How Wealthy Investors are Making Millions Exploiting Illinois' Property Tax Law

Their profits come at the expense of Black and Latino communities

Maria Pappas, Cook County Treasurer

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Overview

Hedge funds, private equity firms and real estate investors have made millions of dollars by exploiting a little-known loophole in Illinois' property tax law, siphoning nearly $280 million away from schools, parks, libraries, fire departments and other government agencies during the past seven years, a study by the Cook County Treasurer's Office has found.

The loophole — a key source of profit for private investors — can be found in a subsection of the Illinois property tax code dealing with the sale of delinquent property taxes.

The investors, known as tax buyers, pay a property owner's delinquent taxes hoping to later recoup their investment from owners who repay at interest rates that, after three years, can climb as high as 54%.[1] If the owner does not pay their delinquent taxes, including interest and fees — a transaction called "redemption" — the tax buyer can seek a court-ordered deed to take ownership of the business or home.[2]

Institutional tax buyers, many of them headquartered outside of Cook County, often do not want to take ownership of a property, having determined it was not worth pursuing in court.[3]

An Illinois law that tax buyers helped to rewrite gives them an out: the "sale-in-error" statute.[4]

The sale-in-error statute exists to vacate, or undo, tax sales that should never have taken place, including when a property owner had paid their taxes before the sale; the property was government owned; the property was owned by a church or other nonprofit group; or the property was part of a pending bankruptcy at the time of the tax sale.

However, tax buyers have been exploiting the statute to overturn tax cases and to get their money back — with interest — for reasons that would not be allowed in other states.

Tax buyers have received their money back for "errors" because the Assessor's website stated a home had no air conditioning when it did have air conditioning;[5] a home was made of stucco when it was made of brick;[6] and an existing two-story commercial building had zero square feet of space.[7]

The Treasurer, as the county's tax collector, must refund all taxes, costs and fees to the private investors for such "errors," and often pays interest — up to 12% per year.[8][9] When a tax sale is undone by a sale in error, the money paid to tax buyers comes from the accounts of often cash-strapped local governments in Black and Latino communities. The property is returned to the delinquent tax rolls.[10]

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[1] "Due Dates, Delinquencies, and Enforcement of Payments," Illinois Property Tax Code, 35 ILCS 200/Art. 21. Section 21-215 states the maximum penalty bid is 9%, and Section 21-355(b)(6) states that penalty is multiplied six times for the last period to redeem.

[2] (35 ILCS 200/22-30, 22-40). See "Petition for deed" and "Issuance of deed; possession."

[3] Cecil Smart et al., *Cazenovia Creek Funding II, LLC Caz Creek TX, LLC,* (New York: Kroll Bond Rating Agency, 2018). One tax buyer, Cazenovia Creek of Charlotte, N.C., has foreclosed on only 120 properties out of a total of more than 326,000—or about.00037%.

[4] (35 ILCS 200/21-310). "When, upon application of the county collector, the owner of the certificate of purchase, or a municipality which owns or has owned the property ordered sold, it appears to the satisfaction of the court which ordered the property sold that any of the following subsections are applicable, the court shall declare the sale to be a sale in error…"

[5] "Motion to Vacate Tax Sale," In the Matter of the Application of the County Collector, Etc., Petition of Real Tax Acquisition, LLC, Case No. 2018COTD004729, December 5, 2019.

[6] "Petition for Order Declaring a Sale in Error," In the Matter of the Application of the County Collector, Etc., Petition of Eeservices Inc., Case No. 2018COVT001541, August 9, 2018.

[7] "Petition to Vacate Tax Sale," In the Matter of the Application of the County Treasurer, Etc., Cazenovia Creek Funding I, LLC, Case No. 2016COVT001660, August 25, 2016.

[8] (35 ILCS 200/21-315(b)). "Interest shall be awarded and paid to the tax purchaser at the rate of 1% per month from the date of sale to the date of payment, or in an amount equivalent to the penalty interest which would be recovered on a redemption at the time of payment pursuant to the order for sale in error, whichever is less."

[9] (35 ILCS 200/21-320). "The interest under this subsection shall be calculated at the rate of 1% per month from the date the other taxes were paid and not from the date of sale."

[10] (35 ILCS 21-310(d)). "… [T]he county collector shall, on demand of the owner of the certificate of purchase, refund the amount paid… for each item purchased at the tax sale, pay any interest and costs as may be ordered under Sections 21-315 through 21-335, and cancel the certificate so far as it relates to the property. The county collector shall deduct from the accounts of the appropriate taxing bodies their pro rata amounts paid."

Key Findings

In its study, the Treasurer's Office examined 10,893[11] sales in error granted from September 2015 to September 2022, in which a total of about $277.6 million — including at least $27.7 million in interest — was funneled back to tax buyers.

Among the key findings:

- Black and Latino communities have been especially harmed since many of the properties that end up at tax sales are from economically distressed areas. Nearly $241 million intended for those communities was returned to investors, depleting funds they counted on to deliver services. In other words, 87% of all money paid to tax buyers was drained from these communities.
- The top six tax buyers who profited the most from tax sale errors include a series of shell companies linked to a single suburban Chicago address; a firm run by the sons of a longtime Chicago tax buyer; a firm whose majority owner is a Denver-based hedge fund; a New Jersey-based fund of high-wealth investors; a Chicago firm run by a father and son, both lawyers; and a Florida-based investment firm, whose top management includes a former NFL player.
- Under current state law, tax buyers get their money back if a property owner files for bankruptcy after a sale. They get money back with interest, even though the bankruptcy "error" was not the result of any government action or official duty.
- Government leaders in Springfield and Cook County have failed to remedy longstanding loopholes in the tax sale process, while also failing to take sufficient steps that could reduce sales in error.
- Nearly one out of every two sale errors resulted from a mistake by a Cook County office.
- Judges granted the most sales in error for mistakes on the Assessor's website, although many of those errors were trivial and would have caused no financial loss to the tax buyer.
- The offices of the Sheriff and the Clerk of the Circuit Court repeatedly failed to timely notify property owners — as required by law — that they were in danger of losing their homes or businesses. Sheriff service errors were the second most-often cited reason for county errors after the Assessor's website mistakes.
- The Treasurer's Office has continually sold the same error-prone properties at tax sales, allowing investors to cash in again and again.
- Cook County judges have liberally interpreted the sale-in-error law relating to county errors, while not weighing whether any actual financial harm was done to the tax buyer, an indication the law needs to change.

[11] In 29 of the 10,893 cases, the reason for the sale in error could not be determined because key court records were unavailable.

BACKGROUND

The study was conducted by a research unit Treasurer Maria Pappas created last year to investigate inequities, inefficiencies and flaws in the sprawling property tax system.[12] Pappas, who has tried to change Illinois' arcane sale-in-error statute, instructed the research unit to examine tax sales that were overturned due to errors and to make recommendations for change.

In previous studies, the research unit analyzed 1.8 million Cook County tax bills and found that Black and Latino suburban residents bore the brunt of 2020's increases in property taxes[13] and, in July 2022, documented how the county's tax sale system failed to restore vacant and abandoned properties in minority areas to the tax rolls.[14]

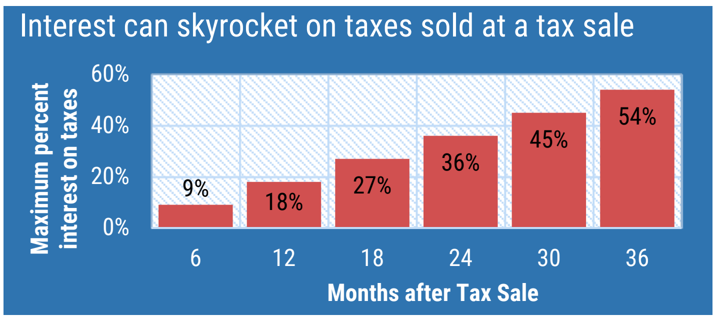

Figure 1: Under state statute, a property owner who waits three years to repay their tax debt could pay up to 54% in interest to a tax buyer.

For its latest study, the research unit examined the results of eight Cook County property tax sales held from 2015 to 2019.

The study found that the General Assembly, and the offices of the Treasurer, Assessor, Clerk, Sheriff, State's Attorney and Circuit Court Clerk need to do more to prevent tax buyers from unfairly profiting from avoidable government mistakes.

Poor communication and lack of cooperation among county offices often leads to errors going uncorrected.

The Assessor's Office has repeatedly stated a property contained a single-family home when it was a vacant lot, and the Sheriff and Circuit Court Clerk have been weeks late in notifying property owners that their home or business could be foreclosed on.

The Treasurer's Office has sold parcels that should not have been offered — tax-exempt nonprofit- and government-owned properties — leading to big paydays for tax buyers.

This occurs in part due to incorrect information on the Assessor's website showing properties as taxable when they are not, from nonprofit groups failing to apply for tax-exempt status with the Illinois Department of Revenue and from the Treasurer's Office not fully researching properties before they are offered at a tax sale.

The Treasurer's Office in 2017 sold taxes on a tax-exempt church, rectory and parish center that had been owned by the Catholic Church since 1889.[15] The Treasurer sold taxes on property owned by a synagogue,[16] on a church cemetery,[17] on a U.S. Postal Office[18] and on numerous Chicago-area highways.

The Treasurer's Office conducts pre-sale research on properties before offering them at a tax sale, but still misses avoidable errors.

The Treasurer's research unit surveyed government finance offices in populous municipalities in other states

[12] Treasurer Maria Pappas' instructions to the research unit were to follow the facts, even if findings show her office made mistakes and should make improvements to reduce sales errors.
[13] "Tax Bill Analysis and Statistics," Cook County Treasurer's Office, https://www.cookcountytreasurer.com/taxbillanalysisandstatistics.aspx.
[14] "Maps of Inequality: From Redlining to Urban Decay and the Black Exodus, https://www.cookcountytreasurer.com/pdfs/scavengersalestudy/2022scavengersalestudy.pdf
[15] "Petition for Sale in Error," In the Matter of the Application of the County Treasurer, Etc., Petition of County Collector for Refund to: Fair Deal of Illinois Inc., Case No. 2018COVT000581, March 13, 2018.
[16] "Petition for Sale in Error," In the Matter of the Application of the County Treasurer, Etc., Petition of County Collector for Refund to: Wheeler Financial, Case No. 2017COVT001304, October 6, 2017.
[17] "Motion to Amend Agreed Order Granting Sale in Error Entered on February 22, 2016," In the Matter of the Application of the County Treasurer, Etc., Petition of: FNA 2015-1 Trust, U.S. Bank National Association, as Indenture Trustee, Case No. 2016COVT000229, January 29, 2016.
[18] "Petition for Order Declaring A Sale in Error," In the Matter of the Application of the County Collector, Etc., Petition of AJD Tax Liens, LLC, Case No. 2016COVT000871, March 24, 2016.

that sell taxes. Several have teams tasked to identify potential errors before a sale.

Officials in New York City, which sells bulk property tax and other municipal debt to an investor-backed trust rather than to individuals, say they conduct a pre-sale "scrubbing process" to identify and remove properties.[19] New York City's Department of Finance works with other city departments — law, real estate, housing, and environmental protection — to identify properties that should not be sold.[20]

One treasurer's office in Georgia uses an online federal court database to see if owners filed for bankruptcy and withholds those properties from a tax sale. Others check to see if a property is government or nonprofit owned.

Denver County, Colo., has a team that researches about 9,000 properties each year to try to detect mistakes and block those from sale.[21]

Certainly, properties in those locations get sold when they should not have been. Denver, for instance, reports making 78 erroneous sales from October 2015 through October 2021 in which they returned a total of $659,490 to tax buyers.[22] Cook County has paid back more than 9 times that amount for a single error – $6,274,918.[23]

None of the eight municipalities surveyed reported having anything as charitable as Illinois' sale-in-error statute.

"Buyer Beware" is the motto in Baltimore, Md.; Newark, N.J.; Fulton County, Ga. (home of Atlanta); Denver County, Colo.; Miami-Dade County, Fla.; and Maricopa County, Ariz. (home of Phoenix). Tax buyers must do their own due diligence and assume the risk.

> *"On your own volition, you are about to enter the ultimate 'Buyer Beware' business. Best of Luck!"*
>
> — Maricopa County Treasurer John Allen, in website message to potential tax buyers

On his website, Maricopa County Treasurer John Allen warned potential tax buyers: "On your own volition, you are about to enter the ultimate 'Buyer Beware' business. Best of Luck!"[24]

And none of the municipalities reported paying investors back for government website errors, saying that while they strive to be accurate, the websites are for informational purposes.

"We don't have that problem, thank goodness," said Michelle Jones, Newark's tax collector. "That's ridiculous. You need to amend that. I think they're taking advantage of you guys."[25]

[19] New York City Department of Finance officials, email question and answer, November 2021-February 2022.
[20] Ibid.
[21] Dalton Weisshaar, business operations administrator for the City and County of Denver Treasury Division, email question and answer, October 2021-December 2021.
[22] Ibid.
[23] "Amended Petition for Order Declaring a Sale in Error," In the Matter of the Application of the County Collector, Etc., Petition of SLS I, LLC, Case No. 2017COVT001464, November 27, 2017.
[24] John M. Allen, "Tax Lien Sale – Disclaimer," Maricopa County Treasurer's Office, archived April 17, 2021, https://web.archive.org/web/20210417105249/https://treasurer.maricopa.gov/Pages/LoadPage?page=LiensAndResearch#taxLienDisclaimer.
[25] Michelle Jones, Newark Tax Collector, interview, December 2, 2021.

> *"Tax buyers have a reputation (often well deserved) of being crooked, greedy, and unethical."*
>
> — Tax buyer Timothy E. Gray[26]

Over the years, the tax buying industry nationwide has taken hits to its reputation. Tax buyers have been accused of rigging tax sales in New Jersey,[27] Maryland[28] and Madison County, Illinois.[29] In lawsuits, they have accused their own of racketeering and conspiracy[30] and stealing trade secrets.[31]

One tax buyer, eager to unload six distressed properties, deeded them to a homeless Chicago man who later told news reporters that he felt like then-real estate developer Donald Trump.[32]

Critics of tax sales say they overwhelmingly impact struggling Black and Latino households and businesses, saddling them with high interest rates as tax buyers threaten to seize their homes and businesses. Tax buyers hold that power because when they pay someone's taxes, they get a lien that allows them to take the property if the owner fails to pay up.

New York's attorney general has called on New York City to reform its tax sale process, saying surcharges and high interest rates "turn a relatively small tax lien into an overwhelming financial burden."[33]

For their part, tax buyers say everyone benefits from the sale of tax liens: Governments immediately get money they may not otherwise collect to pay for critical services; property owners are given extra time to come up with the money to pay their delinquent taxes while remaining in their homes; and investors benefit by making a profit at a low risk.

Indeed, investing in someone else's delinquent taxes has proven to be low-risk and high-reward, attracting sophisticated financial companies, lawyers and others.

The dominant tax buyers nationwide often set up opaque shell companies that are controlled by hedge funds, private equity and other financial investment firms. Typically, these institutional tax buyers participate in tax sales in multiple states that include Ohio, New Jersey, Connecticut, Georgia, Maryland, Colorado, Arizona and Florida.

In Cook County, at least 29 tax buyers have received $1 million or more in refunds from September 2015 to September 2022 for sales in error, alone.

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[26] Timothy E. Gray, *No Redemption: Tax Lien Auctions, Evictions, and Lessons from the Foreclosure Crisis* (Rolling Meadows, IL: Windy City Publishers, 2016), p. 53. Gray goes on to write: "I have worked very hard to change this perception, and though it won't be truly removed until the old ghouls are gone, progress is being made. Still, the reputation clearly carries on... "

[27] Joe Tyrrell, "FBI Probe Snares Another Firm for Rigging Tax-Lien Auctions," *NJ Spotlight News*, January 10, 2013, https://www.njspotlightnews.org/2013/01/13-01-09-fbi-probe-snares-another-firm-for-rigging-tax-lien-auctions/. "Because the Justice Department does not reveal details of ongoing investigations, attorneys in the civil suit have been negotiating settlements with some conspirators who already have pleaded guilty, trying to learn more details. Already, the plaintiffs contend that some of the conspirators' discussions took place at meetings of the National Tax Lien Association, (then) based in Washington, D.C."

[28] Fred Schulte, Ben Protess, and Lagan Sebert, "The Other Foreclosure Menace," *The Center for Public Integrity*, May 18, 2010, https://publicintegrity.org/inequality-poverty-opportunity/the-other-foreclosure-menace/.

[29] Robert Patrick, "Rigging Bids: Tax sale scheme cost Madison County property owners millions," *St. Louis Post-Dispatch*, February 24, 2013, https://www.stltoday.com/news/local/crime-and-courts/tax-sale-scheme-cost-madison-county-property-owners-millions/article_9d90c1d7-d33a-5ec2-ac7f-13406cd79514.html.

[30] Erika Slife, "Firms file suit in tax auction," *Chicago Tribune*, July 19, 2005, https://www.chicagotribune.com/news/ct-xpm-2005-07-19-0507190063-story.html.

[31] First National Assets Management, LLC v. Eliza Garzon, Real Tax Acquisitions, LLC and Tryko Partners, LLC, Case No. 2016CH06597.

[32] Matthew Walberg and Ted Gregory, "Tax buyer deeds abandoned properties to homeless man," *Chicago Tribune*, October 26, 2015, https://www.chicagotribune.com/news/ct-homeless-property-owner-met-20151025-story.html.

[33] New York State Office of the Attorney General, "Attorney General James Urges Sweeping Reforms to NYC Tax Lien Sale," December 14, 2020, https://ag.ny.gov/press-release/2020/attorney-general-james-urges-sweeping-reforms-nyc-tax-lien-sale.

