

**100TH GENERAL ASSEMBLY****State of Illinois****2017 and 2018****SB0845**

Introduced 2/7/2017, by Sen. Toi W. Hutchinson

SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-150
35 ILCS 200/21-295
35 ILCS 200/21-305
35 ILCS 200/21-310

Amends the Property Tax Code. Provides that, in Cook County, all applications for judgment and order of sale for taxes and special assessments on delinquent properties shall be made (i) by April 1, 2017 for tax year 2015, and (ii) by March 1 of the second calendar year after the applicable tax year for tax year 2016 and thereafter (currently, by May 1, 2016 for tax year 2014, by March 1, 2017 for tax year 2015, and within 90 days after the second installment due date for tax year 2016 and each tax year thereafter). Makes changes concerning the indemnity fee. Provides that the fee shall be adjusted annually beginning on February 1, 2023. Provides that the court may not declare a sale in error solely based on an error of the assessor, chief county assessment officer, board of review, board of appeals, or other county official if the court finds that the error is immaterial. In provisions that require the court to declare a sale in error in the case of a voluntary or involuntary petition under the provisions of the federal Bankruptcy Code of 1978, provides that the petition must be pending on the date of the application for judgment and order of sale or the date of the tax sale. Effective immediately.

LRB100 08076 HLH 18162 b

FISCAL 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 21-150, 21-295, 21-305, and 21-310 as follows:

6 (35 ILCS 200/21-150)

7 Sec. 21-150. Time of applying for judgment. Except as
8 otherwise provided in this Section or by ordinance or
9 resolution enacted under subsection (c) of Section 21-40, in
10 any county with fewer than 3,000,000 inhabitants, all
11 applications for judgment and order of sale for taxes and
12 special assessments on delinquent properties shall be made
13 within 90 days after the second installment due date. In Cook
14 County, all applications for judgment and order of sale for
15 taxes and special assessments on delinquent properties shall be
16 made (i) by July 1, 2011 for tax year 2009, (ii) by July 1, 2012
17 for tax year 2010, (iii) by July 1, 2013 for tax year 2011,
18 (iv) by July 1, 2014 for tax year 2012, (v) by July 1, 2015 for
19 tax year 2013, (vi) by May 1, 2016 for tax year 2014, (vii) by
20 April 1, 2017 for tax year 2015, and (viii) by March 1 of the
21 second calendar year after the applicable tax year for tax year
22 2016 and March 1, 2017 for tax year 2015, and (viii) within 90
23 days after the second installment due date for tax year 2016

1 ~~and~~ each tax year thereafter. In those counties which have
2 adopted an ordinance under Section 21-40, the application for
3 judgment and order of sale for delinquent taxes shall be made
4 in December. In the 10 years next following the completion of a
5 general reassessment of property in any county with 3,000,000
6 or more inhabitants, made under an order of the Department,
7 applications for judgment and order of sale shall be made as
8 soon as may be and on the day specified in the advertisement
9 required by Section 21-110 and 21-115. If for any cause the
10 court is not held on the day specified, the cause shall stand
11 continued, and it shall be unnecessary to re-advertise the list
12 or notice.

13 Within 30 days after the day specified for the application
14 for judgment the court shall hear and determine the matter. If
15 judgment is rendered, the sale shall begin on the date within 5
16 business days specified in the notice as provided in Section
17 21-115. If the collector is prevented from advertising and
18 obtaining judgment within the time periods specified by this
19 Section, the collector may obtain judgment at any time
20 thereafter; but if the failure arises by the county collector's
21 not complying with any of the requirements of this Code, he or
22 she shall be held on his or her official bond for the full
23 amount of all taxes and special assessments charged against him
24 or her. Any failure on the part of the county collector shall
25 not be allowed as a valid objection to the collection of any
26 tax or assessment, or to entry of a judgment against any

1 delinquent properties included in the application of the county
2 collector.

3 (Source: P.A. 97-637, eff. 12-16-11; 98-1101, eff. 8-26-14.)

4 (35 ILCS 200/21-295)

5 Sec. 21-295. Creation of indemnity fund.

6 (a) In counties of less than 3,000,000 inhabitants, each
7 person purchasing any property at a sale under this Code shall
8 pay to the County Collector, prior to the issuance of any
9 certificate of purchase, a fee of \$20 for each item purchased.
10 A like sum shall be paid for each year that all or a portion of
11 subsequent taxes are paid by the tax purchaser and posted to
12 the tax judgment, sale, redemption and forfeiture record where
13 the underlying certificate of purchase is recorded.

