

1 AN ACT concerning taxes.

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 21-310, 21-315, 21-320, 21-330, 21-335, 22-45, and
6 22-50 as follows:

7 (35 ILCS 200/21-310)

8 Sec. 21-310. Sales in error.

9 (a) When, upon application of the county collector, the
10 owner of the certificate of purchase, or a municipality which
11 owns or has owned the property ordered sold, it appears to
12 the satisfaction of the court which ordered the property sold
13 that any of the following subsections are applicable, the
14 court shall declare the sale to be a sale in error:

15 (1) the property was not subject to taxation, or
16 all or any part of the lien of taxes sold has become null
17 and void pursuant to Section 21-95,

18 (2) the taxes or special assessments had been paid
19 prior to the sale of the property,

20 (3) there is a double assessment,

21 (4) the description is void for uncertainty,

22 (5) the assessor, chief county assessment officer,
23 board of review, board of appeals, or other county
24 official has made an error (other than an error of
25 judgment as to the value of any property),

26 (5.5) the owner of the homestead property had
27 tendered timely and full payment to the county collector
28 that the owner reasonably believed was due and owing on
29 the homestead property, and the county collector did not
30 apply the payment to the homestead property; provided
31 that this provision applies only to homeowners, not their

1 agents or third-party payors,

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

7 (7) the property is owned by the State of Illinois,
8 a municipality, or a taxing district. ~~a municipality--has~~
9 ~~acquired--the--property--(i)--through--the--foreclosure--of--a~~
10 ~~lien--authorized--under--Section--11-31-1--of--the--Illinois~~
11 ~~Municipal--Code--or--through--a--judicial--deed--issued--under~~
12 ~~that--Section--or---(ii)---through---foreclosure---of---a~~
13 ~~receivership--certificate--lien.~~

14 (b) When, upon application of the owner of the
15 certificate of purchase only, it appears to the satisfaction
16 of the court which ordered the property sold that any of the
17 following subsections are applicable, the court shall declare
18 the sale to be a sale in error:

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

23 (2) The improvements upon the property sold have
24 been substantially destroyed or rendered uninhabitable or
25 otherwise unfit for occupancy subsequent to the tax sale
26 and prior to the issuance of the tax deed.

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

30 (4) The real property contains a hazardous
31 substance, hazardous waste, or underground storage tank
32 that would require cleanup or other removal under any
33 federal, State, or local law, ordinance, or regulation,
34 only if the tax purchaser purchased the property without

1 actual knowledge of the hazardous substance, hazardous
 2 waste, or underground storage tank. This paragraph (4)
 3 applies only to tax purchases occurring after January 1,
 4 1990 and if the owner of the certificate of purchase has
 5 made application for a sale in error at any time before
 6 the issuance of a tax deed.

7 If a sale is declared to be a sale in error, the county
 8 clerk shall make entry in the tax judgment, sale, redemption
 9 and forfeiture record, that the property was erroneously
 10 sold, and the county collector shall, on demand of the owner
 11 of the certificate of purchase, refund the amount paid, pay
 12 any interest and costs as may be ordered under Sections
 13 21-315 through 21-335, and cancel the certificate so far as
 14 it relates to the property. The county collector shall deduct
 15 from the accounts of the appropriate taxing bodies their pro
 16 rata amounts paid.

17 (Source: P.A. 91-177, eff. 1-1-00; 91-357, eff. 7-29-99;
 18 91-924, eff. 1-1-01.)

19 (35 ILCS 200/21-315)

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

21 ~~(a) In--those-cases-which-arise-solely-under-grounds-set~~
 22 ~~forth-in-Section-21-310-or-22-35,-and-in-no-other-cases,~~ The
 23 court which orders a sale in error under Section 21-310,
 24 22-35, or 22-50 shall also award a refund of interest-on--the
 25 ~~refund--of--the--amount-paid-for-the-certificate-of-purchase,~~
 26 ~~together-with~~ all costs paid by the owner of the certificate
 27 of purchase or his or her assignor which were posted to the
 28 tax judgment, sale, redemption and forfeiture record,~~--except~~
 29 ~~as--otherwise--provided-in-this-Section.--Except-as-otherwise~~
 30 ~~provided-in-this-Section,~~ interest shall be awarded and ~~--paid~~
 31 ~~at-the-rate-of-1%-per-month-from-the-date-of-sale-to-the-date~~
 32 ~~of--payment--to-the-tax-purchaser,-or-in-an-amount-equivalent~~
 33 ~~to-the--penalty--interest--which--would--be--recovered--on--a~~

1 redemption--at--the--time--of--payment--pursuant--to--the--order--for
2 sale--in--error,--whichever--is--less.

