

SB3746



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3746

Introduced 2/11/2010, by Sen. Rickey R. Hendon

SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-310
35 ILCS 200/22-40

Amends the Property Tax Code. In a provision setting forth requirements for the issuance of a tax deed, provides that the requirement that all forfeitures and sales occurring subsequent to the tax sale must be redeemed applies only to forfeitures and sales of subsequent years' taxes. Provides that liens for delinquent taxes must be merged into the tax deed grantee's title even if the liens are included in a subsequent sale. Makes corresponding changes in a Section concerning sales in error. Provides that the amendatory Act is declarative of existing law.

LRB096 18675 HLH 34059 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 21-310 and 22-40 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 or
15 any part of the lien of taxes sold has become null and void
16 pursuant to Section 21-95 or unenforceable pursuant to
17 subsection (c) of Section 18-250 or has or will become null
18 and void pursuant to subsection (b) of 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 official
2 has made an error (other than an error of judgment as to
3 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, or

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

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

25 (1) A voluntary or involuntary petition under the
26 provisions of 11 U.S.C. Chapter 7, 11, 12, or 13 has been

1 filed subsequent to the tax sale and prior to the issuance
2 of the tax deed.

3 (2) The improvements upon the property sold have been
4 substantially destroyed or rendered uninhabitable or
5 otherwise unfit for occupancy subsequent to the tax sale
6 and prior to the issuance of the tax deed.

7 (3) There is an interest held by the United States in
8 the property sold which could not be extinguished by the
9 tax deed.

10 (4) The real property contains a hazardous substance,
11 hazardous waste, or underground storage tank that would
12 require cleanup or other removal under any federal, State,
13 or local law, ordinance, or regulation, only if the tax
14 purchaser purchased the property without actual knowledge
15 of the hazardous substance, hazardous waste, or
16 underground storage tank. This paragraph (4) applies only
17 if the owner of the certificate of purchase has made
18 application for a sale in error at any time before the
19 issuance of a tax deed.

20 (c) When the county collector discovers, prior to the
21 expiration of the period of redemption, that a tax sale should
22 not have occurred for one or more of the reasons set forth in
23 subdivision (a) (1), (a) (2), (a) (6), or (a) (7) of this Section,
24 the county collector shall notify the last known owner of the
25 certificate of purchase by certified and regular mail, or other
26 means reasonably calculated to provide actual notice, that the

1 county collector intends to declare an administrative sale in
2 error and of the reasons therefor, including documentation
3 sufficient to establish the reason why the sale should not have
4 occurred. The owner of the certificate of purchase may object
5 in writing within 28 days after the date of the mailing by the
6 county collector. If an objection is filed, the county
7 collector shall not administratively declare a sale in error,
8 but may apply to the circuit court for a sale in error as
9 provided in subsection (a) of this Section. Thirty days
10 following the receipt of notice by the last known owner of the
11 certificate of purchase, or within a reasonable time
12 thereafter, the county collector shall make a written
13 declaration, based upon clear and convincing evidence, that the
14 taxes were sold in error and shall deliver a copy thereof to
15 the county clerk within 30 days after the date the declaration
16 is made for entry in the tax judgment, sale, redemption, and
17 forfeiture record pursuant to subsection (d) of this Section.
18 The county collector shall promptly notify the last known owner
19 of the certificate of purchase of the declaration by regular
20 mail and shall promptly pay the amount of the tax sale,
21 together with interest and costs as provided in Section 21-315,
22 upon surrender of the original certificate of purchase.

23 (d) If a sale is declared to be a sale in error, the county
24 clerk shall make entry in the tax judgment, sale, redemption
25 and forfeiture record, that the property was erroneously sold,
26 and the county collector shall, on demand of the owner of the

1 certificate of purchase, refund the amount paid, pay any
2 interest and costs as may be ordered under Sections 21-315
3 through 21-335, and cancel the certificate so far as it relates
4 to the property. The county collector shall deduct from the
5 accounts of the appropriate taxing bodies their pro rata
6 amounts paid.

7 (Source: P.A. 94-312, eff. 7-25-05; 94-662, eff. 1-1-06;
8 95-331, eff. 8-21-07.)

9 (35 ILCS 200/22-40)

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

11 (a) If the redemption period expires and the property has
12 not been redeemed and all taxes and special assessments which
13 became due and payable subsequent to the sale have been paid
14 and all forfeitures and sales of only subsequent years' taxes
15 which occur subsequent to the sale have been redeemed and the
16 notices required by law have been given and all advancements of
17 public funds under the police power made by a city, village or
18 town under Section 22-35 have been paid and the petitioner has
19 complied with all the provisions of law entitling him or her to
20 a deed, the court shall so find and shall enter an order
21 directing the county clerk on the production of the certificate
22 of purchase and a certified copy of the order, to issue to the
23 purchaser or his or her assignee a tax deed. The court shall
24 insist on strict compliance with Section 22-10 through 22-25.
25 Prior to the entry of an order directing the issuance of a tax

1 deed, the petitioner shall furnish the court with a report of
2 proceedings of the evidence received on the application for tax
3 deed and the report of proceedings shall be filed and made a
4 part of the court record.

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

26 (c) The county clerk is entitled to a fee of \$10 in

1 counties of 3,000,000 or more inhabitants and \$5 in counties
2 with less than 3,000,000 inhabitants for the issuance of the
3 tax deed. The clerk may not include in a tax deed more than one
4 property as listed, assessed and sold in one description,
5 except in cases where several properties are owned by one
6 person.

7 Upon application the court shall, enter an order to place
8 the tax deed grantee or the grantee's successor in interest in
9 possession of the property and may enter orders and grant
10 relief as may be necessary or desirable to maintain the grantee
11 or the grantee's successor in interest in possession.

12 (d) The court shall retain jurisdiction to enter orders
13 pursuant to subsections (b) and (c) of this Section. This
14 amendatory Act of the 92nd General Assembly, ~~and~~ this
15 amendatory Act of the 95th General Assembly, and this
16 amendatory Act of the 96th General Assembly shall be construed
17 as being declarative of existing law and not as a new
18 enactment.

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