

SB3396



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3396

Introduced 2/8/2024, by Sen. Celina Villanueva

SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-90
35 ILCS 200/21-295
35 ILCS 200/21-305
35 ILCS 200/21-306

Amends the Property Tax Code. Provides that a property owner who sustains loss or damage by reason of the issuance of a tax deed is entitled to payment from the indemnity fund in the amount of the equity in the property described in the tax deed. Provides that a claim for equity must be filed within 90 days after the tax deed is recorded, except that, if the tax deed was issued on or after May 24, 2021 but before the effective date of the amendatory Act, then the petition for a claim for equity must be filed within 90 days after the effective date of the amendatory Act.

LRB103 39258 HLH 69410 b

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 21-90, 21-295, 21-305, and 21-306 as follows:

6 (35 ILCS 200/21-90)

7 Sec. 21-90. Purchase and sale by county; distribution of
8 proceeds.

9 (a) When any property is offered for sale under any of the
10 provisions of this Code, the county board of the county in
11 which the property is located, in its discretion, may bid, or,
12 in the case of forfeited property, may apply to purchase it or
13 otherwise acquire the tax lien or certificate in the name of
14 the county as trustee for all taxing districts having an
15 interest in the property's taxes or special assessments for
16 the nonpayment of which the property is sold. The presiding
17 officer of the county board, with the advice and consent of the
18 board, may appoint on its behalf some officer, person, or
19 entity to attend such sales, bid on tax liens or certificates,
20 and act on behalf of the county when exercising its authority
21 under this Section. The county shall apply on the bid or
22 purchase the unpaid taxes and special assessments due upon the
23 property. No cash need be paid.

1 (b) The county, as trustee for all taxing districts having
2 an interest in the property's taxes or special assessments,
3 shall be the designated holder of all tax liens or
4 certificates that are forfeited to the State or county. No
5 cash need be paid for the forfeited tax lien or certificate.

6 (c) For any tax lien or certificate acquired under
7 subsection (a) or (b) of this Section, the county may take
8 steps necessary to acquire title to the property and may
9 manage and operate the property, including, but not limited
10 to, mowing of grass, removal of nuisance greenery, removal of
11 garbage, waste, debris or other materials, or the demolition,
12 repair, or remediation of unsafe structures. When a county, or
13 other taxing district within the county, is a petitioner for a
14 tax deed, no filing fee shall be required. When a county or
15 other taxing district within the county is the petitioner for
16 a tax deed, one petition may be filed including all parcels
17 that are tax delinquent within the county or taxing district,
18 and any publication made under Section 22-20 of this Code may
19 combine all such parcels within a single notice. The notice
20 may include the street address as listed on the most recent
21 available tax bills, if available, and shall list the Property
22 Index Number of the parcels for informational purposes. The
23 county, as tax creditor and as trustee for other tax
24 creditors, or other taxing district within the county, shall
25 not be required to allege and prove that all taxes and special
26 assessments which become due and payable after the sale or

1 forfeiture to the county have been paid nor shall the county be
2 required to pay the subsequently accruing taxes or special
3 assessments at any time. The county board or its designee may
4 prohibit the county collector from including the property in
5 the tax sale of one or more subsequent years. The lien of taxes
6 and special assessments which become due and payable after a
7 sale to a county shall merge in the fee title of the county, or
8 other taxing district within the county, on the issuance of a
9 deed.

10 The county may sell any property acquired with authority
11 provided in this Section, or assign any tax certificate to any
12 party, including, but not limited to, taxing districts,
13 municipalities, land banks created pursuant to Illinois law,
14 or non-profit developers focused on constructing affordable
15 housing.

