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REDEMPTION FROM TAX SALES IN ILLINOIS—CONFUSION GALORE

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I. INTRODUCTION

Unlike a tax title issued in some other states, which is little more than a cloud on title, tax deeds issued in Illinois are given great weight. For example, section 266 of the Revenue Act¹ provides: "Tax deeds issued pursuant to this section are incontestable except by appeal from the order of the court directing the county clerk to issue the tax deed This section shall be liberally construed so that tax deeds herein provided for shall convey merchantable title." This incontestability of tax deeds, once finalized, is counterbalanced by the public policy of the state enunciated in many court decisions² declaring that the State looks with favor upon redemption from tax sales and gives a liberal construction to the redemption laws.

Yet, the current version of the Illinois Constitution,³ the current statutes,⁴ and much of the case law with respect to redemption have

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1. ILL. REV. STAT. ch. 120, ¶ 747 (1987).

2. See *Franzen v. Donichy*, 9 Ill. 2d 382, 137 N.E.2d 825 (1957); *Mohr v. Sibthorp*, 395 Ill. 418, 69 N.E.2d 487 (1947); *Monsen, Inc. v. Hasselman*, 63 Ill. App. 2d 135, 211 N.E.2d 127 (1965).

3. ILL. CONST. art IX, § 8.

(b) (1) The right of redemption from all sales of real estate for the non-payment of taxes or special assessments, except as provided in paragraph (2) of this subsection (b), shall exist in favor of owners and persons interested in such real estate for not less than two years following such sales.

(2) The right of redemption from the sale for nonpayment of taxes or special assessments of a parcel real estate which:

(A) is vacant non-farm real estate or (B) contains an improvement consisting of a structure or structures each of which contain 7 or more residential units or (C) is commercial or industrial property; and upon which all or a part of the general taxes for each of 5 or more years are delinquent shall exist in favor of owners and persons interested in such real estate for not less than 90 days following such sales.

4. Section 253 of the Revenue Act provides in part:

Real property sold under the provisions of this Act may be redeemed at any time before the expiration of 2 years from the date of sale, except that farmland sold under the provisions of this Act during the period beginning

combined to create such a state of confusion that effecting a tax sale redemption in order to prevent loss of the property is often both difficult and risky, even for practicing attorneys.

This article will examine the incredibly numerous redemption periods from the different forms of tax sale in Illinois, the varying amounts necessary to redeem, the methods of redemption, and the classes of interested parties who are, and who are *not*, entitled to make a valid redemption from a tax sale.

II. BACKGROUND AND HISTORICAL DEVELOPMENT

The Illinois Revenue Act permits no less than five different forms of tax sale, whether of general taxes, of special assessments or both combined. The first of these to occur is the annual tax sale; held pursuant to section 225 of the Revenue Act,⁶ it is conducted once each year by the county collector pursuant to a judgment and order of sale entered in the circuit court, and it includes those parcels on which any portion of the general taxes or special assessments, or both, due during the current year remain delinquent as of the time of the tax sale auction by the treasurer. As to those parcels which are offered but not sold, the taxes become forfeited. Forfeited taxes are subject to be sold thereafter by the county clerk pursuant to a provision in section 272 of the Revenue Act,⁶ which permits a purchase of forfeited property without further court proceedings or confirmation of sale. Whenever there are forfeited taxes or special assessments in at least two separate years, the county is permitted to foreclose them in equity pursuant to section 216 of the Revenue Act,⁷ in a proceeding in which the property may be ordered sold to the highest bidder in satisfaction of the taxes or assessments. Property that is at least two years tax delinquent is also subject to be sold to the highest bidder at a scavenger sale pursuant to section

with the effective date of this amendatory Act of 1985 and ending on December 31, 1988, may be redeemed at any time before the expiration of 3 years from the date of sale. Redemption periods for specified types of real property shall be as follows: 6 months from the date of sale pursuant to Section 235a for vacant non-farm real estate, for real estate containing an improvement consisting of a structure or structures each of which contains 7 or more residential units and for real estate which is commercial or industrial property, or before the expiration of 2 years and six months from the date of sale if the real property is improved with a structure consisting of at least one and not more than 6 dwelling units if one or more of the dwelling units is occupied by the owner or owners thereof as his principal place of residence at the date of the expiration of 2 years from the date of sale.

