



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2020

Introduced 2/9/2023, by Sen. Ram Villivalam

SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-240
35 ILCS 200/21-310
35 ILCS 200/21-330
35 ILCS 200/22-35
35 ILCS 200/22-50

Amends the Property Tax Code. Makes various changes concerning sales in error. In provisions allowing a sale in error if the assessor, chief county assessment officer, board of review, board of appeals, or other county official has made an error, provides that the error must be material to the tax sale at issue and may not be an error in the description of the physical characteristics, location, or picture of the property. Removes provisions allowing a sale in error when a bankruptcy petition has been filed after the tax sale and before the issuance of the tax deed. Provides that, if the bankruptcy petition is filed prior to the tax sale, then a sale in error is allowed if the property is subject to an automatic stay and the stay is active on the date of the date of that sale. Provides that the \$100 fee paid by a tax purchaser for a certificate of purchase is non-refundable. Makes other changes.

LRB103 29196 HLH 55583 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 21-240, 21-310, 21-330, 22-35, and 22-50 as follows:

6 (35 ILCS 200/21-240)

7 Sec. 21-240. Payment for property purchased at tax sale;
8 reoffering for sale. Except as otherwise provided below, the
9 person purchasing any property, or any part thereof, shall be
10 liable to the county for the amount due and shall forthwith pay
11 to the county collector the amount charged on the property.
12 Upon failure to do so, the amount due shall be recoverable in a
13 civil action brought in the name of the People of the State of
14 Illinois in any court of competent jurisdiction. The person so
15 purchasing shall be relieved of liability only by payment of
16 the amount due together with interest and costs thereon, or if
17 the property is reoffered at the sale, purchased and paid for.
18 Reoffering of the property for sale shall be at the discretion
19 of the collector. The sale shall not be closed until payment is
20 made or the property again offered for sale. In counties with
21 3,000,000 or more inhabitants, only the taxes, special
22 assessments, interest and costs as advertised in the sale
23 shall be required to be paid forthwith. The general taxes

1 charged on the land remaining due and unpaid, including
2 amounts subject to certificates of error, not included in the
3 advertisement, shall be paid by the purchaser within 10 days
4 after the sale, except that upon payment of the fee provided by
5 law to the County Clerk (which fee shall be deemed part of the
6 costs of sale) the purchaser may make written application,
7 within the 10 day period, to the county clerk for a statement
8 of all taxes, interest and costs due and an estimate of the
9 cost of redemption of all forfeited general taxes, which were
10 not included in the advertisement. After obtaining such
11 statement and estimate and an order on the county collector to
12 receive the amount of forfeited general taxes, if any, the
13 purchaser shall pay to the county collector all the remaining
14 taxes, interest and costs, and the amount necessary to redeem
15 the forfeited general taxes. The county collector shall issue
16 the purchaser a receipt therefor. Any delay in providing the
17 statement or in accepting payment, and delivering receipt
18 therefor, shall not be counted as a part of the 10 days. When
19 the receipt of the collector is issued, a copy shall be filed
20 with the county clerk and the county clerk shall include the
21 amount shown in such receipt in the amount of the purchase
22 price of the property in the certificate of purchase. The
23 purchaser then shall be entitled to a certificate of purchase.
24 If a purchaser fails to complete his or her purchase as
25 provided in this Section, the purchase shall become void, and
26 be of no effect, but the collector shall not refund the amount

1 paid in cash at the time of the sale, except in cases of sale
2 in error under subsection (a) of Section 21-310. That amount
3 shall be treated as a payment and distributed to the taxing
4 bodies as other collections are distributed. The lien for
5 taxes for the amount paid shall remain on the property, in
6 favor of the purchaser, his or her heirs or assigns, until paid
7 with 5% interest per year on that amount from the date the
8 purchaser paid it. The amount and fact of such ineffective
9 purchase shall be entered in the tax judgment, sale,
10 redemption and forfeiture record opposite the property upon
11 which the lien remains. No redemption shall be made without
12 payment of this amount for the benefit of the purchaser, and no
13 future sale of the property shall be made except subject to the
14 lien of such purchaser. This section shall not apply to any
15 purchase by any city, village or incorporated town in default
16 of other bidders at any sale for delinquent special
17 assessments.

