



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5136

Introduced 2/8/2024, by Rep. Steven Reick

SYNOPSIS AS INTRODUCED:

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

Amends the Property Tax Code. Provides that the court shall declare the sale of a property under the Property Tax Code to be a sale in error if the improvements upon the property sold have been rendered unfit for occupancy subsequent to the tax sale and prior to the issuance of the tax deed. Provides for the refund of an \$80 fee paid in certain situations. Removes specified exceptions when certain interest shall not be paid when the sale is in error. Effective immediately.

LRB103 38139 HLH 68271 b

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 21-315 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, the holder of a 5% lien
10 issued pursuant to Section 21-240, or a municipality which
11 owns or has owned the property ordered sold, it appears to the
12 satisfaction of the court which ordered the property sold that
13 any of the following subsections are applicable, the court
14 shall declare the sale to be a sale in error:

15 (1) the property was not subject to taxation, or all
16 or any part of the lien of taxes sold has become null and
17 void pursuant to Section 21-95 or unenforceable pursuant
18 to 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
3 official has made an error material to the tax certificate
4 at issue (other than an error of judgment as to the value
5 of any property), provided, however, that a sale in error
6 may not be declared upon application of the owner of the
7 certificate of purchase under this paragraph (5) if the
8 county collector provided notice in accordance with
9 Section 21-118 that the same property received a previous
10 sale in error on the same facts;

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) a voluntary or involuntary petition was filed by
19 or against the legal or beneficial owner of the property
20 requesting relief under the provisions of 11 U.S.C.
21 Chapter 7, 11, 12, or 13, and the bankruptcy case was open
22 on the date the collector's application for judgment was
23 filed pursuant to Section 21-150 or 21-155 or the date of
24 the tax sale;

25 (7) the property is owned by the United States, the
26 State of Illinois, a municipality, or a taxing district;

1 or

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

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

10 (1) A voluntary or involuntary petition under the
11 provisions of 11 U.S.C. Chapter 7, 11, 12, or 13 has been
12 filed subsequent to the tax sale and prior to the issuance
13 of the tax deed, and the bankruptcy case was open on the
14 date the petition for a sale in error was filed.

15 (2) The improvements upon the property sold have been
16 substantially destroyed or rendered unfit for occupancy
17 subsequent to the tax sale and prior to the issuance of the
18 tax deed; however, if the court declares a sale in error
19 under this paragraph (2), the court may order the holder
20 of the certificate of purchase to assign the certificate
21 to the county collector if requested by the county
22 collector. The county collector may, upon request of the
23 county, as trustee, or upon request of a taxing district
24 having an interest in the taxes sold, further assign any
25 certificate of purchase received pursuant to this
26 paragraph (2) to the county acting as trustee for taxing

1 districts pursuant to Section 21-90 of this Code or to the
2 taxing district having an interest in the taxes sold.

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

6 (4) The real property contains a hazardous substance,
7 hazardous waste, or underground storage tank that would
8 require cleanup or other removal under any federal, State,
9 or local law, ordinance, or regulation, only if the tax
10 purchaser purchased the property without actual knowledge
11 of the hazardous substance, hazardous waste, or
12 underground storage tank. The presence of a grease trap on
13 the property is not grounds for a sale in error under this
14 paragraph (4). This paragraph (4) applies only if the
15 owner of the certificate of purchase has made application
16 for a sale in error at any time before the issuance of a
17 tax deed. If the court declares a sale in error under this
18 paragraph (4), the court may order the holder of the
19 certificate of purchase to assign the certificate to the
20 county collector if requested by the county collector. The
21 county collector may, upon request of the county, as
22 trustee, or upon request of a taxing district having an
23 interest in the taxes sold, further assign any certificate
24 of purchase received pursuant to this paragraph (4) to the
25 county acting as trustee for taxing districts pursuant to
26 Section 21-90 of this Code or to the taxing district

1 having an interest in the taxes sold.

