

SB2007



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2007

Introduced 2/7/2008, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-135
35 ILCS 200/21-397
35 ILCS 200/22-5
35 ILCS 200/22-15
35 ILCS 200/22-25
35 ILCS 200/22-45

Amends the Property Tax Code. Requires that certain notices relating to tax sales be mailed by first-class mail as well as by registered or certified mail. Deletes a provision limiting the grounds for relief in a tax deed appeal proceeding. Effective June 1, 2008.

LRB095 18630 BDD 44775 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

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 21-135, 21-397, 22-5, 22-15, 22-25, and 22-45 as
6 follows:

7 (35 ILCS 200/21-135)

8 Sec. 21-135. Mailed notice of application for judgment and
9 sale. Not less than 15 days before the date of application for
10 judgment and sale of delinquent properties, the county
11 collector shall mail, by first-class mail and by registered or
12 certified mail, a notice of the forthcoming application for
13 judgment and sale to the person shown by the current
14 collector's warrant book to be the party in whose name the
15 taxes were last assessed or to the current owner of record and,
16 if applicable, to the party specified under Section 15-170. The
17 notice shall include the intended dates of application for
18 judgment and sale and commencement of the sale, and a
19 description of the properties. The county collector must
20 present proof of the mailing to the court along with the
21 application for judgement.

22 In counties with less than 3,000,000 inhabitants, a copy of
23 this notice shall also be mailed by the county collector, by

1 first-class mail and by registered or certified mail, to any
2 lienholder of record who annually requests a copy of the
3 notice. The failure of the county collector to mail a notice or
4 its non-delivery to the lienholder shall not affect the
5 validity of the judgment.

6 In counties with 3,000,000 or more inhabitants, notice
7 shall not be mailed to any person when, under Section 14-15, a
8 certificate of error has been executed by the county assessor
9 or by both the county assessor and board of appeals (until the
10 first Monday in December 1998 and the board of review beginning
11 the first Monday in December 1998 and thereafter), except as
12 provided by court order under Section 21-120.

13 The collector shall collect \$10 from the proceeds of each
14 sale to cover the costs of the first-class mailing and the
15 registered or certified mailing and the costs of advertisement
16 and publication. If a taxpayer pays the taxes on the property
17 after the notice of the forthcoming application for judgment
18 and sale is mailed but before the sale is made, then the
19 collector shall collect \$10 from the taxpayer to cover the
20 costs of the first-class mailing and the registered or
21 certified mailing and the costs of advertisement and
22 publication.

23 (Source: P.A. 93-899, eff. 8-10-04.)

24 (35 ILCS 200/21-397)

25 Sec. 21-397. Notice of order setting aside redemption. In

1 counties with 3,000,000 or more inhabitants, if an order is
2 entered setting aside a redemption made within the time allowed
3 by law after a petition for tax deed has been filed, the holder
4 of the certificate of purchase shall mail a copy of the order
5 within 7 days of entry of the order by first-class mail and by
6 registered or certified mail to the county clerk, to the person
7 who made the redemption, and to all parties entitled to notice
8 of the petition under Section 22-10, 22-15, or 22-25. The order
9 shall provide that any person who was entitled to redeem may
10 pay to the county clerk within 30 days after the entry of the
11 order the amount necessary to redeem the property from the sale
12 as of the last day of the period of redemption. The county
13 clerk shall make an entry in the annual tax judgment, sale,
14 redemption, and forfeiture record reflecting the entry of the
15 order and shall immediately upon request provide an estimate of
16 the amount required to effect a redemption as of the last date
17 of the period of redemption. If the amount is paid within 30
18 days after entry of the order, then the court shall enter an
19 order declaring the taxes to be paid as if the property had
20 been redeemed within the time required by law and dismissing
21 the petition for tax deed. A tax deed shall not be issued
22 within the 30-day period. Upon surrender of the certificate of
23 purchase, the county clerk shall distribute the funds deposited
24 as if a timely redemption had been made. This Section applies
25 to all redemptions that occur after the effective date of this
26 amendatory Act of the 91st General Assembly.

1 (Source: P.A. 91-564, eff. 8-14-99.)

2 (35 ILCS 200/22-5)

3 Sec. 22-5. Notice of sale and redemption rights. In order
4 to be entitled to a tax deed, within 4 months and 15 days after
5 any sale held under this Code, the purchaser or his or her
6 assignee shall deliver to the county clerk a notice to be given
7 to the party in whose name the taxes are last assessed as shown
8 by the most recent tax collector's warrant books, in at least
9 10 point type in the following form completely filled in:

10 TAKE NOTICE

11 County of
12 Date Premises Sold
13 Certificate No.
14 Sold for General Taxes of (year)
15 Sold for Special Assessment of (Municipality)
16 and special assessment number
17 Warrant No. Inst. No.