14 (a-5) In counties of 3,000,000 or more inhabitants, with
15 respect to tax sales commenced on or before February 1, 2023,
16 each person purchasing property at a sale under this Code shall
17 pay to the County Collector a fee of \$80 for each item
18 purchased plus an additional sum equal to 5% of taxes,
19 interest, and penalties paid by the purchaser, including the
20 taxes, interest, and penalties paid under Section 21-240. In
21 these counties, with respect to tax sales commenced on or
22 before February 1, 2023, the certificate holder shall also pay
23 to the County Collector a fee of \$80 for each year that all or a
24 portion of subsequent taxes are paid by the tax purchaser and
25 posted to the tax judgment, sale, redemption, and forfeiture

1 record, plus an additional sum equal to 5% of all subsequent
2 taxes, interest, and penalties. The additional 5% fees are not
3 required after December 31, 2006. The changes to this
4 subsection made by this amendatory Act of the 91st General
5 Assembly are not a new enactment, but declaratory of existing
6 law.

7 (a-10) In counties of 3,000,000 or more inhabitants, with
8 respect to tax sales commencing on or after February 1, 2018,
9 each person purchasing property at a sale under this Code shall
10 pay to the County Collector a fee equal to 2.5% of the taxes,
11 interest, and costs paid by the purchaser, as adjusted under
12 this subsection, including the taxes, interest, and costs paid
13 under Section 21-240. This fee shall be in addition to any
14 other fee payable by the tax purchaser under this Code. With
15 respect to those sales, the certificate holder shall pay to the
16 County Collector a fee equal to 2.5% of all subsequent taxes,
17 interest, and costs paid by the tax purchaser and posted to the
18 tax judgment, sale, redemption, and forfeiture record. The fees
19 set forth in this subsection shall be adjusted on July 1, 2023
20 and automatically adjusted annually on July 1 of each year
21 thereafter to a percentage not greater than 3.5% and not less
22 than 0% of taxes, interest, and costs purchased or paid by the
23 purchaser. That adjusted fee percentage shall be published on
24 the County Collector's website not later than July 1 of each
25 year, effective for tax sales commenced on or after February 1
26 of the following year. In calendar year 2023 and all subsequent

1 years, the fee percentage, within the limits provided by this
2 subsection, shall be automatically adjusted as follows
3 according to data set forth in the County Collector's most
4 recent independently audited financial statement: (1) if the
5 assets of the Indemnity Fund are less than the judgments
6 outstanding against it as of November 30 of the most recently
7 completed fiscal year, the fee percentage for the following
8 year shall be 3.5%; and (2) if the assets of the Indemnity Fund
9 are equal to or greater than the judgments outstanding against
10 it as of November 30 of the most recently completed fiscal
11 year, the fee percentage for the following year shall be
12 adjusted to the fee percentage which, if multiplied by the
13 total value of taxes sold in the prior year, yields a sum that
14 otherwise would have been sufficient to pay all judgments
15 obtained and anticipated against the Indemnity Fund and filed
16 with the County Clerk on or before November 30 of that prior
17 year, rounded upward to the nearest 0.25%.

18 (b) The amount paid prior to issuance of the certificate of
19 purchase pursuant to subsection (a) ~~, or (a-5),~~ or (a-10) shall
20 be included in the purchase price of the property in the
21 certificate of purchase and all amounts paid under this Section
22 shall be included in the amount required to redeem under
23 Section 21-355. Except as otherwise provided in subsection (b)
24 of Section 21-300, all money received under subsection (a) ~~, or~~
25 (a-5), or (a-10) shall be paid by the Collector to the County
26 Treasurer of the County in which the land is situated, for the

1 purpose of an indemnity fund. The County Treasurer, as trustee
2 of that fund, shall invest all of that fund, principal and
3 income, in his or her hands from time to time, if not
4 immediately required for payments of indemnities under
5 subsection (a) of Section 21-305, in investments permitted by
6 the Illinois State Board of Investment under Article 22A of the
7 Illinois Pension Code. The county collector shall report
8 annually to the county clerk on the condition and income of the
9 fund. The indemnity fund shall be held to satisfy judgments
10 obtained against the County Treasurer, as trustee of the fund.
11 No payment shall be made from the fund, except upon a judgment
12 of the court which ordered the issuance of a tax deed.