18 (Source: P.A. 84-1308; 88-455.)

19 (35 ILCS 200/21-310)

20 Sec. 21-310. Sales in error.

21 (a) When, upon application of the county collector, the
22 owner of the certificate of purchase, or a municipality which
23 owns or has owned the property ordered sold, it appears to the
24 satisfaction of the court which ordered the property sold that
25 any of the following subsections are applicable, the court

1 shall declare the sale to be a sale in error:

2 (1) the property was not subject to taxation, or all
3 or any part of the lien of taxes sold has become null and
4 void pursuant to Section 21-95 or unenforceable pursuant
5 to subsection (c) of Section 18-250 or subsection (b) of
6 Section 22-40;i τ

7 (2) the taxes or special assessments had been paid
8 prior to the sale of the property;i τ

9 (3) there is a double assessment;i τ

10 (4) the description is void for uncertainty;i τ

11 (5) the assessor, chief county assessment officer,
12 board of review, board of appeals, or other county
13 official has made an error material to the tax sale at
14 issue (other than an error of judgment as to the value of
15 any property or an error in the description of the
16 physical characteristics, location, or picture of the
17 property); i τ

18 (5.5) the owner of the homestead property had tendered
19 timely and full payment to the county collector that the
20 owner reasonably believed was due and owing on the
21 homestead property, and the county collector did not apply
22 the payment to the homestead property; provided that this
23 provision applies only to homeowners, not their agents or
24 third-party payors;i τ

25 (6) prior to the tax sale a voluntary or involuntary
26 petition has been filed by or against the legal or

1 beneficial owner of the property requesting relief under
2 the provisions of 11 U.S.C. Chapter 7, 11, 12, or 13, the
3 property is subject to an automatic stay pursuant to that
4 petition, and that stay is active on the date of the date
5 of that sale;

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

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

12 (b) When, upon application of the owner of the certificate
13 of purchase only, it appears to the satisfaction of the court
14 which ordered the property sold that any of the following
15 subsections are applicable, the court shall declare the sale
16 to be a sale in error:

17 (1) (Blank). ~~A voluntary or involuntary petition under~~
18 ~~the provisions of 11 U.S.C. Chapter 7, 11, 12, or 13 has~~
19 ~~been filed subsequent to the tax sale and prior to the~~
20 ~~issuance of the tax deed.~~

21 (2) The improvements upon the property sold have been
22 substantially destroyed or rendered uninhabitable or
23 otherwise unfit for occupancy subsequent to the tax sale
24 and prior to the issuance of the tax deed; however, if the
25 court declares a sale in error under this paragraph (2),
26 the court may order the holder of the certificate of

1 purchase to assign the certificate to the county collector
2 if requested by the county collector. The county collector
3 may, upon request of the county, as trustee, or upon
4 request of a taxing district having an interest in the
5 taxes sold, further assign any certificate of purchase
6 received pursuant to this paragraph (2) to the county
7 acting as trustee for taxing districts pursuant to Section
8 21-90 of this Code or to the taxing district having an
9 interest in the taxes sold.

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

13 (4) The real property contains a hazardous substance,
14 hazardous waste, or underground storage tank that would
15 require cleanup or other removal under any federal, State,
16 or local law, ordinance, or regulation, only if the tax
17 purchaser purchased the property without actual knowledge
18 of the hazardous substance, hazardous waste, or
19 underground storage tank. This paragraph (4) applies only
20 if the owner of the certificate of purchase has made
21 application for a sale in error at any time before the
22 issuance of a tax deed. If the court declares a sale in
23 error under this paragraph (4), the court may order the
24 holder of the certificate of purchase to assign the
25 certificate to the county collector if requested by the
26 county collector. The county collector may, upon request

1 of the county, as trustee, or upon request of a taxing
2 district having an interest in the taxes sold, further
3 assign any certificate of purchase received pursuant to
4 this paragraph (4) to the county acting as trustee for
5 taxing districts pursuant to Section 21-90 of this Code or
6 to the taxing district having an interest in the taxes
7 sold.

8 Whenever a court declares a sale in error under this
9 subsection (b), the court shall promptly notify the county
10 collector in writing. Every such declaration pursuant to any
11 provision of this subsection (b) shall be made within the
12 proceeding in which the tax sale was authorized.

