



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2950

Introduced 1/28/2010, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

- 35 ILCS 200/21-315
- 35 ILCS 200/21-320
- 35 ILCS 200/21-330
- 35 ILCS 200/21-335
- 35 ILCS 200/22-39 new

Amends the Property Tax Code. Provides that no tax deed shall be issued for property in which a person with a disability has any ownership interest so long as an objection is raised by or on behalf of that person prior to the issuance of the tax deed or pursuant to certain provisions of the Code of Civil Procedure. Provides that any tax deed issued for property in which a person with a disability has an ownership interest shall be vacated upon petition by or on behalf of the person with a disability. Provides that, if the court refuses to enter an order directing the county clerk to execute and deliver the tax deed or if the court vacates the issuance of a tax deed, then, upon application of the owner of the certificate of purchase, the court shall declare the sale to be a sale in error. Effective immediately.

LRB096 19858 HLH 35313 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 21-315, 21-320, 21-330, and 21-335 and by adding
6 Section 22-39 as follows:

7 (35 ILCS 200/21-315)

8 Sec. 21-315. Refund of costs; interest on refund.

9 (a) If a sale in error under Section 21-310, 22-35, 22-39,
10 or 22-50 is declared, the amount refunded shall also include
11 all costs paid by the owner of the certificate of purchase or
12 his or her assignor which were posted to the tax judgment,
13 sale, redemption and forfeiture record.

14 (b) In those cases which arise ~~solely~~ under grounds set
15 forth in Section 21-310 or 22-39, the amount refunded shall
16 also include interest on the refund of the amount paid for the
17 certificate of purchase, except as otherwise provided in this
18 Section. Interest shall be awarded and paid to the tax
19 purchaser at the rate of 1% per month from the date of sale to
20 the date of payment, or in an amount equivalent to the penalty
21 interest which would be recovered on a redemption at the time
22 of payment pursuant to the order for sale in error, whichever
23 is less. Except as previously stated in this subsection,

1 interest ~~Interest~~ shall not be paid when the sale in error is
2 made pursuant to paragraph (2) or (4) of subsection (b) of
3 Section 21-310, Section 22-35, Section 22-50, any ground not
4 enumerated in Section 21-310, or in any other case where the
5 court determines that the tax purchaser had actual knowledge
6 prior to the sale of the grounds on which the sale is declared
7 to be erroneous.

8 (c) When the county collector files a petition for sale in
9 error under Section 21-310 and mails a notice thereof by
10 certified or registered mail to the last known owner of the
11 certificate of purchase, any interest otherwise payable under
12 this Section shall cease to accrue as of the date the petition
13 is filed, unless the tax purchaser agrees to an order for sale
14 in error upon the presentation of the petition to the court.
15 Notices under this subsection may be mailed to the last known
16 owner of the certificate of purchase. When the owner of the
17 certificate of purchase contests the collector's petition
18 solely to determine whether the grounds for sale in error are
19 such as to support a claim for interest, the court may direct
20 that the principal amount of the refund be paid to the owner of
21 the certificate of purchase forthwith. If the court thereafter
22 determines that a claim for interest lies under this Section,
23 it shall award such interest from the date of sale to the date
24 the principal amount was paid. If the owner of the certificate
25 of purchase files an objection to the county collector's
26 intention to declare an administrative sale in error, as

1 provided under subsection (c) of Section 21-310, and,
2 thereafter, the county collector elects to apply to the circuit
3 court for a sale in error under subsection (a) of Section
4 21-310, then, if the circuit court grants the county
5 collector's application for a sale in error, the court may not
6 award interest to the owner of the certificate of purchase for
7 the period after the mailing date of the county collector's
8 notice of intention to declare an administrative sale in error.
9 (Source: P.A. 94-662, eff. 1-1-06.)

10 (35 ILCS 200/21-320)

11 Sec. 21-320. Refund of other taxes paid by holder of
12 certificate of purchase. If a sale in error under Section
13 21-310, 22-35, 22-39, or 22-50 is declared, the amount refunded
14 shall also include other taxes paid or redeemed by the owner of
15 the certificate of purchase or his or her assignor subsequent
16 to the tax sale, together with interest on those other taxes
17 under the same terms as interest is otherwise payable under
18 Section 21-315. The interest under this subsection shall be
19 calculated at the rate of 1% per month from the date the other
20 taxes were paid and not from the date of sale. The collector
21 shall take credit in settlement of his or her accounts for the
22 refund of the other taxes as in other cases of sale in error
23 under Section 21-310.

24 (Source: P.A. 92-224, eff. 1-1-02; 92-729, eff. 7-25-02.)

1 (35 ILCS 200/21-330)

2 Sec. 21-330. Fund for payment of interest. In counties of
3 under 3,000,000 inhabitants, the county board may impose a fee
4 of up to \$60, which shall be paid to the county collector, upon
5 each person purchasing any property at a sale held under this
6 Code, prior to the issuance of any certificate of purchase.
7 Each person purchasing any property at a sale held under this
8 Code in a county with 3,000,000 or more inhabitants shall pay
9 to the county collector, prior to the issuance of any
10 certificate of purchase, a fee of \$100 for each item purchased.
11 That amount shall be included in the price paid for the
12 certificate of purchase and the amount required to redeem under
13 Section 21-355.

