

# TAX SALES AND TAX DEED PROCEDURES

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In Illinois

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Unless stated otherwise all citations are to the Illinois Property Tax Code 35 ILCS 200/1-1 *et seq.*

## 1) **Real Estate Tax Lien**

-A tax is an enforced contribution for the support of government. It has been said property taxes are literally the “lifeblood of local government.” *Rosewell v. Chicago Title & Trust Co.*, 99 Ill. 2d 407, 459 N.E.2d 966, 76 Ill. Dec. 831 (Ill. 1984). The efficient collection of real property taxes is essential to support local government services.

-Real estate taxes are used to fund taxing districts such as schools, police departments, fire departments, library, ect.

-The State of Illinois has the second highest property taxes in the Country with an effective rate of over 2%.

-Taxes are collected by the county collector a/k/a treasurer.

-Real estate taxes are a prior and first lien on the real estate taxed. §21-75.

-The lien of real estate taxes attaches to real property on January 1<sup>st</sup> of each calendar year in which the taxes are levied. For example, the 2016 tax lien attached January 1, 2016, even though the amount of the lien will not be ascertained until the middle of 2017 (when tax bill is issued).

-Lien of taxes remains until it is paid, sold at tax sale or otherwise satisfied.

-Tax lien takes priority over all other liens and encumbrances, including those prior in time. Only exception is certain types of federal interests.

-Personal liability to pay taxes: §9-175 provides the owner(s) of the real estate on January 1<sup>st</sup> are jointly and severally liable for the real estate taxes for the year.

-At an annual tax sale, tax lien is paid by tax purchaser to the collector and the *in rem* lien of taxes shifts from collector to tax purchaser who may enforce the lien through tax deed proceeding. See *City of Chicago v. City Realty Exchange, Inc.* 127 Ill.App.2d 185, 262 N.E.2d 230 (1<sup>st</sup> Dist. 1970). At an annual sale, the personal liability of owner is extinguished since the taxes have been paid in full.

-At Scavenger Sale, the personal liability of owner is usually not extinguished since

less than the full amount of the tax lien is paid to the Collector.

-A tax lien is uncollectible if delinquent after 20 years. §20-180

## 2) Tax Sales

-Most common and efficient way to collect delinquent taxes is by tax sale.

-If taxes are sold and not redeemed, tax purchaser can petition court and obtain a deed to the property (and receive “merchantable title” to the real estate taxed) for the amount paid at tax sale plus all subsequent taxes and various costs and fees.

-The mere threat of tax sale increases collection as a substantial percentage of properties listed delinquent pay prior to tax sale.

-Illinois tax sales require judicial proceedings.

-Article IX, §8(a) of Illinois Constitution provides, “real property shall not be sold for the nonpayment of taxes or special assessments without judicial proceedings.”

-The process begins with the collector’s publishing a list of delinquent parcels with notice of intended Application and Judgment for Order of Sale of the delinquent properties.

-Published notice of the intended Application for Judgment serves as the process by which the court acquires jurisdiction over the property. It has been held the advertisement is in the nature of a summons. *Nix v. People ex. Rel. Shaw*, 106 Ill. 425 (1883).

-In addition to publication, collector must mail, by registered or certified mail, a notice to the last taxpayer of record or the current owner of record. §21-135.

-As the publication serves as the “summons,” the collector’s tax judgment, sale, redemption and forfeiture record (“judgment record”) prepared by the collector is the complaint.

-§21-160 requires the collector to list all delinquent parcels and amounts due.

-After the judgment and order of sale, custody of the record is given to the county clerk. The clerk will keep the record of any sale, forfeiture, redemptions or tax deeds for each item.

-Upon presentation of its application for judgment of sale, the collector, through the state's attorney's office, will ask the court to enter judgment ordering the sale of the parcels found to be delinquent. The tax sale follows.

-Three types of tax sales in Illinois:

-Annual Sale, Forfeiture Sale and Scavenger Sale.

(a) Annual tax sales

-The purchaser must pay the entire amount of delinquent taxes and penalties plus costs.

-Shortly after the sale concludes, the tax purchaser must also pay all open prior taxes (in addition to the sold taxes). If the tax purchaser does not promptly pay the open taxes, it will be unable to proceed to tax deed but will have a lien for the sold taxes, redeemable at 5% interest per annum. §21-240.