16 The assigned tax certificate shall be void with no further
17 rights given to the assignee, including no right to refund or
18 reimbursement, if a tax deed has not been recorded within 4
19 years after the date of the assignment unless a court extends
20 the assignment period as provided in this Section. Upon a
21 motion by the assignee, a court may toll the 4-year deadline
22 for a specified period of time if the court finds the assignee
23 is prevented from obtaining or recording a deed by injunction
24 or order of any court, by the refusal or inability of any court
25 to act upon the application for a tax deed, by a municipality's
26 refusal to issue necessary transfer stamps or approvals for

1 recording, or by the refusal of the clerk to execute the deed.
2 If an assigned tax certificate is void under this Section, it
3 shall be forfeited to the county and held as a valid
4 certificate of sale in the county's name pursuant to this
5 Section 21-90. The proceeds of any sale or assignment under
6 this Section, less all costs of the county incurred in the
7 acquisition, operation, maintenance, and sale of the property
8 or assignment of the tax certificate, including all costs
9 associated with county staff and overhead used to perform the
10 duties of the trustee set forth in this Section, shall be
11 distributed to the taxing districts in proportion to their
12 respective interests therein.

13 Under Sections 21-110, 21-115, 21-120, and 21-190, a
14 county may bid or purchase only in the absence of other
15 bidders.

16 (d) Any owner of property that is sold under any provision
17 of this Code who sustains loss or damage by reason of the
18 issuance of a tax deed to any county, municipality, or county
19 land bank under Section 21-445 or 22-40, if that tax deed is
20 issued to the county, municipality, or land bank, shall be
21 entitled to the equity in the property described in the tax
22 deed. For purposes of this subsection, equity shall be
23 calculated as follows: (i) the fair cash value of the subject
24 property on the date the tax deed is issued, less (ii) the
25 amount that would have been needed to redeem such property,
26 less (iii) any other taxes paid by the tax deed grantee to

1 obtain the tax deed, less (iv) the amount needed to pay any
2 mortgages or liens on the property, and less (v) an
3 administrative fee of \$500 for the county conducting the tax
4 sale and issuing the tax deed.

5 If the tax deed is issued on or after the effective date of
6 this amendatory Act of the 103rd General Assembly, then the
7 petition for a claim for equity under this subsection (d) must
8 be filed within 90 days after the tax deed is recorded. If the
9 tax deed is issued on or after May 24, 2021 but before the
10 effective date of this amendatory Act of the 103rd General
11 Assembly, then the petition for a claim for equity under this
12 subsection (d) must be filed within 90 days after the
13 effective date of this amendatory Act of the 103rd General
14 Assembly.

15 The county, municipality, or county land bank shall pay
16 all equity claims under this subsection (d) from its general
17 fund, and no moneys shall be paid to the owner under this
18 subsection (d) from any county indemnity fund established by
19 Section 21-295 for any claim brought under this subsection
20 (d).

21 (Source: P.A. 102-363, eff. 1-1-22; 103-555, eff. 1-1-24.)

22 (35 ILCS 200/21-295)

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

24 (a) In counties of less than 3,000,000 inhabitants, each
25 person purchasing any property at a sale under this Code shall

1 pay to the County Collector, prior to the issuance of any
2 certificate of purchase, an indemnity fee set by the county
3 collector of not more than \$20 for each item purchased. A like
4 sum shall be paid for each year that all or a portion of
5 subsequent taxes are paid by the tax purchaser and posted to
6 the tax judgment, sale, redemption and forfeiture record where
7 the underlying certificate of purchase is recorded.

8 (a-5) In counties of 3,000,000 or more inhabitants, each
9 person purchasing property at a sale under this Code shall pay
10 to the County Collector a nonrefundable fee of \$80 for each
11 item purchased plus an additional sum equal to 5% of the taxes,
12 interest, and penalties paid under Section 21-240. In these
13 counties, the certificate holder shall also pay to the County
14 Collector a fee of \$80 for each year that all or a portion of
15 subsequent taxes are paid by the tax purchaser and posted to
16 the tax judgment, sale, redemption, and forfeiture record. The
17 changes to this subsection made by this amendatory Act of the
18 91st General Assembly are not a new enactment, but declaratory
19 of existing law.