13 (c) The changes to this Section made by this amendatory Act
14 of the 100th General Assembly shall apply only to tax sales
15 commenced on or after February 1, 2018.

16 (Source: P.A. 94-412, eff. 8-2-05.)

17 (35 ILCS 200/21-305)

18 Sec. 21-305. Payments from Indemnity Fund.

19 (a) Any owner of property sold under any provision of this
20 Code who sustains loss or damage by reason of the issuance of a
21 tax deed under Section 21-445 or 22-40 and who is barred or is
22 in any way precluded from bringing an action for the recovery
23 of the property shall have the right to indemnity for the loss
24 or damage sustained, limited as follows:

25 (1) An owner who resided on property that contained 4

1 or less dwelling units on the last day of the period of
2 redemption and who is equitably entitled to compensation
3 for the loss or damage sustained has the right to
4 indemnity. An equitable indemnity award shall be limited to
5 the fair cash value of the property as of the date the tax
6 deed was issued less any mortgages or liens on the
7 property, and the award will not exceed \$99,000. The Court
8 shall liberally construe this equitable entitlement
9 standard to provide compensation wherever, in the
10 discretion of the Court, the equities warrant the action.

11 (1.5) An owner who resided on ~~of a~~ property that
12 contained 4 or less dwelling units who requests an award in
13 excess of \$99,000 must prove that the loss of his or her
14 property was not attributable to his or her own fault or
15 negligence before a fair cash value ~~an~~ award in excess of
16 \$99,000 will be granted.

17 (2) An owner of property not referenced in paragraph
18 (1) or (1.5) of this subsection who sustains the loss or
19 damage of any property occasioned by reason of the issuance
20 of a tax deed, without fault or negligence of his or her
21 own, may recover ~~has the right to indemnity limited to the~~
22 lesser of the fair cash value of the property as of the
23 date the tax deed was issued, less any mortgages or liens
24 on the property, or 200% of the median sales price for
25 homes in the Chicago Metropolitan Statistical Area, as
26 established in the most recent Annual Report of a statewide

1 association of real estate agents and reported annually by
2 the county chief financial officer; or, in the event such
3 publication is not available, 150% of the most recent
4 median value of owner occupied housing units in Cook
5 County, as published by the United States Census Bureau and
6 reported annually by the county chief financial officer,
7 less any mortgages or liens on the property. In determining
8 the existence of fault or negligence, the court shall
9 consider whether the owner exercised ordinary reasonable
10 diligence under all of the relevant circumstances.

11 (3) In determining an award under this Section ~~the fair~~
12 ~~cash value of property less any mortgages or liens on the~~
13 ~~property,~~ the fair cash value under paragraph (1), (1.5),
14 or (2) of this subsection, or the median value of a
15 single-family residential property under paragraph (2) of
16 this Section, less any mortgages or liens, shall be reduced
17 by the principal amount of all taxes paid by the tax
18 purchaser or his or her assignee before the issuance of the
19 tax deed.

20 (4) If an award made under this Section ~~paragraph (1)~~
21 ~~or (2)~~ is subject to a reduction by the amount of an
22 outstanding mortgage or lien on the property, other than
23 the principal amount of all taxes paid by the tax purchaser
24 or his or her assignee before the issuance of the tax deed
25 and the petitioner would be personally liable to the
26 mortgagee or lienholder for all or part of that reduction

1 amount, the court shall order an additional indemnity award
2 to be paid directly to the mortgagee or lienholder
3 sufficient to discharge the petitioner's personal
4 liability. The court, in its discretion, may order the
5 joinder of the mortgagee or lienholder as an additional
6 party to the indemnity action.

7 (b) Indemnity fund proceedings; subrogation.