Investors who received more than $1 million in sale-in-error refunds September 2015 to September 2022			
Investor	**Sales in Error**	**Total Refunded**	**Including Interest of:**
GREG R. BINGHAM and related companies	2,309	$95,350,712.82	$7,822,972.00
WHEELER FINANCIAL	1,277	$28,300,152.32	$3,684,781.20
FIRST NATIONAL HOLDINGS	1,205	$23,668,863.65	$2,334,975.86
MADISON/STONEFIELD	244	$17,869,851.94	$2,251,744.77
PHOENIX BOND & INDEMNITY	214	$11,889,312.50	$1,543,177.46
ALTERNA	240	$8,285,797.90	$1,403,036.30
NAR SOLUTIONS INC	146	$6,969,887.98	$436,324.49
CAZENOVIA CREEK	85	$6,641,336.70	$421,001.82
PINE VALLEY ONE	373	$6,069,914.05	$680,948.77
PFS FINANCE HOLDINGS	52	$5,804,089.37	$970,645.18
TRYKO HOLDINGS	300	$5,402,817.05	$693,821.07
GSRAN-Z	334	$5,365,878.63	$305,724.87
NEWLINE FINANCIAL	270	$4,933,337.65	$415,830.45
RDG FUND	117	$4,579,922.60	$698,506.08
ICIB/OAK PARK INVESTMENTS	252	$3,381,204.93	$179,023.82
SABRE INVESTMENTS LLC	96	$2,564,880.60	$300,569.72
BELMONT REALTY CORP	145	$2,149,671.21	$124,047.52
CORONA INVESTMENTS	115	$1,991,914.60	$262,839.11
MUNICIPAL POINT CAPITAL	32	$1,690,139.03	$191,636.66
INTEGRITY INVESTMENT FUND	33	$1,667,714.86	$137,995.22
FAIR DEAL OF ILLINOIS	90	$1,637,481.43	$126,863.60
MMGJV INVESTMENT FUND	88	$1,540,180.07	$178,090.97
RIPPLECREEK INVESTORS LLC	24	$1,489,168.43	$122,480.97
INTERSTATE FUNDING CORP	59	$1,487,169.59	$211,980.16
SMM-TAX INC	66	$1,388,657.73	$99,434.68
FIG IL 18 LLC	77	$1,251,643.26	$75,241.84
SCRIBE FUNDING LLC	80	$1,192,865.75	$133,597.56
LONGSTREET CAPITAL FUNDING	45	$1,036,891.00	$125,268.27
5-HOLE ACQUISITIONS INC	44	$1,021,415.54	$89,173.27

The tax buyers who have received the most money for sales in error, including interest, court costs and fees include:

- Various shell companies in northwest suburban Northlake, Ill. associated with tax buyer Greg Bingham and others.
- Wheeler Financial, also known as Wheeler-Dealer, a Chicago firm run by two brothers.[34]
- First National Assets, whose majority owner is Denver-based hedge fund ArrowMark.[35]
- Stonefield Investments, a New Jersey-based investment fund that specializes in real estate and tax liens.[36]
- Phoenix Bond & Indemnity, a Chicago firm run by Stanford Marks and his son, Andrew, both of whom are lawyers.[37]
- Alterna Tax Asset Group, a Florida-based investment firm founded in 2007 by Albert Friedman and former Miami Dolphins fullback Robert Konrad.[38]

[34] Wheeler Financial Inc. v. Law Bulletin Publishing Co., 129 N.E.3d 53 (Ill. App. 1 Dist. 2018).
[35] "Home," First National Assets, https://web.archive.org/web/20220119232540/http:/firstnationalassets.com/ Note: The First National Assets website has been taken offline by the time of publication.
[36] "Deposition of Ephraim B. Finkelstein," *In the Matter of the Application of the County Collector, Etc., Petition of Madison C/O Stonefield IV*, Case No. 2020COVT000134, November 8, 2021, p. 7-8.
[37] Darrell Hofheinz, "Ibis Isle couple sells lot, lists house, builds home; They list house at 2255 Ibis Isle Road W. for sale at $2.195 million," *Palm Beach Daily News*, January 24, 2014.
[38] "About," Alterna Tax Asset Group, https://alternacap.com/about.

Figure 2: Ventures tied to Greg Bingham share this building in Northlake, Il. (Photograph by Todd Lighty.)

Bingham is a longtime tax buyer in Illinois. The Treasurer's Office found at least 10 ventures linked to Bingham that have shared the same address in a low-slung commercial building that once housed a piano store.

Bingham's business associates include financial traders Arthur J. Duquette and John "Jack" Rusher IV.[39] Duquette and Rusher, according to their LinkedIn business profiles,[40] [41] work at Bluefin Traders, now known as Bluefin Capital Management, a New York-based trading and investment firm.

Bingham has bought taxes and assigned them to shell companies set up by Duquette and Rusher, a former Olympic rowing medalist. Duquette is the manager of AJD Tax Liens and Rusher is the manager of Red Top Illinois, according to Illinois Secretary of State records.

Entities controlled by Bingham, Duquette and Rusher have overturned at least 2,309 tax sales —one out of every five sales in error that were granted — far more than any other tax buyer. The Treasurer paid back more than $95 million to Bingham and associated entities, including at least $7.8 million in interest.

Wheeler Financial, formed in 1996, is run by brothers Timothy Gray and David Gray Jr., according to the Illinois Secretary of State's Office. Their father for years was a prominent tax buyer in Chicago.[42]

David Gray Jr. is the general counsel for Wheeler Financial and Timothy Gray, a realtor, serves as Wheeler's chief executive officer. "Wheeler has invested over 130 million dollars at tax sales and has acquired hundreds of tax deeds,"[43] according to Timothy Gray's LinkedIn biography.

Wheeler, which received the second-highest dollar amount in refunds, had at least 1,277 tax sales overturned from September 2015 into September 2022. The firm received a total of more than $28 million, including at least $3.6 million in interest on its investments during the period analyzed by the research unit.

The third most active tax buyer was First National Assets, which overturned at least 1,205 tax sales and was given back nearly $24 million, including about $2.3 million in interest.

First National, Alterna Tax Asset Group and others have bundled tax liens into asset-backed securities and sold them to investors. Several tax buyers proclaim on their websites and separately to investors that they conduct rigorous due diligence before a tax sale, using proprietary computer applications and sophisticated metrics to guide investment decisions.

First National, founded in 1999[44] and based in Chicago, is a major player around the country in tax sales, having purchased more than $2 billion in liens in Illinois and at least 10 other states, including Arizona, Florida and New Jersey.[45] The firm has told investors more than 95% of taxes are repaid within three years.[46]

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[39] "RE: 2016 Cook County tax sale disclosure with Gan C LLC," Cook County Treasurer's Office, April 11, 2018.
[40] "Arthur J. Duquette," LinkedIn, https://www.linkedin.com/in/art-duquette-1a496012/.
[41] "Jack Rusher," LinkedIn, https://www.linkedin.com/in/jack-rusher-3059b47a/.
[42] "David Gray Obituary," *Chicago Sun-Times*, June 2010, https://legacy.suntimes.com/us/obituaries/chicagosuntimes/name/david-gray-obituary?id=27492762; *Wheeler Financial Inc. v. Law Bulletin Publishing Co.*, 129 N.E.3d 53 (Ill. App. 1 Dist. 2018).
[43] "Timothy Gray," LinkedIn.
[44] First National Assets, "About FNA," https://web.archive.org/web/20220202080409/http://firstnationalassets.com/about-fna/
45 Usman Khan, Lenny Giltman, and Shi Shen, FNA VI, LLC, (New York: Kroll Bond Rating Agency, 2021).
[46] Ibid.

ArrowMark, which manages over $19 billion in assets,[47] purchased a majority interest in First National in late 2014.

First National touts its proprietary apps and due diligence research. “Our long experience has taught us that there is no substitute for fully understanding a property prior to buying a tax lien on it,” according to First National’s website. “The riskier the investment, the more diligence we do. It’s a time consuming, labor-intensive process to review detailed legal files or to visit and inspect thousands of properties each year, but the difference is clear in our results.”[48]

First National starts researching properties about a month before a sale. The company gathers information for each parcel’s property index number and loads it into its software application, FNA App. The proprietary app contains detailed information for each parcel such as pictures, property type, the owner’s payment history and information from any prior tax sale.[49] The company also visits properties to determine “the size, value and quality of a potential investment.”[50]

Out-of-state tax buyers have found Illinois a lucrative and attractive place to do business. Cook County tax sales have drawn investors from Arizona, California, Connecticut, Florida, Georgia, Louisiana, Nebraska, New Jersey, New York, Pennsylvania, Texas and Wyoming.

Besides Florida-based Alterna and New Jersey-based Stonefield Investments, other out-of-state firms actively buying up taxes in Cook County that have been successful seeking sales in error include private equity company Tryko Partners in Brick, N.J. and hedge fund GSRAN-Z based in Atlanta, Ga.

[47] Ethan Nelson, “2021 Colorado-Based Investment Managers and Financial Planners Ranked by Total assets managed as of Oct. 1, 2020,” *Denver Business Journal*, February 26, 2021, https://www.bizjournals.com/denver/subscriber-only/2021/02/26/2021-colorado-based-investment-managers.html.

[48] “The FNA Advantage,” First National Assets, https://web.archive.org/web/20220111095127/http://firstnationalassets.com/origination/ Note: The First National Assets website has been taken offline by the time of publication.

[49] Khan, Giltman, and Shen, *FNA VI, LLC.*

[50] Ibid., p. 7

WHO PAYS?

Most tax buyers' profits come at the expense of economically struggling Black and Latino communities, which are pocked with distressed homes and businesses that end up being sold at Annual and Scavenger tax sales.

When money is returned to tax buyers, municipalities, school districts and other government agencies pay the price. Money is withheld from their current tax collections.

Top 25 Municipalities for money diverted to tax buyers[51]

Municipality	Number of Sales in Error	Total Refunded	Interest Paid	Amount Refunded per Person	Racial or Ethnic Majority
Chicago	5,233	$85,426,671.37	$8,427,680.83	$31.11	Majority Minority
Calumet City	358	$16,014,369.52	$1,181,162.11	$444.44	Black
Harvey	599	$14,726,075.36	$1,650,773.44	$724.57	Black
Chicago Heights	717	$11,248,918.95	$1,152,844.47	$409.35	Majority Minority
Markham	260	$8,194,283.37	$856,560.57	$702.71	Black
Dolton	301	$7,159,968.95	$867,882.82	$334.17	Black
Riverdale	289	$6,967,622.65	$903,991.41	$653.44	Black
Park Forest	224	$6,625,351.90	$676,280.97	$358.48	Black
Cicero	112	$6,538,243.09	$667,296.29	$76.68	Latino
Franklin Park	39	$5,717,691.45	$867,487.37	$309.62	Latino
Maywood	193	$5,511,349.84	$499,863.35	$234.41	Black
Hazel Crest	105	$4,100,586.19	$188,467.91	$306.43	Black
Homewood	36	$4,005,603.09	$575,642.22	$205.81	Majority Minority
South Holland	75	$3,843,977.19	$489,940.43	$179.08	Black
Dixmoor	32	$3,396,315.30	$489,150.45	$1,142.39	Majority Minority
Blue Island	98	$3,331,108.64	$236,283.60	$147.67	Latino
Olympia Fields	28	$3,046,493.90	$221,865.82	$645.72	Black
Lansing	87	$2,968,458.67	$303,577.67	$102.09	Majority Minority
Matteson	59	$2,932,610.38	$274,619.94	$153.76	Black
Bellwood	56	$2,728,496.93	$150,777.17	$145.22	Black
Country Club Hills	110	$2,638,945.15	$174,667.87	$157.31	Black
Berwyn	43	$2,529,948.84	$116,626.38	$44.19	Latino
Sauk Village	147	$2,337,198.02	$132,725.69	$235.58	Black
Chicago Ridge	15	$2,251,295.77	$321,229.24	$155.98	White
Flossmoor	28	$2,097,438.95	$226,176.29	$216.14	Black
County Totals	**10,893**	**$277,555,866.79**	**$27,773,730.71**	**$52.61**	

An insurance fund that tax buyers pay into meant to cushion the economic blow to taxing districts quickly runs out of money.

Tax buyers pay $100 for each PIN, or property index number, they successfully bid on.[52] That money is used to cover interest on sales-in-error payments. But the insurance fund, which typically ranges from $1 million to $1.4 million each tax sale,[53] is depleted one to two months after the sale as buyers successfully seek their money back with interest.

Essentially the taxing bodies are getting hit twice because they're losing the money they thought they had (and likely already spent), and they're now being penalized by having to pay for the interest, which they likely didn't budget for.

[51] This table aggregates refunds based on the location of the properties that had a sale in error. The refund totals are for all taxing districts within each municipality. A portion of the refunds are taken out of two other funds: a county fund where tax buyer fees are deposited and the county's general fund, where the initial penalty interest collected are deposited. Population data was gathered from the 2020 decennial U.S. Census.

[52] (35 ILCS 200/21-330) "Fund for payment of interest… Each person purchasing any property at a sale held under this Code in a county with 3,000,000 or more inhabitants shall pay to the county collector, prior to the issuance of any certificate of purchase, a fee of $100 for each item purchased."

[53] Andrew Jatico, chief financial officer for Cook County Treasurer's Office.

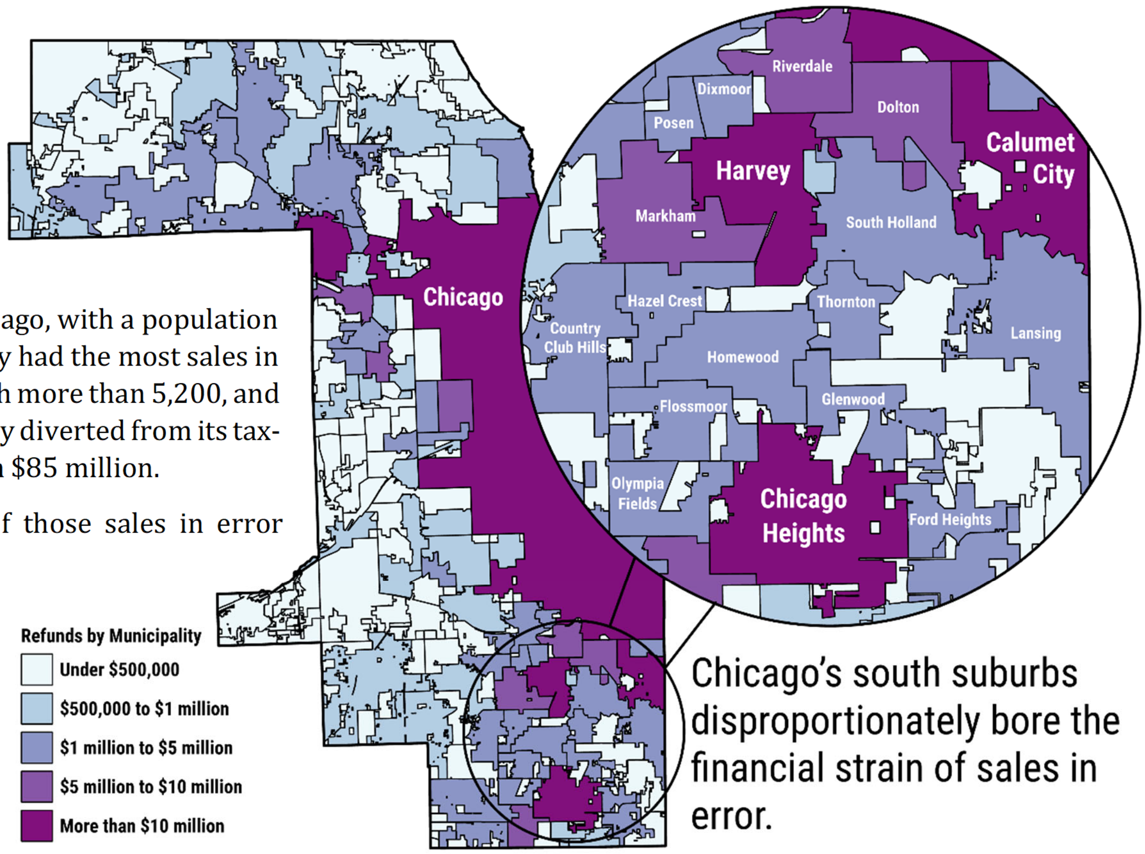
That can throw the often-troubled finances of many communities into disarray.

Over time, local leaders need to make up for that lost revenue and eventually increase tax rates.

Due to its sheer size, Chicago, with a population of about 2.7 million, easily had the most sales in error in Cook County, with more than 5,200, and the most amount of money diverted from its taxing districts — more than $85 million.

Although the majority of those sales in error stemmed from properties on the city's predominantly Black South and West sides, the $85 million financial hit was spread across the city, which calculates to about $31 per resident.

Where Sale-in-Error Refunds Come From



It's a different tale in Chicago's south suburbs, whose Black and Latino residents shoulder an outsized financial burden when tax buyers get their money back.

Nowhere was that more evident than the tiny villages of Dixmoor and Ford Heights.

Taxing districts in Dixmoor, with a predominantly Black and Latino population of about 3,000, had nearly $3.4 million drained from their bank accounts — about $1,142 per resident. Ford Heights, with a largely Black population of about 1,800, had nearly $1.8 million diverted to tax buyers — about $970 per resident.

Indeed, not counting Chicago, 16 south Chicago suburbs were in the top 20 areas for total amount of money returned to tax buyers. Of those 16 communities, 11 had predominantly Black populations, four were majority-minority areas and one was predominantly Latino.

The four other suburbs among the top 20, were the majority Latino west suburbs of Cicero and Franklin Park and the predominately Black west suburbs of Bellwood and Maywood — the hometown of state Rep. Emanuel "Chris" Welch, the first Black speaker of the Illinois House of Representatives.[54]

[54] Dr. Aisha El-Amin, 28 Days of Black Excellence, *UIC Office of Diversity, Equity and Engagement*, "Black Excellence: Emanuel 'Chris' Welch," June 14, 2022. https://today.uic.edu/podcast/black-excellence-emanuel-chris-welch/

THE PROPERTY TAX SYSTEM

Governments need money to pay for schools, parks, police and fire protection and to provide clean water, garbage collection and other services. About 40% of all money collected by governments in Illinois comes from property taxes.[55]

Who pays and how much is determined in Cook County through a multi-step process that involves local governments and the county offices of the Assessor, the Clerk and the Treasurer.

School districts, municipalities and other agencies figure out how much money they need to operate for the year to pay for employee salaries and benefits, repave a road, put a new roof on a school or buy a new fire truck.