20 (b) The amount paid prior to issuance of the certificate
21 of purchase pursuant to subsection (a) or (a-5) shall be
22 included in the purchase price of the property in the
23 certificate of purchase and all amounts paid under this
24 Section shall be included in the amount required to redeem
25 under Section 21-355, except for the nonrefundable \$80 fee for
26 each item purchased at the tax sale as provided in this

1 Section. Except as otherwise provided in subsection (b) of
2 Section 21-300, all money received under subsection (a) or
3 (a-5) shall be paid by the Collector to the County Treasurer of
4 the County in which the land is situated, for the purpose of an
5 indemnity fund. The County Treasurer, as trustee of that fund,
6 shall invest all of that fund, principal and income, in his or
7 her hands from time to time, if not immediately required for
8 payments ~~of indemnities~~ under ~~subsection (a)~~ of Section
9 21-305, in investments permitted by the Illinois State Board
10 of Investment under Article 22A of the Illinois Pension Code.
11 The county collector shall report annually to the county clerk
12 on the condition and income of the fund. The indemnity fund
13 shall be held to satisfy judgments obtained against the County
14 Treasurer, as trustee of the fund. No payment shall be made
15 from the fund, except upon a judgment of the court which
16 ordered the issuance of a tax deed.

17 (Source: P.A. 100-1070, eff. 1-1-19; 101-659, eff. 3-23-21.)

18 (35 ILCS 200/21-305)

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

20 (a) Any owner of property that is sold under any provision
21 of this Code who sustains loss or damage by reason of the
22 issuance of a tax deed on or after May 24, 2021 under Section
23 21-445 or 22-40 shall be entitled to the equity in the property
24 described in the tax deed. For purposes of this subsection,
25 equity shall be calculated as follows: (i) the fair cash value

1 of the subject property on the date the tax deed is issued,
2 less (ii) the amount that would have been needed to redeem such
3 property, less (iii) any other taxes paid by the tax deed
4 grantee to obtain the tax deed, less (iv) the amount needed to
5 pay any mortgages or liens on the property, and less (v) an
6 administrative fee of \$500 for the county conducting the tax
7 sale and issuing the tax deed.

8 If the tax deed is issued on or after the effective date of
9 this amendatory Act of the 103rd General Assembly, then the
10 petition for a claim for equity under this subsection (a) must
11 be filed within 90 days after the tax deed is recorded. If the
12 tax deed is issued on or after May 24, 2021 but before the
13 effective date of this amendatory Act of the 103rd General
14 Assembly, then the petition for a claim for equity under this
15 subsection (a) must be filed within 90 days after the
16 effective date of this amendatory Act of the 103rd General
17 Assembly.

18 (a-5) ~~(a)~~ Any owner of property sold under any provision
19 of this Code who sustains loss or damage by reason of the
20 issuance of a tax deed under Section 21-445 or 22-40 and who is
21 barred or is in any way precluded from bringing an action for
22 the recovery of the property and who fails to bring a petition
23 to recover the equity within the time frame provided in
24 subsection (a) shall have the right to indemnity for the loss
25 or damage sustained, limited as follows:

26 (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
5 to the fair cash value of the property as of the date the
6 tax 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 An owner of a property that contained 4 or less
12 dwelling units who requests an award in excess of \$99,000
13 must prove that the loss of his or her property was not
14 attributable to his or her own fault or negligence before
15 an award in excess of \$99,000 will be granted.

16 (2) An owner who sustains the loss or damage of any
17 property occasioned by reason of the issuance of a tax
18 deed, without fault or negligence of his or her own, has
19 the right to indemnity limited to the fair cash value of
20 the property less any mortgages or liens on the property.
21 In determining the existence of fault or negligence, the
22 court shall consider whether the owner exercised ordinary
23 reasonable diligence under all of the relevant
24 circumstances.

25 (3) In determining the fair cash value of property
26 less any mortgages or liens on the property, the fair cash

1 value shall be reduced by the principal amount of all
2 taxes paid by the tax purchaser or his or her assignee
3 before the issuance of the tax deed.

4 (4) If an award made under paragraph (1) or (2) is
5 subject to a reduction by the amount of an outstanding
6 mortgage or lien on the property, other than the principal
7 amount of all taxes paid by the tax purchaser or his or her
8 assignee before the issuance of the tax deed and the
9 petitioner would be personally liable to the mortgagee or
10 lienholder for all or part of that reduction amount, the
11 court shall order an additional indemnity award to be paid
12 directly to the mortgagee or lienholder sufficient to
13 discharge the petitioner's personal liability. The court,
14 in its discretion, may order the joinder of the mortgagee
15 or lienholder as an additional party to the indemnity
16 action.

