

HB0868



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0868

Introduced 2/10/2009, by Rep. Franco Coladipietro

SYNOPSIS AS INTRODUCED:

35 ILCS 200/21-305

Amends the Property Tax Code. In a Section concerning payments from the Indemnity Fund, provides that petitions for indemnity must be filed no later than 10 years after the tax deed was issued. Effective immediately.

LRB096 02013 HLH 12025 b

FISCAL 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 Section 21-305 as follows:

6 (35 ILCS 200/21-305)

7 Sec. 21-305. Payments from Indemnity Fund.

8 (a) Any owner of property sold under any provision of this
9 Code who sustains loss or damage by reason of the issuance of a
10 tax deed under Section 21-445 or 22-40 and who is barred or is
11 in any way precluded from bringing an action for the recovery
12 of the property shall have the right to indemnity for the loss
13 or damage sustained, limited as follows:

14 (1) An owner who resided on property that contained 4
15 or less dwelling units on the last day of the period of
16 redemption and who is equitably entitled to compensation
17 for the loss or damage sustained has the right to
18 indemnity. An equitable indemnity award shall be limited to
19 the fair cash value of the property as of the date the tax
20 deed was issued less any mortgages or liens on the
21 property, and the award will not exceed \$99,000. The Court
22 shall liberally construe this equitable entitlement
23 standard to provide compensation wherever, in the

1 discretion of the Court, the equities warrant the action.

2 An owner of a property that contained 4 or less
3 dwelling units who requests an award in excess of \$99,000
4 must prove that the loss of his or her property was not
5 attributable to his or her own fault or negligence before
6 an award in excess of \$99,000 will be granted.

7 (2) An owner who sustains the loss or damage of any
8 property occasioned by reason of the issuance of a tax
9 deed, without fault or negligence of his or her own, has
10 the right to indemnity limited to the fair cash value of
11 the property less any mortgages or liens on the property.
12 In determining the existence of fault or negligence, the
13 court shall consider whether the owner exercised ordinary
14 reasonable diligence under all of the relevant
15 circumstances.

16 (3) In determining the fair cash value of property less
17 any mortgages or liens on the property, the fair cash value
18 shall be reduced by the principal amount of all taxes paid
19 by the tax purchaser or his or her assignee before the
20 issuance of the tax deed.

21 (4) If an award made under paragraph (1) or (2) is
22 subject to a reduction by the amount of an outstanding
23 mortgage or lien on the property, other than the principal
24 amount of all taxes paid by the tax purchaser or his or her
25 assignee before the issuance of the tax deed and the
26 petitioner would be personally liable to the mortgagee or

1 lienholder for all or part of that reduction amount, the
2 court shall order an additional indemnity award to be paid
3 directly to the mortgagee or lienholder sufficient to
4 discharge the petitioner's personal liability. The court,
5 in its discretion, may order the joinder of the mortgagee
6 or lienholder as an additional party to the indemnity
7 action.

8 (b) Indemnity fund; subrogation.

9 (1) Any person claiming indemnity hereunder shall
10 petition the Court which ordered the tax deed to issue,
11 shall name the County Treasurer, as Trustee of the
12 indemnity fund, as defendant to the petition, and shall ask
13 that judgment be entered against the County Treasurer, as
14 Trustee, in the amount of the indemnity sought. The
15 provisions of the Civil Practice Law shall apply to
16 proceedings under the petition, except that neither the
17 petitioner nor County Treasurer shall be entitled to trial
18 by jury on the issues presented in the petition. The Court
19 shall liberally construe this Section to provide
20 compensation wherever in the discretion of the Court the
21 equities warrant such action.

22 (2) The County Treasurer, as Trustee of the indemnity
23 fund, shall be subrogated to all parties in whose favor
24 judgment may be rendered against him or her, and by third
25 party complaint may bring in as a defendant any person,
26 other than the tax deed grantee and its successors in

1 title, not a party to the action who is or may be liable to
2 him or her, as subrogee, for all or part of the
3 petitioner's claim against him or her.

4 (c) Any contract involving the proceeds of a judgment for
5 indemnity under this Section, between the tax deed grantee or
6 its successors in title and the indemnity petitioner or his or
7 her successors, shall be in writing. In any action brought
8 under Section 21-305, the Collector shall be entitled to
9 discovery regarding, but not limited to, the following:

10 (1) the identity of all persons beneficially
11 interested in the contract, directly or indirectly,
12 including at least the following information: the names and
13 addresses of any natural persons; the place of
14 incorporation of any corporation and the names and
15 addresses of its shareholders unless it is publicly held;
16 the names and addresses of all general and limited partners
17 of any partnership; the names and addresses of all persons
18 having an ownership interest in any entity doing business
19 under an assumed name, and the county in which the assumed
20 business name is registered; and the nature and extent of
21 the interest in the contract of each person identified;

22 (2) the time period during which the contract was
23 negotiated and agreed upon, from the date of the first
24 direct or indirect contact between any of the contracting
25 parties to the date of its execution;

26 (3) the name and address of each natural person who

1 took part in negotiating the contract, and the identity and
2 relationship of the party that the person represented in
3 the negotiations; and

4 (4) the existence of an agreement for payment of
5 attorney's fees by or on behalf of each party.

6 Any information disclosed during discovery may be subject
7 to protective order as deemed appropriate by the court. The
8 terms of the contract shall not be used as evidence of value.

9 (d) A petition of indemnity under this Section must be
10 filed within 10 years after the date the tax deed was issued.

11 (Source: P.A. 91-564, eff. 8-14-99.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.