The Assessor's Office estimates the market value of homes, businesses and other properties in each municipality. Those assessments are used to determine what portion of the overall tax bill each property owner pays. The Clerk's Office then determines the tax rates based on the overall assessed property values and how much money each local government needs to provide services.

The job of collecting all that money, about $16.1 billion each year, falls to the Cook County Treasurer's Office.[56] The Treasurer typically sends out tax bills in January and June for about 1.8 million properties, collects that money and distributes it to some 2,200 units of local government.[57]

However, not everyone pays their taxes. It could be they do not have the money, just forgot, thought their bank paid or abandoned their property. On average, taxes every year go unpaid on from 30,000 to 40,000 homes, businesses and vacant lots in Cook County. When property owners do not pay their share of taxes, the burden over time is often shifted onto those who do.

[55] *State-by-State Property Tax at a Glance,* Lincoln Institute of Land Policy and George Washington Institute of Public Policy, 2022, https://www.lincolninst.edu/research-data/data-toolkits/significant-features-property-tax/state-state-property-tax-glance.

[56] "Duties and Responsibilities of the Cook County Treasurer," Cook County Treasurer's Office, https://www.cookcountytreasurer.com/dutiesandresponsibilities.aspx.

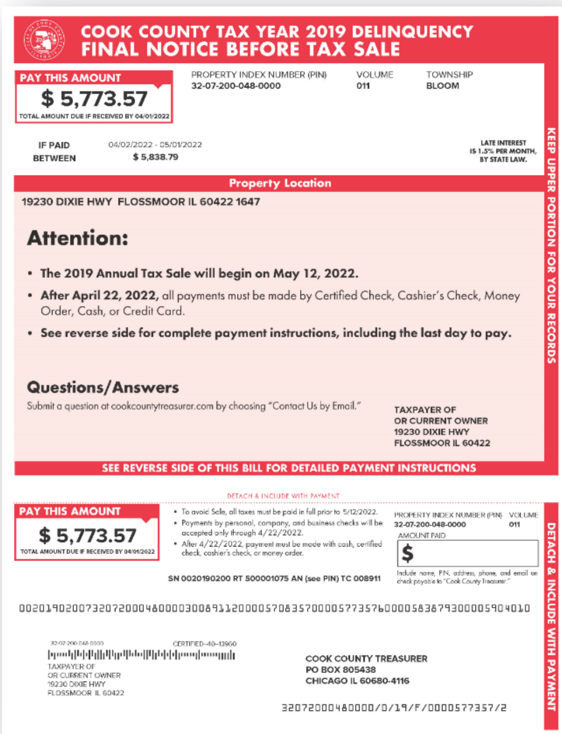
[57] Ibid.

THE TAX SALE

In order to recoup some of the delinquent taxes, Illinois law requires the Treasurer to annually conduct a public auction at which the unpaid taxes for the prior year are offered for sale.[58] It is the delinquent taxes that are sold; not the properties. To remove the lien that tax buyers get in exchange for paying the taxes, a property owner must pay all delinquent taxes, interest penalties and costs in one lump-sum payment.

Illinois is one of 30 states, and the District of Columbia, that offer property taxes for sale, according to the National Tax Lien Association, a trade organization that lobbies for the tax lien industry.[59] These are known as tax lien states. In some other states, however, government officials auction deeds on tax delinquent properties with the purchaser taking ownership at the time of the sale or a later date. These are known as tax deed states.

As it prepares for a sale, the Treasurer's Office publishes a list of tax-delinquent properties in local newspapers to alert owners and others of the looming sale.[60] The publication lists the tax delinquent parcels by property index number, the name listed on the tax bill, the property classification and address, and the amount of taxes due. The Treasurer also posts the list online.


COOK COUNTY TAX YEAR 2019 DELINQUENCY
FINAL NOTICE BEFORE TAX SALE

PAY THIS AMOUNT
$ 5,773.57
TOTAL AMOUNT DUE IF RECEIVED BY 04/01/2022

PROPERTY INDEX NUMBER (PIN) 32-07-200-048-0000
VOLUME 011
TOWNSHIP BLOOM

IF PAID BETWEEN 04/02/2022 - 05/01/2022 $ 5,838.79

LATE INTEREST IS 1.5% PER MONTH, BY STATE LAW.

Property Location

19230 DIXIE HWY FLOSSMOOR IL 60422 1647

Attention:

- **The 2019 Annual Tax Sale will begin on May 12, 2022.**
- **After April 22, 2022,** all payments must be made by Certified Check, Cashier's Check, Money Order, Cash, or Credit Card.
- **See reverse side for complete payment instructions, including the last day to pay.**

Questions/Answers

Submit a question at cookcountytreasurer.com by choosing "Contact Us by Email."

TAXPAYER OF
OR CURRENT OWNER
19230 DIXIE HWY
FLOSSMOOR IL 60422

SEE REVERSE SIDE OF THIS BILL FOR DETAILED PAYMENT INSTRUCTIONS

KEEP UPPER PORTION FOR YOUR RECORDS

DETACH & INCLUDE WITH PAYMENT

PAY THIS AMOUNT
$ 5,773.57
TOTAL AMOUNT DUE IF RECEIVED BY 04/01/2022

- To avoid Sale, all taxes must be paid in full prior to 5/12/2022.
- Payments by personal, company, and business checks will be accepted only through 4/22/2022.
- After 4/22/2022, payment must be made with cash, certified check, cashier's check, or money order.

PROPERTY INDEX NUMBER (PIN) 32-07-200-048-0000
VOLUME 011
AMOUNT PAID
$
Include name, PIN, address, phone, and email on check payable to "Cook County Treasurer."

SN 0020190200 RT 500001075 AN (see PIN) TC 008911

0020190200732072000480000300891120000570835700005773576000058387930000590401O

32-07-200-048-0000 CERTIFIED--40--13960
TAXPAYER OF
OR CURRENT OWNER
19230 DIXIE HWY
FLOSSMOOR IL 60422

COOK COUNTY TREASURER
PO BOX 805438
CHICAGO IL 60680-4116

32072000480000/0/19/F/0000577357/2

DETACH & INCLUDE WITH PAYMENT

← Figure 3: A mailing sent by the Treasurer's Office warning a property owner their taxes were at risk of being sold at the 2019 tax sale.

The Treasurer separately sends certified mail notices about the sale to the last-known addressee on the tax bill for each property.[61] The annual tax sale has been held online in Cook County since 2008.[62]

Those who participate in the sale are known as "tax purchasers" or "tax buyers." Typically, around 300 buyers register for the sale, but the bulk of the bids are made by a few dozen larger investors. Tax buyers obtain a list of delinquent properties and frequently conduct research to identify which ones to bid on.

At the tax auction, which runs over several days, bids are not made in cash but rather in an interest percentage on the taxes owed, ranging from 0% to 9%, charged every six months.[63] This interest percentage is charged to property owners when they pay back their taxes. The lowest interest percentage bid wins a tax lien certificate.[64]

When she first took office in 1998, Treasurer Pappas implemented a rule change for tax auctions. She rejected

[58] (35 ILCS 200/21-115). "The collector shall give notice that he or she will apply to the circuit court on a specified day for judgment against the properties for the taxes, and costs, and for an order to sell the properties for the satisfaction of the amount due."
[59] "Tax Lien States," National Tax Lien Association, https://cdn.ymaws.com/www.ntla.org/resource/resmgr/districts_8.5x11_flyer.pdf.
[60] (35 ILCS 200/21-110). "At any time after all taxes have become delinquent in any year, the Collector shall publish an advertisement, giving notice of the intended application for judgment and sale of the delinquent properties."
[61] *A Guide to the Tax Redemption Process,* Cook County Clerk's Office, 2021, https://www.cookcountyclerkil.gov/sites/default/files/pdfs/Brochure%20-%20Tax%20Redemption%20Process%20-%202021.pdf
[62] *Overview: Annual and Scavenger Property Tax Sales,* Cook County Treasurer's Office, October 3, 2012, p. 11, http://blog.cookcountyil.gov/economicdevelopment/wp-content/uploads/2012/11/Pat-Nester-Bill-Kouruklis-Tax-Sale-Presentation-LBAC-Oct-3.pdf.
[63] As of Jan. 1, 2022, the maximum interest rate that a tax buyer could bid was lowered from 18% to 9%.
[64] (35 ILCS 200/21-215). "The person at the sale offering to pay the amount due on each property for the least penalty percentage shall be the purchaser of that property. No bid shall be accepted for a penalty exceeding 9% of the amount of the tax or special assessment on property."

simultaneous, identical bids of more than 0% from tax buyers for the same property. The rule restored competitiveness to the tax sale by preventing tax buyers from acting in concert to force owners to repay at the then-maximum 18% interest, which also was charged every six months. The Illinois Supreme Court upheld Pappas' policy after several tax buyers challenged it in court.[65]

The rule was designed so that the property owner will be able to pay back taxes at the lowest interest rate.

Prior to Pappas' policy change, about 95% of the properties sold at the maximum 18% interest.[66] At the May 2022 annual sale, taxes on 33,077 properties were offered for sale. Of the 5,700 that were sold about 88% were sold with a winning bid of 0%.[67] Only 3.6% sold at the maximum interest rate.[68] If more than one tax buyer bids 0%, the winning bidder is chosen at random.

The large institutional tax buyers typically bid 0% on properties — likely because under state law, if they win the bid, they can pay any of the property's following taxes that go unpaid by the due date. Those are called subsequent tax payments.

Subsequent taxes have become moneymakers for tax buyers. Under current law, unpaid subsequent taxes have an annual interest rate of 12% that is charged the moment the tax buyer pays the taxes. Over just two years, subsequent tax interest can grow to 36%.[69] Those generous interest rates allow tax buyers to profit at the expense of property owners facing financial hardship, especially harming Black- and Latino-owned businesses and homes in lower income communities.

Those high interest rates can make it impossible for an owner to save their home or business from foreclosure. The Boston-based National Consumer Law Center, in a nationwide study of tax lien sales, has recommended that states make costs affordable "by keeping investor profits reasonable."[70]

"States and local governments must reform their property tax lien laws to preserve homeownership," wrote the study's author, John Rao. "Property tax collection procedures should encourage repayment rather than property loss and they should not provide an opportunity for speculators to earn huge profits off of homeowner distress."[71]

After the tax sale, the county issues a certificate of purchase to the tax buyer showing a lien is on the property.[72] These certificates are negotiable instruments that may be assigned or transferred to others.

Within four months and 15 days after the sale, the tax buyer is required to draft a notice informing the property owner of the tax lien and the last day to redeem, or pay, their taxes and penalties.[73] The tax buyer gives the notice to the Cook County Clerk, who then sends it via certified mail.

In Illinois, homeowners have two-and-a-half years to pay their delinquent taxes, which can be extended by the tax buyer to three years. Owners of businesses and vacant lots have six months to repay, which also can be extended to three years.[74] [75] To keep their properties, owners have to pay not only all of the original delinquent tax amount plus interest and costs, but also any

[65] *Phoenix Bond & Indemnity Co. v. Pappas*, 741 N.E.2d 248 (Ill. 2000), https://law.justia.com/cases/illinois/supreme-court/2000/89098.html
[66] Ibid.
[67] Information provided Treasurer Office tax sale unit.
[68] Ibid.
[69] (35 ILCS 200/21-355). "The deposit shall be in an amount equal to the total of the following: [...] (c) all taxes, special assessments, accrued interest on those taxes and special assessments and costs charged in connection with the payment of those taxes or special assessments… which have been paid by the tax certificate holder on or after the date those taxes or special assessments became delinquent together with 12% penalty on each amount so paid for each year or portion thereof."
[70] John Rao, *The Other Foreclosure Crisis: Property Tax Lien Sales*, (Boston: National Consumer Law Center, 2012), p. 5, https://www.nclc.org/images/pdf/foreclosure_mortgage/tax_issues/tax-lien-sales-report.pdf
[71] Ibid.
[72] (35 ILCS 200/21-250). "Certificate of purchase. The county clerk shall make out and deliver to the purchaser of any property sold under Section 21-205, a certificate of purchase countersigned by the collector, describing the property sold, the date of sale, the amount of taxes, special assessments, interest and cost for which they were sold and that payment of the sale price has been made."
[73] (35 ILCS 200/22-5). "Notice of sale and redemption rights. In order to be entitled to a tax deed, within 4 months and 15 days after any sale held under this Code, the purchaser or his or her assignee shall deliver to the county clerk a notice to be given to the party in whose name the taxes are last assessed as shown by the most recent tax collector's warrant books…"
[74] (35 ILCS 200/21-350). See 21-350(a) for vacant and commercial properties, 21-350(b) for residential properties, and 21-350(c) for extended redemptions
[75] (35 ILCS 200/21-385). For extension periods: "The purchaser or his or her assignee of property sold for nonpayment of general taxes or special assessments may extend the period of redemption at any time before the expiration of the original period of redemption, or thereafter prior to the expiration of any extended period of redemption, for a period which will expire not later than 3 years from the date of sale."

subsequent taxes and interest. There is no option for a payment plan or partial payments.[76]

If taxes go unpaid in any three of the previous 20 years, the home, business or vacant lot ends up on a Scavenger Sale list, where a property's taxes are sold to the highest bidder and can be bought for as little as $250.[77] The scavenger sale is held every two years, with vacant lots accounting for the majority of the parcels that are auctioned.[78]

Tax buyers do not have rights to the property; they cannot trespass, evict a tenant or collect rent. Once a tax buyer purchases the taxes, the Treasurer's Office has no further role in the collection process.

For tax buyers, there is little financial risk and big financial reward. Each lien is backed by the value of the attached property, meaning the tax buyer can seek ownership of the home or business if the current owner does not pay their back taxes, including penalties and interest.

Institutional tax buyers look to reduce their risk by calculating a property's lien-to-value ratio, which is the amount of taxes owed versus how much the property is worth. The lower the lien-to-value ratio, the likelier the property owner will pay up.

Overwhelmingly, people do pay up, with tax buyers reporting that more than 95% of the delinquent property owners ultimately pay their back taxes within three years.[79]

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[76] Cook County Clerk's Office, *A Guide to the Tax Redemption Process*.

[77] "2022 Scavenger Sale Information for Prospective Tax Buyers," Cook County Treasurer's Office, https://www.cookcountytreasurer.com/scavengersaleinformationfortaxbuyers.aspx

[78] Treasurer Maria Pappas has called for eliminating the Scavenger Sale after a 2022 study by her office found the sale was inadequate at addressing the vestiges of decades-old, government-sanctioned redlining. *Maps of Inequality: From Redlining to Urban Decay and the Black Exodus*, Cook County Treasurer's Office, https://www.cookcountytreasurer.com/pdfs/scavengersalestudy/2022scavengersalestudy.pdf

[79] Usman Khan and Oluwatobi Tofade, *FNA VI, LLC,* (New York: Kroll Bond Rating Agency, 2022), p. 2. "Historically, the Company has experienced over 50.0% of liens repaid within 12 months, while over 95.0% of liens are repaid within three years of purchase."

HISTORY OF A TAX LOOPHOLE

If a property owner does not pay all their back taxes, the tax buyer can go to court and seek ownership of the home or business, with the owner sometimes losing any equity they built up, impacting future generational wealth for some of the poorest families. Often, though, tax buyers do not want to take title to a property.[80] But they do not want to lose money, either.

Tax buyers have found financial comfort in the bosom of Illinois' munificent sale-in-error statute. The statute exists to undo tax sales that should have never occurred and put tax buyers back in the position they would have been before the error.[81]


AN ERROR CORRECTED.

Important Decision by the Illinois Supreme Court.

The City Cannot Sell Its Own Property for Taxes.

Figure 4: Chicago Tribune headline from an 1873 story about an Illinois Supreme Court decision related to the sale of taxes. (Chicago Tribune, February 15, 1873.)

The origins of Illinois' sales-in-error statute can be traced to a law the General Assembly passed 150 years ago that recognized land might be sold that otherwise should not have been — tax exempt properties and those where the owner had, in fact, paid their taxes. The 1872 law said the County Clerk was to "make an entry opposite such tracts or lots in the sale and redemption record that the same was erroneously sold."[82]

State property tax laws have undergone a metamorphosis since then, but it was not until the Great Depression of the 1930s that the modern tax lien industry was spawned. Andrew Kahrl, a University of Virginia professor who has studied property tax sales across the country, noted that tax delinquency rates catapulted among farmers and small landowners in the Midwest, South and Great Plains during the Great Depression.[83]

"While local governments struggled to remain solvent and quell tax revolts and uprisings, new tax debt investment firms capitalized on property owners' tax troubles," Kahrl wrote in his 2017 study, *Investing in Distress: Tax Delinquency and Predatory Tax Buying in Urban America.* Kahrl outlined how this young industry quickly expanded, using its newfound influence to lobby state lawmakers across the country for laws that favored them over property owners.

Tax buyers in 1951 helped to write sweeping changes to Illinois' tax code in their favor.[84] The changes "eliminated many of the protections for delinquent taxpayers from the threat of forfeiture, and allowed tax buyers the opportunity to pay and charge interest on subsequent taxes for properties in which they held a lien."[85] That meant tax buyers could pay taxes in following years that came due on a property, without an owner's knowledge, and then add those charges, including interest, to the overall bill.

Kahrl, in an interview with the Treasurer's Office, said changes to the law incentivized investing and made homeowners vulnerable to losing their properties to what he described as "predatory tax buyers."[86]

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[80] Patrick McShane, Anthony Nocera, and Lenny Giltman, *Property Tax Lien ABS Rating Methodology,* (New York: Kroll Bond Rating Agency, 2014), p. 4. Kroll notes that the "typical business strategy" is to buy tax liens that likely will be redeemed "in order to limit the number of (real estate owned) properties that require an asset management and disposition strategy."

[81] *La Salle National Bank v. Hoffman*, 274 N.E.2d 640 (Ill. App. Ct. 1971). The purpose is "to afford relief to (the) tax buyer from the effect of Caveat emptor purchases at void tax sales."

[82] An Act for the assessment of property and for the levy and collection of taxes, 27th Gen. Ass. §213 (I.L. 1872)

[83] Andrew W. Kahrl, "Investing in Distress: Tax Delinquency and Predatory Tax Buying in Urban America," *Critical Sociology* 43, no. 2 (March 2017) p. 199-219, https://journals.sagepub.com/doi/10.1177/0896920515598565

[84] Ibid.