ILL. REV. STAT. ch. 120, § 734 (1987).

5. ILL. REV. STAT. ch. 120, § 706 (1987).

6. *Id.* at § 753.

7. *Id.* at § 697.

235a of the Revenue Act.⁸ Finally, section 246 of the Revenue Act⁹ permits a "special sale" of forfeited property to the highest bidder whenever the circuit court, the county clerk, and the county treasurer can certify that the delinquent taxes or special assessments, or both combined, equal or exceed the value of the property.

All five of these statutorily authorized forms of tax sale fall under constitutional limitations; the 1870¹⁰ and the 1970 Constitutions¹¹ as originally enacted, prohibited any tax sale of real property without judicial proceedings, and required a minimum two-year redemption period from any such sale, in favor of the owners and persons interested in the real estate. Section 253 of the Revenue Act¹² had, for many years prior to 1976, simply followed the Constitution because it permitted real property sold under *any* of the statutory forms of tax sale to be redeemed for a period of two years following the date of the tax sale. Section 263 of the Revenue Act¹³ also permitted the tax purchaser to further extend during the initial two-year redemption period for any additional redemption period not to exceed a total of three years from the date of the tax sale.

In 1976, the first of many variations appeared in the standard two-year redemption period. An amendment¹⁴ to section 253 added a provision for a redemption period of two years and six months with respect to real property improved with a structure consisting of at least one and not more than four dwelling units if one or more of the units was occupied by the owner or owners thereof as his principal place of residence at the date of the expiration of two years from the date of sale.

Subsequently, section 235a of the Revenue Act,¹⁵ commonly referred to as the "Scavenger Act," was amended in 1978 and again in 1979, further complicating redemptions. The 1978 amendment¹⁶ simply reduced the minimum number of separate tax delinquencies needed for inclusion of property in a scavenger sale from ten to five years. The 1979 amendment¹⁷ required that a party redeeming from a scavenger sale pay, in addition to the regular redemption amount,

8. *Id.* at ¶ 716a.

9. *Id.* at ¶ 727.

10. See ILL. CONST. of 1870, art. IX, §§ 4, 5.

11. See ILL. CONST., art. IX, § 8.

12. ILL. REV. STAT. ch. 120, ¶ 734 (1987).

13. *Id.* at ¶ 744.

14. See Act of August 31, 1976, Pub. Act. 79-1455, 1976 Ill. Laws 1687 (codified as amended at ILL. REV. STAT. ch. 120, ¶ 716a, § 253 (1987)) (effective October 1, 1976).

15. ILL. REV. STAT. ch. 120, ¶ 716a.

16. Act of August 25, 1978, Pub. Act 80-1407, 1978 Ill. Laws 1433 (codified as amended at ILL. REV. STAT. ch. 120, ¶ 716a, § 235a (1987)) (effective August 25, 1978).

17. Act of September 26, 1979, Pub. Act 81-1076, 1979 Ill. Laws 4901 (codified as amended at ILL. REV. STAT. ch. 120, ¶ 716a, § 235a (1987)) (effective July 1, 1980).

"an amount equal to all delinquent taxes on such property which were delinquent at the time of sale." The additional money collected is not to be distributed to the certificate holder (as redemption money would normally be distributed), but rather, it is to be distributed to the taxing districts as a tax collection. An exception is made in favor of tax delinquent, owner-occupied, single-family residence, condominiums, and co-ops; redemption of such property from a scavenger sale may still be made without payment of these additional amounts.¹⁸

In 1980, there was a successful amendment to Section 8 of Article IX of the Illinois Constitution, relating to tax sale. In effect, it made an exception to the traditional limitation that the right of redemption from all sales of real estate for the nonpayment of taxes or special assessments exists for not less than two years following such sales. This exception is: the right of redemption from the sale for nonpayment of taxes or special assessments of a parcel of real estate which is vacant, nonfarm real estate or contains an improvement consisting of a structure or structures each of which contains seven or more residential units or is commercial or industrial property and upon which all or a part of the general taxes for each of five or more years are delinquent shall exist in favor of owners and persons interested in such real estate for not less than 90 days following such sales.¹⁹

The 1980 constitutional amendment was implemented in 1981 with a further amendment²⁰ to section 253, the redemption section. With respect to property sold at a scavenger sale, if the property is vacant, nonfarm real estate, real estate containing a structure consisting of seven or more residential units, or is commercial or industrial real estate, the period of redemption from the sale was reduced from two years to six months after the date of sale.

