



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2300

Introduced 1/12/2006, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

- 35 ILCS 200/22-10
- 35 ILCS 200/22-15
- 35 ILCS 200/22-20
- 35 ILCS 200/22-25
- 35 ILCS 200/22-30
- 35 ILCS 200/22-40
- 35 ILCS 200/22-45

Amends the Property Tax Code. Provides that relief from an order for a tax deed may be had under certain provisions of the Code of Civil Procedure concerning motions after judgment in nonjury cases. Provides that notice of the expiration of the period of redemption must be served upon certain owners and parties interested in the property in the manner set forth under certain provisions of the Code of Civil Procedure (now, personal service). Requires the court to enter orders to place the tax-deed grantee's successor in interest in possession of the property and authorizes the court to grant other relief to maintain the successor in interest in possession. Provides that the notice of the expiration of the period of redemption may not be served more than 6 months (now, 5 months) before the expiration of the period of redemption. Provides that the changes concerning post-judgment motions and the changes concerning the possession by the tax-deed grantee's successor in interest must be construed as being declarative of existing law and not as a new enactment.

LRB094 16495 BDD 51756 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 Sections 22-10, 22-15, 22-20, 22-25, 22-30, 22-40, and 22-45 as
6 follows:

7 (35 ILCS 200/22-10)

8 Sec. 22-10. Notice of expiration of period of redemption. A
9 purchaser or assignee shall not be entitled to a tax deed to
10 the property sold unless, not less than 3 months nor more than
11 6 ~~5~~ months prior to the expiration of the period of redemption,
12 he or she gives notice of the sale and the date of expiration
13 of the period of redemption to the owners, occupants, and
14 parties interested in the property, including any mortgagee of
15 record, as provided below.

16 The Notice to be given to the parties shall be in at least
17 10 point type in the following form completely filled in:

18 TAX DEED NO. FILED

19 TAKE NOTICE

20 County of

21 Date Premises Sold

22 Certificate No.

23 Sold for General Taxes of (year)

24 Sold for Special Assessment of (Municipality)

25 and special assessment number

26 Warrant No. Inst. No.

27 THIS PROPERTY HAS BEEN SOLD FOR

28 DELINQUENT TAXES

29 Property located at

30 Legal Description or Property Index No.

31

32

1 This notice is to advise you that the above property has
2 been sold for delinquent taxes and that the period of
3 redemption from the sale will expire on

4

5 The amount to redeem is subject to increase at 6 month
6 intervals from the date of sale and may be further increased if
7 the purchaser at the tax sale or his or her assignee pays any
8 subsequently accruing taxes or special assessments to redeem
9 the property from subsequent forfeitures or tax sales. Check
10 with the county clerk as to the exact amount you owe before
11 redeeming.

12 This notice is also to advise you that a petition has been
13 filed for a tax deed which will transfer title and the right to
14 possession of this property if redemption is not made on or
15 before

16 This matter is set for hearing in the Circuit Court of this
17 county in, Illinois on

18 You may be present at this hearing but your right to redeem
19 will already have expired at that time.

20 YOU ARE URGED TO REDEEM IMMEDIATELY

21 TO PREVENT LOSS OF PROPERTY

22 Redemption can be made at any time on or before by
23 applying to the County Clerk of, County, Illinois at the
24 County Court House in, Illinois.

25 For further information contact the County Clerk

26 ADDRESS:.....

27 TELEPHONE:.....

28

29 Purchaser or Assignee.

30 Dated (insert date).

31 In counties with 3,000,000 or more inhabitants, the notice
32 shall also state the address, room number and time at which the
33 matter is set for hearing.

34 This amendatory Act of 1996 applies only to matters in

1 which a petition for tax deed is filed on or after the
2 effective date of this amendatory Act of 1996.

3 The changes to this Section made by this amendatory Act of
4 the 94th General Assembly apply only to matters in which a
5 petition for tax deed is filed on or after the effective date
6 of this amendatory Act of the 94th General Assembly.