[85] Ibid.

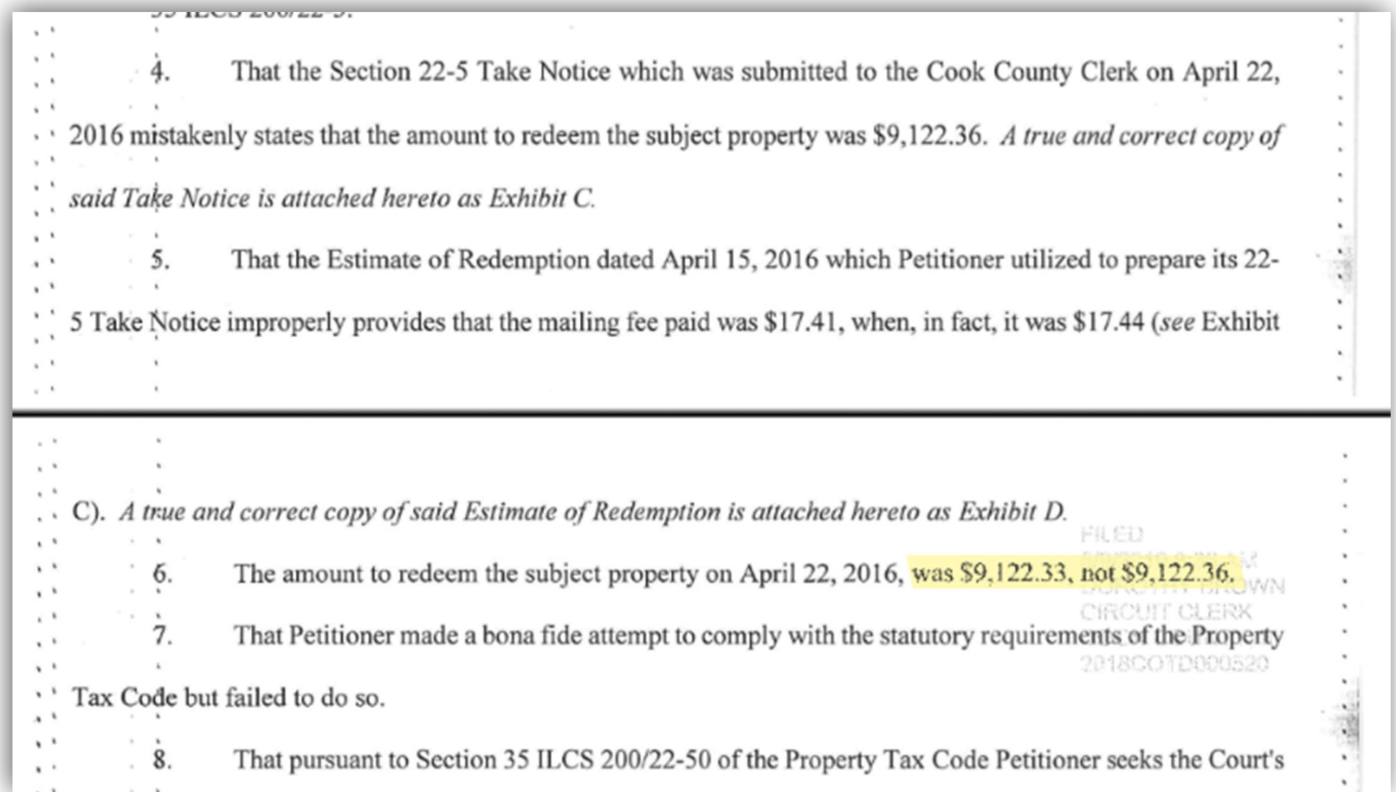
[86] Andrew Kahrl, University of Virginia, interview, January 5, 2022.

"Tax buyers generally are not interested in taking homes," he said. "But the threat of taking your home is integral to their business model."

Kahrl said Illinois' laws are some of the most unfavorable to struggling businesses and homeowners, and the most favorable to tax buyers. "Do you want to be a state these investors flock to, where greater profits are to be made oftentimes from the most vulnerable?" he asked.[87]

The 1951 law benefited tax buyers in another important way.[88]

If a homeowner does not pay their back taxes, and the tax buyer does not want the home, the tax buyer could get out of the deal through a self-inflicted "error." Tax buyers have gotten their money back for making clerical errors, which is sufficient for a judge to find that, under the law, the tax buyer made a "bona fide attempt" to strictly comply with the state's legal requirements for seeking the deed.[89]



4. That the Section 22-5 Take Notice which was submitted to the Cook County Clerk on April 22, 2016 mistakenly states that the amount to redeem the subject property was $9,122.36. *A true and correct copy of said Take Notice is attached hereto as Exhibit C.*

5. That the Estimate of Redemption dated April 15, 2016 which Petitioner utilized to prepare its 22-5 Take Notice improperly provides that the mailing fee paid was $17.41, when, in fact, it was $17.44 (*see* Exhibit

C). *A true and correct copy of said Estimate of Redemption is attached hereto as Exhibit D.*

6. The amount to redeem the subject property on April 22, 2016, was $9,122.33, not $9,122.36.

7. That Petitioner made a bona fide attempt to comply with the statutory requirements of the Property Tax Code but failed to do so.

8. That pursuant to Section 35 ILCS 200/22-50 of the Property Tax Code Petitioner seeks the Court's

Figure 5: A tax buyer misstated by three cents the amount of money a property owner needed to pay their taxes and fees. A judge agreed to return the tax buyer's money because of the self-inflicted error. (Image enhanced to improve legibility)

Tax buyers have gotten their money back after filing paperwork where a street address was misspelled as Gree*m*wood instead of Gree*n*wood,[90] where one digit was off for a home's address,[91] where a date was off by

[87] Ibid.

[88] An Act to amend Sections 253, 263, 266, 268 and 270, and to repeal Sections 254, 265 of 'An Act to revise the law in relation to the assessment of property and the levy and collection of taxes, and to repeal certain Acts herein named,' filed May 17, 1939, as amended, H.B. 814, 63rd Gen. Ass. § 1 (I.L. 1951)

89 Ibid. "If the county court shall refuse to enter an order directing the county clerk to execute and deliver the tax deed, because of the failure of the purchaser to fulfill any of the above provisions, it shall order the return of the purchase price forthwith as in case of sales in error in all cases where the purchaser or his assignee has made a bona fide attempt to comply with the statutory requirements for the issuance of the tax deed."

[90] "Petition for an Order Directing a Sale in Error," *In the Matter of the Application of the County Collector Etc., Petition for ICIB Investments*, Case No. 2019COTD001082, January 15, 2021.

[91] "Petition for Bona Fide Attempt Finding and Sale in Error," *In the Matter of the Application of the County Treasurer Etc., Petition of Madison C/O Stonefield IV*, Case No. 2018COTD000968, April 16, 2019.

one day[92] and where the total amount of money a homeowner needed to pay was off by pennies.[93]

In April 2016, a tax buyer notified a homeowner on Chicago's South Side that if they wanted to keep their home, they had to pay a total $9,122.36 in back taxes and costs. The tax buyer later obtained a sale in error. The reason? The amount the tax buyer said the homeowner owed was $9,122.33 – three cents less.[94]

Tax buyers, according to the Treasurer's analysis, got their investment back at least 1,269 times in bona fide attempt cases during the seven-year period that was analyzed.

Under current law, tax buyers face no financial penalty for their errors. Instead, they get all their money back, including any costs. The only thing they do not get for a bona fide attempt is interest. More than $16.6 million was diverted from governments and back to investors as a result of mostly self-inflicted errors.

All of that money never made it to the schools, village halls and park districts where it was intended.

Not all bona fide attempt errors were the fault of tax buyers. Notification mistakes by county offices also can result in bona fide attempt rulings. The Covid-19 pandemic led to some of those rulings because the pandemic slowed court proceedings and interrupted Sheriff's Office operations, which sometimes affected deputies' ability to timely notify owners they were in danger of losing their property for not paying their taxes.

One tax buyer, Invalot Holdings LLC, sought and received its money back after the Sheriff failed to serve notice "due to the sudden closure of the Sheriff's office as a result of the Covid-19 emergency."[95]

The pandemic affected tax buyers in other ways. The courts in March 2020 ordered a 30-day moratorium on evicting people from occupied properties,[96] later extending it to October 2021. The courts also temporarily barred tax buyers from taking ownership of properties.[97]

Newline Holdings LLC bought the taxes on an occupied condominium in May 2017. When Newline looked to take ownership of the property, it could not because of the Circuit Court's orders.[98] Newline in April 2021 — a year into the pandemic — told the court the delays created additional costs that "make it economically unfeasible to acquire a tax deed."[99] Newline got its money back — including costs, but without interest — as did dozens of other tax buyers who made similar claims.

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[92] "Motion for Bona Fide Attempt Finding and Sale in Error," *In the Matter of the Application of the County Treasurer Etc., Petition of Sabre Investments, LLC*, Case No. 2017COTD003724, March 20, 2019.
[93] "Petition for an Order Directing a Sale in Error," *In the Matter of the Application of the County Collector Etc., Petition for Tuwanna Dennis*, Case No. 2018COTD000520, May 9, 2019.
[94] Ibid.
[95] "Motion for an Order Denying the Issuance of a Tax Deed and Finding a Bona Fide Attempt and Application for a Sale in Error," *In the Matter of the Application of the County Treasurer, Etc., Petition of: Invalot Holdings, LLC,* Case No. 2020COTD000794, Sept. 14, 2020.
[96] Timothy Evans, chief judge of Cook County Circuit Court, *"General Administrative Order No: 2020-01 Covid-10 Emergency Measurers*", March 13, 2020, https://www.cookcountycourt.org/Manage/Division-Orders/View-Division-Order/ArticleId/2737/General-Administrative-Order-2020-01-Covid-10-Emergency-Measurers
[97] Evans, *"General Administrative Order, 2020-02,"* Amended, October 16, 2020, https://www.cookcountycourt.org/Portals/0/Chief%20Judge/General%20Administrative%20Orders/2020-10-16%20GAO%202020-02,%20amended%20(eff_%20Oct_%2017,%202020).pdf
[98] "Petition for Declaration of Sale in Error," In the Matter of the Application of the County Treasurer, Etc., Petitioner Newline Holdings LLC, Case No. 2019COTD003696, April 13, 2021.
[99] Ibid.

COUNTY ERROR

Perhaps the most significant change in the current sale-in-error statute came in 1983, with little legislative debate. Lawmakers expanded the scope of sale in error to include errors by county officials. The new law broadly defined a county error as occurring when "the assessor, supervisor of assessments, county assessor, board of review, or board of appeals, as the case may be, has made an error (other than an error of judgment as to the value of any property)."[100]

That ambiguous definition of a what constituted a county error opened a loophole that tax buyers have financially exploited ever since.[101] Those errors can be profitable for tax buyers because they get up to 12% annual interest added on when the county returns their payments.

The term "county error" is not defined in the statute. The law is so broad and open-ended that it does not require the mistake to cause financial harm or be so significant that it would have prevented the tax buyer from bidding on the property.

Judges have been given little legal guidance and tend to routinely approve requests from tax buyers.

"Given this lack of express guidance, it is not surprising that the judges who heard these cases generally granted sales in error in cases where they were satisfied that the Assessor in his property description made an error," Cook County Circuit Court Judge Patrick Stanton wrote in siding with a tax buyer in a March 2020 sale-in-error case, where the Assessor's website misclassified a two-story building. "There have been very few reported appellate decisions to guide the trial courts that hear these matters."[103]

The Cost of County Errors

Type of Error	Number of Sales in Error	Percent of County Errors	Total Refunded	Interest Paid
Assessor website error	1,974	37.58%	$42,813,959.84	$4,241,593.15
Sheriff summons error	1,119	21.30%	$34,691,400.82	$5,989,307.94
Incorrect classification	908	17.29%	$31,024,419.76	$3,218,894.51
Property location error	258	4.91%	$18,730,585.27	$1,656,511.76
Wrong amount sold	308	5.86%	$6,505,489.91	$602,660.10
Clerk of Court mailing error	465	8.85%	$6,401,259.54	$975,791.06
Common area assessed at more than $1	51	0.97%	$2,076,939.13	$250,921.25
Not Available	7	0.13%	$1,827,298.50	$353,343.07
Square footage error	16	0.30%	$898,884.71	$121,937.00
Other	147	2.80%	$3,038,778.44	$341,471.78
Total	**5,253**	**100%**	**$148,009,015.92**	**$17,752,431.62**

The Treasurer Office's analysis shows that the most common reason someone seeks to overturn a sale is related to provisions dealing with a county error.[102]

Judges overturned at least 5,253 tax sales due to "county error"— about 48% of all sales in error granted from September 2015 into September 2022. Tax buyers received more than $148 million, including at least $17.7 million in interest.

In fact, tax buyers count on the Assessor to have a website laden with errors as a hedge against a financial loss.

"Wheeler (Financial) has made business decisions based on the ten plus years of consistent rulings that should it find evidence of assessor errors on properties sold it can

[100] An Act to amend Section 260 of the 'Revenue Act of 1939,' filed May 17, 1939, as amended, S.B. 962, 73rd Gen. Ass. § 1 (I.L. 1983)

[101] The Illinois sale-in-error statute was expanded on July 7, 2000 to add the phrase "or other county official." *An Act concerning taxation*, Pub. Act 91-924, S.B. 1693, 91st Gen. Ass. (I.L. 2000)

[102] (35 ILCS 200/21-310(a)(5)). "The assessor, chief county assessment officer, board of review, board of appeals, or other county official has made an error (other than an error of judgment as to the value of any property."

[103] "Memorandum Opinion and Order," In the Matter of the Application of the County Treasurer, Etc., Wheeler Financial, Inc., Petitioner, Case No. 2018COTD006973, March 11, 2020, p. 3

obtain sale-in-error relief," Wheeler Financial lawyer David Gray Jr. argued in a petition filed in a January 2020 court case. Wheeler in that case had sought its money back because the Assessor said a home had no garage, when, in fact, it had a garage.[104]

Gray argued in court papers that the State Legislature intended for Assessor errors to be grounds to overturn a tax sale. "The assessor is responsible for assessing so many properties . . . that the legislature contemplates errors are inevitable and provides the protection to tax purchasers of allowing sales in error in cases of error," Gray wrote. "This protection encourages tax purchasers who might otherwise hesitate to bid on properties if they had no recourse in vacating the sale on the basis of an error."[105]

Wheeler Financial, Gray said, "faces, potentially, a significant financial hardship" if the court were to rule Assessor mistakes no longer qualify as a sale in error.[106]

The State's Attorney's Office argued that Wheeler Financial offered no evidence that it suffered any financial loss because of the Assessor's error. "If Wheeler chose to invest in a tax lien without any expectation about the characteristics of the property, it cannot later claim a loss — after making the investment — by studying the assessor's characteristics data, for the first time, and finding a mistake," the State's Attorney wrote.[107]

In March 2020, Judge Stanton sided with Wheeler Financial, vacated the sale and ordered Cook County to return Wheeler's money, which totaled more than $5,600, including nearly $1,400 in interest. The State's Attorney's Office has appealed the judge's ruling.

The Center for Municipal Finance at the University of Chicago Harris School of Public Policy had examined government records relating to more than 50,000 properties offered at Cook County Scavenger Sales and noted the likelihood for government errors.

"Such errors are common among property records maintained in many jurisdictions, as government officials cannot practically record the exact condition of every property in real time and perpetuity," the authors wrote in a footnote to their 2021 report.[108]

For example, a home may not have an air conditioner one day, but may have one installed a week later.

[104] "Amended Petition for Declaration of Sale In Error," In the Matter of the Application of the County Treasurer, Etc., Wheeler Financial, Inc., Petitioner, Case No. 2019COVT000857, January 21, 2020, p. 9
[105] Ibid., p. 6
[106] Ibid., p. 9
[107] "Collector's Objection to the Amended Petition for Sale in Error," In re Matter of the Application of the Cook County Treasurer, etc., Wheeler Financial, Inc., Petitioner, Case No. 2019COVT000857, February 18, 2020, p. 8
[108] Maxwell Schmidt et al., "Cook County Scavenger Sale Evaluation," (Chicago: Center for Municipal Finance, Harris School of Public Policy at the University of Chicago, 2021).

THE ASSESSOR'S WEBSITE

The Assessor's website includes listings of nearly 1.8 million properties. Residential properties have dozens of individual characteristics including the home's address, square footage, number of bathrooms and whether it is brick or wood frame or has a fireplace, garage, finished basement or attic.[109] This means there are millions of opportunities for a mistake to occur in online property descriptions.

Figure 6: A tax buyer got their money back — with interest — because the Assessor's website stated the home was one story with no attic, when it either had an attic or a second floor.

This leads to tax buyers combing the website and other government records for errors in hopes of overturning the sale when a property owner does not pay their delinquent taxes.

The Treasurer's analysis shows tax buyers repeatedly profited from mistakes on the Assessor's website, with judges granting sales in errors to tax buyers at least 1,974 times.

For example, tax buyers got their money back, plus costs and interest, because the Assessor's website wrongly described a building's exterior as wood frame when it was made of brick, 396 times; wrongly said a home had no basement when it did, 44 times; and mistakenly listed properties as having "zero" square feet of space, 35 times.

Cazenovia Creek Investment Management, a subsidiary of Texas-based Hunt Companies,[110] received almost $5 million — including nearly $250,000 in interest — in August 2016 because the Assessor's website listed the River Oaks West Shopping Center in Calumet City as having zero square feet. Obviously, the mall was larger than zero square feet.[111] According to the Treasurer's analysis, that was the second-largest amount paid out for a sale in error from September 2015 into September 2022.

Later that same month, Cazenovia Creek again hit pay dirt. The company received more than $1.9 million — including over $220,000 in interest — because a two-story commercial building in south suburban Matteson was listed as having zero square feet, when the property has more than 103,000 square feet.[112]

The Assessor's Office has since modified its website. Where a taxable building's square footage was once listed as "zero," asterisks are now in its place. The Assessor's website notes that if a tax buyer or someone else wants to know a building's size where asterisks have replaced square footage, that person must file a public records request.[113]

Other website errors included the Assessor stating a home had a garage when, in fact, it had no garage, 947 times; and the opposite of that, a home had no garage, when, in fact, it did have a garage, 105 times; and a home did not have air conditioning, when, in fact, it did, 24 times.

