

SB0586



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB0586

Introduced 1/24/2017, by Sen. Jason A. Barickman

SYNOPSIS AS INTRODUCED:

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

Amends the Property Tax Code. In provisions concerning sales in error, 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 county collector or the delinquent county tax agent instead of declaring a sale in error upon request of the county collector. Provides that, if the certificate of purchase is assigned to the county delinquent tax agent because the improvements have been substantially destroyed or rendered uninhabitable or otherwise unfit for occupancy, then the county delinquent tax agent shall extend the redemption period by 24 months. Requires the court to notify the county collector when it declares a sale in error under certain conditions.

LRB100 04126 HLH 14131 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, 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
17 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 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 assignment of the certificate of
9 purchase to the county collector or the delinquent county
10 tax agent, if requested by the county collector.

11 (3) There is an interest held by the United States in
12 the property sold which could not be extinguished by the
13 tax deed.

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

24 Whenever a court declares a sale in error under this
25 subsection (b), the court shall promptly notify the county
26 collector in writing.

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

1 mail and shall promptly pay the amount of the tax sale,
2 together with interest and costs as provided in Section 21-315,
3 upon surrender of the original certificate of purchase.

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

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

1 (35 ILCS 200/21-315)

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

3 (a) If a sale in error under Section 21-310, 22-35, or
4 22-50 is declared, the amount refunded shall also include all
5 costs paid by the owner of the certificate of purchase or his
6 or her assignor which were posted to the tax judgment, sale,
7 redemption and forfeiture record.

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

24 (c) When the county collector files a petition for sale in
25 error under Section 21-310 and mails a notice thereof by
26 certified or registered mail to the last known owner of the

1 certificate of purchase, any interest otherwise payable under
2 this Section shall cease to accrue as of the date the petition
3 is filed, unless the tax purchaser agrees to an order for sale
4 in error upon the presentation of the petition to the court.
5 Notices under this subsection may be mailed to the last known
6 owner of the certificate of purchase. When the owner of the
7 certificate of purchase contests the collector's petition
8 solely to determine whether the grounds for sale in error are
9 such as to support a claim for interest, the court may direct
10 that the principal amount of the refund be paid to the owner of
11 the certificate of purchase forthwith. If the court thereafter
12 determines that a claim for interest lies under this Section,
13 it shall award such interest from the date of sale to the date
14 the principal amount was paid. If the owner of the certificate
15 of purchase files an objection to the county collector's
16 intention to declare an administrative sale in error, as
17 provided under subsection (c) of Section 21-310, and,
18 thereafter, the county collector elects to apply to the circuit
19 court for a sale in error under subsection (a) of Section
20 21-310, then, if the circuit court grants the county
21 collector's application for a sale in error, the court may not
22 award interest to the owner of the certificate of purchase for
23 the period after the mailing date of the county collector's
24 notice of intention to declare an administrative sale in error.

25 (d) When a petition for a sale in error is filed under
26 subsection (b) of Section 21-310, the petition shall be filed

1 under the order in which the court previously ordered the taxes
2 sold. The certificate holder shall not be required to pay a
3 filing fee under this Section.

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

5 (35 ILCS 200/21-385)

6 Sec. 21-385. Extension of period of redemption. The
7 purchaser or his or her assignee of property sold for
8 nonpayment of general taxes or special assessments may extend
9 the period of redemption at any time before the expiration of
10 the original period of redemption, or thereafter prior to the
11 expiration of any extended period of redemption, for a period
12 which will expire not later than 3 years from the date of sale,
13 by filing with the county clerk of the county in which the
14 property is located a written notice to that effect describing
15 the property, stating the date of the sale and specifying the
16 extended period of redemption. If prior to the expiration of
17 the period of redemption or extended period of redemption a
18 petition for tax deed has been filed under Section 22-30, upon
19 application of the petitioner, the court shall allow the
20 purchaser or his or her assignee to extend the period of
21 redemption after expiration of the original period or any
22 extended period of redemption, provided that any extension
23 allowed will expire not later than 3 years from the date of
24 sale, unless the certificate has been assigned to the county
25 collector or the county delinquent tax agent by the court which

1 ordered the property sold, in which case the period of
2 redemption shall be extended for 24 months. If the period of
3 redemption is extended, the purchaser or his or her assignee
4 must give the notices provided for in Section 22-10 at the
5 specified times prior to the expiration of the extended period
6 of redemption by causing a sheriff (or if he or she is
7 disqualified, a coroner) of the county in which the property,
8 or any part thereof, is located to serve the notices as
9 provided in Sections 22-15 and 22-20. The notices may also be
10 served as provided in Sections 22-15 and 22-20 by a special
11 process server appointed by the court under Section 22-15.
12 (Source: P.A. 91-209, eff. 1-1-00; 91-554, eff. 8-14-99.)