7 (Source: P.A. 94-380, eff. 7-29-05.)

8 (35 ILCS 200/22-15)

9 Sec. 22-15. Service of notice. The purchaser or his or her
10 assignee shall give the notice required by Section 22-10 by
11 causing it to be published in a newspaper as set forth in
12 Section 22-20. In addition, the notice shall be served by a
13 sheriff (or if he or she is disqualified, by a coroner) of the
14 county in which the property, or any part thereof, is located
15 upon owners who reside on any part of the property sold by
16 leaving a copy of the notice with those owners personally.

17 In counties of 3,000,000 or more inhabitants where a taxing
18 district is a petitioner for tax deed pursuant to Section
19 21-90, in lieu of service by the sheriff or coroner the notice
20 may be served by a special process server appointed by the
21 circuit court as provided in this Section. The taxing district
22 may move prior to filing one or more petitions for tax deed for
23 appointment of such a special process server. The court, upon
24 being satisfied that the person named in the motion is at least
25 18 years of age and is capable of serving notice as required
26 under this Code, shall enter an order appointing such person as
27 a special process server for a period of one year. The
28 appointment may be renewed for successive periods of one year
29 each by motion and order, and a copy of the original and any
30 subsequent order shall be filed in each tax deed case in which
31 a notice is served by the appointed person. Delivery of the
32 notice to and service of the notice by the special process
33 server shall have the same force and effect as its delivery to
34 and service by the sheriff or coroner.

35 The same form of notice shall also be served upon all other

1 owners and parties interested in the property, if upon diligent
2 inquiry they can be found in the county, and upon the occupants
3 of the property in the manner set forth under Sections 2-203,
4 2-204, 2-205, 2-205.1, and 2-211 of the Code of Civil
5 Procedure. following manner:

6 ~~(a) as to individuals, by (1) leaving a copy of the~~
7 ~~notice with the person personally or (2) by leaving a copy~~
8 ~~at his or her usual place of residence with a person of the~~
9 ~~family, of the age of 13 years or more, and informing that~~
10 ~~person of its contents. The person making the service shall~~
11 ~~cause a copy of the notice to be sent by registered or~~
12 ~~certified mail, return receipt requested, to that party at~~
13 ~~his or her usual place of residence;~~

14 ~~(b) as to public and private corporations, municipal,~~
15 ~~governmental and quasi-municipal corporations,~~
16 ~~partnerships, receivers and trustees of corporations, by~~
17 ~~leaving a copy of the notice with the person designated by~~
18 ~~the Civil Practice Law.~~

19 If the property sold has more than 4 dwellings or other
20 rental units, and has a managing agent or party who collects
21 rents, that person shall be deemed the occupant and shall be
22 served with notice instead of the occupants of the individual
23 units. If the property has no dwellings or rental units, but
24 economic or recreational activities are carried on therein, the
25 person directing such activities shall be deemed the occupant.
26 Holders of rights of entry and possibilities of reverter shall
27 not be deemed parties interested in the property.

28 When a party interested in the property is a trustee,
29 notice served upon the trustee shall be deemed to have been
30 served upon any beneficiary or note holder thereunder unless
31 the holder of the note is disclosed of record.

32 When a judgment is a lien upon the property sold, the
33 holder of the lien shall be served with notice if the name of
34 the judgment debtor as shown in the transcript, certified copy
35 or memorandum of judgment filed of record is identical, as to
36 given name and surname, with the name of the party interested

1 as it appears of record.

2 If any owner or party interested, upon diligent inquiry and
3 effort, cannot be found or served with notice in the county as
4 provided in this Section, and the person in actual occupancy
5 and possession is tenant to, or in possession under the owners
6 or the parties interested in the property, then service of
7 notice upon the tenant, occupant or person in possession shall
8 be deemed service upon the owners or parties interested.