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

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) (3), (a) (4), (a) (5.5), (a) (6),
9 (a) (7), or (a) (8) of this Section, the county collector shall
10 notify the last known owner of the tax certificate by
11 certified and regular mail, or other means reasonably
12 calculated to provide actual notice, that the county collector
13 intends to declare an administrative sale in error and of the
14 reasons therefor, including documentation sufficient to
15 establish the reason why the sale should not have occurred.
16 The owner of the certificate of purchase may object in writing
17 within 28 days after the date of the mailing by the county
18 collector. If an objection is filed, the county collector
19 shall not administratively declare a sale in error, but may
20 apply to the circuit court for a sale in error as provided in
21 subsection (a) of this Section. Thirty days following the
22 receipt of notice by the last known owner of the certificate of
23 purchase, or within a reasonable time thereafter, the county
24 collector shall make a written declaration, based upon clear
25 and convincing evidence, that the taxes were sold in error and
26 shall deliver a copy thereof to the county clerk within 30 days

1 after the date the declaration is made for entry in the tax
2 judgment, sale, redemption, and forfeiture record pursuant to
3 subsection (d) of this Section. The county collector shall
4 promptly notify the last known owner of the certificate of
5 purchase of the declaration by regular mail and shall, except
6 if the certificate was issued pursuant to a no-cash bid,
7 promptly pay the amount of the tax sale, together with
8 interest and costs as provided in Section 21-315, upon
9 surrender of the original certificate of purchase.

10 (d) If a sale is declared to be a sale in error for any
11 reason set forth in Section 22-35, Section 22-50, or
12 subdivision (a)(5), (b)(2), or (b)(4) of this Section, the tax
13 certificate shall be forfeited to the county as trustee
14 pursuant to Section 21-90 of this Code, unless the county
15 collector informs the county and the county clerk in writing
16 that the tax certificate shall not be forfeited to the county
17 as trustee. The county clerk shall make entry in the tax
18 judgment, sale, redemption and forfeiture record, that the
19 property was erroneously sold and that the tax certificate is
20 forfeited to the county pursuant to Section 21-90, and the
21 county collector shall, on demand of the owner of the
22 certificate of purchase, refund the amount paid, ~~except for~~
23 ~~the nonrefundable \$80 fee paid, pursuant to Section 21-295,~~
24 for each item purchased at the tax sale, pay any interest and
25 costs as may be ordered under Sections 21-315 through 21-335,
26 and cancel the certificate so far as it relates to the

1 property. The county collector shall deduct from the accounts
2 of the appropriate taxing bodies their pro rata amounts paid.

3 (e) Whenever the collector declares an administrative sale
4 in error under this Section, the collector must send a copy of
5 the declaration of the administrative sale in error, and
6 documentation sufficient to establish the reason why the sale
7 should not have occurred, to the government entity responsible
8 for maintaining assessment books and property record cards for
9 the subject property. That entity must review the
10 documentation sent by the collector, make a determination as
11 to whether an update to the assessment books or property
12 record cards is necessary to prevent a recurrence of the sale
13 in error, and update the assessment books or property record
14 cards as appropriate.

15 (f) Whenever a court declares a sale in error under this
16 Section, the State's attorney must send a copy of the
17 application and order declaring the sale in error to the
18 county collector, the county clerk, and the government entity
19 responsible for maintaining the assessment books and property
20 record cards for the subject property. The collector, the
21 county clerk, and the other government entity must each review
22 the application and order sent by the State's attorney and
23 make a determination as to whether an update to its respective
24 records is necessary to prevent a recurrence of the sale in
25 error, and update its records as appropriate.

26 The changes made to this Section by this amendatory Act of

1 the 103rd General Assembly apply to matters concerning tax
2 certificates issued on or after the effective date of this
3 amendatory Act of the 103rd General Assembly.

4 (Source: P.A. 103-555, eff. 1-1-24.)

5 (35 ILCS 200/21-315)

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

7 (a) If a sale in error under Section 21-310, 22-35, or
8 22-50 is declared, the amount refunded shall also include all
9 costs paid by the owner of the certificate of purchase or his
10 or her assignor which were posted to the tax judgment, sale,
11 redemption and forfeiture record, except that if the sale in
12 error is declared under Section 22-50, in counties of
13 3,000,000 or more inhabitants the amount refunded shall not
14 include the \$100 fee paid in accordance with Section 21-330.

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

1 ~~(a) (5), (b) (1),~~ (b) (2), or (b) (4) of Section 21-310, any
2 ground not enumerated in Section 21-310, or in any other case
3 where the court determines that the tax purchaser had actual
4 knowledge prior to the sale of the grounds on which the sale is
5 declared to be erroneous.

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

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

8 (Source: P.A. 103-555, eff. 1-1-24.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.