14 All sums of money received under this Section shall be paid
15 by the collector to the county treasurer of the county in which
16 the property is situated for deposit into a special fund. It
17 shall be the duty of the county treasurer, as trustee of the
18 fund, to invest the principal and income of the fund from time
19 to time, if not immediately required for payments under this
20 Section, in investments as are authorized by Sections 3-10009
21 and 3-11002 of the Counties Code. The fund shall be held to pay
22 interest and costs by the county treasurer as trustee of the
23 fund. No payment shall be made from the fund except by order of
24 the court declaring a sale in error under Section 21-310,
25 22-35, 22-39, or 22-50 or by declaration of the county
26 collector under subsection (c) of Section 21-310. Any moneys

1 accumulated in the fund by the county treasurer in excess of
2 (i) \$100,000 in counties with 250,000 or less inhabitants or
3 (ii) \$500,000 in counties with more than 250,000 inhabitants
4 shall be paid each year prior to the commencement of the annual
5 tax sale, first to satisfy any existing unpaid judgments
6 entered pursuant to Section 21-295, and any funds remaining
7 thereafter shall be paid to the general fund of the county.

8 (Source: P.A. 94-362, eff. 7-29-05.)

9 (35 ILCS 200/21-335)

10 Sec. 21-335. Claims for interest and costs. Any person
11 claiming interest or costs under Sections 21-315 through 21-330
12 shall include the claim in his or her petition for sale in
13 error under Section 21-310, 22-35, 22-39, or 22-50. Any claim
14 for interest or costs which is not included in the petition is
15 waived. Interest or costs may be awarded, however, to the
16 extent permitted by this Section upon a sale in error petition
17 filed by the county collector or municipality or upon a
18 declaration by the county collector pursuant to subsection (c)
19 of Section 21-310, without requiring a separate filing by the
20 claimant. Any refund of interest or costs upon the petition for
21 sale in error or upon a declaration by the county collector
22 pursuant to subsection (c) of Section 21-310 shall be paid by
23 the county treasurer as trustee of the fund created by this
24 Section. The fund shall be the sole source for payment and
25 satisfaction of orders for interest or costs, except as

1 otherwise provided in this subsection. If the court determines
2 that the fund has been depleted and will not be restored in
3 time to pay an award with reasonable promptness, the court may
4 authorize the collector to pay the interest portion of the
5 award pro rata from those accounts where the principal refund
6 of the tax sale purchase price under Section 21-310 is taken.

7 (Source: P.A. 92-224, eff. 1-1-02; 92-729, eff. 7-25-02.)

8 (35 ILCS 200/22-39 new)

9 Sec. 22-39. Protection of persons with disabilities.

10 (a) A "person with a disability" means any one of the
11 following:

12 (1) a person with a developmental disability as defined
13 by Section 11a-1 of the Probate Act of 1975 or Section
14 1-106 of the Mental Health and Developmental Disabilities
15 Code during any portion of the redemption period;

16 (2) a person who, by a preponderance of the evidence,
17 establishes that he or she was suffering from some mental
18 disability, deterioration, physical incapacity, or mental
19 illness, and, as result of that mental disability,
20 deterioration, physical incapacity, or mental illness, was
21 unable to fully manage his or her estate or financial
22 affairs during any portion of the redemption period;

23 (3) a person who, prior to or during the redemption
24 period, was adjudged a disabled person in accordance with
25 Sections 11a-2 and 11a-3 of the Probate Act of 1975 and for

1 whom a plenary or limited guardian was appointed in
2 accordance with Section 11a-12 of the Probate Act of 1975,
3 if that limited or plenary guardian did not receive the
4 notices required under Sections 22-5, 22-10, 22-15, 22-20,
5 22-25, and 22-30 of this Code; or

6 (4) any person receiving treatment at a mental health
7 facility in accordance with the Mental Health And
8 Developmental Disabilities Code during any portion of the
9 redemption period.

10 (b) No tax deed shall be issued for property in which a
11 person with a disability has any ownership interest so long as
12 an objection is raised by or on behalf of the person with a
13 disability prior to the issuance of the tax deed. Within 30
14 days after the issuance of the tax deed, such objection may be
15 raised by or on behalf of the person with a disability pursuant
16 to Section 2-1203 of the Code of Civil Procedure.

17 (c) Any tax deed issued for property in which a person with
18 a disability has an ownership interest shall be vacated upon
19 petition by or on behalf of the person with a disability. To
20 the extent that the provisions of Section 22-45 of this Code
21 limit relief under Section 2-1401 of the Code of Civil
22 Procedure, those provisions shall not bar or otherwise limit a
23 person with a disability from invoking this Section as a basis
24 for vacating the issuance of a tax deed pursuant to this
25 Section.

26 (d) An objection or petition to vacate a tax deed brought

1 pursuant to this Section is to be considered in light of
2 equitable principles.

3 (e) If the court refuses to enter an order directing the
4 county clerk to execute and deliver the tax deed or if the
5 court vacates the issuance of a tax deed in accordance with
6 this Section, then, upon application of the owner of the
7 certificate of purchase, the court shall declare the sale to be
8 a sale in error.

9 (f) That a person with a disability does not raise an
10 objection to the issuance of a tax deed or seek to vacate a tax
11 deed based upon this Section does not bar any indemnity action
12 pursuant to Section 21-305 of this Code brought by or on behalf
13 of the person with a disability.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.