9 If any owner or party interested, upon diligent inquiry and
10 effort cannot be found or served with notice in the county,
11 then the person making the service shall cause a copy of the
12 notice to be sent by registered or certified mail, return
13 receipt requested, to that party at his or her residence, if
14 ascertainable.

15 The changes to this Section made by this amendatory Act of
16 the 94th General Assembly apply only to matters in which a
17 petition for tax deed is filed on or after the effective date
18 of this amendatory Act of the 94th General Assembly.

19 (Source: P.A. 91-209, eff. 1-1-00; 91-554, eff. 8-14-99.)

20 (35 ILCS 200/22-20)

21 Sec. 22-20. Proof of service of notice; publication of
22 notice. The sheriff or coroner serving notice under Section
23 22-15 shall endorse his or her return thereon and file it with
24 the Clerk of the Circuit Court and it shall be a part of the
25 court record. A special process server appointed under Section
26 22-15 shall make his or her return by affidavit and shall file
27 it with the Clerk of the Circuit Court, where it shall be a
28 part of the court record. If a sheriff, special process server,
29 or coroner to whom any notice is delivered for service,
30 neglects or refuses to make the return, the purchaser or his or
31 her assignee may petition the court to enter a rule requiring
32 the sheriff, special process server, or coroner to make return
33 of the notice on a day to be fixed by the court, or to show
34 cause on that day why he or she should not be attached for
35 contempt of the court. The purchaser or assignee shall cause a

1 written notice of the rule to be served upon the sheriff,
2 special process server, or coroner. If good and sufficient
3 cause to excuse the sheriff, special process server, or coroner
4 is not shown, the court shall adjudge him or her guilty of a
5 contempt, and shall proceed to punish him as in other cases of
6 contempt.

7 If the property is located in a municipality in a county
8 with less than 3,000,000 inhabitants, the purchaser or his or
9 her assignee shall also publish a notice as to the owner or
10 party interested, in some newspaper published in the
11 municipality. If the property is not in a municipality in a
12 county with less than 3,000,000 inhabitants, or if no newspaper
13 is published therein, or if the property is in a county with
14 3,000,000 or more inhabitants, the notice shall be published in
15 some newspaper in the county. If no newspaper is published in
16 the county, then the notice shall be published in the newspaper
17 that is published nearest the county seat of the county in
18 which the property is located. If the owners and parties
19 interested in the property upon diligent inquiry are unknown to
20 the purchaser or his or her assignee, the publication as to
21 such owner or party interested, may be made to unknown owners
22 or parties interested. Any notice by publication given under
23 this Section shall be given 3 times at any time after filing a
24 petition for tax deed, but not less than 3 months nor more than
25 6 ~~5~~ months prior to the expiration of the period of redemption.
26 The publication shall contain (a) notice of the filing of the
27 petition for tax deed, (b) the date on which the petitioner
28 intends to make application for an order on the petition that a
29 tax deed issue, (c) a description of the property, (d) the date
30 upon which the property was sold, (e) the taxes or special
31 assessments for which it was sold and (f) the date on which the
32 period of redemption will expire. The publication shall not
33 include more than one property listed and sold in one
34 description, except as provided in Section 21-90, and except
35 that when more than one property is owned by one person, all of
36 the parcels owned by that person may be included in one notice.

1 The changes to this Section made by this amendatory Act of
2 the 94th General Assembly apply only to matters in which a
3 petition for tax deed is filed on or after the effective date
4 of this amendatory Act of the 94th General Assembly.

5 (Source: P.A. 91-209, eff. 1-1-00; 91-554, eff. 8-14-99.)