3 (b) In those cases which arise solely under grounds set
4 forth in Section 21-310, the court shall also award interest
5 on the refund of the amount paid for the certificate of
6 purchase, except as otherwise provided in this Section.
7 Interest shall be awarded and paid to the tax purchaser at
8 the rate of 1% per month from the date of sale to the date of
9 payment, or in an amount equivalent to the penalty interest
10 which would be recovered on a redemption at the time of
11 payment pursuant to the order for sale in error, whichever is
12 less. Interest on-the-refund-to-the-owner-of-the-certificate
13 of-purchase shall not be paid (i)-in-any-case--in--which--the
14 improvements--upon--the--property--sold--have--been--substantially
15 destroyed--or--rendered--uninhabitable--or--otherwise--unfit--for
16 occupancy,--(ii) when the sale in error is made pursuant to
17 paragraph (2) or (4) of subsection (b) of Section 21-310,
18 Section 22-35, Section 22-50, any ground not enumerated in
19 Section 21-310, or (iii)-in-any-case,--after-January-1,--1990,
20 in--which--the--real--estate--contains--a--hazardous--substance,
21 hazardous--waste,--or--underground--storage--tank--that--would
22 require--a--cleanup--or--other--removal--under--any--federal,--State,
23 or--local--law,--ordinance--or--regulation,--only--if--the--tax
24 purchaser--purchased--the--property--without--actual--knowledge--of
25 the--hazardous--substance,--hazardous--waste--or--underground
26 storage--tank,--or--(iv) in any other case where the court
27 determines that the tax purchaser had actual knowledge prior
28 to the sale of the grounds on which the sale is declared to
29 be erroneous.

30 (c) When the county collector files a petition for sale
31 in error under Section 21-310 and mails a notice thereof by
32 certified or registered mail to the tax purchaser, any
33 interest otherwise payable under this Section shall cease to
34 accrue as of the date the petition is filed, unless the tax

1 purchaser agrees to an order for sale in error upon the
2 presentation of the petition to the court. Notices under
3 this subsection may be mailed to the original owner of the
4 certificate of purchase, or to the latest assignee, if known.
5 When the owner of the certificate of purchase contests the
6 collector's petition solely to determine whether the grounds
7 for sale in error are such as to support a claim for
8 interest, the court may direct that the principal amount of
9 the refund be paid to the owner of the certificate of
10 purchase forthwith. If the court thereafter determines that a
11 claim for interest lies under this Section, it shall award
12 such interest from the date of sale to the date the principal
13 amount was paid.

14 (Source: P.A. 89-69, eff. 6-30-95; 90-655, eff. 7-30-98.)

15 (35 ILCS 200/21-320)

16 Sec. 21-320. Refund of other taxes paid by holder of
17 certificate of purchase. The court which orders a sale in
18 error shall order the refund of all other taxes paid or
19 redeemed by the owner of the certificate of purchase or his
20 or her assignor ~~which--were--validly--posted--to--the--tax~~
21 ~~judgment,-sale-redemption-and-forfeiture-record~~ subsequent to
22 the tax sale, together with interest on those the other taxes
23 under the same terms as interest is otherwise payable under
24 Section 21-315. The interest under this subsection shall be
25 calculated at the rate of 1% per month from the date the
26 other taxes were paid and not from the date of sale. The
27 collector shall take credit in settlement of his or her
28 accounts for the refund of the other taxes as in other cases
29 of sale in error under Section 21-310.

30 (Source: P.A. 86-286; 86-415; 87-669; 88-455.)