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[109] Cook County Assessor's Office, *"Cook County Assessor's Residential Property Characteristics"*, Cook County Government Open Data, archived May 11, 2022, https://datacatalog.cookcountyil.gov/Property-Taxation/Assessor-Archived-05-11-2022-Residential-Property-/bcnq-qi2z.
[110] "Holdings," Hunt Companies, https://www.huntcompanies.com/holdings.
[111] "Petition for Sale in Error," In the Matter of the Application of the Count Treasurer, Etc., Cazenovia Creek Funding I, LLC, Petitioner, Case No. 2016COVT001641, August 18, 2016.
[112] "Petition to Vacate Tax Sale," In the Matter of the Application of the Count Treasurer, Etc., Cazenovia Creek Funding I, LLC, Petitioner, Case No. 2016COVT001660, August 25, 2016.
[113] "Property Details," Cook County Assessor's Office, https://www.cookcountyassessor.com/pin/31224000260000.

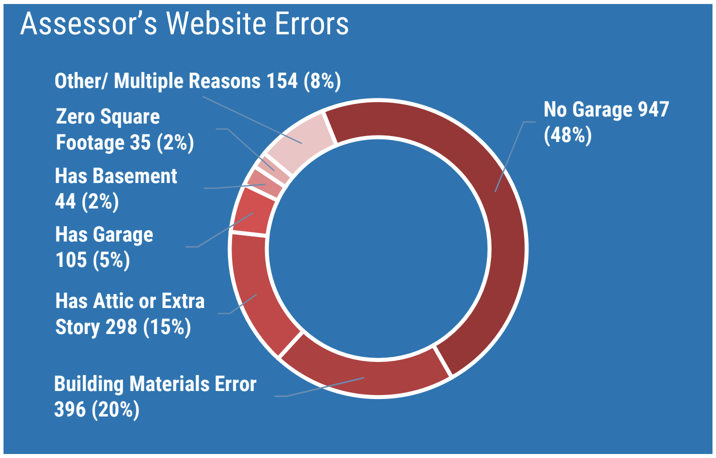

Figure 7: A breakdown of the primary type of Assessor website errors. For instance, 947 times the Assessor said a property had a garage when, in fact, it had no garage.

Real Tax Acquisitions, owned by New Jersey private equity firm Tryko Partners, visited a home it had bought the taxes on and discovered it had central air, when the Assessor stated the home did not.[114]

Given Chicago's sometimes sweltering summers, a home equipped with central air conditioning would seemingly be a good thing. But in the tax sale game, that is not what matters. What matters is the Assessor's website contained a mistake.

Real Tax Acquisitions took photographs of the home to make its case in court they should get their money back with interest. "As demonstrated by the attached pictures . . . of the compressor and intake, the property does indeed have central air conditioning," the company's lawyer wrote in successfully arguing for the judge to vacate the tax sale.[115]

Real Tax Acquisitions received nearly $30,980 that included at least $5,200 in interest.

AJD Tax Liens, one of the ventures with ties to Bingham, received a payout of $304,865 — including more than $52,000 in interest — because the Assessor's website listed a home in south suburban Harvey as having no garage, when, in fact, it had a garage.[116]

Another one of Bingham's entities, Gan B, paid all of the delinquent taxes on an uninhabitable Harvey home for the years 2000 through 2013, even though the amount of back taxes paid exceeded the home's market value. Gan B assigned the tax lien to Red Top Illinois.

Red Top subsequently sought its money back, with interest, because the Assessor's website incorrectly stated the home did not have an attic.[117] In court filings, Red Top included a picture of the property — a boarded up, weed-infested, dilapidated home with an attic.[118] Red Top received more than $93,000, including at least $17,000 in interest.

Figure 8: A judge ordered Red Top LLC get its money back with interest because the Assessor's website stated this dilapidated single-family home did not have an attic (Cook County Assessor's website photo.)

The home in the 15700 block of Lexington Avenue has since been torn down, according to the city of Harvey. The Assessor's website, however, still classifies the property as a one-story home with no attic.[119]

Then, there's the strange and tortuous case of a south suburban strip mall — a high-stakes tax deal that went sour and sparked accusations of chicanery and fraud.

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[114] "Motion to Vacate Tax Sale," In the Matter of the Application of the County Collector, Etc., Petition of Real Tax Acquisitions, LLC, Case No. 2018COTD004729, December 5, 2019.
[115] Ibid., p. 1
[116] "Petition to Vacate Tax Sale," In the Matter of the Application of the County Treasurer, Etc., Petition of AJD Tax Liens, LLC, Case No. 2017COVT001133, September 13, 2017.
[117] "Petition to Vacate Tax Sale," In the Matter of the Application of the County Collector, Etc., Petition of Red Top Illinois, LLC, Case No. 2017COVT000717, July 3, 2017.
[118] Ibid.
[119] "Property Details," Cook County Assessor's Office, https://www.cookcountyassessor.com/pin/29173150320000.

The saga began in April 2017 when a Bingham shell company, Gan C, paid $1.4 million in taxes owed on the former Smiley Plaza in Calumet City. Gan C assigned the purchased taxes to a sister entity that, in turn, assigned them to yet another Bingham shell company, Eeservices Inc.

Eeservices in August 2018 sued to undo the sale and to get its money back. Why? Because the Assessor's website incorrectly listed the shopping center's address as Dolton "*Avenue*" instead of Dolton "*Road*."[120]

Cook County Circuit Court Judge Maureen Hannon agreed to vacate the sale and to return Eeservices' money. But Eeservices' win was short-lived. The State's Attorney's Office asked Hannon to reconsider.

Four months later, Hannon reversed herself, saying, "I made a mistake of the law. It was my second day on the bench."[121] She said the Assessor website mistake was so minor that it did not warrant overturning the sale and returning the money to Bingham.

Figure 9: Smiley Plaza in Calumet City (Cook County Assessor's website photo.)

That's when things got strange.

Eeservices appealed. The appellate court in January 2020 ruled against Bingham and Eeservices, finding that to return money in the case — a dispute over "Avenue" versus "Road" — would "yield absurd results."[122]

However, two months earlier while the case was still under appeal, Bingham filed a new case in Cook County Circuit Court. For the first time, Bingham's Gan C claimed that the shopping center had hazardous materials in it, namely asbestos, lead and black mold.[123] Under state law, tax buyers can get their money back, without interest, if they did not know that hazardous waste was on the property.[124]

The strip mall's owner, Nationwide Real Estate Investments Inc., accused Gan C of improperly gaining access to the strip mall "by having its agents impersonate government officials."[125]

Three people working for environmental testing companies in November 2020 presented a letter to store owners stating they were with Calumet City's Department of Inspectional Services and were there to take asbestos and lead samples, according to police records.[126] A suspicious store manager called police. A Calumet City official who responded to the scene told police that the letter, filled with typos, was fake — it bore a fictious government email address and a bogus phone number, according to a police report on the incident.

One of environmental workers, according to the police report, told officers that "his boss, Greg Bingham, gave him the form and told him to present the form."[127]

Police said when they asked Bingham about the fake letter, he "could not answer directly and rambled on about certain requirements relating to Covid 19."[128] Police asked Bingham, according to their report, if he had a

[120] "Application for an Order Declaring a Sale in Error," *In the Matter of the Application of the County Treasurer, Etc., Petition of Eeservices Inc.*, Case No. 2018COVT001514, August 8, 2018.

[121] "Transcript of the Proceedings," In the Matter of the Application of the County Treasurer, Etc., Petition of Eeservices Inc., Case No. 2018COVT001514, December 7, 2018.

[122] Eeservices Inc. v. Maria Pappas, Cook County Treasurer, Ex Officio Cook County Collector, 161 N.E.3d 283, 287 (Ill. App. 1 Dist. 2020)

[123] "Petition for Order Declaring Sale in Error," *In the matter of the Application of the County Collector, Etc., Petition of Gan C, LLC,* Case No. 2019COTD004458, November 20, 2019.

[124] (35 ILCS 200/21-310(b)(4)). "The real property contains a hazardous substance, hazardous waste, or underground storage tank that would require cleanup or other removal under any federal, State, or local law, ordinance, or regulation, only if the tax purchaser purchased the property without actual knowledge of the hazardous substance, hazardous waste, or underground storage tank."

[125] "Reply in Support of Motion to Dismiss," In the Matter of the Application of the County Treasurer, Etc., Petition of Gan C, LLC for Tax Deed, Case No. 2019COTD004458, February 16, 2021.

[126] "Calumet City Police Department, Incident Report for 20-41723," *In the Matter of the Application of the County Treasurer, Etc., Petition of Gan C, LLC for Tax Deed,* Case No. 2019COTD004458, December 7, 2020,

[127] Ibid.

[128] Ibid.

solicitor's license from Calumet City and he told them he did not.[129]

Police cited the three environmental workers for soliciting without a license and told them not to return.

In a civil court filing, Nationwide raised the specter that "Eeservices and Mr. Bingham should be sanctioned for committing a fraud upon the appellate court."[130] Nationwide said Eeservices did not tell the appellate court it had assigned the tax certificate to Gan C — which simultaneously was pursuing the matter in County Circuit Court. All the while, according to Nationwide, Eeservices proceeded with its case in the appellate court.

Judge Hannon in April 2021 again denied Gan C's request for a sale in error.[131] Gan C has appealed, and the case is pending.

The Assessor's website is also filled with errors involving highways, public thoroughfares and other government-owned land and buildings. Governments own so much property that there will be instances where the property has not been given tax-exempt status[132] or where the Assessor's website has an outdated property classification.

For each tax sale, the Treasurer's Office provides municipalities a list of tax delinquent properties being offered. The Treasurer asks each municipality to check the list to see if they own any of the properties and to take steps to have them removed from the sale.

The Treasurer Office, however, will automatically remove properties that it knows are government owned.

Despite that, 565 government-owned properties – land, buildings and highways – have been sold at tax sales from 2015 to 2019. Because of those errors, more than $32.3 million has been paid back to tax buyers, including $3.7 million in interest.

When expressways are built or undergo reconstruction, a house or other piece of property may be condemned to make way for the new roadway. The Assessor's website has sections of roadways classified as taxable parcels — as single-family homes, businesses, vacant land or apartments.

The Treasurer's Office has sold those sections of highways over and over.

The revolving sale of public highways is partly due to poor communication among county government offices. The State's Attorney's Office does not consistently track sales-in-error court cases and their outcomes, and had not regularly alerted the Treasurer, Assessor and other county offices about mistakes so that they could be corrected.

That means a section of Chicago highway might remain classified as a taxable parcel, which leads to it being mistakenly sold again, only for another tax buyer to get yet another sale in error.

Highway parcels sold at Cook County tax sales

Highway	Sections Sold	Times Sold	Total Refunded	Interest Paid	Date First Sold	Date Last Sold
Kennedy Expressway	15	35	$3,952,440.95	$279,195.11	1/9/2002	4/5/2017
Dan Ryan Expressway	10	21	$820,403.75	$68,629.40	3/26/2003	7/24/2017
Interstate 57	7	11	$627,601.06	$68,328.43	12/30/2005	4/3/2017
Tri-State Tollway	11	24	$828,756.24	$113,097.79	8/21/2002	5/4/2018
Chicago Skyway	3	5	$22,341.18	$768.56	11/26/2003	7/19/2017
Stevenson Expressway	1	1	$118,307.26	$0.00	6/8/2016	6/8/2016
Eisenhower Expressway	2	2	$405,352.93	$0.00	4/4/2017	4/4/2017
Edens Expressway	1	1	$38,005.14	$7,674.43	1/5/2016	1/5/2016
Total	**50**	**100**	**$6,813,208.51**	**$537,693.72**	**1/9/2002**	**5/4/2018**

[129] Ibid.
[130] "Motion to Dismiss," In the Matter of the Application of the County Treasurer, Etc., Petition of Gan C, LLC for Tax Deed, Case No. 2019COTD004458, April 6, 2020.
[131] "Order," In the Matter of the Application of the County Collector, Etc., Petition of Gan C, LLC, Case No. 2019COTD004458, April 9, 2021.
[132] Anthony O'Brien, supervisor of real estate tax litigation for the Cook County State's Attorney Office, interview, July 2, 2021.

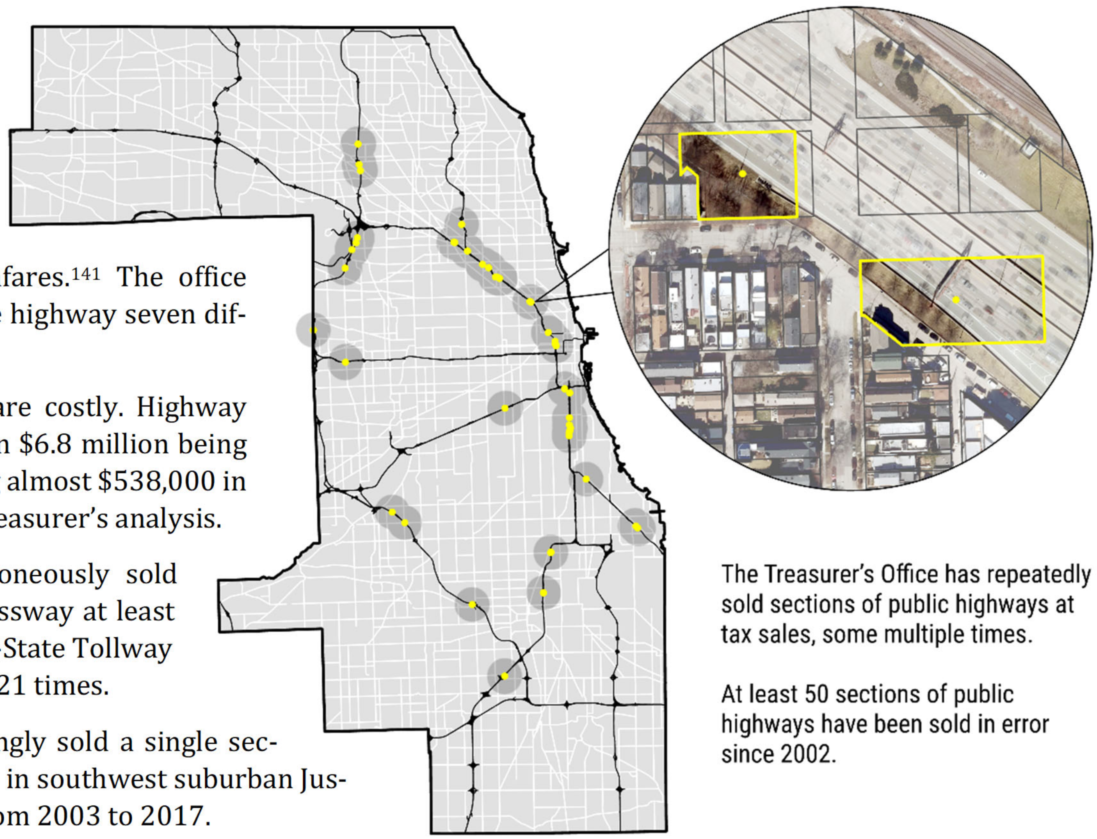
The Treasurer's Office wrongly sold sections of the Kennedy,[133] the Dan Ryan,[134] the Stevenson,[135] Interstate 57,[136] the Tri-State Tollway,[137] the Edens,[138] the Skyway[139] and the Eisenhower,[140] as well as dozens of other roads and public thoroughfares.[141] The office sold the same section of one highway seven different times.

These avoidable mistakes are costly. Highway errors resulted in more than $6.8 million being paid to tax buyers, including almost $538,000 in interest, according to the Treasurer's analysis.

The Treasurer's Office erroneously sold parts of the Kennedy Expressway at least 35 times since 2002, the Tri-State Tollway 24 times and the Dan Ryan, 21 times.

The Treasurer's Office wrongly sold a single section of the Tri-State Tollway in southwest suburban Justice seven different times from 2003 to 2017.

Interstate parcels were sold in error, including at least 15 on the Kennedy Expressway



The Treasurer's Office has repeatedly sold sections of public highways at tax sales, some multiple times.

At least 50 sections of public highways have been sold in error since 2002.

In March 2017, the Treasurer offered for sale the unpaid taxes on a property the Assessor claimed was a single-family, one-story home in Justice valued at $116,110. Gan B purchased years of back taxes on the property — for years 1996, and 1998 through 2014. Gan B assigned the taxes to another Bingham-related entity, Estle Inc., which sought and received a sale in error.[142]

A judge ordered money refunded, which totaled nearly $160,222, including about $21,000 in interest.

"The subject property is currently used as a public thoroughfare," Estle's lawyer wrote in a court filing. "Specifically, the subject property is part of the Tri-State Tollway."[143]

Bingham and his business associates obtained at least 45 sales in errors on highways since 2014 — by far the most

[133] "Petition for Order Declaring a Sale in Error," In the Matter of the Application of the County Collector, Etc., Petition of Corona Investments, LLC, Case No. 2017COVT000386, February 24, 2017.
[134] "Petition for Sale in Error," In the Matter of the Application of the County Collector, Etc., Petition of Blossom63 Enterprises, LLC, Case No. 2018COVT000153, January 16, 2018.
[135] "Petition to Vacate Tax Sale," In the Matter of the Application of the County Collector, Etc., Petition of Gan C, LLC, Case No. 2018COVT000951, May 15, 2018.
[136] "Petition to Vacate Tax Sale," *In the Matter of the Application of the County Collector, Etc., Petition of Red Top Illinois, LLC,* Case No. 2017COVT001345, October 18, 2017. (Note: The court filing has the wrong name for the expressway; it is actually Interstate 57.)
[137] "Petition to Vacate Tax Sale," In the Matter of the Application of the County Collector, Etc., Blossom63 Enterprises, LLC, Case No. 2018COVT000864, April 19, 2018.
[138] "Petition for Declaration of Sale in Error and Order of Refund," *In the Matter of the Application of the County Treasurer, Etc., Petition of Phoenix Bond & Indemnity Company*, Case No. 2018COVT000055, January 10, 2018.
[139] "Petition to Vacate Tax Sale," In the Matter of the Application of the County Collector, Etc., Petition of AJD Tax Liens, LLC, Case No. 2016COVT000568, February 26, 2016.
[140] "Petition to Vacate Tax Sale," *In the Matter of the Application of the County Collector, Etc., Camanro Inc.*, Case No. 2018COVT001377, July 24, 2018.
[141] "Amended Petition for Order Declaring a Sale in Error," *In the Matter of the Application of the County Collector, Etc., Petition of SLS I, LLC*, Case No. 2017COVT001464, November 27, 2017.
[142] "Petition for Order Declaring a Sale in Error," *In the Matter of the Application of the County Collector, Etc., Petition of Estle, Inc.*, Case No. 2018COVT001281, July 12, 2018.
[143] Ibid., p. 1

of any tax buyer. About $4.7 million was paid to Bingham and his associates, including more than a half million dollars in interest.