18 THIS PROPERTY HAS BEEN SOLD FOR

19 DELINQUENT TAXES

20 Property located at
21 Legal Description or Permanent Index No.
22
23

24 This notice is to advise you that the above property has
25 been sold for delinquent taxes and that the period of

1 redemption from the sale will expire on

2 This notice is also to advise you that a petition will be
3 filed for a tax deed which will transfer title and the right to
4 possession of this property if redemption is not made on or
5 before

6 At the date of this notice the total amount which you must
7 pay in order to redeem the above property is

8 YOU ARE URGED TO REDEEM IMMEDIATELY TO
9 PREVENT LOSS OF PROPERTY

10 Redemption can be made at any time on or before by
11 applying to the County Clerk of County, Illinois at the
12 County Court House in, Illinois.

13 The above amount is subject to increase at 6 month
14 intervals from the date of sale. Check with the county clerk as
15 to the exact amount you owe before redeeming. Payment must be
16 made by certified check, cashier's check, money order, or in
17 cash.

18 For further information contact the County Clerk

19 ADDRESS:.....

20 TELEPHONE:.....

21

22 Purchaser or Assignee

23 Dated (insert date).

24 Within 10 days after receipt of said notice, the county

1 clerk shall mail to the addresses supplied by the purchaser or
2 assignee, by first-class mail and by registered or certified
3 mail, copies of said notice to the party in whose name the
4 taxes are last assessed as shown by the most recent tax
5 collector's warrant books. The purchaser or assignee shall pay
6 to the clerk postage plus the sum of \$10. The clerk shall write
7 or stamp the date of receiving the notices upon the copies of
8 the notices, and retain one copy.

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

10 (35 ILCS 200/22-15)

11 (Text of Section before amendment by P.A. 95-477)

12 Sec. 22-15. Service of notice. The purchaser or his or her
13 assignee shall give the notice required by Section 22-10 by
14 causing it to be published in a newspaper as set forth in
15 Section 22-20. In addition, the notice shall be served by a
16 sheriff (or if he or she is disqualified, by a coroner) of the
17 county in which the property, or any part thereof, is located
18 or, except in Cook County, by a person who is licensed or
19 registered as a private detective under the Private Detective,
20 Private Alarm, Private Security, Fingerprint Vendor, and
21 Locksmith Act of 2004 upon owners who reside on any part of the
22 property sold by leaving a copy of the notice with those owners
23 personally.

24 In counties of 3,000,000 or more inhabitants where a taxing
25 district is a petitioner for tax deed pursuant to Section

1 21-90, in lieu of service by the sheriff or coroner the notice
2 may be served by a special process server appointed by the
3 circuit court as provided in this Section. The taxing district
4 may move prior to filing one or more petitions for tax deed for
5 appointment of such a special process server. The court, upon
6 being satisfied that the person named in the motion is at least
7 18 years of age and is capable of serving notice as required
8 under this Code, shall enter an order appointing such person as
9 a special process server for a period of one year. The
10 appointment may be renewed for successive periods of one year
11 each by motion and order, and a copy of the original and any
12 subsequent order shall be filed in each tax deed case in which
13 a notice is served by the appointed person. Delivery of the
14 notice to and service of the notice by the special process
15 server shall have the same force and effect as its delivery to
16 and service by the sheriff or coroner.

17 The same form of notice shall also be served upon all other
18 owners and parties interested in the property, if upon diligent
19 inquiry they can be found in the county, and upon the occupants
20 of the property in the following manner:

21 (a) as to individuals, by (1) leaving a copy of the
22 notice with the person personally or (2) by leaving a copy
23 at his or her usual place of residence with a person of the
24 family, of the age of 13 years or more, and informing that
25 person of its contents. The person making the service shall
26 cause a copy of the notice to be sent by registered or

1 certified mail, return receipt requested, to that party at
2 his or her usual place of residence;

3 (b) as to public and private corporations, municipal,
4 governmental and quasi-municipal corporations,
5 partnerships, receivers and trustees of corporations, by
6 leaving a copy of the notice with the person designated by
7 the Civil Practice Law.

8 If the property sold has more than 4 dwellings or other
9 rental units, and has a managing agent or party who collects
10 rents, that person shall be deemed the occupant and shall be
11 served with notice instead of the occupants of the individual
12 units. If the property has no dwellings or rental units, but
13 economic or recreational activities are carried on therein, the
14 person directing such activities shall be deemed the occupant.
15 Holders of rights of entry and possibilities of reverter shall
16 not be deemed parties interested in the property.

17 When a party interested in the property is a trustee,
18 notice served upon the trustee shall be deemed to have been
19 served upon any beneficiary or note holder thereunder unless
20 the holder of the note is disclosed of record.