-The bidding at the annual sale is in penalty rates. The winning bidder is the one willing to accept the lowest penalty rate. The maximum penalty rate is 18% and the minimum is 0%. (The penalty rate is for a six-month period or any portion thereof) §21-215.

-Many counties in Illinois utilize computer systems programmed to accept bids and determine winners. In the case of a tie, the winner is either the first to place the lowest bid or a selected by random assignment. In Cook County, if multiple bids at 0% are received, the computer randomly accepts one of them. Some counties still hold open outcry auctions.

(b) Forfeiture sales

-If a parcel is offered for sale at the annual tax sale but no one bids on it, the parcel is "forfeited" to the State of Illinois. §21-225.

-This is a misnomer. Title to the parcel does not change and the State of Illinois obtains no interest in the property.

-The lien of taxes remains in favor of the county and may be redeemed at 12% per year.

-The forfeited lien can be purchased directly from the county clerk ("over the counter") by filing an application. The clerk will mail notice to the tax assessee advising, unless the forfeiture is redeemed within 30 days of mailing, the applicant

can complete the purchase by paying the amount necessary to redeem the forfeiture and any prior taxes. §21-405.

-The purchaser is issued the tax sale certificate “over the counter.” The penalty rate is fixed at 12% per six month period or part thereof.

(c) Scavenger Sales

-Held every two years (odd years) for properties in which three or more years taxes are delinquent. §21-145.

-Taxes are sold to the highest cash bidder, regardless of the amount of taxes due (bidding begins with a minimum bid of \$250.00).

-Tax purchaser can obtain a tax lien for less than the total amount due in delinquent taxes. The purpose being to extinguish chronically delinquent tax liens and return those properties to “tax paying” status.

-Since the purchaser obtains the lien (and potentially a tax deed) for less than the tax amount, there is an incentive to purchase one’s own delinquent taxes to avoid full payment of back taxes. This is scavenger sale fraud and carries with it criminal penalties. §21-290.

-Certificate of Purchase

-After each tax sale, an assignable certificate of purchase is issued to tax purchaser memorializing the sale. §21-250.

-If the holder of the certificate of purchase does not take out and record a tax deed within one year from the expiration of the redemption period, the certificate and the sale on which it is based shall be absolutely void with no right to reimbursement. §22-85.

-The court may toll the time in which to take out and record a tax deed if the tax purchaser is prevented, or the court is unable, to act upon the application for tax deed. This is common in cases where the petition and application for tax deed are contested or where a bankruptcy automatic stay is in place.

3) **Redemptions from tax sales**

Both the Illinois Constitution and Property Tax Code provide a right of redemption. Article 9, §8(b) and §21-345.

(a) Timing:

- Redemption must be made within the statutory redemption period or as extended by the certificate holder.
- Only certificate holder may extend the period of redemption but not more than 3 years from the date of sale. §21-385 and §22-85.
- Property owner cannot extend the redemption period.
- Statutory redemption periods are determined by the type of property on the date of tax sale as follows:
  - Property improved with a dwelling structure of six or fewer units, two years and six months from sale date;
  - If the delinquency is for any part of two or more years for (a) vacant, non-farm property, (b) real estate containing seven or more residential units (c) commercial or (d) industrial property, six months from sale date.
  - All other properties, two years from sale date.

(b) Amount of Redemption:

- Payment to redeem tax sale must be in cash, cashier's check or money order payable to county clerk.
- For a fee, county clerk will issue estimate of redemption.
- The amount to redeem can change periodically due to penalty periods, costs and subsequent taxes paid and posted by the tax purchaser. Redeeming party must use an updated estimate of redemption to ensure the amount is accurate.
- Redemption funds must be received in the county clerk's office by the end of the redemption period or mailed with a post office mark dated not less than one day prior to last day to redeem. §21-355
- To redeem an annual tax sale, amount required is all taxes, interest and costs paid at the time of the sale plus the accrued penalty; all taxes and special assessments paid and posted by the tax purchaser subsequent to the tax sale ("sub-tax"); and

12% penalty per year or fraction thereof on the sub-tax (and certain statutory fees) from the time paid until redeemed. §21-355.

-To redeem scavenger sale, amount required is all delinquent taxes and penalties which were due at the time of the tax sale with statutory interest. The only exception is for owner-occupied single family dwellings. §21-260.