18. The current version of the confusing language added to section 235a in 1979 reads as follows:

For sales taking place after January 1, 1980, notwithstanding any other provision of this Section, except for single-family residential units being owner-occupied condominium units, cooperative units or dwellings, the amount required to be paid for redemption shall also include an amount equal to all delinquent taxes on such property which taxes were delinquent at the time of sale. Such delinquent taxes shall be apportioned by the county among the taxing districts in which such property is situated.

ILL. REV. STAT. ch. 120, § 716a (1987).

The original language added in 1979 was subsequently amended to the somewhat clearer existing language; but not until the original language was attacked as unconstitutional and vague. See *First National Bank of Waukegan v. Kusper*, 98 Ill. 2d 226, 456 N.E.2d 7 (1983) (court refused to decide the question of vagueness on the basis that the question had become moot by subsequent events).

19. See *supra* note 3.

20. See Act of August 13, 1981, Pub. Act 82-164, 1980 Ill. Laws 1040 (codified as amended at ILL. REV. STAT. ch. 120, § 253 (1987)) (effective August 13, 1981).

Presumably, the statutory amendment reduced the period of redemption on scavenger sales to six months, rather than three months as the constitutional amendment authorized,²¹ because a three-month redemption period would have required corresponding amendments to several other sections of the Revenue Act. In addition, a three-month redemption period would not permit the certificate holder sufficient time within which to comply with the statutory prerequisites to the issuance of a tax deed.

Another almost identical Act,²² which became effective a few days later on August 21, 1981, also amended section 253 to set up an identical six-month redemption period as to scavenger sales of vacant nonfarm real estate, real estate consisting of a structure containing seven or more residential units, commercial real estate, and industrial real estate. This latter Act went further, however, in that it also further extended the period of redemption as to other forms of tax sale that were not affected by the constitutional amendment. Section 253 had been amended in 1976 by an Act²³ that extended the period of redemption on all forms of tax sale of property improved with a residential structure of four or fewer dwelling units wherein one or more of the units is occupied by an owner as his principal place of residence; in such sales, the period of redemption is two years and six months rather than two years. The 1981 amendment to the section made the two year and six month redemption period applicable to owner-occupied residential property of six or fewer units rather than four or fewer units.²⁴

To summarize the somewhat confusing state of tax sale redemption periods after the 1981 amendment; as to scavenger tax sales only, the redemption period was six months if the property sold was vacant, nonfarm real estate, commercial or industrial real estate, or residential apartment buildings having seven or more dwelling units; the period was two years and six months if the property sold was a residential structure of less than seven dwelling units, but only if at least one of those units was owner-occupied on a particular date; and, as to all other property, the period was two years. With respect to all forms of tax sale other than the scavenger sale, the redemption period was two years and six months if the property was residential and improved with fewer than seven units, if an owner occupied at least one of the units on a particular date.

21. See *supra* note 3. See also ILL. REV. STAT. ch. 120, ¶¶ 744, 747, §§ 263, 266 (provides time frames within which notices must be served and petitions for tax deed must be filed).

22. Act of August 21, 1981, Pub. Act 82-334, 1981 Ill. Laws 803 (codified as amended at ILL. REV. STAT. ch. 120, § 253 (1987)) (effective Aug. 21, 1981).

23. See *supra* note 14.

24. See *supra* note 22.

In 1985, section 253 was again amended²⁵ to bestow favored treatment on farmland: with respect to farmland sold at any form of tax sale held after November 15, 1985, and prior to January 1, 1989, the minimum period of redemption was three years after the date of sale, with extension of the redemption period for up to an additional year at the option of the tax buyer.

