

1 AMENDMENT TO SENATE BILL 508

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 508 by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Property Tax Code is amended by changing  
6 Sections 21-310, 21-315, 21-320, 21-330, 21-335, 22-45, and  
7 22-50 as follows:

8 (35 ILCS 200/21-310)

9 Sec. 21-310. Sales in error.

10 (a) When, upon application of the county collector, the  
11 owner of the certificate of purchase, or a municipality which  
12 owns or has owned the property ordered sold, it appears to  
13 the satisfaction of the court which ordered the property sold  
14 that any of the following subsections are applicable, the  
15 court shall declare the sale to be a sale in error:

16 (1) the property was not subject to taxation, or  
17 all or any part of the lien of taxes sold has become null  
18 and void pursuant to Section 21-95,

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,

1 (5) the assessor, chief county assessment officer,  
 2 board of review, board of appeals, or other county  
 3 official has made an error (other than an error of  
 4 judgment as to the value of any property),

5 (5.5) the owner of the homestead property had  
 6 tendered timely and full payment to the county collector  
 7 that the owner reasonably believed was due and owing on  
 8 the homestead property, and the county collector did not  
 9 apply the payment to the homestead property; provided  
 10 that this provision applies only to homeowners, not their  
 11 agents or third-party payors,

12 (6) prior to the tax sale a voluntary or  
 13 involuntary petition has been filed by or against the  
 14 legal or beneficial owner of the property requesting  
 15 relief under the provisions of 11 U.S.C. Chapter 7, 11,  
 16 12, or 13, or

17 (7) the property is owned by the State of Illinois,  
 18 a municipality, or a taxing district. ~~a-municipality-has~~  
 19 ~~acquired-the-property-(i)-through-the--foreclosure--of--a~~  
 20 ~~lien--authorized--under--Section--11-31-1-of-the-Illinois~~  
 21 ~~Municipal-Code-or-through-a-judicial--deed--issued--under~~  
 22 ~~that---Section---or---(ii)---through---foreclosure--of--a~~  
 23 ~~receivership-certificate-lien.~~

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

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

33 (2) The improvements upon the property sold have  
 34 been substantially destroyed or rendered uninhabitable or

1 otherwise unfit for occupancy subsequent to the tax sale  
2 and prior to the issuance of the tax deed.

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

6 (4) The real property contains a hazardous  
7 substance, hazardous waste, or underground storage tank  
8 that would require cleanup or other removal under any  
9 federal, State, or local law, ordinance, or regulation,  
10 only if the tax purchaser purchased the property without  
11 actual knowledge of the hazardous substance, hazardous  
12 waste, or underground storage tank. This paragraph (4)  
13 applies only to tax purchases occurring after January 1,  
14 1990 and if the owner of the certificate of purchase has  
15 made application for a sale in error at any time before  
16 the issuance of a tax deed.

17 If a sale is declared to be a sale in error, the county  
18 clerk shall make entry in the tax judgment, sale, redemption  
19 and forfeiture record, that the property was erroneously  
20 sold, and the county collector shall, on demand of the owner  
21 of the certificate of purchase, refund the amount paid, pay  
22 any interest and costs as may be ordered under Sections  
23 21-315 through 21-335, and cancel the certificate so far as  
24 it relates to the property. The county collector shall deduct  
25 from the accounts of the appropriate taxing bodies their pro  
26 rata amounts paid.

27 (Source: P.A. 91-177, eff. 1-1-00; 91-357, eff. 7-29-99;  
28 91-924, eff. 1-1-01.)

29 (35 ILCS 200/21-315)

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

31 ~~(a) In those cases which arise solely under grounds set~~  
32 ~~forth in Section 21-310 or 22-357, and in no other cases,~~ The  
33 court which orders a sale in error under Section 21-310,

1 22-35, or 22-50 shall also award a refund of interest on the  
 2 refund of the amount paid for the certificate of purchase,  
 3 together with all costs paid by the owner of the certificate  
 4 of purchase or his or her assignor which were posted to the  
 5 tax judgment, sale, redemption and forfeiture record, except  
 6 as otherwise provided in this Section. Except as otherwise  
 7 provided in this Section, interest shall be awarded and paid  
 8 at the rate of 1% per month from the date of sale to the date  
 9 of payment to the tax purchaser, or in an amount equivalent  
 10 to the penalty interest which would be recovered on a  
 11 redemption at the time of payment pursuant to the order for  
 12 sale in error, whichever is less.