(c) Who may redeem:

-A party redeeming must have an interest in the property. A stranger to title has no right to redeem from a tax sale. *Weiner v. Jobst*, 22 Ill.2d 11, 174 N.E.2d 561 (1961). However, redemptions are looked upon with favor by the courts and the courts will give a liberal construction to the redemption laws. *Loop Mortgage v. Williams*, 185 Ill.2d 428, 706 N.E.2d 465 (1998).

-Redemptions are presumed to be made by or on behalf of the owners or interested parties. §21-345.

(d) Redemption under protest:

-One can redeem under protest to preserve the right to defend against the tax deed proceeding. §21-175.

-If the redeeming party successfully protests, the sale will be set aside as a “sale-in-error” and the redemption money refunded to the redeeming party. If unsuccessful, the redemption shall stand but costs and attorney’s fees may be awarded to the tax petitioner.

-Grounds for the protest are any defenses to the petition and application for tax deed.

(e) Equitable Redemption:

-In very limited circumstances (typically upon detrimental reliance on an error made by public official) the court can invoke its equitable powers and allow a redemption even when the time to redeem has expired.

(f) Expungement of Redemption:

-Invalid redemptions can be expunged on motion of the tax purchaser. Typically these redemptions are the result of insufficient amounts being accepted by the county clerk or if the redeeming party lacked a sufficient interest in the property to redeem.

-Parties attempting to purchase residential real estate upon which a tax sale has occurred should be aware of the Mortgage Rescue Fraud Act (765 ILCS 940/1, *et seq.*) which applies to properties at risk of loss for the non-payment of taxes.

-To avoid having to defend an action to expunge a redemption, it is important to disclose the identity of the party redeeming the sale and in what capacity he/she is acting [10.72]

#### 4) **Sale-in-error**

##### (a) Grounds

-Under certain circumstances, a tax sale may be vacated (“sale in error”) on a petition brought by either the county collector or the tax purchaser. The grounds for a sale-in-error are governed by statute. §21-310.

-County collector might seek sale-in-error because taxes were paid prior to sale or the property is owned by a unit of local government.

-Tax purchaser can seek sale-in-error due to substantial destruction of property improvements, the property is part of a bankruptcy estate, or the assessor has made an error in the assessment (other than the value of the property).

-A property owner does not have standing to seek a sale-in-error. If an owner believes a sale-in-error is warranted, the owner can contact the treasurer who will generally refer the matter to the state’s attorney’s office for review. If the error is caught early enough (such as payment just prior to sale) the matter can be handled administratively.

-If a petition for tax deed is denied but the court finds the petitioner made a *bona fide* attempt to comply with the Property Tax Code, the court may declare a sale-in-error. §22-50.

(b) Effect of sale-in-error

-Tax purchaser is refunded all monies (taxes, costs) paid, sometimes with interest (depending on grounds).

-Tax sale is vacated and the sold taxes, along with sub-taxes paid by tax purchaser, return to open status. Statutory late interest accrues from the date the taxes were originally due. Unless the open taxes are paid, they will be subject to future tax sales (either annual or scavenger).

5) **Tax Deed Proceedings**

-Tax purchaser must take required steps to ensure the tax certificate is enforceable and can ultimately result in the issuance of a tax deed. Among other things, the tax purchaser is required to prepare and send statutorily mandated form notices within certain strict time frames.

-While a tax deed can only be issued after the redemption period expires, the tax purchaser must take most actions before redemption expires.

a) §22-5 notice

-This notice must be completed by the tax purchaser and delivered to the County Clerk for mailing to the last known tax payer of record within 4 months and 15 days from the tax sale. §22-5.

-The county clerk must mail the notice by registered or certified mail. The cost of mailing is paid by the tax purchaser and may be posted to the judgment record to be included in the amount required to redeem as of the date the notice is sent.

-It is the only of the notices to include a redemption amount. The purpose of the notice is to advise the taxpayer a sale has occurred before the first six month penalty period expires.

-The notice must state the last day to redeem. Under a recent case, it was held the last day to redeem cannot fall on a Saturday, Sunday or court holiday. *Glohry v. One West Bank*, 2011 IL App (1<sup>st</sup>) 101966. If the notice is defective the tax purchaser will not be entitled to a tax deed, although may be entitled to a sale-in-error as provided by §22-50.

b) Petition for tax deed

-If no redemption has been made from the sale, a petition for tax deed may be filed within not more than six and not less than three months prior to the redemption expiration date (the “notice serving period”). §22-30

-The filing of a petition for tax deed is a proceeding supplemental to the collector’s application for judgment and order of sale.

