

1 AN ACT in relation to taxes.

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

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

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

31 (2) An owner who sustains the loss or damage of any

1 property occasioned by reason of the issuance of a tax  
2 deed, without fault or negligence of his or her own, has  
3 the right to indemnity limited to the fair cash value of  
4 the property less any mortgages or liens on the  
5 property. In determining the existence of fault or  
6 negligence, the court shall consider whether the owner  
7 exercised ordinary reasonable diligence under all of the  
8 relevant circumstances.

9 (3) In determining the fair cash value of property  
10 less any mortgages or liens on the property, the fair  
11 cash value shall be reduced by the principal amount of  
12 all taxes paid by the tax purchaser or his or her  
13 assignee before the issuance of the tax deed.

14 (4) If an award made under paragraph (1) or (2) is  
15 subject to a reduction by the amount of an outstanding  
16 mortgage or lien on the property, other than the  
17 principal amount of all taxes paid by the tax purchaser  
18 or his or her assignee before the issuance of the tax  
19 deed and the petitioner would be personally liable to the  
20 mortgagee or lienholder for all or part of that reduction  
21 amount, the court shall order an additional indemnity  
22 award to be paid directly to the mortgagee or lienholder  
23 sufficient to discharge the petitioner's personal  
24 liability. The court, in its discretion, may order the  
25 joinder of the mortgagee or lienholder as an additional  
26 party to the indemnity action.

27 (b) Indemnity fund; subrogation.

28 (1) Any person claiming indemnity hereunder shall  
29 petition the Court which ordered the tax deed to issue,  
30 shall name the County Treasurer, as Trustee of the  
31 indemnity fund, as defendant to the petition, and shall  
32 ask that judgment be entered against the County  
33 Treasurer, as Trustee, in the amount of the indemnity  
34 sought. The provisions of the Civil Practice Law shall

1 apply to proceedings under the petition, except that  
2 neither the petitioner nor County Treasurer shall be  
3 entitled to trial by jury on the issues presented in the  
4 petition. The Court shall liberally construe this Section  
5 to provide compensation wherever in the discretion of the  
6 Court the equities warrant such action.

7 (2) The County Treasurer, as Trustee of the  
8 indemnity fund, shall be subrogated to all parties in  
9 whose favor judgment may be rendered against him or her,  
10 and by third party complaint may bring in as a defendant  
11 any person, other than the tax deed grantee and its  
12 successors in title, not a party to the action who is or  
13 may be liable to him or her, as subrogee, for all or part  
14 of the petitioner's claim against him or her.

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

22 (1) the identity of all persons beneficially  
23 interested in the contract, directly or indirectly,  
24 including at least the following information: the names  
25 and addresses of any natural persons; the place of  
26 incorporation of any corporation and the names and  
27 addresses of its shareholders unless it is publicly held;  
28 the names and addresses of all general and limited  
29 partners of any partnership; the names and addresses of  
30 all persons having an ownership interest in any entity  
31 doing business under an assumed name, and the county in  
32 which the assumed business name is registered; and the  
33 nature and extent of the interest in the contract of each  
34 person identified;

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

5           (3) the name and address of each natural person who  
6 took part in negotiating the contract, and the identity  
7 and relationship of the party that the person represented  
8 in the negotiations; and

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

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

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