13 (b) In those cases which arise solely under grounds set  
 14 forth in Section 21-310, the court shall also award interest  
 15 on the refund of the amount paid for the certificate of  
 16 purchase, except as otherwise provided in this Section.  
 17 Interest shall be awarded and paid to the tax purchaser at  
 18 the rate of 1% per month from the date of sale to the date of  
 19 payment, or in an amount equivalent to the penalty interest  
 20 which would be recovered on a redemption at the time of  
 21 payment pursuant to the order for sale in error, whichever is  
 22 less. Interest on the refund to the owner of the certificate  
 23 of purchase shall not be paid (i) in any case in which the  
 24 improvements upon the property sold have been substantially  
 25 destroyed or rendered uninhabitable or otherwise unfit for  
 26 occupancy, (ii) when the sale in error is made pursuant to  
 27 paragraph (2) or (4) of subsection (b) of Section 21-310,  
 28 Section 22-35, Section 22-50, any ground not enumerated in  
 29 Section 21-310, or (iii) in any case, after January 1, 1990,  
 30 in which the real estate contains a hazardous substance,  
 31 hazardous waste, or underground storage tank that would  
 32 require a cleanup or other removal under any federal, State,  
 33 or local law, ordinance or regulation, only if the tax  
 34 purchaser purchased the property without actual knowledge of

1 ~~the--hazardous--substance,--hazardous--waste--or--underground~~  
 2 ~~storage--tank,--or--(iv)~~ in any other case where the court  
 3 determines that the tax purchaser had actual knowledge prior  
 4 to the sale of the grounds on which the sale is declared to  
 5 be erroneous.

6 (c) When the county collector files a petition for sale  
 7 in error under Section 21-310 and mails a notice thereof by  
 8 certified or registered mail to the tax purchaser, any  
 9 interest otherwise payable under this Section shall cease to  
 10 accrue as of the date the petition is filed, unless the tax  
 11 purchaser agrees to an order for sale in error upon the  
 12 presentation of the petition to the court. Notices under  
 13 this subsection may be mailed to the original owner of the  
 14 certificate of purchase, or to the latest assignee, if known.  
 15 When the owner of the certificate of purchase contests the  
 16 collector's petition solely to determine whether the grounds  
 17 for sale in error are such as to support a claim for  
 18 interest, the court may direct that the principal amount of  
 19 the refund be paid to the owner of the certificate of  
 20 purchase forthwith. If the court thereafter determines that a  
 21 claim for interest lies under this Section, it shall award  
 22 such interest from the date of sale to the date the principal  
 23 amount was paid.

24 (Source: P.A. 89-69, eff. 6-30-95; 90-655, eff. 7-30-98.)

25 (35 ILCS 200/21-320)

26 Sec. 21-320. Refund of other taxes paid by holder of  
 27 certificate of purchase. The court which orders a sale in  
 28 error shall order the refund of all other taxes paid or  
 29 redeemed by the owner of the certificate of purchase or his  
 30 or her assignor ~~which--were--validly--posted--to--the--tax~~  
 31 ~~judgment,--sale-redemption-and-forfeiture-record~~ subsequent to  
 32 the tax sale, together with interest on those the other taxes  
 33 under the same terms as interest is otherwise payable under

1 Section 21-315. The interest under this subsection shall be  
2 calculated at the rate of 1% per month from the date the  
3 other taxes were paid and not from the date of sale. The  
4 collector shall take credit in settlement of his or her  
5 accounts for the refund of the other taxes as in other cases  
6 of sale in error under Section 21-310.

7 (Source: P.A. 86-286; 86-415; 87-669; 88-455.)

8 (35 ILCS 200/21-330)

9 Sec. 21-330. Fund for payment of interest. In counties  
10 of under 3,000,000 inhabitants, the county board may impose a  
11 fee of up to \$60, which shall be paid to the county  
12 collector, upon each person purchasing any property at a sale  
13 held under this Code, prior to the issuance of any  
14 certificate of purchase. Each person purchasing any property  
15 at a sale held under this Code in a county with 3,000,000 or  
16 more inhabitants shall pay to the county collector, prior to  
17 the issuance of any certificate of purchase, a fee of \$100  
18 for each item purchased. That amount shall be included in  
19 the price paid for the certificate of purchase and the amount  
20 required to redeem under Section 21-355.

21 All sums of money received under this Section shall be  
22 paid by the collector to the county treasurer of the county  
23 in which the property is situated for deposit into a special  
24 fund. It shall be the duty of the county treasurer, as  
25 trustee of the fund, to invest the principal and income of  
26 the fund from time to time, if not immediately required for  
27 payments under this Section, in investments as are authorized  
28 by Sections 3-10009 and 3-11002 of the Counties Code. The  
29 fund shall be held to satisfy orders for payment of interest  
30 and costs obtained against the county treasurer as trustee of  
31 the fund. No payment shall be made from the fund except by  
32 order of the court declaring a sale in error under Section  
33 21-310, 22-35, or 22-50. Any moneys accumulated in the fund

1 by the county treasurer in excess of \$500,000 shall be paid  
2 each year prior to the commencement of the annual tax sale,  
3 first to satisfy any existing unpaid judgments entered  
4 pursuant to Section 21-295, and any funds remaining  
5 thereafter shall be paid to the general fund of the county.  
6 (Source: P.A. 88-455; 88-676, eff. 12-14-94; 89-342, eff.  
7 1-1-96.)