Other error-prone properties have cycled through tax sales, as well. Taxes on a property are sold, a Circuit Court judge declares a sale in error, the error is not corrected, the property is sold again and another sale in error is granted.

The Treasurer's study found at least 465 properties that had two or more sales in errors granted for the same reason. The result: Almost $21.4 million was returned to tax buyers, including nearly $2 million in interest.

One such property was what the Assessor's website characterized as vacant land south of Chicago's downtown. Turns out, railroad tracks run through the property.

A Bingham entity, which had bought the taxes, in July 2018 received a sale in error.[144]

The mistake went uncorrected and the property's taxes again were sold, this time to Stonefield Investments. Stonefield assigned the tax lien certificate to Ellington Income Opportunities Fund, which received a sale in error in December 2020.[145]

The Ellington fund wrote in its court petition that the land, classified as vacant, is "part of the Railroad and therefore should be classified as RR, railroad property."

The uncorrected mistake meant that nearly $1.2 million was paid to the Ellington Fund, including almost $85,000 in interest.

[144] "Petition to Vacate Tax Sale," *In the Matter of the Application of the County Collector, Etc., Petition of Auction Z Inc.,* Case No. 2018COVT001119, June 4, 2018.

[145] "Petition for Order Declaring a Sale in Error," *In the Matter of the Application of the County Collector, Etc., Petition of: Ellington Income Opportunities Fund*, Case No. 2020COVT000272, November 25, 2020.

TAKE NOTICE

Illinois law has built-in safeguards to give owners repeated notifications that they need to pay up or risk losing their home, business or land.

Between three and six months before the last day a property owner is given to pay delinquent taxes, the tax buyer must alert the owner and other interested parties with three separate notices.[146] These warnings are known as "take notices." They spell out that the property has been sold and that the taxes, including all costs and interest, must be paid by a certain date. The notices also point out that if the taxes are not paid, the tax buyer could seek a deed to the property.[147]

One "take notice" is mailed by the Circuit Court Clerk,[148] one is published in a local newspaper[149] and one is served by the Sheriff's Office.[150]

The task of personally serving the "take notices" falls to the Sheriff's Civil Process Unit, an understaffed unit that serves not only tax deed notices, but other court related documents such as orders of protection, firearms restraining orders and evictions.

If a person cannot be personally served with a "take notice," the Sheriff has to notify them via certified or registered mail.[151] State law requires the Sheriff to send a certified letter, even if the deputy on a visit to the property finds it is a vacant lot, an unoccupied, boarded up building or the address is nonexistent.[152]

The Civil Process Unit can be swamped with paperwork. For instance, in the last week of October 2021, Sheriff's deputies received paperwork to serve 6,820 people and entities — one-third of which involved serving notices in tax deed cases.[153]

It is not uncommon for a tax buyer to drop off stacks of paper "take notices" with the sheriff's office. A notice for a single property may require Sheriff's deputies to serve dozens of addresses. The notices could include multiple addresses for the property owner, a mortgage company, government agencies or anyone who may have recently lived in the property. A tax buyer can seek a sale in error if every one of the interested parties is not timely notified in person or by certified letter.

Figure 10: Stacks of notices waiting to be served by Sheriff's deputies in October 2021. (Photo courtesy of Cook County Sheriff's Office.)

The Treasurer's Office found that tax buyers received more than $34 million, including at least $5.9 million in interest, due to at least 1,119 Sheriff services errors.

Three tax buyers alone account for about 60% of all Sheriff service errors, according to an analysis of Sheriff's data that the Treasurer's Office obtained through the Freedom of Information Act. They are Wheeler Financial, which was granted 357 Sheriff sales in errors; Alterna Tax Asset Group, 154; and First National Assets, 153.

Both the Cook County State's Attorney's Office and the Sheriff's Office said some tax buyers wait until the last minute to drop off a stack of "take notices" they want served.

One of Alterna's funds, ATCF II LLC, received its money back with interest after the Sheriff's Office could not serve in time notice to 38 individuals and entities, including serving the same entities at multiple

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[146] (35 ILCS 200/22-10). "A purchaser or assignee shall not be entitled to a tax deed to the property sold unless, not less than 3 months nor more than 6 months prior to the expiration of the period of redemption, he or she gives notice of the sale and the date of expiration of the period of redemption to the owners, occupants, and parties interested in the property, including any mortgagee of record…"

[147] Ibid.

[148] (35 ILCS 200/22-25). "The clerk shall promptly mail the notices delivered to him or her by certified mail, return receipt requested."

[149] (35 ILCS 200/22-15). "The purchaser or his or her assignee shall give the notice required by Section 22-10 by causing it to be published in a newspaper… In addition, the notice shall be served by a sheriff…"

[150] Ibid.

[151] Ibid. "If any owner or party interested, upon diligent inquiry and effort cannot be found or served with notice in the county, then the person making the service shall cause a copy of the notice to be sent by registered or certified mail, return receipt requested, to that party at his or her residence, if ascertainable."

[152] Cook County Sheriff's Office, interview, November 29, 2021.

[153] Cook County Sheriff's Office, interview, November 5, 2021.

addresses.[154] According to Sheriff's Office data, the deputies received "take notices" from Alterna on February 8, 2019. Those had to be personally served and followed up with certified mail notices by March 5, 2019 — 25 days later.

During a four-day period later that month — from Feb. 25, 2019 to February 28, 2019 — Alterna dropped off 1,410 notices for 99 tax cases with the Sheriff. It took the Sheriff's Office, according to the Treasurer's analysis, nearly 18 days to enter those notices into its computer system.

According to Kroll Bond Rating Agency, which evaluates tax buyers such as Alterna and rates the securities they issue, Alterna rarely forecloses on properties — 28 times between 2009 and 2015.[155] "The relatively small number of (real estate owned) properties is attributable to Alterna's strong upfront diligence process," Kroll wrote.[156]

Still, the Treasurer's study found that the Sheriff's Office often took weeks to enter information from tax buyers' paperwork into its computer system, delaying the process for serving the take notices. The Treasurer found that, on average, it took Sheriff's Office more than 15 days to enter the information after tax buyers dropped off the notices.

The Clerk of the Cook County Circuit Court also has a role in warning property owners they could lose their home or business. The Circuit Court Clerk is required to "promptly" send notices by certified mail to property owners and others.[157]

Yet, the Circuit Court Clerk's office has failed at least 465 times during the past seven years to send the notices on time. That has led to more than $6.4 million being returned to tax buyers, including nearly $1 million in interest.

Even being one or two days late can trigger a sale in error. The office, however, has missed deadlines by weeks and, at times, has been late by more than a month.[158]

However, the tide has shifted against tax buyers who seek to get their money returned due to the Circuit Court Clerk failing to send out notices on time. It stems from a dispute in early 2019 over whether the Circuit Court Clerk was a "county" or a "state" official.

First National Assets sought its money back, with interest, after the Circuit Court Clerk was late in mailing notices.[159]

The State's Attorney's Office, however, argued the Circuit Court Clerk was an official of the state government's judicial branch, and thus not bound by the sale-in-error statute relating to errors by county officials.[160] The office cited a 1982 Illinois Supreme Court ruling that the Circuit Court Clerk was not a county official.

Judge Hannon on Jan. 25, 2019 sided with the state's attorney and ruled the Circuit Court Clerk was "not encompassed by" the statute.[161]

All was not lost for First National. In a separate order, Hannon ordered the return of First National's money — although without interest — ruling that First National had made a bona fide attempt but failed to follow the law for obtaining a tax deed.[162]

Since Hannon's ruling, Cook County judges often have ordered tax buyers' money returned, without interest, when the Circuit Court Clerk makes a mailing error. However, Circuit Court judges are not bound by their colleagues' ruling. The Treasurer's Office found at least a half dozen cases since then in which judges have awarded interest where the Circuit Court Clerk made an error.

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[154] "Motion for an Order Declaring a Sale in Error," In the Matter of the Application of the County Treasurer, Etc., MTAG as Cust ATCFII LLC, Petitioner, Case No. 2019COTD000396, February 5, 2020.
[155] Patrick McShane, Anthony Nocera, Lenny Giltman, and Usman Khan, *Alterna Funding II, LLC*, (New York: Kroll Bond Rating Agency, 2015).
[156] Ibid., p. 8
[157] (35 ILCS 200/22-25). "The clerk shall promptly mail the notices delivered to him or her by certified mail, return receipt requested."
[158] "Motion for an Order Declaring a Sale in Error," In the Matter of the Application of the County Treasurer, Etc., Pine Valley One Real Estate LLC, Petitioner, Case No. 2018COTD002669, December 13, 2018.
[159] "Petitioner's Motion for an Order Declaring a Sale in Error," In the Matter of the Application of the County Treasurer, Etc., Petition of: FNA 2015-1 Trust, U.S. Bank National Association, as Indenture Trustee, Case No. 2018COTD002488, November 20, 2018.
[160] "Sur Reply of Collector Objecting to Petitioner's Sale in Error Petition and Responding to Petitioner's Supplemental Brief," In the Matter of the Application of the County Treasurer, Etc., Petition of: FNA 2015-1 Trust, U.S. Bank National Association, as Indenture Trustee, Case No. 2018COTD002488, January 11, 2019.
[161] "Order" by Judge Maureen O. Hannon, In the Matter of the Application of the County Treasurer, Etc., Petitioner: FNA 2015-1 Trust, U.S. Bank National Association, as Indenture Trustee, Case No. 2018COTD002488, January 25, 2019.
[162] "Order" by Judge Maureen O. Hannon, In the Matter of the Application of the County Treasurer, Etc., Petitioner: FNA 2015-1 Trust, U.S. Bank National Association, as Indenture Trustee, Case No. 2018COTD002488, January 25, 2019.

THE BANKRUPTCY LOOPHOLE

To protect their home or business, financially troubled property owners can file for bankruptcy, which places almost all debt collections on hold, including unpaid property taxes.

A property's taxes should not be sold if an owner has a pending bankruptcy, which temporarily bars creditors from trying to collect money or seize property.

If the Treasurer's Office wrongly sells them, tax buyers may seek to vacate the sale and recoup their money, plus costs and interest.[163] Sometimes the bankruptcy court or lawyers do not notify the Treasurer's Office that a property owner filed for bankruptcy. And sometimes the Treasurer misses a bankruptcy filing and mistakenly offers a property at a tax sale.

Bankruptcy Sales in Errors

Status of Bankruptcy	Number of Cases	Total Refunded	Interest Paid
Properties part of a pending bankruptcy that should not have been sold at a tax sale*	319	$5,223,513.53	$532,146.27
Bankruptcies filed after a tax sale	888	$16,945,789.13	$2,478,045.97
Total	**1,207**	**$22,169,302.66**	**$3,010,192.24**

*Tax buyers got refunds at least eight times for bankruptcies filed and closed before the tax sale, revealing another loophole in the law.

The Treasurer's study found that the office has wrongly sold delinquent taxes on at least 319 properties that were part of a pending bankruptcy. The Treasurer paid back more than $5.2 million, including more than $530,000 in interest.

Tax buyers in Illinois even win when a property owner files for bankruptcy after the sale.[164] They don't just get their money back. They get it with costs and interest, even though the filing of the bankruptcy is out of the control of any county official.

Even if a property owner files for bankruptcy long after the sale but prior to the issuance of a deed, the government loses because tax buyers can get their money back, with interest. That is due to revisions in 1989 to the state's property tax law — yet another change that favored the interests of institutional tax buyers over taxpayers.[165]

First National Assets bought the taxes on a home in south suburban Markham on June 6, 2016. On Jan. 3, 2019 — more than 2 ½ years after the taxes were sold — the homeowner filed for bankruptcy protection. First National successfully obtained a sale in error.[166]

The Treasurer's analysis shows that property owners filed for bankruptcy protection at least 888 times after their taxes were sold. The Treasurer paid out nearly $17 million, including over $2.4 million in interest.

The law is so tilted in tax buyers' favor that they have won even if a bankruptcy is opened and closed before the tax sale. That's because current state law does not require that the bankruptcy case be active at the time the taxes were sold. That means tax buyers have gotten their money back with interest in cases that would have no impact on the tax buyer's ability to seek ownership of the property.

The Treasurer's Office found eight instances where Cook County judges ordered tax buyers' money returned, plus interest, in cases where the bankruptcy had been filed and closed before a tax sale.

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[163] (35 ILCS 200/21-310(a)(6)). "[T]he court shall declare the sale to be a sale in error [when]… prior to the tax sale a voluntary petition has been filed by or against the legal or beneficial owner of the property requesting relief under the provisions of 11 U.S.C. Chapter 7, 11, 12, or 13."

[164] (35 ILCS 200/21-310(b)(1)). "A voluntary of involuntary petition under the provisions of 11 U.S.C. Chapter 7, 11, 12 or 13 has been filed subsequent to the tax sale and prior to the issuance of the tax deed."

[165] An Act to amend the Revenue Act of 1939, filed May 17, 1939, as amended, by changing Sections 253 and 260 and adding section 260.1, H.B. 112, 86th Gen. Ass. (I.L. 1989)

[166] "Petitioner's Motion for an Order Declaring a Sale in Error," In the Matter of the Application of the County, Etc., Petition of FNA 2018-1, LLC, U.S. Bank National Association, as Indenture Trustee, Case No. 2018COTD006665, January, 22, 2019.

Take the case of tax buyer First National Assets. The firm bought nearly $41,000 in unpaid taxes on a liquor and convenience store in west suburban Bellwood on Aug. 4, 2015.[167] About 1 ½ years later, First National sought its money back, including interest and costs because the property owner had filed for bankruptcy.[168]

But the owner's bankruptcy case, according to federal court records, had closed Feb. 23, 2015—more than five months before the tax sale had taken place.[169]

A Cook County judge in 2017 overturned the sale and approved First National's request for a refund of its money.[170]

Other states are not as generous.

Terry Noble, chief deputy with the Fulton County, Ga., Tax Commissioner's Office, said the county does not pay interest under any circumstance involving the sale of tax lien transfers, including in bankruptcy cases. "That road only goes one way," Noble said. "Whatever you buy from us, that's on you."[171]

Miami-Dade and Denver counties return money and pay interest only if a property owner had a pending bankruptcy at the time of the sale, in part because under the bankruptcy law the property should not have been offered for sale.[172]

However, the two counties do not refund money or pay interest if the bankruptcy is filed after the sale, saying that is on the tax buyer. In order to get their money back, the tax buyer would have to become a creditor in the bankruptcy case, just like anyone else who is owed money.[173]

"If the bankruptcy was filed after the sale of the taxes was completed, then we don't refund anything and those sold taxes are handled through the bankruptcy," said Dalton Weisshaar, business operations administrator for the city and county of Denver Treasury Division. "We will not allow them to add future years while the bankruptcy is active, but the sale stands and no money or interest is refunded."[174]

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[167] "Petition to Vacate Tax Sale," In the Matter of the Application of the County Collector, Etc., Petition of FNA DZ, LLC, Case No. 2017COVT000104, January 19, 2017.
[168] Ibid.
[169] Chapter 7 Bankruptcy Case No. 14-39580.
[170] "Order," In the Matter of the Application of the County Collector, Etc., Petition of FNA DZ, LLC, Case No. 2017COVT000104, March 1, 2017.
[171] Terry Noble, Fulton County Tax Commissioner's Office, interview, October 21 & October 25, 2021.
[172] Gerardo Gomez, Miami-Dade County Tax Collector's office, email question and answer, November 23, 2021; Weisshaar, email question and answer.
[173] Gomez, email question and answer; Weisshaar, email question and answer.
[174] Weisshaar, email question and answer.

From time to time, tax buyers will claim more than one reason in seeking to overturn a sale and get their money back. This can be a hedge against a judge who just might refuse to grant a sale in error for one reason but grant it for another.

Some tax buyers sometimes will cite two or more different reasons in seeking to overturn a tax sale and get their money back.

Integrity Investment Fund said the Assessor's website claimed a Chicago home had a detached garage, when in fact it had no garage.[175] Integrity sought to undo the 2016 tax sale for a "county error." In that same case, Integrity also said a sale in error could be granted for two other reasons as well: The property was substantially destroyed after the sale and the city in February 2019 had filed a demolition lien against the property.[176]

A judge reversed the sale and refunded a total of almost $15,000, including at least $2,200 interest to Integrity Investment.

And then there's the house no one wanted.

Figure 11: This Chicago home has been the subject of four sales in error since 2010 (Cook County Assessor's website photo.)

The owner of a single-family brick home in Chicago's South Side repeatedly fell behind in paying property taxes. Four different buyers purchased the home's taxes at separate sales, and all four asked judges to overturn the sales and give them their money back.

First up was Wheeler Financial, which bought the home's 2010 unpaid taxes. Wheeler later received a sale in error after failing to notify another tax buyer with an interest in the property that it was seeking a deed to the home.[177]

That tax buyer, Illinois Salt Fox Investments, LLC had purchased the home's 2011 delinquent taxes. Illinois Salt Fox, in turn, received its money back without interest after the Circuit Court Clerk failed to timely notify interested parties to the tax case.[178]

Next, NR Deed — a shell company controlled by Atlanta-based hedge fund GSRAN-Z — bought the distressed home's 2013 taxes.[179] NR Deed filed a petition to seek ownership of the home in March 2018 and switched tactics after the homeowner did not pay up.

