



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3394

Introduced 2/17/2023, by Rep. Curtis J. Tarver, II

SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-310
35 ILCS 516/255

Amends the Property Tax Code. Provides that the owner of the certificate of purchase shall promptly notify the county collector in writing that a petition for a sale in error has been filed. Provides that the court may deny the petition for a sale in error if the notice is not filed. Amends the Property Tax Code and the Mobile Home Local Services Tax Enforcement Act. Provides that, when the owner of the certificate of purchase is the county as trustee for taxing districts, then, upon request of or consent by the county as trustee, the county collector may declare an administrative sale in error at any time and for any reason. Provides that the declaration shall state the reason why the sale should not have occurred. Effective immediately.

LRB103 25282 HLH 51626 b

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
15 or any part of the lien of taxes sold has become null and
16 void pursuant to Section 21-95 or unenforceable pursuant
17 to 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,

1 board of review, board of appeals, or other county
2 official has made an error (other than an error of
3 judgment as to the value of any property),

4 (5.5) the owner of the homestead property had tendered
5 timely and full payment to the county collector that the
6 owner reasonably believed was due and owing on the
7 homestead property, and the county collector did not apply
8 the payment to the homestead property; provided that this
9 provision applies only to homeowners, not their agents or
10 third-party payors,

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

15 (7) the property is owned by the United States, the
16 State of Illinois, a municipality, or a taxing district,
17 or

18 (8) the owner of the property is a reservist or
19 guardsperson who is granted an extension of his or her due
20 date under Sections 21-15, 21-20, and 21-25 of this Act.

21 (b) When, upon application of the owner of the certificate
22 of purchase only, it appears to the satisfaction of the court
23 which ordered the property sold that any of the following
24 subsections are applicable, the court shall declare the sale
25 to be a sale in error:

26 (1) A voluntary or involuntary petition under the

1 provisions of 11 U.S.C. Chapter 7, 11, 12, or 13 has been
2 filed subsequent to the tax sale and prior to the issuance
3 of the tax deed.

4 (2) The improvements upon the property sold have been
5 substantially destroyed or rendered uninhabitable or
6 otherwise unfit for occupancy subsequent to the tax sale
7 and prior to the issuance of the tax deed; however, if the
8 court declares a sale in error under this paragraph (2),
9 the court may order the holder of the certificate of
10 purchase to assign the certificate to the county collector
11 if requested by the county collector. The county collector
12 may, upon request of the county, as trustee, or upon
13 request of a taxing district having an interest in the
14 taxes sold, further assign any certificate of purchase
15 received pursuant to this paragraph (2) to the county
16 acting as trustee for taxing districts pursuant to Section
17 21-90 of this Code or to the taxing district having an
18 interest in the taxes sold.

19 (3) There is an interest held by the United States in
20 the property sold which could not be extinguished by the
21 tax deed.

22 (4) The real property contains a hazardous substance,
23 hazardous waste, or underground storage tank that would
24 require cleanup or other removal under any federal, State,
25 or local law, ordinance, or regulation, only if the tax
26 purchaser purchased the property without actual knowledge

1 of the hazardous substance, hazardous waste, or
2 underground storage tank. This paragraph (4) applies only
3 if the owner of the certificate of purchase has made
4 application for a sale in error at any time before the
5 issuance of a tax deed. If the court declares a sale in
6 error under this paragraph (4), the court may order the
7 holder of the certificate of purchase to assign the
8 certificate to the county collector if requested by the
9 county collector. The county collector may, upon request
10 of the county, as trustee, or upon request of a taxing
11 district having an interest in the taxes sold, further
12 assign any certificate of purchase received pursuant to
13 this paragraph (4) to the county acting as trustee for
14 taxing districts pursuant to Section 21-90 of this Code or
15 to the taxing district having an interest in the taxes
16 sold.

17 (b-5) Upon filing a petition for a sale in error under
18 subsection (b), the owner of the certificate of purchase shall
19 promptly notify the county collector in writing that such a
20 petition has been filed. The court may deny the petition for a
21 sale in error if the owner of the certificate of purchase fails
22 to file the notice under this subsection.

23 (b-10) Whenever a court declares a sale in error under
24 this subsection (b), the court shall promptly notify the
25 county collector in writing. Every such declaration pursuant
26 to any provision of this subsection (b) shall be made within

1 the proceeding in which the tax sale was authorized.

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

1 the last known owner of the certificate of purchase of the
2 declaration by regular mail and shall promptly pay the amount
3 of the tax sale, together with interest and costs as provided
4 in Section 21-315, upon surrender of the original certificate
5 of purchase. If the owner of the certificate of purchase is the
6 county as trustee for taxing districts, then, upon request of
7 or consent by the county as trustee, the county collector may
8 declare an administrative sale in error at any time and for any
9 reason. The declaration shall state the reason why the sale
10 should not have occurred.