-The petition must describe the property, state the date of sale, the year sold, allege no redemption has been made, state the last day to redeem and, if no redemption is made within the redemption period, ask the court for an order directing the issuance of tax deed and an order of possession.

-The costs associated with filing the petition, serving and publishing notices may be posted to the judgment record and recovered upon redemption.

-*Lis Pendens* notice is not required (although not prohibited).

c) Take Notices

-The petition for tax deed is not served on owners and interested parties. Rather statutory Take Notice forms are served as required.

-Both the form and substance of the Take Notices must be in strict compliance. §22-40.

-The notice must accurately contain every element provided on the statutorily mandated form or the petition for tax deed will be denied. *In re Application of the County Treasurer (Dream Sites, L.L.C. v. Grace Apostolic Faith Church)*, 356 Ill.App.3d 668, 826 N.E.2d 951 (1<sup>st</sup> Dist. 2005)

-Any omission (however slight) renders the notice noncompliant without regard to whether anyone was misled by the omission because prejudice to a respondent is presumed. *In re Application of County Collector (Midwest Real Estate Investment Company v. Anderson)*, 295 Ill.App.3d 703, 692 N.E.2d 1211 (1<sup>st</sup> Dist. 1998).

-During the notice serving period, the Take Notices must be served three ways (or service must at least be attempted): by the Sheriff, Certified Mail by the Circuit Clerk and by publication.

-The notices provide a return date when the tax purchaser will appear in court if no redemption is made from the sale.

-Duty of the tax deed petitioner to make a diligent inquiry and effort to ascertain the identity of and effect service on owners, occupants and interested parties.

-If a party has an interest in the property that party it must be named and served.

-Tax deed petitioners must make a diligent search of all public records in the county including court records, telephone directories, voters lists, websites, etc.

-Tax deed petitioner must physically inspect the property to determine occupants and for other relevant information.

-Tax deed petitioner may post the cost of a title search to the sale to be recovered upon redemption.

#### (1) Sheriff Notice §22-10

-Prepared by tax deed petitioner and delivered to the county sheriff for service on owners, occupants and parties interested in the property.

-In Cook County, notice must be served by the sheriff. In all other counties, a special process server may be appointed. All notices must be served during the notice serving period.

-§22-15 permits substitute service as provided for in §2-203 of the Code of Civil Procedure, however attempts on owner-occupants must be by personal service.

-If a party cannot be found in the county, the notice may be sent by certified mail to last known address.

(2) Clerk Notice §22-25

-Notice is prepared by tax deed petitioner and mailed by the clerk of the circuit court to owner and occupants of the property sold.

-Notice is identical to the §22-10 notice except it bears the signature of the clerk.

-Clerk sends the notice by registered or certified mail during notice serving period.

(3) Notice by Publication §22-20

-Publication is required in every petition for tax deed.

-Notice must be published 3 times after the petition for tax deed is filed and during the notice serving period.

-Certificate of the publisher must be filed in the record.

(d) Due Process

-Proceedings are *in rem* and service is not required to establish jurisdiction. Jurisdiction is acquired when Collector makes application for judgment.

-Due process does not require actual notice. A tax purchaser can obtain a valid tax deed without having obtained personal service.

-See *Dusenbery v. United States*, 534 U.S. 161 (2002), due process does not require actual notice but efforts 'reasonably calculated' to provide notice

-However, constitutional guarantees of due process do apply.

-The Fourteenth Amendment of the U.S. Constitution and Article 1, §2 of the Illinois Constitution prohibit depriving any person of property without "due process of law."

-This has been held to mean 'notice and an opportunity to be heard. -The question is: what is *reasonable under circumstances*?

-*Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950)

-Notice must be “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.”

-“the means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it.”

-*Mennonite Board of Missions v. Adams*, 462 U.S. 791 (1983)

-Held mortgagee was entitled to adequate notice of tax sale.

-Publication and posting alone were not sufficient.

-Notice by mail or other means is required to provide actual notice if name and address of interested party are “reasonably ascertainable.”

-*Jones v. Flowers*, 547 U.S. 220 (2006)

-Supreme Court held when notice of tax sale is sent by certified mail but returned unclaimed, the State is required to “take additional reasonable steps to attempt to provide notice” when “it is practicable to do so.” (Dissent by Justice Thomas argues what is reasonable should be determined at the time the notice is sent, not after the fact (when notice has been returned unclaimed).)