21 When a judgment is a lien upon the property sold, the
22 holder of the lien shall be served with notice if the name of
23 the judgment debtor as shown in the transcript, certified copy
24 or memorandum of judgment filed of record is identical, as to
25 given name and surname, with the name of the party interested
26 as it appears of record.

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

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

14 (Source: P.A. 95-195, eff. 1-1-08.)

15 (Text of Section after amendment by P.A. 95-477)

16 Sec. 22-15. Service of notice. The purchaser or his or her
17 assignee shall give the notice required by Section 22-10 by
18 causing it to be published in a newspaper as set forth in
19 Section 22-20. In addition, the notice shall be mailed, by
20 first-class mail, to owners who reside on any part of the
21 property sold and shall be served by a sheriff (or if he or she
22 is disqualified, by a coroner) of the county in which the
23 property, or any part thereof, is located or, except in Cook
24 County, by a person who is licensed or registered as a private
25 detective under the Private Detective, Private Alarm, Private

1 Security, Fingerprint Vendor, and Locksmith Act of 2004 upon
2 owners who reside on any part of the property sold by leaving a
3 copy of the notice with those owners personally.

4 In counties of 3,000,000 or more inhabitants where a taxing
5 district is a petitioner for tax deed pursuant to Section
6 21-90, in lieu of service by the sheriff or coroner the notice
7 may be served by a special process server appointed by the
8 circuit court as provided in this Section. The taxing district
9 may move prior to filing one or more petitions for tax deed for
10 appointment of such a special process server. The court, upon
11 being satisfied that the person named in the motion is at least
12 18 years of age and is capable of serving notice as required
13 under this Code, shall enter an order appointing such person as
14 a special process server for a period of one year. The
15 appointment may be renewed for successive periods of one year
16 each by motion and order, and a copy of the original and any
17 subsequent order shall be filed in each tax deed case in which
18 a notice is served by the appointed person. Delivery of the
19 notice to and service of the notice by the special process
20 server shall have the same force and effect as its delivery to
21 and service by the sheriff or coroner.

22 The same form of notice shall also be served, in the manner
23 set forth under Sections 2-203, 2-204, 2-205, 2-205.1, and
24 2-211 of the Code of Civil Procedure, upon all other owners and
25 parties interested in the property, if upon diligent inquiry
26 they can be found in the county, and upon the occupants of the

1 property.

2 If the property sold has more than 4 dwellings or other
3 rental units, and has a managing agent or party who collects
4 rents, that person shall be deemed the occupant and shall be
5 served with notice instead of the occupants of the individual
6 units. If the property has no dwellings or rental units, but
7 economic or recreational activities are carried on therein, the
8 person directing such activities shall be deemed the occupant.
9 Holders of rights of entry and possibilities of reverter shall
10 not be deemed parties interested in the property.

11 When a party interested in the property is a trustee,
12 notice served upon the trustee shall be deemed to have been
13 served upon any beneficiary or note holder thereunder unless
14 the holder of the note is disclosed of record.

15 When a judgment is a lien upon the property sold, the
16 holder of the lien shall be served with notice if the name of
17 the judgment debtor as shown in the transcript, certified copy
18 or memorandum of judgment filed of record is identical, as to
19 given name and surname, with the name of the party interested
20 as it appears of record.

21 If any owner or party interested, upon diligent inquiry and
22 effort, cannot be found or served with notice in the county as
23 provided in this Section, and the person in actual occupancy
24 and possession is tenant to, or in possession under the owners
25 or the parties interested in the property, then service of
26 notice upon the tenant, occupant or person in possession shall

1 be deemed service upon the owners or parties interested.

2 If any owner or party interested, upon diligent inquiry and
3 effort cannot be found or served with notice in the county,
4 then the person making the service shall cause a copy of the
5 notice to be sent by first-class mail and by registered or
6 certified mail, return receipt requested, to that party at his
7 or her residence, if ascertainable.

8 The changes to this Section made by Public Act 95-477 ~~this~~
9 ~~amendatory Act of the 95th General Assembly~~ apply only to
10 matters in which a petition for tax deed is filed on or after
11 June 1, 2008 (the effective date of Public Act 95-477) ~~this~~
12 ~~amendatory Act of the 95th General Assembly~~.

13 (Source: P.A. 95-195, eff. 1-1-08; 95-477, eff. 6-1-08; revised
14 11-2-07.)