11 (d) If a sale is declared to be a sale in error, the county
12 clerk shall make entry in the tax judgment, sale, redemption
13 and forfeiture record, that the property was erroneously sold,
14 and the county collector shall, on demand of the owner of the
15 certificate of purchase, refund the amount paid, except for
16 the nonrefundable \$80 fee paid, pursuant to Section 21-295,
17 for each item purchased at the tax sale, pay any interest and
18 costs as may be ordered under Sections 21-315 through 21-335,
19 and cancel the certificate so far as it relates to the
20 property. The county collector shall deduct from the accounts
21 of the appropriate taxing bodies their pro rata amounts paid.
22 Alternatively, for sales in error declared under subsection
23 (b) (2) or (b) (4), the county collector may request the circuit
24 court to direct the county clerk to record any assignment of
25 the tax certificate to or from the county collector without
26 charging a fee for the assignment. The owner of the

1 certificate of purchase shall receive all statutory refunds
2 and payments. The county collector shall deduct costs and
3 payments in the same manner as if a sale in error had occurred.
4 (Source: P.A. 100-890, eff. 1-1-19; 101-379, eff. 1-1-20;
5 101-659, eff. 3-23-21.)

6 Section 10. The Mobile Home Local Services Tax Enforcement
7 Act is amended by changing Section 255 as follows:

8 (35 ILCS 516/255)

9 Sec. 255. Sales in error.

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

16 (1) the mobile home was not subject to taxation,

17 (1.5) the mobile home has been moved to a different
18 location,

19 (2) the taxes had been paid prior to the sale of the
20 mobile home,

21 (3) there is a double computation of the tax,

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

1 official has made an error (other than an error of
2 judgment as to the value of any mobile home),

3 (5.5) the owner of the mobile home had tendered timely
4 and full payment to the county collector that the owner
5 reasonably believed was due and owing on the mobile home,
6 and the county collector did not apply the payment to the
7 mobile home; provided that this provision applies only to
8 mobile home owners, not their agents or third-party
9 payors,

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

15 (7) the mobile home is owned by the United States, the
16 State of Illinois, a municipality, or a taxing district.

17 (b) When, upon application of the owner of the certificate
18 of purchase only, it appears to the satisfaction of the court
19 that ordered the mobile home sold that any of the following
20 subsections are applicable, the court shall declare the sale
21 to be a sale in error:

22 (1) A voluntary or involuntary petition under the
23 provisions of 11 U.S.C. Chapter 7, 11, 12, or 13 has been
24 filed subsequent to the tax sale and prior to the issuance
25 of the tax certificate of title.

26 (2) The mobile home sold has been substantially

1 destroyed or rendered uninhabitable or otherwise unfit for
2 occupancy subsequent to the tax sale and prior to the
3 issuance of the tax certificate of title.

4 (c) When the county collector discovers, prior to the
5 expiration of the period of redemption, that a tax sale should
6 not have occurred for one or more of the reasons set forth in
7 subdivision (a) (1), (a) (2), (a) (6), or (a) (7) of this Section,
8 the county collector shall notify the last known owner of the
9 certificate of purchase by certified and regular mail, or
10 other means reasonably calculated to provide actual notice,
11 that the county collector intends to declare an administrative
12 sale in error and of the reasons therefor, including
13 documentation sufficient to establish the reason why the sale
14 should not have occurred. The owner of the certificate of
15 purchase may object in writing within 28 days after the date of
16 the mailing by the county collector. If an objection is filed,
17 the county collector shall not administratively declare a sale
18 in error, but may apply to the circuit court for a sale in
19 error as provided in subsection (a) of this Section. Thirty
20 days following the receipt of notice by the last known owner of
21 the 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
24 the taxes were sold in error and shall deliver a copy thereof
25 to the county clerk within 30 days after the date the
26 declaration is made for entry in the tax judgment, sale,

1 redemption, and forfeiture record pursuant to subsection (d)
2 of this Section. The county collector shall promptly notify
3 the last known owner of the certificate of purchase of the
4 declaration by regular mail and shall promptly pay the amount
5 of the tax sale, together with interest and costs as provided
6 in Sections 260 through 280, upon surrender of the original
7 certificate of purchase. If the owner of the certificate of
8 purchase is the county as trustee for taxing districts, then,
9 upon request of or consent by the county as trustee, the county
10 collector may declare an administrative sale in error at any
11 time and for any reason. The declaration shall state the
12 reason why the sale should not have occurred.

13 (d) If a sale is declared to be a sale in error, the county
14 clerk shall make entry in the tax judgment, sale, redemption
15 and forfeiture record, that the mobile home was erroneously
16 sold, and the county collector shall, on demand of the owner of
17 the certificate of purchase, refund the amount paid, pay any
18 interest and costs as may be ordered under Sections 260
19 through 280, and cancel the certificate so far as it relates to
20 the mobile home. The county collector shall deduct from the
21 accounts of the appropriate taxing bodies their pro rata
22 amounts paid.

23 (Source: P.A. 98-949, eff. 8-15-14.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.