-*Estate of Lowe v. Apex Tax Investments, Inc.*, 547 U.S. 1145 (2006)

-Illinois tax deed case which the Supreme Court remanded to Illinois Supreme Court for further consideration of the constitutionality of the Illinois tax sale process in light of *Jones v. Flowers*.

-Illinois Supreme Court (*In Re Application of County Collector*, 687 N.E.2d 941, 225 Ill.2d 208 (2007)) held the Illinois procedure satisfies due process noting the Illinois system contains

dramatically more efforts at notice than the Arkansas process in *Jones v. Flowers*.

(e) Return date on Petition for tax deed

-If there has been a lawful redemption from the sale, the case will be dismissed by tax purchaser.

-The case may be continued to future date.

-If the petitioner has filed an application for tax deed, in Cook County the case will be assigned and set for hearing. Other counties the case may proceed to hearing on the return date.

(f) Application for Tax Deed

-If no redemption is made during the redemption period, the tax deed petitioner may file an application for tax deed.

-In Cook County the application must comply with Circuit Court Rule 10.3(b) and Administrative Order 2007-13.

(g) Prove-up hearing

-In uncontested cases, the petitioner will introduce evidence demonstrating compliance with the various provisions of the Property Tax Code.

-Proofs may consist of oral testimony, affidavits, documents including the original certificate of purchase and a title search, sheriff returns, certified mail returns, proof of publication, tax map, photographs, etc.

-In contested cases, the petitioner will introduce its proofs subject to cross-examination and respondent can introduce evidence and arguments supporting its objection(s).

-The court will take the matter under advisement pending:

-the report of proceedings being filed in the record;

-proof of payment of all taxes which have become due subsequent to the sale;

-proof of payment of all municipal advancements as required by §22-35;

-any other matter the court requires to establish strict compliance with the Property Tax Code; and

-a proposed order directing the issuance of tax deed.

(h) The Tax Deed

-If the Court is satisfied the Petitioner is entitled to a tax deed, it will enter an order directing the County Clerk to issue a tax deed to petitioner or its assignee.

-The tax deed is prepared by the petitioner and delivered to the county clerk with the final order and a fee. The deed is signed by the county clerk.

-§22-85 requires the tax deed to be recorded within one year from the expiration of the period of redemption (unless the time is tolled) or the certificate and deed are void with no right of reimbursement.

-Tax deeds convey merchantable title. §22-55.

-Tax deed title has been defined as, “a new and independent title, free and clear from all previous titles and claims of every kind and character.” *City of Bloomington v. John Allan Co.*, 18 Ill.App.3d 569 (4<sup>th</sup> Dist. 1974)

-Tax deed extinguishes the interests of the former owner(s), mortgagees, mechanics liens claimants, existing lease holders, etc.

-Tax deed does not extinguish certain easements; covenants, conditions or restrictions of record; certain Federal interests; and unpaid special assessments.

-Tax deed is subject to condominium assessments but only those assessments which first accrue subsequent to the date of the tax deed.

-prior year's taxes which open up after a tax sale may be merged into a tax deed to ensure merchantable title. (§22-40(b))

(i) Possession

-Tax Deed grantee is entitled to an order of possession. (§22-40)

-A separate forcible entry and detainer case is not required.

6) **Defenses to tax deeds**

-The defenses which may be raised depend on the timing of when objection is made.

-Direct attack

-If an objection is filed prior to, or within 30 days from, the order directing the issuance of a tax deed, it is considered a direct attack.

-There are no limitations on the type of defenses which may be raised.

-Any responding party with standing can raise any defense, even if it does not apply to that party, but only to another (i.e., party A can defend claiming the notice was defective as to party B).

-Some defenses include:

-the form or substance of the take notice was not in strict compliance.

-an interested party was not named.

-an interested party was named but not served and could have been served.

-Collateral attack

-§22-45 provides tax deeds are incontestable except by appeal. However, relief may be had under a §2-1401 proceeding but the ground for relief are limited to:

(1) proof the taxes were paid prior to sale;

(2) proof the property was exempt from taxation;

(3) proof by clear and convincing evidence the tax deed was procured by fraud or deception by the tax purchaser;

(4) proof by a person or party holding a recorded interest in the property that the party was not named in the publication notice and the tax purchaser did not make a diligent inquiry and effort to serve the party with the required notices ; or

(5) for homestead property in Cook County, and only if made within 90 days of the entry of the tax deed order, when error by an employee of the county clerk or county collector prevented redemption by a party with a redeemable interest.

