

Vacant and Abandoned Property Leadership Institute Proposed 2023 Illinois Legislative Changes

When property taxes in Illinois are unpaid, they are sold either to a private tax buyer, the County (as Trustee), or a scavenger sale (not used in Peoria County). Generally, the taxes are paid by the buyer, making the taxing bodies whole. The taxes are then collectable for roughly 3 years until the deed can be issued to the tax buyer. This allows ample opportunity for responsible owners to pay back the taxes.

The current delinquent tax enforcement system is often abused, limiting or eliminating losses to the private tax buyers. Under current statutes, the buyers can petition the Court to deem the sale of the property's taxes to be in error, allowing the buyer to have their investment returned, possibly with interest included. This tactic is often employed on properties that have been abandoned and do not have much value. The current statute allows a Sale in Error to be granted if the property's condition has changed since purchasing the taxes. The tax buyers typically purchase 3 to 4 years of taxes on these properties, while the City maintains them at no cost to the buyer. The city has recourse in filing an abatement lien to recoup its cost, but that lien can be used as grounds for a Sale in Error judgment. Once the Sale in Error is entered, a property that is abandoned and being maintained by the city, goes through the tax sale process again. If another private tax buyer purchases the new unpaid taxes, they can use the previous Sale in Error as grounds for an additional Sale in Error petition. The cycle continues until the County Trustee obtains the property, often over 6 years from the point of abandonment and several years after the city starts maintaining it. This process contributes to negative affects on the taxpayers, from the reduction in value on their own homes and the costs associated with the city maintaining the abandoned property.

Legislative changes are necessary to address properties that are vacant, abandoned, or substandard that plague Illinois communities. These properties harm the property values and further cost municipalities to maintain them in the absence of an owner. The legislative initiatives would target those properties and require the current owner to maintain their property to code, pay if they do not do so, or ultimately give up the property for the harm caused in relatively short order.

A working group of municipalities that included Decatur, Kankakee, Peoria, Rockford, and Chicago met in June to identify the issues regarding the current tax enforcement structure with assistance from the Center for Community Progress. The meeting produced a list of potential areas to address, but after further discussion and a consolidation of the same efforts with the City of Chicago and Cook County, the group outlined the below changes to the tax enforcement system that will produce more timely, equitable, and economical outcomes for all municipalities in Illinois. The proposed legislation text is being drafted with the assistance of the Center for Community Progress and the Denzin Soltanzadeh, LLC law firm. The proposed legislative text is expected to be made available to the group in the middle of December.

- Adding unpaid code violation abatement costs to the property tax bill
- Repeal or significantly reduce the Sales in Error provisions.
- Eliminate "resets" after a Sale in Error is granted, creating a maximum time a property could be held by the owner of record with outstanding delinquent taxes
- Amend the abandonment criteria to accelerate the public acquisition of abandoned property
- Merge for purchase at the tax sale all outstanding unpaid taxes, interest, penalties, and unpaid abatement costs and fees.

Adding unpaid code violation abatement costs to the property tax bill

The City currently has an agreement with the County Treasurer to add code violation abatement fees to the property tax bill, but the change would codify the practice. Collecting those costs from the tax bill has historically been higher than using a collections method.

Repeal or significantly reduce the Sales in Error provisions

The current Sale in Error provisions allow for a tax buyer to walk away from a property, bearing no risk and contributing to further deterioration of an abandoned property. Eliminating or reducing the use of the provisions, will push properties to tax deed quicker and dissuade a potential tax buyer from taking a property at the tax sale rather than several years later. If a property's taxes do not sell at the tax sale, they are sold to the County Trustee. If those taxes remain unpaid, the property goes into public ownership by default and can be transferred to a more responsible owner. Ultimately, eliminating the Sale in Error, reduces the harm to a neighborhood and thereby the cost to the city to maintain an abandoned property.

Eliminate "resets" after a Sale in Error is granted

If provisions for a Sale in Error are continued, eliminating the reset and sale of new delinquent taxes will reduce the length of time an abandoned property sits before transferring to public ownership. Under current statute, a property that had a Sale in Error granted is retained by the owner of record and the taxes are due to the County. If future tax bills are unpaid, the cycle is restarted and sold to a new tax buyer. The abandoned property is then maintained by the city until the deed is transferred. Stopping the "resets" after the first Sale in Error and pushing the property to public ownership at that point, could help save a property from demolition and save the taxpayers in future maintenance costs.

Amend the abandonment criteria to accelerate the public acquisition of abandoned property

The existence of an abandoned property has been shown to reduce surrounding property values, increase criminal activity in the neighborhood, and increase costs to taxpayers in maintenance expenses. Municipalities have a remedy to declare a property abandoned and tax ownership, but the length of time and the criteria should be changed to allow quicker access, thereby saving a property before it becomes a further burden on taxpayers.

Current abandonment criteria in statute requires a property to be 2 years behind on taxes or have 2 years outstanding water bills, be unoccupied by persons legally in possession, and impair public health, safety, or welfare. Reducing the length of time for having delinquent taxes and making clear what constitutes possession of the property by an owner, will help move abandoned properties to more responsible ownership.

Merge for purchase at the tax sale all outstanding unpaid taxes, interest, penalties, and unpaid abatement costs and fees.

The yearly tax sale currently does not include all assessed taxes owed, fines, fees, interest, or abatement fees as the total cost to purchase that property's taxes. To clear a property for a tax deed, all the above must be paid, but the total cost is hidden when only one year of taxes is collected at the sale. Adding all that is outstanding on a property at the tax sale ensures that the expenses are paid back to the municipality through the tax sale or make the cost of entry for a tax buyer high enough to allow for the County Trustee to become the tax buyer. Clearing the property for a new owner at the sale or getting the property into public ownership sooner, helps limit the time that the city must maintain an abandoned property.