8 (35 ILCS 200/21-335)

9 Sec. 21-335. Claims for interest and costs. Any person  
10 claiming interest or costs under Sections 21-315 through  
11 21-330 shall include the claim in his or her petition for  
12 sale in error under Section 21-310, 22-35, or 22-50. Any  
13 claim for interest or costs which is not included in the  
14 petition is waived, except interest or costs may be awarded  
15 to the extent permitted by this Section upon a sale in error  
16 petition filed by the county collector, without requiring a  
17 separate filing by the claimant. Any order for interest or  
18 costs upon the petition for sale in error shall be deemed to  
19 be entered against the county treasurer as trustee of the  
20 fund created by this Section. The fund shall be the sole  
21 source for payment and satisfaction of orders for interest  
22 or costs, except as otherwise provided in this subsection.  
23 If the court determines that the fund has been depleted and  
24 will not be restored in time to pay an award with reasonable  
25 promptness, the court may authorize the collector to pay the  
26 interest portion of the award pro rata from those accounts  
27 where the principal refund of the tax sale purchase price  
28 under Section 21-310 is taken.

29 (Source: P.A. 86-286; 86-415; 87-669; 88-455.)

30 (35 ILCS 200/22-45)

31 Sec. 22-45. Tax deed incontestable unless order appealed  
32 or relief petitioned. Tax deeds issued under Section 22-40

1 22-35 are incontestable except by appeal from the order of  
2 the court directing the county clerk to issue the tax deed.  
3 However, relief from such order may be had under Section  
4 2-1401 of the Code of Civil Procedure in the same manner and  
5 to the same extent as may be had under that Section with  
6 respect to final orders and judgments in other proceedings.  
7 The grounds for relief under Section 2-1401 shall be limited  
8 to:

- 9 (1) proof that the taxes were paid prior to sale;
- 10 (2) proof that the property was exempt from taxation;
- 11 (3) proof by clear and convincing evidence that the tax  
12 deed had been procured by fraud or deception by the tax  
13 purchaser or his or her assignee; or
- 14 (4) proof by a person or party holding a recorded  
15 ownership or other recorded interest in the property that he  
16 or she was not named as a party in the publication notice as  
17 set forth in Section 22-20, and that the tax purchaser or his  
18 or her assignee did not make a diligent inquiry and effort to  
19 serve that person or party with the notices required by  
20 Sections 22-10 through 22-30.

21 In cases of the sale of homestead property in counties  
22 with 3,000,000 or more inhabitants, a tax deed may also be  
23 voided by the court upon petition, filed not more than 3  
24 months after an order for tax deed was entered, if the court  
25 finds that the property was owner occupied on the expiration  
26 date of the period of redemption and that the order for deed  
27 was effectuated pursuant to a negligent or willful error made  
28 by an employee of the county clerk or county collector during  
29 the period of redemption from the sale that was reasonably  
30 relied upon to the detriment of any person having a  
31 redeemable interest. In such a case, the tax purchaser shall  
32 be entitled to the original amount required to redeem the  
33 property plus interest from the sale as of the last date of  
34 redemption together with costs actually expended subsequent



1 to the expiration of the period of redemption and reasonable  
 2 attorney's fees, all of which shall be dispensed from the  
 3 fund created by Section 21-295. In those cases of error where  
 4 the court vacates the tax deed, it may award the petitioner  
 5 reasonable attorney's fees and court costs actually expended,  
 6 payable from that fund. The court hearing a petition filed  
 7 under this Section or Section 2-1401 of the Code of Civil  
 8 Procedure may concurrently hear a petition filed under  
 9 Section 21-295 and may grant relief under either Section.

10 (Source: P.A. 87-145; 87-669; 87-671; 87-895; 87-1189;  
 11 88-455; incorporates 88-451; 88-670, eff. 12-2-94.)

12 (35 ILCS 200/22-50)

13 Sec. 22-50. Denial of deed. If the court refuses to enter  
 14 an order directing the county clerk to execute and deliver  
 15 the tax deed, because of the failure of the purchaser to  
 16 fulfill any of the above provisions, and if the purchaser, or  
 17 his or her assignee has made a bona fide attempt to comply  
 18 with the statutory requirements for the issuance of the tax  
 19 deed, then upon application of the owner of the certificate  
 20 of purchase the court shall declare the sale to be a sale in  
 21 error it--shall--order--the--return--of--the--purchase-price  
 22 forthwith, as in case of sales in error, except that no  
 23 interest shall be paid on the purchase price.

24 (Source: P.A. 86-1158; 86-1431; 86-1475; 87-145; 87-669;  
 25 87-671; 87-895; 87-1189; 88-455.)

26 Section 90. Changes declarative of existing law. Except  
 27 for the amendment to subsection (a) of Section 21-315, the  
 28 changes made by this amendatory Act of the 91st General  
 29 Assembly are declarative of existing law and shall not be  
 30 construed as a new enactment."