8 (1) Any person claiming indemnity hereunder shall
9 petition the Court which ordered the tax deed to issue,
10 shall name the County Treasurer, as Trustee of the
11 indemnity fund, as defendant to the petition, and shall ask
12 that judgment be entered against the County Treasurer, as
13 Trustee, in the amount of the indemnity sought. The
14 provisions of the Civil Practice Law shall apply to
15 proceedings under the petition, except that neither the
16 petitioner nor County Treasurer shall be entitled to trial
17 by jury on the issues presented in the petition. ~~The Court~~
18 ~~shall liberally construe this Section to provide~~
19 ~~compensation wherever in the discretion of the Court the~~
20 ~~equities warrant such action.~~

21 (2) The County Treasurer, as Trustee of the indemnity
22 fund, shall be subrogated to all parties in whose favor
23 judgment may be rendered against him or her, and by third
24 party complaint may bring in as a defendant any person,
25 other than the tax deed grantee and its successors in
26 title, not a party to the action who is or may be liable to

1 him or her, as subrogee, for all or part of the
2 petitioner's claim against him or her.

3 (c) Any contract involving the proceeds of a judgment for
4 indemnity under this Section, between the tax deed grantee or
5 its successors in title and the indemnity petitioner or his or
6 her successors, shall be in writing. In any action brought
7 under Section 21-305, the Collector shall be entitled to
8 discovery regarding, but not limited to, the following:

9 (1) the identity of all persons beneficially
10 interested in the contract, directly or indirectly,
11 including at least the following information: the names and
12 addresses of any natural persons; the place of
13 incorporation of any corporation and the names and
14 addresses of its shareholders unless it is publicly held;
15 the names and addresses of all general and limited partners
16 of any partnership; the names and addresses of all persons
17 having an ownership interest in any entity doing business
18 under an assumed name, and the county in which the assumed
19 business name is registered; and the nature and extent of
20 the interest in the contract of each person identified;

21 (2) the time period during which the contract was
22 negotiated and agreed upon, from the date of the first
23 direct or indirect contact between any of the contracting
24 parties to the date of its execution;

25 (3) the name and address of each natural person who
26 took part in negotiating the contract, and the identity and

1 relationship of the party that the person represented in
2 the negotiations; and

3 (4) the existence of an agreement for payment of
4 attorney's fees by or on behalf of each party.

5 Any information disclosed during discovery may be subject
6 to protective order as deemed appropriate by the court. The
7 terms of the contract shall not be used as evidence of value.

8 (d) A petition of indemnity under this Section must be
9 filed within 10 years after the date the tax deed was issued.

10 (e) The changes made to this Section by this amendatory Act
11 of the 100th General Assembly apply only to tax sales commenced
12 on or after February 1, 2018.

13 (Source: P.A. 97-557, eff. 7-1-12.)

14 (35 ILCS 200/21-310)

15 Sec. 21-310. Sales in error.

16 (a) When, upon application of the county collector, the
17 owner of the certificate of purchase, or a municipality which
18 owns or has owned the property ordered sold, it appears to the
19 satisfaction of the court which ordered the property sold that
20 any of the following subsections are applicable, the court
21 shall declare the sale to be a sale in error:

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

1 Section 22-40,

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

4 (3) there is a double assessment,

5 (4) the description is void for uncertainty,

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

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, and
22 that petition is pending on the date of the application for
23 judgment and order of sale or the date of the tax sale,

24 (7) the property is owned by the United States, the
25 State of Illinois, a municipality, or a taxing district, 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 to
7 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, and that petition is pending or was
12 terminated no more than 120 days prior to the date on which
13 the petition for sale in error is filed.

14 (2) The improvements upon the property sold have been
15 substantially destroyed or rendered uninhabitable or
16 otherwise unfit for occupancy subsequent to the tax sale
17 and prior to the issuance of the tax deed.

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

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

8 (d) If a sale is declared to be a sale in error, the county
9 clerk shall make entry in the tax judgment, sale, redemption
10 and forfeiture record, that the property was erroneously sold,
11 and the county collector shall, on demand of the owner of the
12 certificate of purchase, refund the amount paid, pay any
13 interest and costs as may be ordered under Sections 21-315
14 through 21-335, and cancel the certificate so far as it relates
15 to the property. The county collector shall deduct from the
16 accounts of the appropriate taxing bodies their pro rata
17 amounts paid.

18 (e) The changes made to this Section by this amendatory Act
19 of the 100th General Assembly apply only to tax sales commenced
20 on or after February 1, 2018.

21 (Source: P.A. 94-312, eff. 7-25-05; 94-662, eff. 1-1-06;
22 95-331, eff. 8-21-07.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.