



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 2053

2 AMENDMENT NO. _____. Amend Senate Bill 2053 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Property Tax Code is amended by changing
5 Sections 21-310 and 21-315 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,
24 board of review, board of appeals, or other county official

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

3 (5.5) the owner of the homestead property had tendered
4 timely and full payment to the county collector that the
5 owner reasonably believed was due and owing on the
6 homestead property, and the county collector did not apply
7 the payment to the homestead property; provided that this
8 provision applies only to homeowners, not their agents or
9 third-party 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 property requesting relief under
13 the provisions of 11 U.S.C. Chapter 7, 11, 12, or 13, or

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

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

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

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

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

32 (4) The real property contains a hazardous substance,
33 hazardous waste, or underground storage tank that would
34 require cleanup or other removal under any federal, State,

1 or local law, ordinance, or regulation, only if the tax
2 purchaser purchased the property without actual knowledge
3 of the hazardous substance, hazardous waste, or
4 underground storage tank. This paragraph (4) applies only
5 if the owner of the certificate of purchase has made
6 application for a sale in error at any time before the
7 issuance of a tax deed.

8 (c) When the county collector discovers, ~~within one year~~
9 ~~after the date of sale if taxes were sold at an annual tax sale~~
10 ~~or within 180 days after the date of sale if taxes were sold at~~
11 ~~a scavenger tax sale,~~ that a tax sale should not have occurred
12 for one or more of the reasons set forth in subdivision (a) (1),
13 (a) (2), (a) (6), or (a) (7) of this Section, the county collector
14 shall notify the last known owner of the certificate of
15 purchase by certified and regular mail, or other means
16 reasonably calculated to provide actual notice, that the county
17 collector intends to declare an administrative sale in error
18 and of the reasons therefor, including documentation
19 sufficient to establish the reason why the sale should not have
20 occurred. The owner of the certificate of purchase may object
21 in writing within 28 days after the date of the mailing by the
22 county collector. If an objection is filed, the county
23 collector shall not administratively declare a sale in error,
24 but may apply to the circuit court for a sale in error as
25 provided in subsection (a) of this Section. Thirty days
26 following the receipt of notice by the last known owner of the
27 certificate of purchase, or within a reasonable time
28 thereafter, the county collector shall make a written
29 declaration, based upon clear and convincing evidence, that the
30 taxes were sold in error and shall deliver a copy thereof to
31 the county clerk within 30 days after the date the declaration
32 is made for entry in the tax judgment, sale, redemption, and
33 forfeiture record pursuant to subsection (d) of this Section.
34 The county collector shall promptly notify the last known owner

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

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

15 (Source: P.A. 91-177, eff. 1-1-00; 91-357, eff. 7-29-99;
16 91-924, eff. 1-1-01; 92-224, eff. 1-1-02; 92-729, eff.
17 7-25-02.)

18 (35 ILCS 200/21-315)

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

20 (a) If a sale in error under Section 21-310, 22-35, or
21 22-50 is declared, the amount refunded shall also include all
22 costs paid by the owner of the certificate of purchase or his
23 or her assignor which were posted to the tax judgment, sale,
24 redemption and forfeiture record.

25 (b) In those cases which arise solely under grounds set
26 forth in Section 21-310, the amount refunded shall also include
27 interest on the refund of the amount paid for the certificate
28 of purchase, except as otherwise provided in this Section.
29 Interest shall be awarded and paid to the tax purchaser at the
30 rate of 1% per month from the date of sale to the date of
31 payment, or in an amount equivalent to the penalty interest
32 which would be recovered on a redemption at the time of payment
33 pursuant to the order for sale in error, whichever is less.

1 Interest shall not be paid when the sale in error is made
2 pursuant to paragraph (2) or (4) of subsection (b) of Section
3 21-310, Section 22-35, Section 22-50, any ground not enumerated
4 in Section 21-310, or in any other case where the court
5 determines that the tax purchaser had actual knowledge prior to
6 the sale of the grounds on which the sale is declared to be
7 erroneous.

8 (c) When the county collector files a petition for sale in
9 error under Section 21-310 and mails a notice thereof by
10 certified or registered mail to the last known owner of the
11 certificate of purchase, any interest otherwise payable under
12 this Section shall cease to accrue as of the date the petition
13 is filed, unless the tax purchaser agrees to an order for sale
14 in error upon the presentation of the petition to the court.
15 Notices under this subsection may be mailed to the last known
16 owner of the certificate of purchase. When the owner of the
17 certificate of purchase contests the collector's petition
18 solely to determine whether the grounds for sale in error are
19 such as to support a claim for interest, the court may direct
20 that the principal amount of the refund be paid to the owner of
21 the certificate of purchase forthwith. If the court thereafter
22 determines that a claim for interest lies under this Section,
23 it shall award such interest from the date of sale to the date
24 the principal amount was paid. If the owner of the certificate
25 of purchase files an objection to the county collector's
26 intention to declare an administrative sale in error, as
27 provided under subsection (c) of Section 21-310, and,
28 thereafter, the county collector elects to apply to the circuit
29 court for a sale in error under subsection (a) of Section
30 21-310, then, if the circuit court grants the county
31 collector's application for a sale in error, the court may not
32 award interest to the owner of the certificate of purchase for
33 the period after the mailing date of the county collector's
34 notice of intention to declare an administrative sale in error.

1 (Source: P.A. 92-224, eff. 1-1-02; 92-729, eff. 7-25-02.)".