In 1987, the Scavenger Act was again amended²⁶ to further reduce from five to two years the number of tax delinquencies needed on a parcel of property in order to be eligible for inclusion in a scavenger sale. Anticipating a further constitutional amendment, the Legislature made the two-year scavenger sale applicable to sales held on and after July 1, 1988.

The anticipated constitutional amendment was *not* accepted by the voters at the general election held in November, 1988. It would have further amended Article 9, Section 8 of the Illinois Constitution as to property which is vacant, nonfarm real estate improved with seven or more residential units, or commercial or industrial property. As to such property, the minimum period of redemption from *any* tax sale would have been reduced from two to one year after the date of sale; and, as to such property which is tax delinquent in two (rather than five) separate years, the minimum period of redemption would have been six months after the date of sale. Not being satisfied with the people's 1988 rejection of further constitutional tinkering with redemption periods, its proponents successfully introduced House Joint Resolution Constitutional Amendment 0004 on March 3, 1989, which currently remains pending before the 86th General Assembly.

III. CURRENT REDEMPTION PERIODS

Until such time as the Legislature sees fit to create further variations in the tax sale redemption periods, or the people see fit to accept further variations in the constitutional limitation, either to favor some preferred class of property or taxpayer, or to punish some class that has fallen out of favor, the minimum redemption periods from the various forms of tax sale permitted by Illinois law are as follows:

25. See Act of November 15, 1985, Pub. Act 84-1027, 1985 Ill. Laws 6569 (codified as amended at ILL. REV. STAT. ch. 120, ¶ 253 (1987)) (effective Nov. 15, 1985).

26. See Act of September 24, 1987, Pub. Act 85-795, 1987 Ill. Laws 3353 (codified as amended at ILL. REV. STAT. ch. 120, ¶ 734, § 253 (1987)) (effective September 24, 1987).

<i>FORM OF SALE</i>	<i>TYPE OF PROPERTY</i>	<i>REDEMPTION PERIOD</i>
Annual sale, forfeiture sale, scavenger sale, or foreclosure sale held prior to January 1, 1989.	Farmland.	3 years from date of tax sale.
Annual sale, forfeiture sale, or foreclosure sale held at any time.	6 or fewer residential units, one or more owner-occupied on a date 2 years after sale.	2 years and 6 months from date of tax sale.
Annual sale, forfeiture sale, or foreclosure sale held at any time.	All other property.	2 years from date of tax sale.
Scavenger sale held at any time.	Vacant, nonfarm, commercial, industrial, more residential units.	6 months from date of tax sale. 7 or
Scavenger sale held at any time.	6 or fewer residential units, one or more sale. owner-occupied on a date 2 years after sale.	2 years and 6 months from date of tax
Scavenger sale held at any time.	All other property.	2 years from date of tax sale.

All of the foregoing are *minimum* redemption periods; section 263 of the Revenue Act permits further extensions of the period of redemption, but only at the option of the holder of the certificate of purchase, and only if made by notice to the county clerk during an existing redemption period. The court before which a petition for tax deed is pending also may further extend the redemption period, but once again, only on motion of the certificate holder. Owners, occupants, and other interested parties are notified of any extensions of the redemption period by way of the statutory notices that section 263 requires to be served on all such parties at least 90 days

before the redemption period or extended redemption period expires. The county clerk also is notified of any such extensions and should note the same on the tax records in his office.²⁷ When the expiration date of the redemption period is calculated to fall on a Saturday, Sunday or legal holiday, and the office of the county clerk is closed so that redemption cannot be made on that date, the redemption period is automatically extended to the next date when the office of the county clerk is open for business.²⁸

IV. METHODS OF REDEMPTION

Redemption from tax sales may be effected in one of two ways: *first*, by deposit of the necessary funds with the county clerk pursuant to an estimate of the cost of redemption prepared by the clerk, or, *second*, by direct purchase of the tax sale certificate from the holder thereof and surrender of same for cancellation to the county clerk.²⁹ The latter method, if it can be accomplished, is far preferable to the prior because any redemption so made is absolute, leaving no questions unresolved with respect to the accuracy of the amount paid, timeliness of the redemption, kind of funds used or the rights of the redeeming party to make a valid redemption. Redemption in this manner is difficult, however, in that only the name (and not the location) of the initial purchaser at the tax sale appears of record; subsequent assignments of the tax sale certificate do not appear of record and are unknown to the county clerk. Furthermore, there is no legal requirement that the holder of the certificate surrender the same upon tender of any particular sum. If the current certificate holder can be located and contacted, surrender of his certificate is subject to negotiation. If this method of redemption is successfully attempted, its holder should endorse the certificate as being surrendered for cancellation and the certificate should be surrendered to the county clerk, who will thereupon issue a certificate of cancellation to the party tendering the certificate.