15 (35 ILCS 200/22-25)

16 (Text of Section before amendment by P.A. 95-477)

17 Sec. 22-25. Mailed notice. In addition to the notice
18 required to be served not less than 3 months nor more than 5
19 months prior to the expiration of the period of redemption, the
20 purchaser or his or her assignee shall prepare and deliver to
21 the clerk of the Circuit Court of the county in which the
22 property is located, the notice provided for in this Section,
23 together with the statutory costs for mailing the notice by
24 certified mail, return receipt requested. The form of notice to
25 be mailed by the clerk shall be identical in form to that

1 provided by Section 22-10 for service upon owners residing upon
2 the property sold, except that it shall bear the signature of
3 the clerk and shall designate the parties to whom it is to be
4 mailed. The clerk may furnish the form. The clerk shall
5 promptly mail the notices delivered to him or her by certified
6 mail, return receipt requested. The certificate of the clerk
7 that he or she has mailed the notices, together with the return
8 receipts, shall be filed in and made a part of the court
9 record. The notices shall be mailed to the owners of the
10 property at their last known addresses, and to those persons
11 who are entitled to service of notice as occupants.

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

13 (Text of Section after amendment by P.A. 95-477)

14 Sec. 22-25. Mailed notice. In addition to the notice
15 required to be served not less than 3 months nor more than 6
16 months prior to the expiration of the period of redemption, the
17 purchaser or his or her assignee shall prepare and deliver to
18 the clerk of the Circuit Court of the county in which the
19 property is located, the notice provided for in this Section,
20 together with the statutory costs for mailing the notice by
21 first-class mail and by certified mail, return receipt
22 requested. The form of notice to be mailed by the clerk shall
23 be identical in form to that provided by Section 22-10 for
24 service upon owners residing upon the property sold, except
25 that it shall bear the signature of the clerk and shall

1 designate the parties to whom it is to be mailed. The clerk may
2 furnish the form. The clerk shall promptly mail the notices
3 delivered to him or her by first-class mail and by certified
4 mail, return receipt requested. The certificate of the clerk
5 that he or she has mailed the notices, together with the return
6 receipts, shall be filed in and made a part of the court
7 record. The notices shall be mailed to the owners of the
8 property at their last known addresses, and to those persons
9 who are entitled to service of notice as occupants.

10 The changes to this Section made by this amendatory Act of
11 the 95th General Assembly apply only to matters in which a
12 petition for tax deed is filed on or after the effective date
13 of this amendatory Act of the 95th General Assembly.

14 (Source: P.A. 95-477, eff. 6-1-08.)

15 (35 ILCS 200/22-45)

16 (Text of Section before amendment by P.A. 95-477)

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

- 1 (1) proof that the taxes were paid prior to sale;
- 2 (2) proof that the property was exempt from taxation;
- 3 (3) proof by clear and convincing evidence that the tax
4 deed had been procured by fraud or deception by the tax
5 purchaser or his or her assignee; or
- 6 (4) proof by a person or party holding a recorded
7 ownership or other recorded interest in the property that
8 he or she was not named as a party in the publication
9 notice as set forth in Section 22-20, and that the tax
10 purchaser or his or her assignee did not make a diligent
11 inquiry and effort to serve that person or party with the
12 notices required by Sections 22-10 through 22-30.

13 In cases of the sale of homestead property in counties with
14 3,000,000 or more inhabitants, a tax deed may also be voided by
15 the court upon petition, filed not more than 3 months after an
16 order for tax deed was entered, if the court finds that the
17 property was owner occupied on the expiration date of the
18 period of redemption and that the order for deed was
19 effectuated pursuant to a negligent or willful error made by an
20 employee of the county clerk or county collector during the
21 period of redemption from the sale that was reasonably relied
22 upon to the detriment of any person having a redeemable
23 interest. In such a case, the tax purchaser shall be entitled
24 to the original amount required to redeem the property plus
25 interest from the sale as of the last date of redemption
26 together with costs actually expended subsequent to the

1 expiration of the period of redemption and reasonable
2 attorney's fees, all of which shall be dispensed from the fund
3 created by Section 21-295. In those cases of error where the
4 court vacates the tax deed, it may award the petitioner
5 reasonable attorney's fees and court costs actually expended,
6 payable from that fund. The court hearing a petition filed
7 under this Section or Section 2-1401 of the Code of Civil
8 Procedure may concurrently hear a petition filed under Section
9 21-295 and may grant relief under either Section.

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

11 (Text of Section after amendment by P.A. 95-477)

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

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

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

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

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

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

1 payable from that fund. The court hearing a petition filed
2 under this Section or Section 2-1401 of the Code of Civil
3 Procedure may concurrently hear a petition filed under Section
4 21-295 and may grant relief under any Section.

5 This amendatory Act of the 95th General Assembly shall be
6 construed as being declarative of existing law and not as a new
7 enactment.

8 (Source: P.A. 95-477, eff. 6-1-08.)

9 Section 95. No acceleration or delay. Where this Act makes
10 changes in a statute that is represented in this Act by text
11 that is not yet or no longer in effect (for example, a Section
12 represented by multiple versions), the use of that text does
13 not accelerate or delay the taking effect of (i) the changes
14 made by this Act or (ii) provisions derived from any other
15 Public Act.

16 Section 999. Effective date. This Act takes effect June 1,
17 2008.