

SB0158



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB0158

Introduced 1/29/2019, by Sen. Jason A. Barickman

SYNOPSIS AS INTRODUCED:

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

Amends the Property Tax Code. Provides that, if the property contains a hazardous substance, hazardous waste, or an underground storage tank, the court may order the holder of the certificate of purchase to assign the certificate to the county collector upon request of the county collector. Provides that the county collector may further assign the certificate to the county, acting as trustee for taxing districts, or to a taxing district having an interest in the taxes sold. In a Section that allows a tax purchase be set aside as a sale in error if a county, city, village, or incorporated town has an interest in the property under the police and welfare power by advancements made from public funds, provides that such a sale in error may not be granted if the lien has been released, satisfied, discharged, or waived.

LRB101 06750 HLH 51777 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 and 22-35 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 the holder of the certificate of
9 purchase to assign the certificate to the county collector
10 if requested by the county collector. The county collector
11 may, upon request of the county, as trustee, or upon
12 request of a taxing district having an interest in the
13 taxes sold, further assign any certificate of purchase
14 received pursuant to this paragraph (2) to the county
15 acting as trustee for taxing districts pursuant to Section
16 21-90 of this Code or to the taxing district having an
17 interest in the taxes sold.

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. If the court declares a sale in
5 error under this paragraph (4), the court may order the
6 holder of the certificate of purchase to assign the
7 certificate to the county collector if requested by the
8 county collector. The county collector may, upon request of
9 the county, as trustee, or upon request of a taxing
10 district having an interest in the taxes sold, further
11 assign any certificate of purchase received pursuant to
12 this paragraph (4) to the county acting as trustee for
13 taxing districts pursuant to Section 21-90 of this Code or
14 to the taxing district having an interest in the taxes
15 sold.

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

21 (c) When the county collector discovers, prior to the
22 expiration of the period of redemption, that a tax sale should
23 not have occurred for one or more of the reasons set forth in
24 subdivision (a) (1), (a) (2), (a) (6), or (a) (7) of this Section,
25 the county collector shall notify the last known owner of the
26 certificate of purchase by certified and regular mail, or other

1 means reasonably calculated to provide actual notice, that the
2 county collector intends to declare an administrative sale in
3 error and of the reasons therefor, including documentation
4 sufficient to establish the reason why the sale should not have
5 occurred. The owner of the certificate of purchase may object
6 in writing within 28 days after the date of the mailing by the
7 county collector. If an objection is filed, the county
8 collector shall not administratively declare a sale in error,
9 but may apply to the circuit court for a sale in error as
10 provided in subsection (a) of this Section. Thirty days
11 following the receipt of notice by the last known owner of the
12 certificate of purchase, or within a reasonable time
13 thereafter, the county collector shall make a written
14 declaration, based upon clear and convincing evidence, that the
15 taxes were sold in error and shall deliver a copy thereof to
16 the county clerk within 30 days after the date the declaration
17 is made for entry in the tax judgment, sale, redemption, and
18 forfeiture record pursuant to subsection (d) of this Section.
19 The county collector shall promptly notify the last known owner
20 of the certificate of purchase of the declaration by regular
21 mail and shall promptly pay the amount of the tax sale,
22 together with interest and costs as provided in Section 21-315,
23 upon surrender of the original certificate of purchase.

24 (d) If a sale is declared to be a sale in error, the county
25 clerk shall make entry in the tax judgment, sale, redemption
26 and forfeiture record, that the property was erroneously sold,

1 and the county collector shall, on demand of the owner of the
2 certificate of purchase, refund the amount paid, pay any
3 interest and costs as may be ordered under Sections 21-315
4 through 21-335, and cancel the certificate so far as it relates
5 to the property. The county collector shall deduct from the
6 accounts of the appropriate taxing bodies their pro rata
7 amounts paid. Alternatively, for sales in error declared under
8 subsection (b) (2) or (b) (4), the county collector may request
9 the circuit court to direct the county clerk to record any
10 assignment of the tax certificate to or from the county
11 collector without charging a fee for the assignment. The owner
12 of the certificate of purchase shall receive all statutory
13 refunds and payments. The county collector shall deduct costs
14 and payments in the same manner as if a sale in error had
15 occurred.

16 (Source: P.A. 100-890, eff. 1-1-19.)

17 (35 ILCS 200/22-35)

18 Sec. 22-35. Reimbursement of a county or municipality
19 before issuance of tax deed. Except in any proceeding in which
20 the tax purchaser is a county acting as a trustee for taxing
21 districts as provided in Section 21-90, an order for the
22 issuance of a tax deed under this Code shall not be entered
23 affecting the title to or interest in any property in which a
24 county, city, village or incorporated town has an interest
25 under the police and welfare power by advancements made from

1 public funds, until the purchaser or assignee makes
2 reimbursement to the county, city, village or incorporated town
3 of the money so advanced or the county, city, village, or town
4 waives its lien on the property for the money so advanced.
5 However, in lieu of reimbursement or waiver, the purchaser or
6 his or her assignee may make application for and the court
7 shall order that the tax purchase be set aside as a sale in
8 error. A sale in error may not be granted under this Section if
9 the lien has been released, satisfied, discharged, or waived. A
10 filing or appearance fee shall not be required of a county,
11 city, village or incorporated town seeking to enforce its claim
12 under this Section in a tax deed proceeding.

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