



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB4550

Introduced 2/5/2020, by Rep. Lamont J. Robinson, Jr.

#### SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-310

Amends the Property Tax Code. In provisions requiring the court to declare a sale in error in the case of an error by the assessor, chief county assessment officer, board of review, board of appeals, or other county official, provides that the error must be material to the tax sale at issue and may not include an error in the description of the physical characteristics or location of any property displayed on the website of any county assessing official. Provides that, if the legal or beneficial owner of the property requests bankruptcy relief, a sale in error shall be granted only if the property is subject to an automatic stay pursuant to the bankruptcy petition, and the petition is active as of the date on which the petition for sale in error is filed. Effective immediately.

LRB101 16257 HLH 65630 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 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 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 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 official  
2 has made an error material to the tax sale at issue (other  
3 than an error of judgment as to the value of any property  
4 or an error in the description of the physical  
5 characteristics or location of any property displayed on  
6 the website of any county assessing official),

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

14 (6) prior to the tax sale a voluntary or involuntary  
15 petition has been filed by or against the legal or  
16 beneficial owner of the property requesting relief under  
17 the provisions of 11 U.S.C. Chapter 7, 11, 12, or 13, the  
18 property is subject to an automatic stay pursuant to that  
19 petition, and that petition is active on the date of the  
20 application for judgment and order of sale or the date of  
21 the tax sale,

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

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

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

6           (1) A voluntary or involuntary petition under the  
7 provisions of 11 U.S.C. Chapter 7, 11, 12, or 13 has been  
8 filed subsequent to the tax sale and prior to the issuance  
9 of the tax deed, the property is subject to an automatic  
10 stay pursuant to that petition, and that petition is active  
11 as of the date on which the petition for sale in error is  
12 filed.

13           (2) The improvements upon the property sold have been  
14 substantially destroyed or rendered uninhabitable or  
15 otherwise unfit for occupancy subsequent to the tax sale  
16 and prior to the issuance of the tax deed; however, if the  
17 court declares a sale in error under this paragraph (2),  
18 the court may order the holder of the certificate of  
19 purchase to assign the certificate to the county collector  
20 if requested by the county collector. The county collector  
21 may, upon request of the county, as trustee, or upon  
22 request of a taxing district having an interest in the  
23 taxes sold, further assign any certificate of purchase  
24 received pursuant to this paragraph (2) to the county  
25 acting as trustee for taxing districts pursuant to Section  
26 21-90 of this Code or to the taxing district having an

1 interest in the taxes sold.

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

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

26 Whenever a court declares a sale in error under this

1 subsection (b), the court shall promptly notify the county  
2 collector in writing. Every such declaration pursuant to any  
3 provision of this subsection (b) shall be made within the  
4 proceeding in which the tax sale was authorized.

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

1 is made for entry in the tax judgment, sale, redemption, and  
2 forfeiture record pursuant to subsection (d) of this Section.  
3 The county collector shall promptly notify the last known owner  
4 of the certificate of purchase of the declaration by regular  
5 mail and shall promptly pay the amount of the tax sale,  
6 together with interest and costs as provided in Section 21-315,  
7 upon surrender of the original certificate of purchase.

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

26 (e) The changes made to this Section by this amendatory Act

1 of the 101st General Assembly apply only to tax sales commenced  
2 on or after January 1, 2021.

3 (Source: P.A. 100-890, eff. 1-1-19; 101-379, eff. 1-1-20.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.