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

1 in error, but may apply to the circuit court for a sale in
2 error as provided in subsection (a) of this Section. Thirty
3 days following the receipt of notice by the last known owner of
4 the certificate of purchase, or within a reasonable time
5 thereafter, the county collector shall make a written
6 declaration, based upon clear and convincing evidence, that
7 the taxes were sold in error and shall deliver a copy thereof
8 to the county clerk within 30 days after the date the
9 declaration is made for entry in the tax judgment, sale,
10 redemption, and forfeiture record pursuant to subsection (d)
11 of this Section. The county collector shall promptly notify
12 the last known owner of the certificate of purchase of the
13 declaration by regular mail and shall promptly pay the amount
14 of the tax sale, together with interest and costs as provided
15 in Section 21-315, upon surrender of the original certificate
16 of purchase.

17 (d) If a sale is declared to be a sale in error, the county
18 clerk shall make entry in the tax judgment, sale, redemption
19 and forfeiture record, that the property was erroneously sold,
20 and the county collector shall, on demand of the owner of the
21 certificate of purchase, refund the amount paid, except for
22 the nonrefundable \$80 fee paid, pursuant to Section 21-295,
23 for each item purchased at the tax sale, pay any interest and
24 costs as may be ordered under Sections 21-315 through 21-335,
25 and cancel the certificate so far as it relates to the
26 property. The county collector shall deduct from the accounts

1 of the appropriate taxing bodies their pro rata amounts paid.
2 Alternatively, for sales in error declared under subsection
3 (b)(2) or (b)(4), the county collector may request the circuit
4 court to direct the county clerk to record any assignment of
5 the tax certificate to or from the county collector without
6 charging a fee for the assignment. The owner of the
7 certificate of purchase shall receive all statutory refunds
8 and payments. The county collector shall deduct costs and
9 payments in the same manner as if a sale in error had occurred.
10 (Source: P.A. 100-890, eff. 1-1-19; 101-379, eff. 1-1-20;
11 101-659, eff. 3-23-21.)

12 (35 ILCS 200/21-330)

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

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

22 (Source: P.A. 100-1070, eff. 1-1-19.)

23 (35 ILCS 200/22-35)

24 Sec. 22-35. Reimbursement of a county or municipality
25 before issuance of tax deed. Except in any proceeding in which

1 the tax purchaser is a county acting as a trustee for taxing
2 districts as provided in Section 21-90, an order for the
3 issuance of a tax deed under this Code shall not be entered
4 affecting the title to or interest in any property in which a
5 county, city, village or incorporated town has an interest
6 under the police and welfare power by advancements made from
7 public funds, until the purchaser or assignee makes
8 reimbursement to the county, city, village or incorporated
9 town of the money so advanced or the county, city, village, or
10 town waives its lien on the property for the money so advanced.
11 However, in lieu of reimbursement or waiver, the purchaser or
12 his or her assignee may make application for and the court
13 shall order that the tax purchase be set aside as a sale in
14 error, except in cases where the tax purchaser holds a lien
15 that shall remain on the property until paid with 5% interest
16 per year as provided in Section 21-240. A sale in error may not
17 be granted under this Section if the lien has been released,
18 satisfied, discharged, or waived. A filing or appearance fee
19 shall not be required of a county, city, village or
20 incorporated town seeking to enforce its claim under this
21 Section in a tax deed proceeding.

22 (Source: P.A. 101-379, eff. 1-1-20.)

23 (35 ILCS 200/22-50)

24 Sec. 22-50. Denial of deed. If the court refuses to enter
25 an order directing the county clerk to execute and deliver the

1 tax deed, because of the failure of the purchaser to fulfill
2 any of the above provisions, and if the purchaser, or his or
3 her assignee has made a bona fide attempt to comply with the
4 statutory requirements for the issuance of the tax deed, then
5 upon application of the owner of the certificate of purchase
6 the court shall declare the sale to be a sale in error, unless
7 the purchaser failed to comply with any of the above
8 provisions for obtaining a tax deed because the purchaser made
9 a reasonably avoidable error.

10 (Source: P.A. 92-224, eff. 1-1-02.)