



Sen. Jason A. Barickman

**Filed: 5/2/2019**

10100HB0250sam002

LRB101 04679 HLH 60194 a

1 AMENDMENT TO HOUSE BILL 250

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 250 on page 1, line  
3 5, by replacing "Section 21-115" with "Sections 21-115, 21-310,  
4 and 22-35"; and

5 on page 2, immediately below line 19, by inserting the  
6 following:

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 the  
12 satisfaction of the court which ordered the property sold that  
13 any of the following subsections are applicable, the court  
14 shall declare the sale to be a sale in error:

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

1           pursuant to Section 21-95 or unenforceable pursuant to  
2           subsection (c) of Section 18-250 or subsection (b) of  
3           Section 22-40,

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

6           (3) there is a double assessment,

7           (4) the description is void for uncertainty,

8           (5) the assessor, chief county assessment officer,  
9           board of review, board of appeals, or other county official  
10          has made an error (other than an error of judgment as to  
11          the value of any property),

12          (5.5) the owner of the homestead property had tendered  
13          timely and full payment to the county collector that the  
14          owner reasonably believed was due and owing on the  
15          homestead property, and the county collector did not apply  
16          the payment to the homestead property; provided that this  
17          provision applies only to homeowners, not their agents or  
18          third-party payors,

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

23          (7) the property is owned by the United States, the  
24          State of Illinois, a municipality, or a taxing district, or

25          (8) the owner of the property is a reservist or  
26          guardsperson who is granted an extension of his or her due

1 date under Sections 21-15, 21-20, and 21-25 of this Act.

2 (b) When, upon application of the owner of the certificate  
3 of purchase only, it appears to the satisfaction of the court  
4 which ordered the property sold that any of the following  
5 subsections are applicable, the court shall declare the sale to  
6 be a sale in error:

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

11 (2) The improvements upon the property sold have been  
12 substantially destroyed or rendered uninhabitable or  
13 otherwise unfit for occupancy subsequent to the tax sale  
14 and prior to the issuance of the tax deed; however, if the  
15 court declares a sale in error under this paragraph (2),  
16 the court may order the holder of the certificate of  
17 purchase to assign the certificate to the county collector  
18 if requested by the county collector. The county collector  
19 may, upon request of the county, as trustee, or upon  
20 request of a taxing district having an interest in the  
21 taxes sold, further assign any certificate of purchase  
22 received pursuant to this paragraph (2) to the county  
23 acting as trustee for taxing districts pursuant to Section  
24 21-90 of this Code or to the taxing district having an  
25 interest in the taxes sold.

26 (3) There is an interest held by the United States in

1 the property sold which could not be extinguished by the  
2 tax deed.

3 (4) The real property contains a hazardous substance,  
4 hazardous waste, or underground storage tank that would  
5 require cleanup or other removal under any federal, State,  
6 or local law, ordinance, or regulation, only if the tax  
7 purchaser purchased the property without actual knowledge  
8 of the hazardous substance, hazardous waste, or  
9 underground storage tank. This paragraph (4) applies only  
10 if the owner of the certificate of purchase has made  
11 application for a sale in error at any time before the  
12 issuance of a tax deed. If the court declares a sale in  
13 error under this paragraph (4), the court may order the  
14 holder of the certificate of purchase to assign the  
15 certificate to the county collector if requested by the  
16 county collector. The county collector may, upon request of  
17 the county, as trustee, or upon request of a taxing  
18 district having an interest in the taxes sold, further  
19 assign any certificate of purchase received pursuant to  
20 this paragraph (4) to the county acting as trustee for  
21 taxing districts pursuant to Section 21-90 of this Code or  
22 to the taxing district having an interest in the taxes  
23 sold.

24 Whenever a court declares a sale in error under this  
25 subsection (b), the court shall promptly notify the county  
26 collector in writing. Every such declaration pursuant to any

1 provision of this subsection (b) shall be made within the  
2 proceeding in which the tax sale was authorized.

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

1 The county collector shall promptly notify the last known owner  
2 of the certificate of purchase of the declaration by regular  
3 mail and shall promptly pay the amount of the tax sale,  
4 together with interest and costs as provided in Section 21-315,  
5 upon surrender of the original certificate of purchase.

6 (d) If a sale is declared to be a sale in error, the county  
7 clerk shall make entry in the tax judgment, sale, redemption  
8 and forfeiture record, that the property was erroneously sold,  
9 and the county collector shall, on demand of the owner of the  
10 certificate of purchase, refund the amount paid, pay any  
11 interest and costs as may be ordered under Sections 21-315  
12 through 21-335, and cancel the certificate so far as it relates  
13 to the property. The county collector shall deduct from the  
14 accounts of the appropriate taxing bodies their pro rata  
15 amounts paid. Alternatively, for sales in error declared under  
16 subsection (b) (2) or (b) (4), the county collector may request  
17 the circuit court to direct the county clerk to record any  
18 assignment of the tax certificate to or from the county  
19 collector without charging a fee for the assignment. The owner  
20 of the certificate of purchase shall receive all statutory  
21 refunds and payments. The county collector shall deduct costs  
22 and payments in the same manner as if a sale in error had  
23 occurred.

24 (Source: P.A. 100-890, eff. 1-1-19.)

1           Sec. 22-35. Reimbursement of a county or municipality  
2 before issuance of tax deed. Except in any proceeding in which  
3 the tax purchaser is a county acting as a trustee for taxing  
4 districts as provided in Section 21-90, an order for the  
5 issuance of a tax deed under this Code shall not be entered  
6 affecting the title to or interest in any property in which a  
7 county, city, village or incorporated town has an interest  
8 under the police and welfare power by advancements made from  
9 public funds, until the purchaser or assignee makes  
10 reimbursement to the county, city, village or incorporated town  
11 of the money so advanced or the county, city, village, or town  
12 waives its lien on the property for the money so advanced.  
13 However, in lieu of reimbursement or waiver, the purchaser or  
14 his or her assignee may make application for and the court  
15 shall order that the tax purchase be set aside as a sale in  
16 error. A sale in error may not be granted under this Section if  
17 the lien has been released, satisfied, discharged, or waived. A  
18 filing or appearance fee shall not be required of a county,  
19 city, village or incorporated town seeking to enforce its claim  
20 under this Section in a tax deed proceeding.  
21 (Source: P.A. 98-1162, eff. 6-1-15.)".