The far more convenient, and hence more common, method of redemption is by deposit of proper funds in the proper amount, within the redemption period, to the county clerk in the name of a party or parties who have a redeemable interest in the property.³⁰ Unlike the method described above, this method of redemption is not absolute, it is conditional on the tax certificate holder being satisfied that proper funds in sufficient amount were timely deposited by a party who had a right of redemption. When redemption money

27. See ILL. REV. STAT. ch. 120, § 744 (1987).

28. M.E. Stein & Co. v. Jones, 13 Ill. App. 3d 184, 300 N.E.2d 553 (1973).

29. See ILL. REV. STAT. ch. 120, § 743 (1987).

30. See ILL. REV. STAT. ch. 120, § 734 (1987).

has been deposited, the county clerk notifies the certificate holder that such funds have been deposited and are available for disbursement upon surrender of the certificate for cancellation. If the holder of the certificate is satisfied that the redemption is proper, or if he has no further interest in acquiring the property securing the certificate, he may surrender the certificate, accept the funds on deposit, and thus render the redemption absolute. If, on the other hand, he is not so satisfied, he may decline to accept the funds on deposit, wait until the redemption period has expired, then ask the court to direct the county clerk to refund and expunge the improperly made redemption and issue a tax deed to him.³¹

V. PARTIES ENTITLED TO REDEEM

The redemption statute³² provides that real property sold for taxes "may be redeemed by the owners and persons interested in the real estate, other than undisclosed beneficiaries under Illinois land trusts, whether or not the interest in the property is recorded or filed," and that "any redemption made shall be presumed to have been made by or on behalf of the owners and persons interested in the real property and shall inure to the benefit of the persons having the legal or equitable title to the property redeemed, subject to the right of the person making the redemption to be reimbursed by the person benefitted, and no redemption shall be held invalid by reason of the failure of the person redeeming to have an interest of record in the property redeemed, other than undisclosed beneficiaries under Illinois land trusts."

This language appears to express the clear legislative intent that the law favors redemption from tax sales and that no redemption should be subject to successful contest unless made by a complete stranger or by the undisclosed beneficiary under an Illinois land trust. While most of the reported decisions countenance this legislative intent,³³ some confusing cases can be found³⁴ to demon-

31. See, e.g., *Weiner v. Jobst*, 22 Ill. 2d 11, 174 N.E.2d 561 (1961) (redemption was expunged and tax deed issued because redemption was made by an improper party); *Weiner v. Eder*, 22 Ill. 2d 408, 176 N.E.2d 777 (1961) (redemption was expunged and tax deed issued on the basis that an uncertified check used to redeem did not clear until after the redemption period had expired).

32. See ILL. REV. STAT. ch. 120, § 734 (1987).

33. See, e.g., *Franzen v. Donichy*, 9 Ill. 2d 382, 137 N.E.2d 825 (1956) (purchaser under an unrecorded contract successfully redeemed); *People v. Hess*, 7 Ill. 2d 192, 130 N.E.2d 280 (1955) (beneficial owner of stock of a title-holding corporation was permitted to redeem); *In re Application of DuPage County Collector*, 98 Ill. App. 3d 950, 424 N.E.2d 1204 (1981) (redemption was upheld when made by a party who was able to make a *prima facie* case for adverse possession, even though a defense to an adverse possession suit could have defeated the adverse possession title); *In re Application of County Collector*, 49 Ill. App. 3d 1048, 365 N.E.2d 697 (1977) (person who had lived on the property for over 30 years and had a record interest for more than 20

strate that the making of a deposit for redemption with the county clerk demands a high degree of care and should not be approached cavalierly. Regardless of who is physically making the deposit for redemption, or whose funds are being used to do so, the most prudent practice is to make clear to the county clerk that the redemption is to be made in the name of some person who has an interest of record at the time the redemption deposit is being made. In this connection it is curious that, although the Legislature has made it clear that "undisclosed" beneficiaries under Illinois land trusts³⁵ have no right to redeem, the Illinois Supreme Court has seen fit to declare that the beneficiaries under Illinois land trusts (disclosed or otherwise) have the primary liability for the payment of the tax, which is recoverable from them in an *in personam* suit in debt.³⁶

