STATE OF ILLINOIS)
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COUNTY OF DEKALB)

DEKALB COUNTY, ILLINOIS

ORDINANCE O2026-011

ORDINANCE TO UTILIZE THE DEKALB COUNTY TORT INDEMNITY FUND PURSUANT TO 35 ILCS 200/21-301 FOR THE FUNDING OF SURPLUS EQUITY IN ACCORDANCE WITH PUBLIC ACT 104-0553

WHEREAS, in response to the U.S. Supreme Court's decision in *Tyler v. Hennepin County*, 598 U.S. 631, (2023), the Illinois Legislature passed Public Act 104-0553, which was subsequently signed by the governor and largely changed the tax sale process in Illinois; and

WHEREAS, the Illinois Property Tax Code places the weight of tax collection activities within the purview of the counties throughout the state, and specifically tasks the collection and distribution process to the several Treasurers and Collectors of said counties; and

WHEREAS, the modifications of the Property Tax Code have created a new system by which properties that are sold at tax sale, following tax judgment, are now to be offered for sale at a tax deed auction so as to guarantee that property owners are no longer left without receiving the surplus of their properties' value above the amount of taxes unpaid; and

WHEREAS, through 35 ILCS 200/21-296, DeKalb County is given the choice to create a surplus equity fund, which is funded by a $20.00 fee accompanying tax certificate purchases at tax sales in addition to the deposit of surplus funds from the eventual tax deed auctions, which will not take place until a couple years after the implementation of these new laws; and

WHEREAS, this surplus equity fund is what the County is to utilize to pay out surplus equity funds to those property owners who have lost their properties through the tax judgment and collection process, which results in a tax deed should they not redeem their property within the statutory timeline; and

WHEREAS, newly enacted 35 ILCS 200/21-302(e) mandates that if the County's surplus equity fund does not have sufficient funds to cover any surplus equity award ordered, the County shall fund the balance necessary to satisfy the unpaid surplus equity awards within 12 months after the date of the court order awarding surplus equity from its General Fund; and

WHEREAS, such a surplus equity fund will not otherwise be adequately funded should any property owners file petitions seeking surplus equity funding absent the County utilizing the newly enacted method under 35 ILCS 200/21-301, which will allow the County Board to provide by

ordinance that the surplus equity funding required can instead be provided by the Tort Liability Fund if it so chooses; and

WHEREAS, usage of the Tort Liability Fund instead of the General Fund during the time period that such fund would be necessary to provide surplus equity payments as directed by 35 ILCS 200/21-302(a) will enable the county to avoid intrusion on its general fund, while also allowing its Tort Liability Fund to operate as a statutorily approved source of funding and in the spirit of its purpose to protect the County from liabilities.

NOW, THEREFORE, BE IT ORDAINED that the foregoing recitals are hereby incorporated into this section as if fully reinstated herein.

NOW, THEREFORE, BE IT FURTHER ORDAINED that the DeKalb County Board does hereby choose to utilize the Tort Indemnity Fund pursuant to 35 ILCS 200/21-301 as a means to fund claims for surplus equity granted in conformity with 35 ILCS 200/21-302 of the Property Tax Code.

This Ordinance shall be in full force and effect immediately upon its passage and approval as provided by law.

Approved and adopted by the County Board of DeKalb County, Illinois, this __ day of September, 2026.

ATTEST:

Tasha Sims
DeKalb County Clerk

SIGNED:

John Frieders, Chairperson
DeKalb County Board