-Entry of the order vacating the tax deed order is contingent on the successful party's reimbursing the tax purchaser for all amounts paid, with interest, including taxes, costs and municipal payments. Reimbursement must be made within 90 days of the order vacating the tax deed. §22-80(b).

-Void orders/Jurisdictional defenses

-A void order may be attacked at anytime.

-If the court lacked jurisdiction to sell the parcel, any resulting order for deed is void.

-the taxes were paid prior to sale or property was exempt from taxation; or

-the owner of the property had bankruptcy case pending on the date of the tax sale.

-Failure to actually serve a party with notice amounting to a due process violation. (Typically, the failure to serve a party does not amount to a due process violation, but it can.) *In re County Collector (Devon Bank v. Miller)* 921 N.E.2d 462 (2009).

7) **Bankruptcy Issues**

-If the owner's petition for bankruptcy was pending on the date of tax sale, the sale is void because the County Court lacked jurisdiction to order the sale. Upon filing a petition for bankruptcy protection, the bankruptcy court obtains jurisdiction over the property and any tax sale violates the automatic stay provisions found in 11 U.S.C. §362(a).

-For a bankruptcy petition filed after a tax sale, real estate taxes are a claim which may be treated in bankruptcy. See *In re LaMont*, 740 F.3d 397 (7<sup>th</sup> Cir. 2014), holding a tax lien is a secured claim which can be treated in a Chapter 13 plan.

-The Court of Appeals for the Seventh Circuit has held that a tax deed can be considered a fraudulent transfer under 11 U.S.C. §548. See *Smith v. Sipi, LLC (In re Smith)*, 811 F.3d 228 (7<sup>th</sup> Cir. 2016). In this case the court found the amount paid at tax sale (the amount of taxes) was not "reasonably equivalent value" and could be avoided.

8) **Indemnity**

-When a tax deed cannot be set aside, relief may still be available for an owner who has lost his/her property to a tax deed.

-Each county treasurer is required to maintain an indemnity fund from which a qualifying owner may obtain a monetary award. §21-295 through §21-306.

-Funding for the Indemnity Fund is paid by tax purchasers who pay an Indemnity Fund fee with each certificate of purchase and each sub-tax payment made. The Indemnity Fund fees are recoverable through redemptions and therefore most of the funding is ultimately paid by delinquent taxpayers.

-§21-305 establishes the standards for recovery from the Indemnity Fund

-Equitable entitlement

-An owner who resided on property which contained four or fewer dwelling units on the last day to redeem and who is equitably entitled to compensation for loss of property though tax deed has a

right to indemnity limited to the fair cash value of the property lost as of the day the tax deed was issued not to exceed \$99,000.

-the court shall liberally construe the equitable entitlement standard to provide compensation when, in the discretion of the court, is warranted by equity.

-Without fault or negligence

-All other owners who have lost property to tax deed are entitled to indemnity if they can prove they sustained the loss “without fault or negligence.”

-The court shall consider whether the owner exercised ordinary reasonable diligence under all the circumstances.

-Amount of award

-An indemnity award is determined by the fair cash value of the property on the date the tax deed was issued.

-The award will be reduced by any mortgages or other liens on title prior to the tax deed being recorded.

-The court can order an additional award to be paid to the mortgagee sufficient to discharge the owner’s personal liability. *Viso v. Rosewell*, 119 Ill.App.3d 212 (1983) and §21-305(a)(4)

-Indemnity awards are assignable and can be assigned to the tax deed grantee to repurchase the property.

-In Cook County, the balance of the Indemnity Fund is insufficient to pay all awards entered. Awards are typically paid within one year.

-Indemnity awards bear interest at the rate of 6% per annum.

-*Demos v. Pappas*, 2011 IL App (1<sup>st</sup>) 100982, 956 N.E.2d 533.

-Any contract between an indemnity petitioner and tax deed grantee must be in writing. An indemnity repurchase agreement prior to the expiration of the redemption period is indemnity fund fraud and a class 4 felony. §21-306(b)

-The Treasurer, as Trustee of the Indemnity Fund, is subrogated to all parties in whose favor a judgment may be entered. The Treasurer can file a third party complaint for contribution against those responsible for the loss. §21-305(b)(2). Typically, the treasurer uses this provision to third party in the mortgage lender responsible for paying the taxes through a tax escrow.