6 (35 ILCS 200/22-25)

7 Sec. 22-25. Mailed notice. In addition to the notice
8 required to be served not less than 3 months nor more than 6 ~~5~~
9 months prior to the expiration of the period of redemption, the
10 purchaser or his or her assignee shall prepare and deliver to
11 the clerk of the Circuit Court of the county in which the
12 property is located, the notice provided for in this Section,
13 together with the statutory costs for mailing the notice by
14 certified mail, return receipt requested. The form of notice to
15 be mailed by the clerk shall be identical in form to that
16 provided by Section 22-10 for service upon owners residing upon
17 the property sold, except that it shall bear the signature of
18 the clerk and shall designate the parties to whom it is to be
19 mailed. The clerk may furnish the form. The clerk shall
20 promptly mail the notices delivered to him or her by certified
21 mail, return receipt requested. The certificate of the clerk
22 that he or she has mailed the notices, together with the return
23 receipts, shall be filed in and made a part of the court
24 record. The notices shall be mailed to the owners of the
25 property at their last known addresses, and to those persons
26 who are entitled to service of notice as occupants.

27 The changes to this Section made by this amendatory Act of
28 the 94th General Assembly apply only to matters in which a
29 petition for tax deed is filed on or after the effective date
30 of this amendatory Act of the 94th General Assembly.

31 (Source: P.A. 86-949; 87-1189; 88-455.)

32 (35 ILCS 200/22-30)

33 Sec. 22-30. Petition for deed. At any time within 6 ~~5~~
34 months but not less than 3 months prior to the expiration of

1 the redemption period for property sold pursuant to judgment
2 and order of sale under Sections 21-110 through 21-120 or
3 21-260, the purchaser or his or her assignee may file a
4 petition in the circuit court in the same proceeding in which
5 the judgment and order of sale were entered, asking that the
6 court direct the county clerk to issue a tax deed if the
7 property is not redeemed from the sale. The petition shall be
8 accompanied by the statutory filing fee.

9 Notice of filing the petition and the date on which the
10 petitioner intends to apply for an order on the petition that a
11 deed be issued if the property is not redeemed shall be given
12 to occupants, owners and persons interested in the property as
13 part of the notice provided in Sections 22-10 through 22-25,
14 except that only one publication is required. The county clerk
15 shall be notified of the filing of the petition and any person
16 owning or interested in the property may, if he or she desires,
17 appear in the proceeding.

18 The changes to this Section made by this amendatory Act of
19 the 94th General Assembly apply only to matters in which a
20 petition for tax deed is filed on or after the effective date
21 of this amendatory Act of the 94th General Assembly.

22 (Source: P.A. 86-1158; 86-1431; 86-1475; 87-145; 87-669;
23 87-671; 87-895; 87-1189; 88-455.)

24 (35 ILCS 200/22-40)

25 Sec. 22-40. Issuance of deed; possession.

26 (a) If the redemption period expires and the property has
27 not been redeemed and all taxes and special assessments which
28 became due and payable subsequent to the sale have been paid
29 and all forfeitures and sales which occur subsequent to the
30 sale have been redeemed and the notices required by law have
31 been given and all advancements of public funds under the
32 police power made by a city, village or town under Section
33 22-35 have been paid and the petitioner has complied with all
34 the provisions of law entitling him or her to a deed, the court
35 shall so find and shall enter an order directing the county

1 clerk on the production of the certificate of purchase and a
2 certified copy of the order, to issue to the purchaser or his
3 or her assignee a tax deed. The court shall insist on strict
4 compliance with Section 22-10 through 22-25. Prior to the entry
5 of an order directing the issuance of a tax deed, the
6 petitioner shall furnish the court with a report of proceedings
7 of the evidence received on the application for tax deed and
8 the report of proceedings shall be filed and made a part of the
9 court record.

10 (b) If taxes for years prior to the year or years sold are
11 or become delinquent subsequent to the date of sale, the court
12 shall find that the lien of those delinquent taxes has been or
13 will be merged into the tax deed grantee's title if the court
14 determines that the tax deed grantee or any prior holder of the
15 certificate of purchase, or any person or entity under common
16 ownership or control with any such grantee or prior holder of
17 the certificate of purchase, was at no time the holder of any
18 certificate of purchase for the years sought to be merged. If
19 delinquent taxes are merged into the tax deed pursuant to this
20 subsection, the court shall enter an order declaring which
21 specific taxes have been or will be merged into the tax deed
22 title and directing the county treasurer and county clerk to
23 reflect that declaration in the warrant and judgment records;
24 provided, that no such order shall be effective until a tax
25 deed has been issued and timely recorded. Nothing contained in
26 this Section shall relieve any owner liable for delinquent
27 property taxes under this Code from the payment of the taxes
28 that have been merged into the title upon issuance of the tax
29 deed.