17 A petition of indemnity under this subsection (a-5) must
18 be filed within 10 years after the date the tax deed was
19 issued.

20 (b) Indemnity fund; subrogation.

21 (1) Any person filing a claim under subsection (a) or
22 (a-5) claiming indemnity hereunder shall petition the
23 Court which ordered the tax deed to issue, shall name the
24 County Treasurer, as Trustee of the indemnity fund, as
25 defendant to the petition, and shall ask that judgment be
26 entered against the County Treasurer, as Trustee, in the

1 amount of the equity or indemnity sought. The provisions
2 of the Civil Practice Law shall apply to proceedings under
3 the petition, except that neither the petitioner nor
4 County Treasurer shall be entitled to trial by jury on the
5 issues presented in the petition. The Court shall
6 liberally construe this Section to provide compensation
7 wherever in the discretion of the Court the equities
8 warrant such action.

9 (2) The County Treasurer, as Trustee of the indemnity
10 fund, shall be subrogated to all parties in whose favor
11 judgment may be rendered against him or her, and by third
12 party complaint may bring in as a defendant any person,
13 other than the tax deed grantee and its successors in
14 title, not a party to the action who is or may be liable to
15 him or her, as subrogee, for all or part of the
16 petitioner's claim against him or her.

17 (c) Any contract involving the proceeds of a judgment for
18 equity or indemnity under this Section, between the tax deed
19 grantee or its successors in title and the indemnity
20 petitioner or his or her successors, shall be in writing. In
21 any action brought under Section 21-305, the Collector shall
22 be entitled to discovery regarding, but not limited to, the
23 following:

24 (1) the identity of all persons beneficially
25 interested in the contract, directly or indirectly,
26 including at least the following information: the names

1 and addresses of any natural persons; the place of
2 incorporation of any corporation and the names and
3 addresses of its shareholders unless it is publicly held;
4 the names and addresses of all general and limited
5 partners of any partnership; the names and addresses of
6 all persons having an ownership interest in any entity
7 doing business under an assumed name, and the county in
8 which the assumed business name is registered; and the
9 nature and extent of the interest in the contract of each
10 person identified;

11 (2) the time period during which the contract was
12 negotiated and agreed upon, from the date of the first
13 direct or indirect contact between any of the contracting
14 parties to the date of its execution;

15 (3) the name and address of each natural person who
16 took part in negotiating the contract, and the identity
17 and relationship of the party that the person represented
18 in the negotiations; and

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

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

24 (d) (Blank). ~~A petition of indemnity under this Section~~
25 ~~must be filed within 10 years after the date the tax deed was~~
26 ~~issued.~~

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

2 (35 ILCS 200/21-306)

3 Sec. 21-306. Indemnity fund fraud.

4 (a) A person commits the offense of indemnity fund fraud
5 when that person knowingly:

6 (1) offers or agrees to become a party to, or to
7 acquire an interest in, a contract involving the proceeds
8 of a judgment for indemnity under Section 21-305 before
9 the end of the period of redemption from the tax sale to
10 which the judgment relates;

11 (2) fraudulently induces a party to forego bringing an
12 action for the recovery of the property;

13 (3) makes a deceptive misrepresentation during the
14 course of negotiating an agreement under subsection (c) of
15 Section 21-305; or

16 (4) conspires to violate any of the provisions of this
17 subsection.

18 (b) Commission of any one act described in subsection (a)
19 is a Class A misdemeanor. Commission of more than one act
20 described in subsection (a) during a single course of conduct
21 is a Class 4 felony. A second or subsequent conviction for
22 violation of any portion of this Section is a Class 4 felony.

23 (c) The State's Attorney of the county in which a judgment
24 for equity or indemnity under Section 21-305 is entered may
25 bring a civil action in the name of the People of the State of

1 Illinois against a person who violates paragraph (1), (2), or
2 (3) of subsection (a). Upon a finding of liability in the
3 action the court shall enter judgment in favor of the People in
4 a sum equal to three times the amount of the judgment for
5 indemnity, together with costs of the action and reasonable
6 attorney's fees. The proceeds of any judgment under this
7 subsection shall be paid into the general fund of the county.
8 (Source: P.A. 91-564, eff. 8-14-99.)