



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB0558

Introduced 2/17/2005, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-310

Amends the Property Tax Code. Provides that, in a case concerning an application for a tax sale to be declared to be a sale in error because improvements upon the property sold have been substantially destroyed or rendered uninhabitable or otherwise unfit for occupancy subsequent to the tax sale and prior to the issuance of the tax deed, the court shall require clear and convincing proof that the substantial destruction, uninhabitability, or unfitness for occupancy first developed, occurred, or arose subsequent to the tax sale. Effective immediately.

LRB094 09595 BDD 39848 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

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 Section 21-310 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,
24 board of review, board of appeals, or other county official
25 has made an error (other than an error of judgment as to
26 the value of any property),

27 (5.5) the owner of the homestead property had tendered
28 timely and full payment to the county collector that the
29 owner reasonably believed was due and owing on the
30 homestead property, and the county collector did not apply
31 the payment to the homestead property; provided that this
32 provision applies only to homeowners, not their agents or

1 third-party payors,

2 (6) prior to the tax sale a voluntary or involuntary
3 petition has been filed by or against the legal or
4 beneficial owner of the property requesting relief under
5 the provisions of 11 U.S.C. Chapter 7, 11, 12, or 13, or

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

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

13 (1) A voluntary or involuntary petition under the
14 provisions of 11 U.S.C. Chapter 7, 11, 12, or 13 has been
15 filed subsequent to the tax sale and prior to the issuance
16 of the tax deed.

17 (2) The improvements upon the property sold have been
18 substantially destroyed or rendered uninhabitable or
19 otherwise unfit for occupancy subsequent to the tax sale
20 and prior to the issuance of the tax deed. In any case
21 under this item (2), the court shall require clear and
22 convincing proof that the substantial destruction,
23 uninhabitability, or unfitness for occupancy first
24 developed, occurred, or arose subsequent to the tax sale.

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

28 (4) The real property contains a hazardous substance,
29 hazardous waste, or underground storage tank that would
30 require cleanup or other removal under any federal, State,
31 or local law, ordinance, or regulation, only if the tax
32 purchaser purchased the property without actual knowledge
33 of the hazardous substance, hazardous waste, or
34 underground storage tank. This paragraph (4) applies only
35 if the owner of the certificate of purchase has made
36 application for a sale in error at any time before the

1 issuance of a tax deed.

2 (c) When the county collector discovers, within one year
3 after the date of sale if taxes were sold at an annual tax sale
4 or within 180 days after the date of sale if taxes were sold at
5 a scavenger tax sale, that a tax sale should not have occurred
6 for one or more of the reasons set forth in subdivision (a) (1),
7 (a) (2), (a) (6), or (a) (7) of this Section, the county collector
8 shall notify the last known owner of the certificate of
9 purchase by certified and regular mail, or other means
10 reasonably calculated to provide actual notice, that the county
11 collector intends to declare an administrative sale in error
12 and of the reasons therefor, including documentation
13 sufficient to establish the reason why the sale should not have
14 occurred. The owner of the certificate of purchase may object
15 in writing within 28 days after the date of the mailing by the
16 county collector. If an objection is filed, the county
17 collector shall not administratively declare a sale in error,
18 but may apply to the circuit court for a sale in error as
19 provided in subsection (a) of this Section. Thirty days
20 following the receipt of notice by the last known owner of the
21 certificate of purchase, or within a reasonable time
22 thereafter, the county collector shall make a written
23 declaration, based upon clear and convincing evidence, that the
24 taxes were sold in error and shall deliver a copy thereof to
25 the county clerk within 30 days after the date the declaration
26 is made for entry in the tax judgment, sale, redemption, and
27 forfeiture record pursuant to subsection (d) of this Section.
28 The county collector shall promptly notify the last known owner
29 of the certificate of purchase of the declaration by regular
30 mail and shall promptly pay the amount of the tax sale,
31 together with interest and costs as provided in Section 21-315,
32 upon surrender of the original certificate of purchase.

33 (d) If a sale is declared to be a sale in error, the county
34 clerk shall make entry in the tax judgment, sale, redemption
35 and forfeiture record, that the property was erroneously sold,
36 and the county collector shall, on demand of the owner of the

1 certificate of purchase, refund the amount paid, pay any
2 interest and costs as may be ordered under Sections 21-315
3 through 21-335, and cancel the certificate so far as it relates
4 to the property. The county collector shall deduct from the
5 accounts of the appropriate taxing bodies their pro rata
6 amounts paid.

7 (Source: P.A. 91-177, eff. 1-1-00; 91-357, eff. 7-29-99;
8 91-924, eff. 1-1-01; 92-224, eff. 1-1-02; 92-729, eff.
9 7-25-02.)

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