificate has been assigned to the county
16 collector or the county delinquent tax agent by the court which
17 ordered the property sold, in which case the period of
18 redemption shall be extended for 24 months. If the period of
19 redemption is extended, the purchaser or his or her assignee
20 must give the notices provided for in Section 22-10 at the
21 specified times prior to the expiration of the extended period
22 of redemption by causing a sheriff (or if he or she is
23 disqualified, a coroner) of the county in which the property,
24 or any part thereof, is located to serve the notices as
25 provided in Sections 22-15 and 22-20. The notices may also be
26 served as provided in Sections 22-15 and 22-20 by a special

1 process server appointed by the court under Section 22-15.
2 (Source: P.A. 91-209, eff. 1-1-00; 91-554, eff. 8-14-99.)".