NR Deed in February 2019 argued the Assessor's Office erred by describing the property as a one-story home when it really should have been classified as an "old style rowhouse" or a townhouse because it shares a wall with a neighboring residence.[180] The judge agreed, overturned the sale and awarded NR Deed $6,225, including interest.

Despite the judge's ruling, the Assessor's description of the property remained unchanged.

Eventually, the house ended up on the Treasurer's Scavenger Sale list. There, a Chicago resident purchased rights to the home in July 2019.[181]

In April 2022, the resident sought her money back, with interest, and asked a judge for a sale in error. The judge agreed. The reason? The property was still classified as a one-story home.

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[175] First Amended Petition for Sale in Error," In the Matter of the Application of the County Collector, Etc., A Petition of: Integrity Investment Fund, LLC, Case No. 2018COTD007346, September 27, 2019.
[176] Ibid.
[177] "Petition for Declaration of Sale in Error," In the Matter of the Application of the County Treasurer, etc., Wheeler Financial, Inc., Petitioner, Case No. 2015COTD001505, August 7, 2015.
[178] "Petition for Order Declaring a Sale in Error," In the Matter of the Application of the County Collector, Etc., Petition of U.S. Bank Custodian for Illinois Salt Fox Investments, LLC, Case No. 2016COTD002748, January 18, 2017.
[179] "Petition to Vacate Tax Sale," In the Matter of the Application of the County Collector, Etc., Petition of NR Deed, LLC, Case No. 2018COTD001954, February 26, 2019.
[180] Ibid.
[181] "Petition for Declaration of Sale in Error," In the Matter of the Application of the County Treasurer, Etc., Petition of Leora Luckett for Tax Deed, Case No. 2021COTD003756, April 19, 2022.

Rank	Basis for Sale in Error	Error Refund Total	Percent of refund dollars	Number of Errors	Percent of Errors	Interest Usually Paid	Tax Code 35 ILCS 200 section (If applicable)	
1	**Error by county official**	$148,009,015.92	53.33%	5,253	48.22%	Yes	21-310	a(5)
2	Property is **owned by a unit of government**	$32,338,796.23	11.65%	565	5.19%	Yes	21-310	a(7)
3	Owner of property filed for **bankruptcy after taxes were sold**	$16,945,789.13	6.11%	888	8.15%	Yes	21-310	b(1)
4	Property is **not subject to taxation**, or taxes are null and void	$16,914,576.26	6.09%	312	2.86%	Yes	21-310	a(1)
5	Tax Buyer made a ***bona fide* attempt** to get deed	$16,642,631.41	6.00%	1,269	11.65%	No	22-50	-
6	There is a **municipal lien** on the property	$15,260,640.03	5.50%	813	7.46%	No	22-35	-
7	Property improvements were **destroyed after the tax sale**	$10,663,995.11	3.84%	583	5.35%	No	21-310	b(2)
8	The **U.S. Government has an interest in the property** that isn't extinguished by a tax deed	$5,343,276.36	1.93%	206	1.89%	Yes	21-310	b(3)
9	Owner of property filed for **bankruptcy prior to sale**	$5,223,513.53	1.88%	319	2.93%	Yes	21-310	a(6)
10	Taxes were paid prior to sale	$3,288,111.11	1.18%	456	4.19%	Yes	21-310	a(2)
11	**Hazardous waste is on the property** that the tax buyer did not know about prior to sale	$2,603,096.69	0.94%	29	0.27%	No	21-310	b(4)
12	Judge ordered **sale in error as equitable remedy** – basis not listed in statute	$1,868,727.20	0.67%	102	0.94%	No	Equity Issue	
13	Property description is **void for uncertainty**	$1,179,695.84	0.43%	22	0.20%	Yes	21-310	a(4)
14	The property **does not have a merchantable title**	$684,853.26	0.25%	38	0.35%	No	22-55	-
15	There was a **double assessment**	$71,207.14	0.03%	4	0.04%	Yes	21-310	a(3)
16	**A member of the military has been granted an extension** to pay taxes	$12,979.91	0.00%	5	0.05%	Yes	21-310	a(8)
-	Not enough information to determine why a sale in error was granted	$504,961.66	0.18%	29	0.27%	N/A	Not Classified-	
Total		**$277,555,866.79**	**100.00%**	**10,893**	**100.00%**			

Table: Breakdown of Sales in Error

The Illinois property tax law has enough loopholes that it is often easy for a tax buyer to wiggle out of a deal. For its analysis, the Treasurer's Office analyzed 16 different reasons tax buyers used to vacate tax deals and to get their money back. By far, the most often reason cited was an error by a county official, one of 10 sale in error reasons where government must pay interest to tax buyers.

Actual Knowledge

Tax buyers in Illinois cannot get interest on a sale in error if a property is damaged after the sale, if hazardous waste is found, if there is a municipal lien or if a judge denies a deed for a bona fide attempt.[182]

Nor can tax buyers get interest on their investment if a court finds the buyer had "actual knowledge," meaning the buyer was aware of the error prior to the sale and bought the tax lien anyway.[183] The State's Attorney's Office, which represents the Treasurer in court on tax cases, said it is difficult to prove a buyer was aware of an error before purchasing the property's taxes.

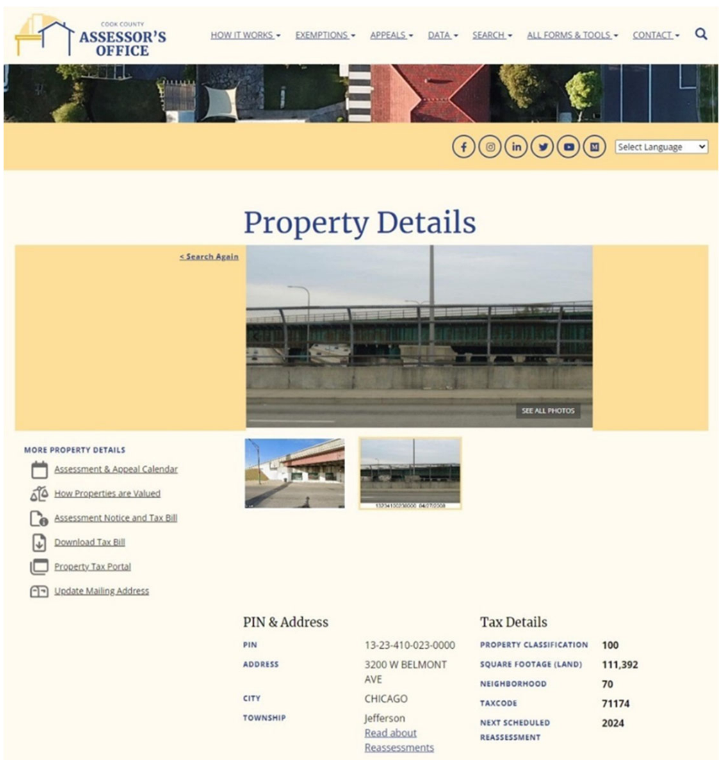


Figure 12: A section of the Kennedy Expressway that was sold at a tax sale. The Assessor classified the public highway as vacant land. (Assessor website photo.)

Still, the State's Attorney recently set out to show a tax buyer had "actual knowledge" of an error to prevent that buyer from getting paid interest on nearly $1.6 million in back taxes.

The case centered on a portion of the Kennedy Expressway, a federal tax-exempt highway that cuts through downtown Chicago. The Treasurer's Office should not have offered the government-owned property at the tax sale; the Assessor's Office had wrongly classified that section of public road as taxable, vacant land.

On April 5, 2017, New Jersey-based investment fund Madison C/O Stonefield IV purchased the property's taxes for the years 1996 through 2015.[184]

Stonefield held onto the Kennedy Expressway taxes for three years before seeking a refund, compiling interest along the way.

The Stonefield investment fund — which has about 60 high-wealth investors and $70 million in assets — is a sister company of New Jersey-based Broad Financial and buys tax liens in Illinois and multiple other states.[185]

On April 6, 2020, the investment fund asked a judge to return their money, with interest. "The subject property is currently used as a public thoroughfare," wrote Heather Ottenfeld, the investment fund's Chicago lawyer. The fund, in its court filing, said that at the time of the sale it had "no knowledge" the property was the Kennedy Expressway and that it was not subject to taxation.[186]

The State's Attorney's Office objected to awarding Stonefield interest and took testimony from the tax buyer and its employees, a rare move by the office. The State's Attorney wanted to know Stonefield's "knowledge of the grounds for which it is asking for the

[182] (35 ILCS 200/21-315). "Interest shall not be paid when the sale in error is made pursuant to paragraph (2) or (4) of subsection (b) of Section 21-310, Section 22-35, Section 22-50, any ground not enumerated in Section 21-310, or in any other case where the court determines that the tax purchaser had actual knowledge prior to the sale of the grounds on which the sale is declared to be erroneous."
[183] Ibid.
[184] "Petition for Order Declaring a Sale in Error," In the Matter of the Application of the County Collector, Etc., Petition of Madison C/O Stonefield IV, Case No. 2020COVT000134, April 6, 2020.
[185] "Deposition of Ephraim B. Finkelstein," *In the Matter of the Application of the County Collector, Etc., Petition of Madison C/O Stonefield IV*, Case No. 2020COVT000134, November 8, 2021, p. 6-8, 17-18, 71-72.
[186] "Petition for Order Declaring a Sale in Error," In the Matter of the Application of the County Collector, Etc., Petition of Madison C/O Stonefield IV, Case No. 2020COVT000134, April 6, 2020.

sale in error."[187] In short, what did Stonefield know, and when did it know it?

The Stonefield fund responded in court papers that it had neither checked the Assessor's website nor physically inspected the property before the sale — despite investing nearly $1.6 million in unpaid taxes — and was unaware it was part of a highway.

Ephraim Finkelstein, president of Stonefield Investments and chairman of Broad Financial, testified in a deposition that his firm did not need to see the property before bidding on its taxes. Finkelstein said his firm uses a method where it ranks areas on a scale of 1 to 3, with 1 being the highest score for properties in "the most desirable parts of town."[188] Stonefield, in turn, targets properties within the No. 1 ranked areas based on their assessed value and square footage.[189]

Finkelstein said he believed his firm was purchasing taxes on 111,000 square feet of vacant land in a coveted part of Chicago. He said the property received its highest score, adding it had "an enormous lien-to-value ratio," meaning the property was far more valuable than the taxes owed on it.[190] He said he became aware that the property was part of the Kennedy Expressway sometime after paying all of its past due taxes.[191]

Assistant State's Attorney Luz Toledo asked Finkelstein how many sales in error his firm has sought since its inception. Replied Finkelstein, "Over the years, I would say a few. I think there have been a few."[192]

In fact, Stonefield has sought and received at least 244 sales in error since 2014, according to the Treasurer Office's analysis. Stonefield has more than $17.8 million in refunds, including more than $2.2 million in interest on those errors — placing it among the top six tax buyers in Cook County.

The highway sale-in-error case went to trial in September 2022 before Judge Hannon. Stonefield made it clear they like investing in tax liens in Illinois.

Finkelstein testified that the sale-in-error process makes Cook County a "very attractive" place to invest.[193]

> *"Because there is a sale-in-error process in Cook County, that makes this very attractive to us."*
>
> — Ephraim Finkelstein, president of Stonefield Investments

"Because there is a sale-in-error process in Cook County, that makes this very attractive to us," Finkelstein said. "Because what we would do, let's say, in New Jersey, we would do a tremendous amount of due diligence to see how things are zoned and title and bankruptcy and all of these things. So basically, those things we're not worried about, which it makes it a lot easier for us to bid at auctions in Cook County."[194]

Stonefield's portfolio manager, David Rotenberg, called Illinois' sale-in-error statute a "safety net" for investors.[195]

Stonefield's lawyer, Terry Carter, in his closing arguments, said no proof existed Finkelstein or Rotenberg knew the property was a highway. He pointed out the Treasurer wrongly sold the highway at a previous tax sale.

"Why didn't the Treasurer take it from the tax rolls?" Carter asked. "I don't know. But it's still there. And the Treasurer has Stonefield's money, and they've had it for years."[196]

In the end, Judge Hannon said she found it hard to believe Stonefield's seasoned investors would spend over

[187] "Agreed Continuance Order," In the Matter of the Application of the County Collector, Etc., Petition of Madison C/O Stonefield IV, Case No. 2020COVT000134, June 12, 2020.
[188] Finkelstein Dep., p. 22, 26.
[189] Ibid., p. 43-45.
[190] Ibid., p. 47-48.
[191] Ibid., see generally p. 28, 44, 58-60, 68, 77-78.
[192] Ibid., p. 67.
[193] "Trial testimony of Ephraim B. Finkelstein," p. 105, September 15, 2022. In the Matter of the Application of the County Collector, Etc., Petition of Madison C/O Stonefield IV, Case No. 2020COVT000134.
[194] Ibid
[195] Ibid, "Trial testimony of David Rotenberg, Stonefield Investments portfolio manager." p. 227, September 15, 2022.
[196] Ibid. "Closing argument of Stonefield lawyer Terry Carter," P.24, September 21, 2022.

a million dollars without first checking the Assessor's website. "It's almost implausible and inconceivable that they would spend 1.4 million without, at the barest minimum, accessing the Assessor's website that has a picture of a highway on it," Hannon said.[197]

She granted the sale in error to Stonefield because the Treasurer wrongly sold the highway, but she denied Stonefield's request for interest. According to calculations by the Treasurer's Office, Stonefield would have received $1,055,745.25 in government interest if it had won the case.

As Stonefield's lawyer noted in his closing argument, this was not the first time a tax buyer purchased the Kennedy Expressway after the Treasurer's Office put it for sale. Gan B, the suburban Northlake-based tax buyer, obtained a sale in error in 2016, which included the same portion of the highway that Stonefield later would buy.[198] Finkelstein, in his testimony, said he was unaware of the earlier Gan B tax case.[199]

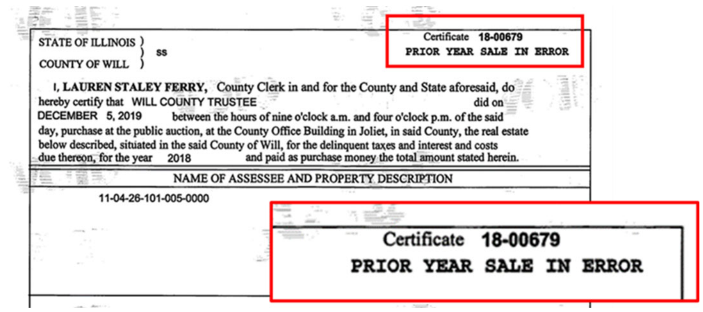
Nor is this the first time Stonefield purchased the taxes on a public thoroughfare and later sought a sale in error.

In 2015, Stonefield paid the delinquent taxes on a downtown Chicago parcel — a public right-of-way, South Financial Place.[200]

A Stonefield sister company received more than $6.2 million — the single-largest amount of money paid to a tax buyer as a result of a sale in error during the period studied. The refund included at least $970,800 in interest, the single highest amount of interest paid for a sale in error.

In Will County, government officials are trying to cut down on institutional tax buyers receiving refunds — with interest — for repeated sales in error for the same property. The office provides to tax buyers a list of all properties that have had prior sales in error, including the reason, such as municipal lien, bankruptcy or assessor error, said Julie Shetina, Will County's chief deputy treasurer.[201]

When they register for a sale, tax buyers must acknowledge receiving the list. In addition, the properties' tax certificates have the notation "prior year sale in error" printed on them.


STATE OF ILLINOIS) ss
COUNTY OF WILL)

Certificate 18-00679
PRIOR YEAR SALE IN ERROR

I, LAUREN STALEY FERRY, County Clerk in and for the County and State aforesaid, do hereby certify that WILL COUNTY TRUSTEE did on DECEMBER 5, 2019 between the hours of nine o'clock a.m. and four o'clock p.m. of the said day, purchase at the public auction, at the County Office Building in Joliet, in said County, the real estate below described, situated in the said County of Will, for the delinquent taxes and interest and costs due thereon, for the year 2018 and paid as purchase money the total amount stated herein.

NAME OF ASSESSEE AND PROPERTY DESCRIPTION

11-04-26-101-005-0000

Certificate 18-00679
PRIOR YEAR SALE IN ERROR

Figure 13: Will County tax sale certificate stating a "prior sale in error" was issued for this property. (Note: Name and property address have been redacted.)

Shetina said her office will not pay interest in cases where tax buyers had been alerted to a prior error and purchased the property's taxes anyway. "They can't challenge us and claim, 'We did not know,' " Shetina said. "They were told."[202]

The issue of sales in error costing municipalities money is not confined to Cook County.

Indeed, Will County had paid out about $1.3 million for sales in error in 2018.[203] The Rockford Register Star newspaper reported in 2019 that Winnebago County treasurer also had refunded more than $1 million to tax buyers who sought and won sales in error.[204]

"Most of those who participate in the county's tax sales aren't interested in real estate tax acquisition," the paper reported. "They aim to make money."[205]

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[197] Ibid. "Ruling by Cook County Circuit Court Judge Maureen Hannon," p.28, September 21, 2022.
[198] "Petition to Vacate Tax Sale," In the Matter of the Application of the County Collector, Etc., Petition of Gan B, LLC, Case No. 2016COVT001163, May 13, 2016.
[199] Finkelstein Dep., p. 59.
[200] "Amended Petition for Order Declaring a Sale in Error,*" In the Matter of the Application of the County Collector, Etc., Petition of SLS I, LLC*, Case No. 2017COVT001464, November 27, 2017.
[201] Julie Shetina, Will County, Ill., chief deputy treasurer, interview, July 18, 2022.
[202] Ibid.
[203] Shetina, interview, June 27, 2022.
[204] Isaac Guerrero, "Broken program costs Winnebago County taxing bodies more than $1M in lost revenue," *Rockford Register Star*, April 13, 2019, https://www.rrstar.com/story/news/politics/county/2019/04/13/broken-program-costs-winnebago-county/4823556007/.
[205] Ibid.

In Summary

For years, wealthy investors and others have been drawn to Illinois to take part in property tax sales. Each year, counties in Illinois sell unpaid property taxes to these investors, known as tax buyers. It is a way for government to immediately collect money owed that is needed to fund schools, police, libraries and other vital services.