VI. AMOUNT NECESSARY TO REDEEM

As stated above, if redemption is to be effected by purchase of the certificate of sale and surrender for cancellation, the amount necessary to redeem is subject to negotiation with the holder of the certificate.³⁷ If redemption is to be effected by deposit of funds with the county clerk, the amount necessary to deposit is determined according to the complex set of formulae set forth in section 253 of the Revenue Act,³⁸ and will be calculated by the clerk. In all forms of tax sale other than the scavenger sale, redemption is based on the amount of the tax sale itself plus the appropriate statutory penalties, plus such additional amounts which may, pursuant to statute,

years was permitted to redeem even though title was in a land trust and the trust beneficiary held the beneficial interest to secure payment of his loan to the person who redeemed); *Purdy v. C. H. Strong Elevator, Inc.*, 29 Ill. App. 3d 894, 331 N.E.2d 630 (1975) (person who resided on lots adjacent to lots sold for taxes was properly held to have standing to redeem under the theory that such person was the agent of the corporation which held a mortgage on the property).

34. See, e.g., *Weiner v. Jobst*, 22 Ill. 2d 11, 174 N.E.2d 561 (1961); *In re Application of County Collector of Lake County*, 87 Ill. App. 2d 133, 239 N.E.2d 571 (1967) (in which timely redemptions were expunged and tax deeds issued).

35. It is not clear what is meant by "undisclosed" beneficiary under an Illinois land trust. Whether disclosure to the county clerk orally or in writing at the time of deposit is sufficient to overcome the prohibition, or whether full disclosure of record via recording of the land trust agreement would be required, is not at this time known. There are no reported decisions to be found on the subject. Hence, the more prudent course would be to redeem in the name of the trustee, in care of the beneficiary.

36. See *People v. Chicago Title and Trust Co.*, 75 Ill. 2d 479, 389 N.E.2d 540 (1979).

37. See ILL. REV. STAT. ch. 120, § 743 (1987) (provides for computation and tender to municipalities of specific redemption amounts to redeem from tax sales, forfeitures or withdrawals of special assessments held by such municipalities, but includes no similar provision for any specific amounts to be tendered to private tax purchasers, nor does it require such purchasers to accept redemption money so tendered).

38. ILL. REV. STAT. ch. 120, § 734 (1987).

be added to the certificate to increase the cost of redemption. Since a statutory amendment in 1979, deposit for redemption from a scavenger sale includes not only the foregoing, but also:

For sales taking place after January 1, 1980, notwithstanding any other provision of this section, except for single-family residential units being owner-occupied condominium units, cooperative units or dwellings, the amount required to be paid for redemption shall also include an amount equal to all delinquent taxes on such property which taxes were delinquent at the time of the sale.³⁹

As to scavenger sales, as well as all other forms of tax sale, additional amounts which, at the option of the certificate holder, may be paid by him and added to further increase the cost of redemption are such things as taxes and special assessments against the property which become delinquent subsequent to the date of the tax sales, or forfeitures which occur subsequent to that date, fees paid to register the certificate of sale, to file a petition for tax deed, to serve, publish, and mail notices to interested parties, and certain expenses of receivership in connection with preservation of the property during the redemption period. These expenditures may be added to the cost of redemption at any time except during the last 30 days of the redemption period, even if the county clerk has already prepared and issued an estimate of redemption.⁴⁰ It also should be noted that the statutory penalties increase during the redemption period at six-month intervals as to the annual tax sale, forfeiture sale, and special sale, and even more frequently as to the scavenger and foreclosure sales. Hence, an estimate of redemption is not reliable for any length of time as to the amount necessary to deposit with the clerk in order to effect a valid redemption. The redemption section of the statute also specifies that deposit for redemption is payable to the county clerk "by payment in legal money of the United States, or by cashier's check, certified check, post office money order or money order issued by a financial institution that is insured by an agency or instrumentality of the United States." A deposit for redemption made in other currency, such as a personal or company check, may give rise to difficulty, especially if the check does not clear before a change in the penalty rate or, even more important, before the period of redemption expires. Reported decisions have apparently come to opposite results on this question.⁴¹