31 (35 ILCS 200/21-330)

32 Sec. 21-330. Fund for payment of interest. In counties

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

12 All sums of money received under this Section shall be
13 paid by the collector to the county treasurer of the county
14 in which the property is situated for deposit into a special
15 fund. It shall be the duty of the county treasurer, as
16 trustee of the fund, to invest the principal and income of
17 the fund from time to time, if not immediately required for
18 payments under this Section, in investments as are authorized
19 by Sections 3-10009 and 3-11002 of the Counties Code. The
20 fund shall be held to satisfy orders for payment of interest
21 and costs obtained against the county treasurer as trustee of
22 the fund. No payment shall be made from the fund except by
23 order of the court declaring a sale in error under Section
24 21-310, 22-35, or 22-50. Any moneys accumulated in the fund
25 by the county treasurer in excess of \$500,000 shall be paid
26 each year prior to the commencement of the annual tax sale,
27 first to satisfy any existing unpaid judgments entered
28 pursuant to Section 21-295, and any funds remaining
29 thereafter shall be paid to the general fund of the county.

30 (Source: P.A. 88-455; 88-676, eff. 12-14-94; 89-342, eff.
31 1-1-96.)

32 (35 ILCS 200/21-335)

33 Sec. 21-335. Claims for interest and costs. Any person

1 claiming interest or costs under Sections 21-315 through
2 21-330 shall include the claim in his or her petition for
3 sale in error under Section 21-310, 22-35, or 22-50. Any
4 claim for interest or costs which is not included in the
5 petition is waived, except interest or costs may be awarded
6 to the extent permitted by this Section upon a sale in error
7 petition filed by the county collector, without requiring a
8 separate filing by the claimant. Any order for interest or
9 costs upon the petition for sale in error shall be deemed to
10 be entered against the county treasurer as trustee of the
11 fund created by this Section. The fund shall be the sole
12 source for payment and satisfaction of orders for interest
13 or costs, except as otherwise provided in this subsection.
14 If the court determines that the fund has been depleted and
15 will not be restored in time to pay an award with reasonable
16 promptness, the court may authorize the collector to pay the
17 interest portion of the award pro rata from those accounts
18 where the principal refund of the tax sale purchase price
19 under Section 21-310 is taken.

20 (Source: P.A. 86-286; 86-415; 87-669; 88-455.)

21 (35 ILCS 200/22-45)

22 Sec. 22-45. Tax deed incontestable unless order appealed
23 or relief petitioned. Tax deeds issued under Section 22-40
24 22-35 are incontestable except by appeal from the order of
25 the court directing the county clerk to issue the tax deed.
26 However, relief from such order may be had under Section
27 2-1401 of the Code of Civil Procedure in the same manner and
28 to the same extent as may be had under that Section with
29 respect to final orders and judgments in other proceedings.
30 The grounds for relief under Section 2-1401 shall be limited
31 to:

- 32 (1) proof that the taxes were paid prior to sale;
33 (2) proof that the property was exempt from taxation;

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

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

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

34 (Source: P.A. 87-145; 87-669; 87-671; 87-895; 87-1189;

1 88-455; incorporates 88-451; 88-670, eff. 12-2-94.)

2 (35 ILCS 200/22-50)

3 Sec. 22-50. Denial of deed. If the court refuses to enter
 4 an order directing the county clerk to execute and deliver
 5 the tax deed, because of the failure of the purchaser to
 6 fulfill any of the above provisions, and if the purchaser, or
 7 his or her assignee has made a bona fide attempt to comply
 8 with the statutory requirements for the issuance of the tax
 9 deed, then upon application of the owner of the certificate
 10 of purchase the court shall declare the sale to be a sale in
 11 error it--shall--order--the--return--of--the--purchase--price
 12 forthwith,--as--in--case--of--sales--in--error,--except--that--no
 13 interest--shall--be--paid--on--the--purchase--price.

14 (Source: P.A. 86-1158; 86-1431; 86-1475; 87-145; 87-669;
 15 87-671; 87-895; 87-1189; 88-455.)

16 Section 90. Changes declarative of existing law. Except
 17 for the amendment to subsection (a) of Section 21-315, the
 18 changes made by this amendatory Act of the 92nd General
 19 Assembly are declarative of existing law and shall not be
 20 construed as a new enactment.