30 (c) The county clerk is entitled to a fee of \$10 in
31 counties of 3,000,000 or more inhabitants and \$5 in counties
32 with less than 3,000,000 inhabitants for the issuance of the
33 tax deed. The clerk may not include in a tax deed more than one
34 property as listed, assessed and sold in one description,
35 except in cases where several properties are owned by one
36 person.

1 Upon application the court shall, enter an order to place
2 the tax deed grantee or the grantee's successor in interest in
3 possession of the property and may enter orders and grant
4 relief as may be necessary or desirable to maintain the grantee
5 or the grantee's successor in interest in possession.

6 (d) The court shall retain jurisdiction to enter orders
7 pursuant to subsections (b) and (c) of this Section. This
8 amendatory Act of the 92nd General Assembly and this amendatory
9 Act of the 94th General Assembly shall be construed as being
10 declarative of existing law and not as a new enactment.

11 (Source: P.A. 91-564, eff. 8-14-99; 92-223, eff. 1-1-02.)

12 (35 ILCS 200/22-45)

13 Sec. 22-45. Tax deed incontestable unless order appealed or
14 relief petitioned. Tax deeds issued under Section 22-40 are
15 incontestable except by appeal from the order of the court
16 directing the county clerk to issue the tax deed. However,
17 relief from such order may be had under Sections 2-1203 or
18 ~~Section~~ 2-1401 of the Code of Civil Procedure in the same
19 manner and to the same extent as may be had under those
20 Sections ~~that Section~~ with respect to final orders and
21 judgments in other proceedings. The grounds for relief under
22 Section 2-1401 shall be limited to:

23 (1) proof that the taxes were paid prior to sale;

24 (2) proof that the property was exempt from taxation;

25 (3) proof by clear and convincing evidence that the tax
26 deed had been procured by fraud or deception by the tax
27 purchaser or his or her assignee; or

28 (4) proof by a person or party holding a recorded ownership
29 or other recorded interest in the property that he or she was
30 not named as a party in the publication notice as set forth in
31 Section 22-20, and that the tax purchaser or his or her
32 assignee did not make a diligent inquiry and effort to serve
33 that person or party with the notices required by Sections
34 22-10 through 22-30.

35 In cases of the sale of homestead property in counties with

1 3,000,000 or more inhabitants, a tax deed may also be voided by
2 the court upon petition, filed not more than 3 months after an
3 order for tax deed was entered, if the court finds that the
4 property was owner occupied on the expiration date of the
5 period of redemption and that the order for deed was
6 effectuated pursuant to a negligent or willful error made by an
7 employee of the county clerk or county collector during the
8 period of redemption from the sale that was reasonably relied
9 upon to the detriment of any person having a redeemable
10 interest. In such a case, the tax purchaser shall be entitled
11 to the original amount required to redeem the property plus
12 interest from the sale as of the last date of redemption
13 together with costs actually expended subsequent to the
14 expiration of the period of redemption and reasonable
15 attorney's fees, all of which shall be dispensed from the fund
16 created by Section 21-295. In those cases of error where the
17 court vacates the tax deed, it may award the petitioner
18 reasonable attorney's fees and court costs actually expended,
19 payable from that fund. The court hearing a petition filed
20 under this Section or Section 2-1401 of the Code of Civil
21 Procedure may concurrently hear a petition filed under Section
22 21-295 and may grant relief under any ~~either~~ Section.

23 This amendatory Act of the 94th General Assembly shall be
24 construed as being declarative of existing law and not as a new
25 enactment.

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