39. See *id.* at ¶ 716a.

40. It is not uncommon for the parties to a real estate transaction to deposit an estimate of redemption into an escrow to be paid out of loan proceeds, only to be later surprised to learn that the county clerk will not accept the amount set aside for redemption because, after the estimate was prepared, the amount necessary to redeem was dramatically increased by subsequent expenditures made by the certificate holder and added to the cost of redemption.

41. See *Weiner v. Eder*, 22 Ill. 2d 408, 176 N.E.2d 777 (1961). But see *John*

VII. PARTIAL REDEMPTIONS

The redemption section of the statute⁴² also permits tenants in common and joint tenants to redeem their individual interests in property sold at any of the permitted forms of tax sale. Thus, an owner of an undivided one-fifth interest in a parcel of property sold at a tax sale may tender to the county clerk one-fifth of the total cost of redemption in his own name; in which event the clerk should post full redemption of that person's undivided one-fifth share of the property. In the absence of any further redemption, the certificate holder would be entitled to a tax deed to an undivided four-fifths of the property as a tenant in common with the party redeeming.

It is curious that, while tenants in common and joint tenants are permitted to redeem their individual interests in the property, persons who own separate parts of the property, as assessed and sold at a tax sale, are not permitted to redeem their individual parts of the property.⁴³ Instead, they would be required to redeem the entire tract of land as sold at the tax sale. This result is in stark contrast to section 194 of the Revenue Act⁴⁴ which permits the payment of delinquent taxes (before they are subjected to tax sale) by tenants in common and joint tenants as to their undivided interests in the property, and also permits the owner of a part of any lot, piece or parcel of land to pay the taxes on his own part by furnishing the collector a description of the part on which he is making tender of payment.

CONCLUSION

Since 1625, when the English Court of Chancery first concocted a right of redemption,⁴⁵ the law has declared its favor of redemptions. With respect to tax sales, our several Illinois constitutions have always guaranteed the right of redemption, and our statutes have always provided it. Yet, the repeated well-meaning tinkering with both the constitutional guarantee and the statutory provisions

Allan Co. v. Sesser Concrete Products Co., 114 Ill. App. 2d 186, 252 N.E.2d 361 (1969) (court held unqualified acceptance by county clerk of uncertified check on last day of redemption period effected valid redemption).

42. See ILL. REV. STAT. ch. 120, § 734 (1987).

43. If, for example, A owns the East half of Lot 2 and B owns the West half of Lot 2, Lot 2 being taxed as a single lot, neither A nor B would be permitted to redeem his own half of Lot 2. Any redemption by either party would have to be of the entire lot for the benefit of both, subject to the right of the party redeeming to be partially reimbursed by the other.

44. ILL. REV. STAT. ch. 120, § 675 (1987).

45. See *Emanuel College v. Evans*, 1 Rep. Chan. 18, 21 Eng. Rep. 494 (1625); R. TURNER, *THE EQUITY OF REDEMPTION* 26 (1986).

during the last two decades have left the redemption laws, both case and statutory, in such a state of confusion that only those members of the bar whose regular practices include tax sales and tax deeds are able to deal with them with any degree of comfort.

The laws of redemption should serve the purpose for which the first English Chancellor created them; namely, to permit a deserving debtor to repay the debt after it was due by paying additional equitable penalties. Those who would create variations in redemption laws either to reward a favored class of taxpayer or to punish a class that is out of favor, should find more appropriate and equitable means of doing so. Meanwhile, lawyers charged with the responsibility of redeeming from tax sales should approach the task with the caution it deserves, and not as a routine mechanical task to be delegated to a secretary, clerk or paralegal assistant without detailed instruction and supervision.