About 95% of the time, homeowners and others repay their delinquent taxes, at steep interest rates. But when a property owner does not repay, tax buyers look for ways to get their money back. They may seek ownership of a home, or they may seek to overturn the tax sale.

Investors flock to Illinois because it is like no other state in the country — it has a generous sale-in-error statute, parts of which tax buyers helped to rewrite.

The statute allows tax buyers to easily and quickly undo a tax deal for trivial reasons, often getting all of their money back, including interest, fees and court costs. Judges have routinely approved tax buyers' requests.

Money to repay the tax buyers comes from the bank accounts of local taxing districts.

These tax buyers — hedges funds, private equity and other real estate investors — have profited at the expense of poor, predominantly Black and Latino communities. Taxing districts have lost more than a quarter-billion dollars during the past seven years alone. And the problem is not isolated to Cook County.

Government officials have long been aware that Illinois' property tax law was being exploited.

The Treasurer's Office in 2017 proposed the first of three state bills to change the sale-in-error statute. That bill called for allowing sales in error when the error was "material," meaning it financially harmed the tax buyer.[206] The two subsequent bills also sought to rule out granting sales in error in the case of an Assessor's website mistake.[207] [208]

Each of those three attempts went nowhere.

This study's findings show that now more than ever the law needs to be revamped. Without change, financially struggling Black and Latino communities will continue to lose much-needed revenue.

The findings further make it clear that even if the law were to change, Cook County offices need to be more vigilant in preventing and correcting the types of mistakes investors for years have known about and have been capitalizing on.

[206] A bill to amend the Property Tax Code, filed February 7, 2017, by changing Sections 21-150, 21-295, 21-305 and 21-310, S.B. 845, 100th Gen. Ass. (IL. 2018)

[207] A bill to amend the Property Tax Code, filed February 5, 2020, by changing Section 21-310, H,B. 4550, 101st Gen. Ass. (IL 2020)

[208] A bill to amend the Property Tax Code, filed February 10, 2021, by changing Section 21-310, H.B. 858, 102nd Gen. Ass. (IL 2022)

Recommendations

In light of the findings, the Treasurer's Office is making a series of recommendations to the Illinois General Assembly and to various Cook County offices.

The Illinois General Assembly should amend the property tax law to close the sale-in-error loophole:

- Require tax buyers to prove an error was "material" to the tax sale and that they were financially harmed. This would prevent tax buyers from profiting from frivolous mistakes.
- Disallow sales in error based on clerical mistakes on the Assessor's website, a source for scores of insignificant errors that cost taxing bodies millions of dollars.
- Disallow interest being paid to tax buyers in cases where they were alerted by the Treasurer's Office to a previous error on a property, bought the taxes anyway and later sought a sale in error for the same reason.
- Disallow sales in error for bankruptcies filed and closed before the actual date of a tax sale. This would prevent tax buyers from using old bankruptcy cases as a pretext to get their money back, with interest. The statute, currently as written, does not specifically require the bankruptcy case be pending at the time of the sale.
- Disallow sales in error for bankruptcies filed after a tax sale. Tax buyers would have to go to bankruptcy court and become a creditor in the case rather than profiting from an issue that had nothing directly to do with an official county action. That would bring Illinois in line with the practices of other states.
- Disallow sales in error under the "bona fide attempt" provision, where the tax buyer is at fault for the error. This would mean that tax buyers — and not taxpayers — shoulder the cost of their own mistakes, such as when a tax buyer uses the wrong address or provides an inaccurate amount a property owner must pay in tax deed cases.
- Change requirements to certified mail notices by the Sheriff's Office. If a deputy visits a property and sees that it is a nonexistent address, vacant land or a clearly uninhabitable home — boarded up or damaged by fire — the Sheriff's Office should not be required to mail a certified "take notice" to a documented ghost property.

The General Assembly should further amend the state's property tax law to assist financially struggling property owners:

- Lower the interest rate tax buyers can receive from homeowners and businesses on subsequent tax payments. The current rate is 12% per year and would be lowered to 9%.
- Give property owners the option of a payment plan. Currently, in order to get their homes, businesses and land back, property owners must pay the entire amount they owe in a single payment.
- Double the amount tax buyers pay into a dedicated sale-in-error fund, which, every year is quickly depleted. Currently, tax buyers in Cook County pay $100 per property index number they purchase. That would rise to $200 and would be nonrefundable.

The Treasurer also recommends a series of administrative and policy changes for her office, and the offices of the Assessor, County Clerk, Sheriff, Circuit Court Clerk, State's Attorney and Chief Judge.

Assessor's Office –

- The Assessor's Office should take a more aggressive role in correcting errors and updating its website. The Treasurer's Office requests that the Assessor tell the Treasurer what changes will be made, and why other suggested changes may not be made.

Treasurer's Office –

- The Treasurer's Office should hire more staff dedicated to identifying error-prone properties that should not be offered at a tax sale: properties owned by government and nonprofit groups, properties misclassified on the Assessor's website and properties in pending bankruptcies.
- The Treasurer should automate the process to identify pending bankruptcies and government-owned properties and be more aggressive in identifying other error-prone properties before they are offered at a tax sale.
- The Treasurer should provide to tax buyers a list of properties that have had prior sales in error. Tax

buyers will have to acknowledge receiving the list when they register for Annual and Scavenger sales. The goal is to reduce tax buyers' claims they had no knowledge of the prior error — such as those involving highways — and to prevent them from cashing in on the same error over and over. The list should be shared with the Assessor, the County Clerk and the State's Attorney's Office, which represents the Treasurer in court on tax cases.

- The Treasurer should not offer at the Annual and Scavenger tax sales owner-occupied homes if the amount owed in taxes is less than $1,000, homes owned and occupied by a resident who receives a senior tax freeze, or homes owned and occupied by a fully disabled person — as long as the homeowner agrees to a payment plan. Tax sales have disproportionately harmed poor and elderly owners, and, in particular, Black and Latino homeowners.

Cook County Clerk's Office –

- The Clerk should add a stamped notation — "Prior Sale in Error" — to tax sale certificates if a property had a previous sale in error. This, accompanied by the Treasurer's list of prior sales in error, would help prevent tax buyers from later claiming they had no "actual knowledge" of an earlier error. The county should not pay interest to tax buyers in cases where they were alerted to an error and bought the taxes anyway.
- The Clerk also needs to redouble efforts to ensure that tax sale records are timely and accurately entered into the county's computer system.

Sheriff's Office –

- The Sheriff should fully automate the process for serving "take notices" — the notices served on property owners and others alerting them that the property may be handed over to someone else.
- The Sheriff should require tax buyers who submit take notices for 10 or more properties to electronically enter the information through online software, which would cut down on human errors and unnecessary delays.
- The office should also consider adding staff to its Civil Process Unit, the deputies who personally serve the take notices.

Clerk of the Circuit Court's Office –

- The Circuit Court Clerk should fully automate its process for sending take notices by certified mail to property owners and others and for tracking those notifications. This would reduce the number of times property owners are not timely notified that they are in danger of losing their home or business.

Chief Judge's Office –

- Judges' orders should explicitly state the reason(s) they granted a sale in error, such as a county error in which the assessor misclassified a property as vacant land when it really was a one-story home. Court orders typically state that a petition for a sale in error is granted but do not provide detailed reasons or do not cite the specific statue. A more robust order would allow county offices, legal researchers, the public and others to better track and understand the court's decisions.

State's Attorney's Office –

- The State's Attorney's office should regularly share with the Treasurer judicial rulings granting sales in error, including the accompanying petition for the error, so that county mistakes can be tracked and corrected.
- The office should advocate for more detailed sale-in-error court orders.
- The office should also consider hiring additional lawyers for its understaffed Real Estate Tax Litigation unit. (The State's Attorney's Office in July 2022 began consistently providing court petitions and orders to the Treasurer's Office.)

For all county offices –

- The offices of the Assessor, County Clerk and Treasurer need to do a better job of communicating and sharing information.
- The offices should work together to standardize how information is entered into the county's computer system and become more rigorous in data entry. The study found inconsistencies in how data — such as court case numbers and dates — were entered and numerous instances where no data had been entered at all, presenting challenges to analyzing government actions and policies. The public, researchers and others should be able to trust the information that is collected by government is accurate and complete.
- An integrated electronic property tax system should be created that allows for effortlessly sharing of information, including sale-in-error data, among County offices.

RESPONSES TO RECOMMENDATIONS FOR COUNTY OFFICES

The Assessor's Office said Assessor Fritz Kaegi supports the ongoing effort to replace the Cook County's decades-old mainframe technology with a unified property tax computer platform that will allow for quicker updating of property characteristics. Kaegi also is working to obtain better sources of detailed property appraisal data to feed into the system, as well as backing state legislation that would require commercial property owners to provide updated characteristics for their properties.

The Assessor's Office also agreed to "look at any data shared with us by the Treasurer or any other office about alleged incorrect areas, validate that data, and update it, when appropriate." And it "welcomed" receiving court orders in sale-in-error cases that indicate a property's characteristics are incorrect.

Finally, the Assessor's Office agreed to advocate, along with other county offices, for changes in state laws "to make the system fair for all taxpayers."

The Treasurer's Office said it agrees with the recommendations for the office and has begun taking steps to reduce sales in error.

"We have expanded our Tax Sale team with additional researchers dedicated to identifying properties that should not be offered for sale, including properties with repeated past sales in error."

The office has recently begun using "mapping tools to create a database of all properties that overlap with a highway or road so that we can automate the removal of those properties from our tax sale. We are also in the process of creating a tool to automate the retrieval of bankruptcy case information from the federal court's online docket in order to identify properties on our tax sale list that may be part of an active bankruptcy case.

"Beginning with our November 2022 tax sale, we will be posting a list of properties with past sales in error on our tax sale registration site and requiring that all tax buyers review the list and sign a disclaimer acknowledging that they have reviewed the list in order to prevent buyers from claiming they had no knowledge of a basis for sale in error. . . .

"We will continue our efforts to automate our processes, collaborate with other county offices, and seek legislative changes to prevent future sales in error wherever possible."

The County Clerk's Office noted the Treasurer agreed to add language to forms tax buyers must sign when registering for tax sales: "Certificates of prior sales in error will be stamped on the certificate, starting with the 2020 Annual Sale."

The Clerk said "some variation on this phrasing is acceptable as long as it conveys adequate notice to the tax buyer or their agent that prior sales-in-error certificates will be stamped as prior sale in error." It also requested the Treasurer's Office to provide the Clerk's Office with the list of previous sales-in-error prior to future tax sales.

If those steps are taken, the Clerk's Office will stamp tax lien certificates with "Prior sale in error issued."

The Sheriff's Office noted that it has e-filing systems that allow tax buyers to seek and pay for take notices, conceding "the total number of tax deeds filed through (those systems) is very low, with most tax deed filers still submitting documents over the counter." The Sherriff's Office also acknowledged that processing paper requests takes weeks while the electronic system "is processed in minutes to hours."

The Sheriff's Office said it updated its certified mailing process in 2016, allowing one employee to process more than 500 mailings per day, compared to "200-300" by five to 10 employees prior to the change. The office added that it was working to further automate the process and "hopes to have it implemented soon."

The Sheriff's Office said it was aware of staffing issues in the civil process department, the department that serves tax case notices, and is trying to fill vacancies.

The Sheriff's Office said not requiring the office to send certified mailings for vacant land, an uninhabitable home or nonexistent address would require a change in state law. "If this change is approved, we feel that this would not have a major impact on the sales in error, and may cause more issues than it would solve." Making that change would require the office "to further sort the services requiring" certified mailings, which would add a process that "could lead to increased errors."

Finally, the Sheriff's Office said it was "open to receiving" judges' sales-in-error orders.

The Circuit Court Clerk's Office said that when Clerk Iris Martinez took office in December 2020, the office "was implementing and integrating an electronic case management system" with Circuit Court case documents. Once that process is complete, the office will take further steps to "streamline court record processes, including the process of sending take notices related to Tax Sales conducted by the Cook County Treasurer's Office."

"Circuit Court Clerk Iris Martinez looks forward to working with Treasurer Pappas and her office on electronically streamlining the take notices process for Tax Sales."

The Chief Judge's Office's response came from Judge Sanjay Tailor, who was presiding judge of the Circuit Court's County Division at the time.

Tailor said court orders are first reviewed by the State's Attorney's Office, which represents the Treasurer in tax cases. "A quick survey" of judges indicated "the Treasurer never objects to the form of the order, including that it is not sufficiently specific as to the basis of the sale in error," Tailor wrote in response. If such objections were raised, judges would consider them, he added.

Tailor said the reasons cited in a tax buyers' petitions for sales in error "is the basis alleged in the petition and the parties may not deem it necessary to articulate that basis in the order."

The State's Attorney's Office said it has "reviewed your recommendations and appreciates your efforts in exploring ways to reduce sale-in-error actions." The office acknowledged it "can benefit by hiring additional lawyers, and we continue to engage in recruitment efforts to do exactly that."

The State's Attorney's Office went on to note that it has "historically provided the Treasurer with court orders, and began sharing the petitions in July 2022 at the Treasurer's request." And it noted that the Treasurer's Office has "indicated that it may only be necessary for our Office to provide case numbers to the Treasurer, not documents."

The State's Attorney's Office said "advocating for more detailed sale-in-error orders would not be a sensible or feasible allocation of the Tax Section's resources. The factual and legal basis for the orders is already reflected in the petitions accompanying the orders." It said the office's 11 assistant state's attorneys each handle more than 2,000 sale-in-error petitions annually," along with other tax cases. "They do not have the resources to contest the details of otherwise legally sufficient sale-in-error orders so they repeat information already reflected in the underlying petitions," the office said.

It also suggested changes to the recommendations to ask the Treasurer to adopt "an automated system of obtaining more detail on sale-in-error cases" and eliminate the request for sharing of more detailed sale-in-error court orders.

How the Study was Done

Under state law, the Cook County Treasurer's Office is required to conduct two different types of sales to collect unpaid taxes — the Annual Tax Sale and Scavenger Sale.

The Annual Tax Sale is a yearly auction of unpaid taxes at which a tax buyer can pay all the property's delinquent taxes. If the property owner wants to keep their home, business or land, they have to repay the tax buyer, typically with interest. A property ends up on the Annual Tax Sale when the previous year's taxes go unpaid for 13 months.

The Scavenger Sale, on the other hand, is held every two years, with vacant lots accounting for the majority of the distressed properties that are auctioned to the highest bidder. Properties can be had for as little as $250. A property can end up being offered at a Scavenger Sale if taxes go unpaid in any three of the previous 20 years.

Treasurer Maria Pappas asked her research unit to examine an arcane subsection of the state's property tax law relating to tax sales — a subsection known as "sale in error." The sale-in-error statute exists to undo tax sales that should have not taken place, for instance, when a property owner had actually paid their taxes before the sale.

However, tax buyers — dominated by sophisticated institutional investors and lawyers — have been exploiting the statute to overturn tax sales and to get their money back, with interest, for reasons that would not be allowed in other states.

For this study, the Treasurer's Office examined the results of eight property tax sales — five Annual and three Scavenger sales.

The Annual Tax Sales were held from 2015 to 2019. The three Scavenger Sales were held in 2015, 2017 and 2019.

The office analyzed 10,893 sales–in-error related to tax sales that were granted from September 2015 to September 2022 either by judges or by the Treasurer's internal administrative process. The reasons for 29 of the sales in error could not be determined because crucial records were missing.

The Treasurer's Office gathered records from various government sources as part of its research. The office analyzed information on tax sales pulled from Cook County's main computer system, which contains tax sale and property information kept by the offices of the Treasurer, Assessor and County Clerk. The Treasurer's Office also relied upon tax sale and refund information from its own internal records. Often, the data imputed by county offices into the computer system were inconsistent, missing or incomplete.

The Treasurer's Office filed a public records request with the Sheriff's Office for data relating to tax deed cases handled by the Sheriff from December 2013 through October 2018. The Treasurer's Office analyzed about 573,000 rows of data. The data appear to have been largely hand-entered, which can lead to unintentional data-entry mistakes. The Treasurer's Office made its best effort to interpret typographical errors and short-hand notations.

In addition, the office researched thousands of court cases filed in the Circuit Court's County Division, whose judges handle tax cases, as well as researching about 1,000 cases filed with the U.S. Bankruptcy Court for the Northern District of Illinois.

The Treasurer's Office found judges' orders for overturning tax sales were often vague, making it difficult for the public to fully understand why a sale in error was granted to a tax buyer. The Treasurer's Office analyzed 527 orders judges issued from January 2022 through August 2022.

Of the 527 orders, 318 — about 60% — stated the error was being granted, and whether interest was to be paid. But the orders did not state the underlying reason the judge granted the sale in error.

Of the 277 orders where the error was the result of an action by a county official, 209 orders lacked specifics, such as whether it was due to the Assessor's Office wrongly describing the property on its website, a failure by the Sheriff's Office to properly serve paperwork or the Treasurer mistakenly selling the wrong amount of taxes.

For its study, the Treasurer's Office had to rely on petitions filed by tax buyers and assume the reason for the sale in error in the court order matched what was listed in the petition.

The Pappas Studies

Cook County Treasurer Maria Pappas in 2011 released her office's first financial study, which tallied the rising debt held by the county's local governments. During the next 10 years, her office released additional studies that documented low voter turnout; a near-doubling of property taxes in Cook County over 20 years while the cost of living rose just 36%; and the failure of the Scavenger Sale, a state-mandated semiannual auction of properties with chronic property tax delinquencies, meant to restore mostly vacant and abandoned properties to productive use.

The Research Unit

In March 2021, Pappas created a new research unit to expand the scope, depth and breadth of the Pappas Studies. To date, it has produced three major studies:

- A redesigned debt study released in June 2021 that measured the level of local government debt attributed to each of nearly 1.8 million properties in Cook County. It showed largely minority and low-income areas have the highest debt burdens that, in turn, result in higher property taxes.
- An analysis of property taxes billed in 2021 released in August 2021 that found lower-income, minority areas were hit harder with significant property tax increases.
- A follow up Scavenger Sale study that traced the origins of swaths of vacant and abandoned properties to the federal government's sanctioning of redlining — discouraging mortgage loans in minority areas — in the 1940s. This study made several recommendations for improvements to the property tax system to help remedy the injustices it revealed.

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